



FOR REGISTRATION REGISTER OF DEEDS
TAMMY THEUSCH BEASLEY
NEW HANOVER COUNTY, NC
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Prepared by
and
Returned to:

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STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

THIRD AMENDMENT TO
DECLARATION OF EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
THE MASON HARBOUR YACHT CLUB

This **THIRD AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE MASON HARBOUR YACHT CLUB** (this "Third Amendment") is made and executed effective as of the 1st day of August, 2014 by **TCRK PROPERTIES, LLC**, a North Carolina limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Mason Landing Yacht Club, LLC, as Declarant, executed the Declaration of Easements, Covenants, Conditions and Restriction for Mason Landing Yacht Club Phase One recorded in Book 5326 at Pages 1817-1869 of the New Hanover County Registry (the

“Declaration”), by which Phase One of Mason Landing Yacht Club (“Phase One”) was submitted to the Declaration;

WHEREAS, on September 25, 2008, Mason Landing Yacht Club, LLC, as then Declarant, executed the First Amendment to Declaration of Easements, Covenants, Conditions and Restrictions for Mason Landing Yacht Club recorded on September 26, 2008 in Book 5348 at Pages 2843-2854 of the New Hanover County Registry (the “First Amendment”), by which Phase Two was annexed as Additional Property. Phase Two consisted of those seventeen (17) residential lots designated as Lots 7, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 on that map entitled Mason Landing Yacht Club, Phase Two, prepared by Michael Underwood & Associates and recorded in Map Book 53 at Pages 202-203 of the New Hanover County Registry (“Phase Two”);

WHEREAS, Mason Landing Yacht Club, LLC was the original Declarant of the Mason Landing Yacht Club Development (the “Development”) as provided in the Declaration;

WHEREAS, subsequent to the filing of the Declaration, the Development was foreclosed upon by David T. Phillips, Substitute Trustee (11 SP 0563; New Hanover County), who recorded his Notice of Foreclosure of Deed of Trust Pursuant to N.C. GEN. STAT. § 45-38 on July 20, 2011 in Book 5575 at Pages 1215-1217 of the New Hanover County Registry;

WHEREAS, by that certain Substitute Trustee’s Deed dated and recorded July 20, 2011 in Book 5575 at Pages 1209-1214 of the New Hanover County Registry, David T. Phillips, Substitute Trustee, conveyed the Development and all rights associated with the Development to TCRK Properties, LLC;

WHEREAS, pursuant to N.C. GEN. STAT. § 47F-3-104, TCRK Properties, LLC is now the developer and recognized Declarant of the Development and shall be referred to hereinafter as Declarant;

WHEREAS, TCRK Properties, LLC as the new Declarant has changed the name of Mason Landing Yacht Club to The Mason Harbour Yacht Club (hereinafter referred to as the “Development”);

WHEREAS, on August 20, 2012, TCRK Properties, LLC as the new Declarant caused Articles of Amendment to be recorded in the Office of the North Carolina Secretary of State to change the name of The Mason Landing Yacht Club Association, Inc. to The Mason Harbour Yacht Club Association, Inc. (hereinafter referred to as the “Association” or “Master Association”);

WHEREAS, pursuant to Article II of the Declaration, Declarant has submitted the Marina Property and its riparian areas of the Development to a Boatslip Condominium regime with the filing of a Declaration of Condominium for The Mason Harbour Boatslip Condominium on October 8, 2012, in Book 5678 at Pages 1059-1157 of the New Hanover County Registry (the “Boatslip Declaration”);

WHEREAS, pursuant to the Declaration, Declarant has created The Mason Harbour Boatslip Condominium Owners Association, Inc. (the “Marina Association”), which is a North Carolina nonprofit corporation established to manage the Boatslip Condominium pursuant to the Boatslip Declaration;

WHEREAS, pursuant to the Declaration, the Association or Master Association for the Development is The Mason Harbour Yacht Club Association, Inc., a North Carolina nonprofit corporation;

WHEREAS, on October 23, 2012, TCRK Properties, LLC as Declarant executed the Second Amendment to Declaration of Easements, Covenants, Conditions and Restrictions for Mason Landing Yacht Club recorded on September 26, 2008 in Book 5348 at Pages 2843-2854 of the New Hanover County Registry (the "Second Amendment"), by which certain terms and provisions of the Declaration were amended, and pursuant to Article II of the Declaration, the Boatslip Condominium was submitted to the Declaration governing this Development to the extent that such submission was not inconsistent with the Boatslip Declaration and Chapter 47C of the North Carolina General Statutes; and,

WHEREAS, Declarant has clarified the Stormwater Permits, and the maximum built-upon areas within the Development need to be reclassified and reallocated, which will be accomplished by this Third Amendment to the Declaration, and Special Use Permit No. S-556 issued by New Hanover County, which specifically governs the entire Development, has been recently amended with a new site plan for the Development.

