

AFTER RECORDING RETURN TO:



Robert D. Burton
Armbrust & Brown, L.L.P.
100 Congress Ave., Suite 1300
Austin, Texas 78701



AMEND
5 PGS

2007012259

AVALON [PHASE 2 & PHASE 3]

SECOND AMENDMENT TO DEVELOPMENT AREA DECLARATION

Travis County, Texas

Declarant: KM AVALON, LTD., a Texas limited partnership

Cross reference to Avalon Development Area Declaration for [Phase 2] recorded under Document No. 2006198640, Official Public Records of Travis County, Texas as amended by that certain First Amendment to Avalon Development Area Declaration for [Phase 2] recorded under Document No. 2006208124, Official Public Records of Travis County, Texas

SECOND AMENDMENT TO AVALON DEVELOPMENT AREA DECLARATION
[PHASE 2 & PHASE 3]

This Second Amendment to Avalon Development Area Declaration [Phase 2 & Phase 3] (this "Second Amendment") is made by KM AVALON, LTD., a Texas limited partnership ("Declarant"), and is as follows:

RECITALS:

A. Declarant previously executed and recorded that certain Avalon Development Area Declaration [Phase 2] recorded under Document No. 2006198640, Official Public Records of Travis County, Texas as amended by that certain First Amendment to Avalon Development Area Declaration for [Phase 2] recorded under Document No. 2006208124, Official Public Records of Travis County, Texas (collectively, the "Declaration").

B. Pursuant to Section 7.02 of the Declaration, the Declaration may be amended by Declarant acting alone.

C. Declarant desires to amend the Declaration as set forth hereinbelow.

NOW THEREFORE, Declarant hereby amends and modifies the Declaration as follows:

1. **Fences.** Section 3.05 of the Declaration is hereby deleted in its entirety and replaced with the following:

3.05 Fences. All Lots shall be fenced unless otherwise approved by the Avalon Reviewer. Except as expressly states in this Section or otherwise approved by the Avalon Reviewer, fences shall be of wood, wrought iron or decorative metal construction (any wrought iron or decorative metal shall be of a color and style specified by the Avalon Reviewer), or a combination thereof approved by the Avalon Reviewer, and shall be six feet (6') in height. All Lots shall be fenced so that the slats of any portion of a wood fence which faces any existing or proposed road, street or other public right-of-way shall be capped and stained in a color specified by the Avalon Reviewer. All other wood fencing shall be "good neighbor fencing" (*i.e.*, fencing with the slats alternating by section of the fence, where a "section" is a portion of the fence between support poles, with the slats in one section facing into the Lot and the slats in the next section facing outward from the Lot). Fences in side yards shall be located (i) so as to screen all air conditioning or other exterior equipment from view; (ii) at least ten feet (10') back from the front of the residence and (iii) no farther from the front of the residence than the mid-point of such residence. Fences along the side yard of corner Lots shall not be

placed closer to the public right-of-way than eight feet (8') feet from such right-of-way or eighteen feet (18') from the back of curb.

2. **Masonry Requirements; Foundation Shielding.** Section 3.07 of the Declaration is hereby deleted in its entirety and replaced with the following:

3.07 Masonry Requirements; Foundation Shielding. The outside wall area of the first story of any residence shall have a minimum of seventy-five percent (75%) masonry construction consisting of brick, ledge stone, field stone, stucco or any other native type of stone veneer. For primary residences of more than one story, the exterior of each such residence shall be of at least fifty percent (50%) masonry construction consisting of brick, ledge stone, field stone, stucco or any other native type of stone veneer. Notwithstanding the foregoing: (i) in no event may any residence be constructed of more than thirty percent (30%) stucco; and (ii) if any elevation of a residence faces Jakes Hill Road, the exterior wall area of such elevation shall be constructed of one-hundred percent (100%) masonry construction consisting of brick, ledge stone, field stone, stucco or any other native type of stone veneer. Exposed portions of the foundation on each front elevation, and side elevation visible from any street, must be concealed by extending the exterior stone or brick to within at least twenty-four inches (24") of the finished grade. If the exterior of the elevation adjacent to the exposed foundation is constructed of stucco, the Avalon Reviewer will have the authority to require the use of stone, in a color approved in advance by the Avalon Reviewer, to conceal the exposed portion of the foundation.

3. **Square Footage.** Section 3.21 of the Declaration is hereby deleted in its entirety and replaced with the following:

3.21 Square Footage. The square footage for each residence, exclusive of open or screened porches, terraces, patios, decks, driveways, and garages, shall be no less than one-thousand nine hundred and fifty (1,950) square feet.

4. **Building Height.** Section 3.22 of the Declaration is hereby deleted in its entirety and replaced with the following:

3.22 Building Height. No Improvement greater than thirty-five feet (35') may be constructed on any Lot without the prior written approval of the Avalon Reviewer. Without limitation on the foregoing, two-story residences may be constructed on no more than one-third (1/3) of all Lots having a boundary line which is located adjacent to Jakes Hill Road, with the Avalon Reviewer, in its sole and absolute discretion,

having the authority to determine whether a one-story or two-story residence may be constructed upon any such Lot. For purposes of this Section, height shall be measured from the top of the foundation slab of the proposed Improvement to the ridge line of the roof of the proposed Improvement.

5. **Effect of Second Amendment.** Any capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Declaration. Unless expressly amended by this Second Amendment, all other terms and provisions of the Declaration and each Declaration remain in full force and effect as written.

[SIGNATURE PAGE FOLLOWS]

Executed on this 22nd day of January, 2007.

DECLARANT:

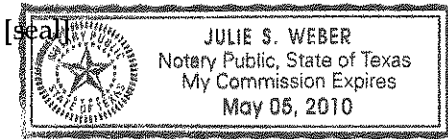
KM AVALON, LTD., a Texas limited partnership

By: KM Avalon GP, Inc., a Texas corporation,
its General Partner

By: [Signature]
Blake Magee, President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 22nd day of January, 2007, by Blake Magee, President of KM Avalon GP, Inc., a Texas corporation, General Partner of KM Avalon, Ltd., a Texas limited partnership, on behalf of such corporation and limited partnership.



[Signature]
Notary Public, State of Texas

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

[Signature]

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BENAVIDESV \$32.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS