

①  
308



FOR REGISTRATION REGISTER OF DEEDS  
REBECCA T. CHRISTIAN  
NEW HANOVER COUNTY, NC  
2004 JUN 25 09:55:07 AM  
BK: 4381 PG: 973-980 FEE: \$32.00

INSTRUMENT # 2004033636

**RETURN TO** *Hogue Hill Jones*

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

**AGREEMENT  
AND AMENDMENT TO DECLARATION OF  
COVENANTS**

AGREEMENT, Made this 23rd day of June, 2004, by and between SEA WATCH AT KURE BEACH HOMEOWNERS' ASSOCIATION, INC., a North Carolina non-profit corporation (the "Association"), and LAQUE CENTER FOR CORROSION TECHNOLOGY, INC., a Delaware corporation ("LAQUE");

WITNESSETH:

WHEREAS, Sea Watch is a residential community located at Kure Beach, North Carolina, plats of which are recorded in the New Hanover County Registry (the "Registry"); and

WHEREAS, a Declaration of Covenants, Conditions and Restrictions for Sea Watch is recorded in Book 2726, Page 0912, of the Registry (the "Declaration"); and

WHEREAS, LAQUE is the owner of the tract of land abutting Sea Watch which is described on Exhibit A hereof (the "Property"); and

WHEREAS, LAQUE is engaged in the business of scientific testing of various materials and products, including tests to determine the resistance of materials and components to marine atmospheric environments; and

WHEREAS, LAQUE currently uses the Property in its marine atmospheric testing and other technological programs; and

WHEREAS, LAQUE may in the future abandon its commercial use of the Property and desires to have the option to annex the Property to Sea Watch; and

WHEREAS, LAQUE desires to have the option to use Lot 23 of Sea Watch for

the construction of an access road and public utilities to serve the Property in the event the Property is annexed to Sea Watch; and

WHEREAS, Lot Owners of Sea Watch to which at least 67% of the votes in the Association are allocated have at a duly called and noticed meeting of the Association, at which a quorum was present and acting throughout, voted to approve this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

1. Annexation. LAQUE may from time to time so long as the Declaration, as amended, remains in effect, without the further consent of the Association or any lot owners within Sea Watch, annex all or any portion of the Property to Sea Watch. The Property or any portion thereof shall be annexed to Sea Watch upon recording in the Registry of (i) a plat(s) of any part of the Property being added to Sea Watch (the "Plat") subdividing it for residential use and (ii) a supplement(s) to the Declaration (the "Supplement") acknowledging that the portion of the Property being annexed is subject to all the terms and conditions of the Declaration. The Plat(s) and Supplement(s) need only be signed by LAQUE and not by the Association or any Lot Owners. However, if the signature of the Association is required in order to record such documents in the Registry or to give further assurances to purchasers of any portion of the Property, then the Association agrees to sign such documents. No part of the Property shall be subject to the Declaration until the recording of the Plat and Supplement relating thereto. The Property may be added to Sea Watch in stages or phases. Upon such recording(s), LAQUE and subsequent owners of the portion of the Property added to Sea Watch will have all rights, duties and obligations existing under the Declaration, including the right to use the storm water retention pond and all other Common Elements within Sea Watch. The residence now located on the Property may remain in its current configuration notwithstanding that it may not have been built in accordance with the Declaration or the Sea Watch Architectural Code. All non-conformities of said residence with the Declaration or Sea Watch Architectural Code are hereby waived other than the roofing material and exterior color which need not be brought into conformity until replacement or repainting is needed due to normal wear and tear. Existing roofing material will upon annexation of the residence to Sea Watch be replaced with metal roofing similar to that used for residences now existing in the community.

LAQUE may continue to use the Property for its business purposes (such purposes including but not limited to, use for its marine atmospheric testing and other programs now conducted or which it may elect to conduct in the future) until it actually abandons such business use, notwithstanding the recording of any Plats or Supplements. The residential use restriction contained in the Declaration shall apply only to such portions of the Property upon which such business use has been actually abandoned. Neither the annexation of any portion of the Property to Sea Watch nor the recording of a Plat or Supplement for any portion of the Property shall subject such

portion of the Property to the residential use restriction contained in the Declaration if LAQUE continues to use such portion of the Property for its business purposes.

Upon annexation of any portion of the Property abutting US Highway 421, the subdivision plat for that portion of the Property shall show a 5' wide fence and landscaping easement adjacent to the right of way of said highway for use by the Association. LaQue shall install fencing and landscaping similar to that now abutting said highway at Sea Watch within said easement within 90 days of recording such plat. The Association shall be responsible for maintenance of the fencing and landscaping.

2. Revival/Transfer of Declarant Rights. LAQUE shall have, until all of the Property is sold, all rights of the Declarant under the Declaration, including, but not limited to, any Special Declarant Rights, which rights can only be exercised by LAQUE upon annexation of any part of the Property to Sea Watch. LAQUE shall only exercise such rights with regard to the Property and Lot 23 of Sea Watch, and to gain access to any stormwater retention ponds and other stormwater facilities located at Sea Watch which will serve the Property. These revived rights include, but are not limited to, the right to use the name "Sea Watch" and other good will associated with Sea Watch in all marketing undertaken by LAQUE.

3. Release of Restriction Re Lot 23. Lot 23 of Sea Watch is hereby released from the residential use restrictions contained in the Declaration. Lot 23 may be used at all times hereafter for street rights-of-way and for the installation of utilities to serve the Property, but for no other purpose (except, at the option of LAQUE, residential use in accordance with the terms of the Declaration).