NOW THEREFORE, Declarant hereby amends and supplements the Declaration, the First Amendment and the Second Amendment, which said documents shall run with the land and be binding upon all parties having any right, title or interest therein, along with their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

1. **Definitions.** As applied herein, as well as Capitalized terms, unless otherwise defined herein, shall have the meanings ascribed to each term in the Declaration, the First Amendment and the Second Amendment.

2. **Amendments.** The Declaration and Amendments are hereby amended as follows:

(a) Any reference to the term “Special Use Permit” shall mean Special Use Permit No. S-556 issued by New Hanover County, as amended from time to time

(b) Article I Paragraph (u) of the Original Declaration (entitled “Lot Owner”), which was incorrectly amended by the First Amendment, is restored to its original wording for the definition of a “Lot Owner.”

(c) Article I Paragraph (v) of the Original Declaration (entitled “Map”), which was incorrectly stated as (u) in the First Amendment and further amended in the Second Amendment, is hereby deleted in its entirety, and the following is substituted in its place and stead:

“(v) “Map” shall mean and refer to that map entitled Mason Landing Yacht Club, Phase One, prepared by Michael Underwood & Associates recorded in **Map Book 52 at Pages 321-322** of the New Hanover County Registry; as well as that map entitled Mason Landing Yacht Club, Phase Two, prepared by Michael Underwood & Associates recorded in **Map Book 53 at Pages 202-203** of the New Hanover County Registry; that map entitled Mason Landing Yacht Club, Clubhouse and Common Area Tract as prepared by Michael Underwood & Associates recorded in **Map Book 56 at Pages 222-223** of the New Hanover County Registry; that map entitled Mason Landing Yacht Club, Phase Two, Lot 15 and Future Development Tract (Revision) as prepared by Michael Underwood & Associates recorded in **Map Book 57 at Pages 26-27** of the New Hanover County Registry; that map entitled The Mason Harbour Yacht Club, Phase Two, Lot 13 and Lot 14 as prepared by Michael Underwood & Associates recorded in **Map Book 57 at Pages 151-152** of the New Hanover County Registry; that map

entitled The Mason Harbour Boatslip Condominium 2.46 Acres +/- as prepared by Michael Underwood & Associates recorded in **Condominium Book 18 at Pages 240-243** of the New Hanover County Registry; that map entitled The Mason Harbour Yacht Club, Phase Two (Revision), which revised Lots 21 through 25 and created new Lots 21R, 22R, 23R, 24R and 25R and a Passive Recreational Area as prepared by Michael Underwood & Associates recorded in **Map Book 59 at Page 247-248** of the New Hanover County Registry; and as the same will be modified or supplemented from time to time. Map shall also include any map recorded in the Office of the Register of Deeds of New Hanover County, North Carolina, for Additional Property or as a revision of any existing maps. Upon annexation of Additional Property, Map shall also include any map recorded in the Office of the Register of Deeds of New Hanover County, North Carolina for Additional Property in accordance with Section 2.2 of the Declaration.”

(d) Article I Paragraph (ff) of the Original Declaration (entitled “Property”), which was incorrectly stated as (ee) in the First Amendment and amended in the Second Amendment, is hereby deleted in its entirety, and the following is substituted in its place and stead:

“(ff) “Property” shall mean and collectively refer to Phase One; Phase Two; Phase Two, Lot 15 and Future Development Tract (Revision); Phase Two, Lot 13 and Lot 14; The Mason Harbour Clubhouse and Common Area Tract; The Mason Harbour Boatslip Condominium 2.46 Acres +/- as annexed by the Second Amendment into the Development, and the revision of Lots 21R, 22R, 23R, 24R and 25R and the Passive Recreational Area. Upon annexation of any Additional

Property as provided herein, such Additional Property shall be deemed Property hereunder.”

(e) Article X, Section (e) of the First Amendment and wherever the Maximum Built Area is specified pursuant to the Stormwater Permits in the Declaration and/or the Second Amendment, are hereby amended to include the following maximum allowable built-upon area per Lot as follows:

<u>Lot</u>	<u>“Maximum Built Upon Area” (square feet)</u>
1	2,340
2	2,335
3	2,340
4	2,340
5	2,600
6	2,304
7	2,350
8	2,208
9	2,097
10	2,243
11	2,122
12	2,306
13	2,306
14	2,306
15	2,413
16	2,315
17	2,433
18	2,417
19	2,314
20	2,500
21	2,400
22	2,401
23	2,400
24	2,400
25	<u>2,408</u>
Total	58,598

(f) Article V, Section 5.1(f) of the Declaration entitled “Date of Commencement of Annual Assessment” is hereby deleted in its entirety, and the following is substituted in its place and stead:

(f) Date of Commencement of Annual Assessments. At the time of closing of the initial sale of each Lot by the Declarant to an Owner, the Annual Assessments shall commence as to that Lot that is subject to this Declaration. Annual assessments for Additional Property submitted to this Declaration in accordance with the provisions of the Declaration shall be due at the time of the closing of the initial sale of each Lot by the Declarant to an Owner.

