



FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY, NC  
2007 AUG 03 12:46:41 PM  
BK:5703 PG:607-613 FEE:\$29.00

INSTRUMENT # 2007036128

Drawn by and HOLD FOR: MOORE & ALPHIN, PLLC Box 5

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

**SUPPLEMENTAL DECLARATION OF ANNEXATION TO  
BAY POINTE AT MLK HOMEOWNERS ASSOCIATION, INC.**

This Supplemental Declaration of Annexation to Bay Pointe at MLK Homeowners Association, Inc. is made as of the date set forth in the notary acknowledgment herein by **Green Garden, LLC**, a North Carolina limited liability company (hereinafter "Developer"), **TDI Durham @ MLK, LLC**, a North Carolina limited liability company (hereinafter referred to as "Declarant"), and **Olde South Homes, Inc.**, a North Carolina corporation (hereinafter "Builder"):

WITNESSETH:

WHEREAS, Declarant has heretofore recorded that certain that certain Declaration Of Covenants, Conditions And Restrictions For Bay Point Subdivision, recorded in **Book 3992, Page 814**, Durham County Registry as amended by that Amendment to the Declaration of Covenants, Conditions and Restrictions For Bay Pointe Subdivision recorded in **Book 4488, Page 529**, Durham County Registry (hereinafter referred to jointly as the "Declaration") the terms of which are incorporated herein by reference;

WHEREAS, pursuant to Section 11 of Article XIV of the Declaration, Declarant and Developer desire to annex additional property to the Declaration and to subject such property to the Declaration and to the jurisdiction of the Bay Pointe at MLK Homeowners Association, Inc.;

WHEREAS, Developer and Builder are the owners of the real property described in Exhibit A attached hereto (hereinafter the "Property");

WHEREAS, the Property is contiguous to Bay Pointe Subdivision and less than 10 years have passed from the date of the first conveyance of a lot in Bay Pointe Subdivision by Declarant.

NOW, THEREFORE, in consideration of the premises, Declarant, Developer and Builder hereby declare that the property identified and described on **Exhibit A** attached hereto and incorporated herein by reference shall be and hereby is annexed into the property covered by the Declaration and shall be and hereby is made subject to the Declaration and to the jurisdiction of the Bay Point at MLK Homeowners Association, Inc.

Said Property shall be owned, held, transferred, sold, conveyed, given, donated, devised, inherited, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens (hereinafter the "Covenants and Restrictions") contained in the Declaration, which Covenants and Restrictions shall run with the land and be binding on all parties having or acquiring any right, title and interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed by its duly authorized President, and Developer has caused this instrument to be executed by its manager, as of the date set forth in the notary acknowledgment below.

**Declarant:**

**Developer:**

**TDI Durham @ MLK, LLC**

By: Tucker Development, Inc., Its Manager

By: James H. Tucker, Jr.  
James H. Tucker, Jr., President

**Green Garden, LLC**

By: James H. Tucker, Jr.  
James H. Tucker, Jr., Its Manager

\*\*\*\*\*

\_\_\_\_\_ County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: **James H. Tucker, Jr.**

Date: \_\_\_\_\_

\_\_\_\_\_, Notary Public

(Official Seal)

(Print Name)

My commission expires: \_\_\_\_\_

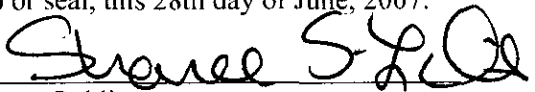
SEE ATTACHED SHEET FOR NOTARY ACKNOWLEDGEMENTS

## LLC By Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that James H. Tucker, Jr., personally known to me or known to me by presentation of his/her/their North Carolina Driver's License, personally appeared before me this day and acknowledged that he is the duly authorized Manager of Green Garden, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the said limited liability company, the foregoing instrument was duly and voluntarily signed in its name by him/her/them as its Manager.

Witness my hand and official stamp or seal, this 28th day of June, 2007.

  
Notary Public

Notary's Printed or Typed Name: Sharee S. Liles

My Commission Expires:


**SHAREE S. LILES**  
NOTARY PUBLIC  
WAKE COUNTY, N.C.  
My Commission Expires 3-9-2008

## LLC By Corporate Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that James H. Tucker, Jr., personally known to me or known to me by presentation of his/her North Carolina Driver's License, personally appeared before me this day and acknowledged that he is the President of Tucker Development, Inc., a North Carolina corporation, manager of TDI Durham @ MLK, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of said corporation, the foregoing instrument was duly and voluntarily signed by him as its President, all by authority duly given and as the act of said corporation as manager of said limited liability company.

Witness my hand and official stamp or seal, this 28 day of June,  
2007.

  
Notary Public

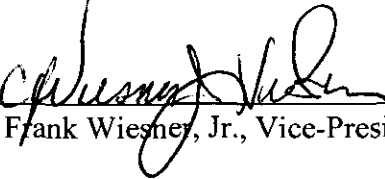
Notary's Printed or Hand Typed Name: Sharee S. Liles

My Commission Expires:

**SHAREE S. LILES**  
NOTARY PUBLIC  
WAKE COUNTY, N.C.  
My Commission Expires 3-9-2008

**Builder:**

**Olde South Homes, Inc.**

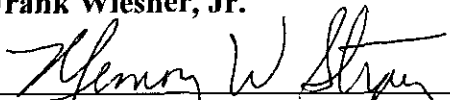
By:   
C. Frank Wiesner, Jr., Vice-President

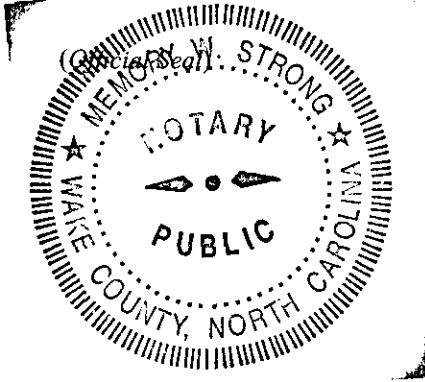
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Wake County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: **C. Frank Wiesner, Jr.**

Date: 7-5-07

  
Memory W. Strong, Notary Public  
(Print Name)  
My commission expires: 6-4-08



MORTGAGEE CONSENT

SunTrust Bank, beneficiary under a Deed of Trust dated March 21, 2007 and recorded in Book 5544, Page 749, Durham County Registry and separately under that certain Deed of Trust dated May 31, 2007 and recorded in Book 5629, Page 405, Durham County Registry (individually and collectively the "Security Deeds"), for itself and its successors and assigns, approves the foregoing Supplemental Declaration of Annexation to Bay Pointe at MLK Homeowners Association, Inc. (the "Declaration"), and SunTrust Bank agrees and acknowledges that, upon recordation of the Declaration, the restrictive covenants contained in the Declaration will run with the land which serves as security for the debt(s) evidenced by the Security Deeds and further agrees that any foreclosure or enforcement of any other remedy available to SunTrust Bank under the Security Deeds will not render void or otherwise impair the validity of the Declaration.

(Corporate Seal)

SUNTRUST BANK

By: *Sandra H. Steadman*  
Its: \_\_\_\_\_

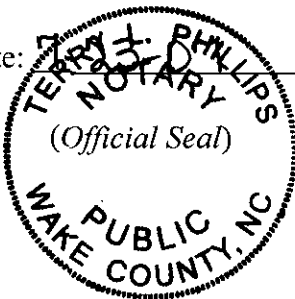
STATE OF NORTH CAROLINA - COUNTY OF WAKE:

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Sandra H. Steadman

[Print or Type Names of Principal(s) signing above]

Date: 3-14-08



*Terry L. Phillips*  
Terry L. Phillips, Notary Public

(Print Name)

My commission expires: 3-14-2011

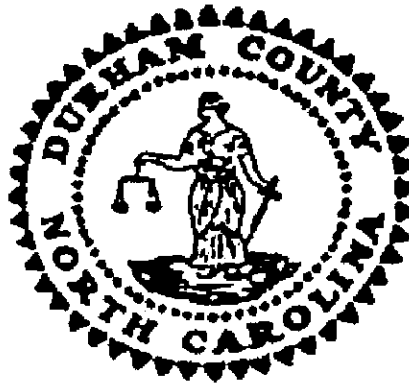
**EXHIBIT A**

**GREEN GARDEN SUBDIVISION, PHASE II**

Lying and being in the City of Durham, Triangle Township, Durham County, North Carolina, and being more particularly described as follows:

All of **Lots 25-94** (inclusive) in **Green Garden, Phase II** as shown on a plat recorded in **Plat Book 177, Pages 151-159**, Durham County Registry, to which plat reference is hereby made for a more particular description; and

All of that certain parcel of land, containing 215,167 sq (4.96 acres, more or less) shown and identified as "OPEN SPACE" on the map entitled "Green Garden, Phase II", recorded in **Plat Book 177, Pages 151-159**, Durham County Registry, to which map reference is hereby made for a more particular description.



WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
DURHAM COUNTY COURTHOUSE  
200 E. MAIN STREET  
DURHAM, NC 27701

**PLEASE RETAIN YELLOW TRAILER PAGE**

It is part of recorded document, and must be submitted with original for re-recording  
and/or cancellation.

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Filed For Registration: 08/03/2007 12:46:41 PM

Book: RE 5703 Page: 607-613

Document No.: 2007036128

SUPL-DECL 7 PGS \$29.00

Recorder: APRIL J WILLIAMS



2007036128