4. Term. This agreement shall remain in full force and effect so long as the Declaration remains in effect. The Property may be annexed to Sea Watch at anytime during term of this agreement. This agreement or the Declaration may not be amended to revoke any rights granted to LAQUE hereunder without the express written consent of LAQUE.

5. Amendment. This agreement is an amendment to the Declaration and to the extent the Declaration is inconsistent with the terms hereof, the terms of this agreement shall control.

6. Successors and Assigns. This agreement runs with the Property and shall be binding upon and insure to the benefit of the heirs, successors and assigns of the parties hereto.

IN WITNESS WHEREOF the parties have executed this agreement as of the date and year first above written.

SEA WATCH AT KURE BEACH  
HOMEOWNERS' ASSOCIATION, INC.

By: James [Signature]  
PRES.

LaQUE CENTER FOR CORROSION  
TECHNOLOGY, INC.

By: W. Timothy [Signature]  
PRES.

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Kelly Repko, a Notary Public, certify that James J. Uatrit personally came before me this day and acknowledged that he is the \_\_\_\_\_ President of **SEA WATCH AT KURE BEACH HOMEOWNERS' ASSOCIATION, INC.**, a non-profit corporation, and that he, as \_\_\_\_\_ President, being authorized to do so, executed the foregoing on behalf of said corporation.

Witness my hand and seal, this the 23rd day of June, 2004.

Kelly Repko  
Notary Public



STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Kelly Repko, a Notary Public, certify that W. Timothy Reising personally came before me this day and acknowledged that he is the \_\_\_\_\_ President of **LaQUE CENTER FOR CORROSION TECHNOLOGY, INC.**, a corporation, and that he, as \_\_\_\_\_ President, being authorized to do so, executed the foregoing on behalf of said corporation.

Witness my hand and seal, this the 23rd day of June, 2004.

Kelly Repko  
Notary Public

My commission expires: 5-5-2007



EXHIBIT "A"

**Hanover Design Services, P.A.**

**Land Surveyors, Engineers, Land Planners**



September 15, 1998

Re: Description for LaQue Center for Corrosion Technology, Inc.

A certain tract or parcel of land lying and being in Federal Point Township, New Hanover County, North Carolina, and being a part of the Eastern Section tract as described in deed book 1244 page 0727, Records of new Hanover County, North Carolina, and being more particularly described as follows:

**Tract E**

Beginning on a point on the eastern right of way of Forth Fisher Blvd. North (U. S. Hwy. 421), said point being located N 20-33-00 E 318.80 ft. from the southwestern corner of the above referenced "eastern tract" of which this is a part:

Proceed thence a new line S 69-27-00 E 175.83 ft. to the high water line of the Atlantic Ocean, thence with said high water line S 20-29-00 W 182.22 ft., thence continuing with said high water line S 23-44-30 W 136.64 ft. to the southeastern corner of the above referenced tract of which this is a part, thence with the southern line of said tract N 69-30-00 W 168.43 ft. to the southwestern corner of the abovesaid tract of which this is a part, said point being on the eastern line of said U.S. Hwy. 421, thence with said right of way N 20-33-00 E 318.80 ft. to the point of beginning and containing 1.28 acres, according to computations only by Hanover Design Services, P.A. in June of 1998.

Subject to a 20 ft. in width easement along the southern boundary line of the above described tract.

**Tract D**

Being a portion of the western section of that tract as described in deed book 1244 page 0727, and being more particularly described as follows:

Beginning on a point on the western right of way of Forth Fisher Blvd. North, said point being the southeastern corner of the above referenced western section of which this is a part, said point being located N 20-33-00 E 127.03 ft. from the intersection of the centerline of Spotters Court (40 ft. right of way), with the western right of way of Forth Fisher Blvd. North:

*Jm*

Proceed thence with the southern line of the above referenced tract N 87-05-15 W 321.09 ft., thence a new line N 76-48-43 W 44.44 ft., thence N 20-33-00 E 358.71 ft., thence S 69-27-00 E 100.00 ft., thence S 78-43-57 E 50.66 ft., thence S 79-52-41 E 101.62 ft., thence S 20-33-00 W 50.00 ft., thence S 79-28-42 E 101.62 ft. to a point on the western right of way of Forth Fisher Blvd. North, thence with said right of way S 20-33-00 W 250.00 ft. to the point of beginning and containing 2.51 acres, according to computations only, by Hanover Design Services, P.A. in June of 1998.

All bearings are based on magnetic north relative to deed book 1244 page 0727.

  
Greg A. Wayne, RLS L-2876



6970-1r

*Am*



REBECCA T. CHRISTIAN  
REGISTER OF DEEDS, NEW HANOVER  
216 NORTH SECOND STREET

WILMINGTON, NC 28401

\*\*\*\*\*  
Filed For Registration: 06/25/2004 09:55:07 AM  
Book: RE 4381 Page: 973-980  
Document No.: 2004033636  
AGMT 8 PGS \$32.00

Recorder: MARVIS ANN STORER

\*\*\*\*\*  
State of North Carolina, County of New Hanover

The foregoing certificate of KELLY REPKO Notary is certified to be correct. This 25TH of June 2004  
REBECCA T. CHRISTIAN , REGISTER OF DEEDS

By: *Marvis Ann Storer*  
Deputy/Assistant Register of Deeds

\*\*\*\*\*  
YELLOW PROBATE SHEET IS A VITAL PART OF YOUR RECORDED DOCUMENT.  
PLEASE RETAIN WITH ORIGINAL DOCUMENT AND SUBMIT FOR RE-RECORDING.

**\*2004033636\***

2004033636