(f) Irrigation System. Subject to the provisions of N.C. GEN. STAT. § 47F-3-122, Declarant reserves the power to implement a Development-wide irrigation system for the irrigation of landscaping and to assess each Lot Owner the costs of the water consumed by the Lot Owner. In lieu of a Development-wide irrigation system, Declarant may require that each Lot Owner shall be required to install an irrigation well and distribution system to routinely irrigate landscaping planted on the Lot.

(g) Permeable Pavement Operation and Maintenance System. Subject to the Permeable Pavement Operation and Maintenance Agreement dated July 8, 2014 with New Hanover County (“Permeable Pavement Agreement”) regarding Stormwater Permit No. SW8 060720, as amended, Declarant reserves the power to implement a Development-wide permeable pavement plan for driveways for each Lot. The permeable pavement for the driveway of each Lot shall be initially constructed by the Lot Owner at the time of the completion of the residential dwelling to be located upon each residential Lot. The Association shall monitor, maintain and repair the permeable pavement located upon the driveway of each Lot to insure the continued functionality of the permeable pavement driveway system for the entire subdivision, which functionality is specifically related to the built upon area for each Lot mandated by Stormwater Permit No. SW8 060720, as amended. The costs of general wear and tear of each

Lot's permeable pavement driveway shall be a common expense of the development. In the event of any wrongful damage to the permeable pavement driveway by a Lot Owner, the Association shall have the authority and obligation to immediately correct such deficiency at the sole cost and expense of the Lot Owner (the "Compliance Expense"). The Compliance Expense shall be immediately paid to the Association by the Lot Owner in the same manner as homeowners' dues and assessments. In the event the actions or inactions of any Lot Owner with respect to the Permeable Pavement Agreement results in a violation of the Stormwater Permit and/or the Permeable Pavement Agreement, the subject Lot Owner shall be responsible for all costs and expense associated with and incurred by the Association to comply with these permits.

(h) **Incorporation of Recitals.** The above recitals are incorporated herein by this reference, and this Third Amendment shall be construed in light thereof.

(i) **Ratification.** All of the terms of the Declaration, the First Amendment and the Second Amendment, whether or not expressly modified hereby, shall be construed so as to give effect to the modifications contained herein, and any such modifications shall supersede any conflicting terms in the Declaration, as amended. The Declaration, the First Amendment and the Second Amendment, as modified by this Third Amendment, are hereby ratified, confirmed, and reaffirmed by Declarant.

(j) **Authority to Amend.** Declarant has the authority to prepare and record this Third Amendment by virtue of the reservations set forth in Articles XII and XIII of the Declaration.

(k) **Governing Law.** This Third Amendment shall be governed by and construed in accordance with the laws of North Carolina.

(l) **Successors and Assigns.** This Third Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns, and legal representatives.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed effective as of the date first above written.

(SIGNATURE AND ACKNOWLEDGEMENT PAGE FOLLOWS)

SIGNATURE PAGE
TO
THIRD AMENDMENT TO
DECLARATION OF EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
THE MASON HARBOUR YACHT CLUB

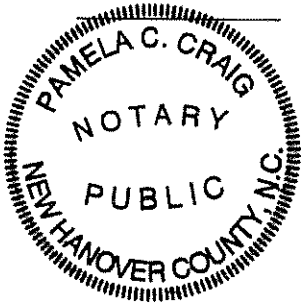
TCRK PROPERTIES, LLC

By:  (SEAL)
Kim Quinn, Manager

NORTH CAROLINA, New Hanover COUNTY.

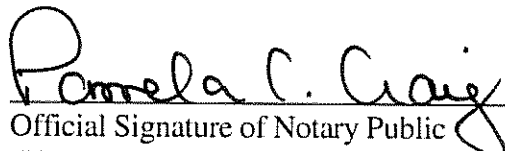
I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:
KIM QUINN, MANAGER OF TCRK PROPERTIES, LLC, a North Carolina Limited Liability Company

Place Official Seal below this line



Use Blue Ink

Date: August 4, 2014


Official Signature of Notary Public
(Please sign exactly as Commissioned)

Print Name exactly as Commissioned:

Pamela C. Craig

My Commission expires: 11/05/2017

END OF DOCUMENT



TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration: 08/05/2014 10:09:20 AM
Book: RE 5830 Page: 2741-2752
Document No.: 2014020453
12 PGS \$26.00
Recorder: HUGHLEY, CAROL

State of North Carolina, County of New Hanover

PLEASE RETAIN YELLOW TRAILER PAGE WITH ORIGINAL DOCUMENT.

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