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STATE OF NORTH CAROLINA

BOOK

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COUNTY OF NEW HANOVER

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RECORDED & VERIFIED  
MARY SUE GOTS ✓  
REGISTER OF DEEDS  
NEW HANOVER COUNTY NC

AMENDMENT TO PROTECTIVE COVENANTS AND  
RESTRICTIONS MASONBORO FOREST  
STRATTON VILLAGE AT MASONBORO FOREST

000048

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MASONBORO FOREST is, dated for purposes of reference only this 10th day of September, 1998, by Masonboro Forest, Inc., a North Carolina Corporation, hereinafter called "Declarant".

WITNESSETH:

WHEREAS, Declarant is in the process of subdividing properties into a residential development generally referred to as Masonboro Forest. Properties within Masonboro Forest have been subjected to Protective Covenants recorded in Book 2086, Page 176, New Hanover County Registry (the Protective Covenants). Article I, Section 6 and Article VI Section 3 of the Protective Covenants allows additional properties to be subjected to the Protective Covenants by recordation of an amendment to such Protective Covenants. The purpose of this Amendment to Protective Covenants for Masonboro Forest is to submit additional single family lots to the terms and provisions of the Protective Covenants.

THEREFORE, the Protective Covenants of Masonboro Forest as recorded in Book 2086, Page 176, as amended, are hereby further amended as follows:

1. Additional Properties: The provisions of the Protective Covenants shall apply fully to all numbered lots (lots numbered 100 through 107 and 154 through 164) shown on that plat recorded in Map Book 38, Page 122, New Hanover County Registry (the Plat). All of the terms and provisions of the Protective Covenants shall be fully binding and applicable to such lots, except as specifically modified herein. The lots shown on the Plat shall be referred to as "Stratton Village at Masonboro" lots.

2. Dues: Declarant shall begin paying dues on unsold lots as provided herein on the first day of the month following the conveyance by Declarant to a third party of any lot shown on the Plat.

3. Building Restrictions: All building restrictions contained in the Protective Covenants shall be fully applicable to the Lots made subject to the Protective Covenants by this Amendment, except that setbacks and easements dealing with a zero (-0-) lot line concept shall be governed by paragraph 4 herein.

4. Zero (-0-) Lot Line Concept - Easements for Encroachments: Stratton Village utilizes and incorporates a zero (-0-) lot line concept which allows for construction to be placed up to and abutting the lot line separating the individual lots within Stratton Village thereby eliminating the traditional setback between the foundation of the dwelling and the physical location of the lot line which further results in the creation of an aerial roof or eave overhang across the adjoining lot. As a result of the use of this zero (-0-) lot line concept, the following Easements for Encroachment shall apply to all Lots made subject to the Protective Covenants by this Amendment:

4.1 General Encroachments: If any improvement on the property within Stratton Village now or hereafter encroaches on any

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RETURNED TO *Yon, John Manner*

other portion of the property within Stratton Village by reason of (1) the original construction thereof; (2) deviation within normal construction tolerances in the Upkeep of any improvement; or, (3) the settling or shifting of any land or improvement, an easement is hereby granted to the extent of any such encroachment for the period of time any encroachment exists. The owner of the encroaching improvement shall have an easement for the limited purpose of Upkeep, Maintenance, and Repair of the encroaching improvement.

4.2 Zero (-0-) Lot Line: Each lot owner within Stratton Village, following adequate notice, shall allow the adjoining lot owner with whom he shares a zero (-0-) lot line access to his lot for purposes of Upkeep, Maintenance, and Repair to said adjoining lot owner's dwelling.

4.3 Rcof or Eave Overhang: If the original design and construction of any improvements on a lot within Stratton Village shall result in an encroachment by a roof or eave over and upon the Common Elements or an adjacent Lot, an easement is hereby granted to the extent of any such encroachment for the period of time such encroachment exists, which easement shall continue upon any reconstruction or repair of the improvements in accordance with the original design and construction.

5. Stratton Village at Masonboro Forest Association: Declarant has chartered a North Carolina non-profit corporation named Stratton Village at Masonboro Forest Homeowners Association, Inc. The owner or owners of every lot shown on the Plat shall be a voting member of the Stratton Village at Masonboro Forest Homeowners Association, Inc. (Stratton Village Association), in addition to being a member of the Masonboro Forest Homeowners Association, Inc. Only one vote shall be allowed per lot; to the extent there is more than one owner of any one lot, said owners shall determine among themselves, and designate, one voting member, which voting member shall cast the vote allocated to said lot. If the owners cannot agree among themselves, the Board of Directors of the Association shall determine and designate a voting member from among the owners of the lot. The Association shall be governed by a Board of Directors, selected in accordance with the terms of its by-laws. The Association shall have the responsibility of maintaining in good condition the FRONT YARD and SIDE YARD TO THE FENCE LINE exterior grounds, as more fully specified herein within the Stratton Village section of Masonboro Forest. The Association shall further have the responsibility of maintaining in good condition all common areas which may be deeded to the Association, and shall be responsible for adopting rules and regulations governing utilization of such common areas. To the extent necessary, the Association may employ personnel necessary to perform its obligations, or needed to benefit the owners of lots within Stratton Village.

The specific maintenance and upkeep of the Association includes the following:

A. Exterior grounds maintenance for the Front Yard and Side Yard to the fence line only, including maintenance of all front yard plants and shrubbery;

B. The maintenance of all exterior lighting fixtures excluding those attached to any structure or fencing; and,

C. The maintenance of a community well for landscaping purposes (if such is installed), and all front yard exterior irrigation systems and timing devices.

The Association shall have the obligation to provide for itself and for the benefit of the owner of each lot all necessary professional services to promote the proper maintenance of all of the property subject to the maintenance responsibilities of the Association, and

to provide the smooth, proper and legal administration of the Association. The services may include services of an engineer, lawyer, accountant or other professional. The Association is specifically authorized to provide such other incidental services for the benefit of Stratton Village and in the management of the Association as deemed reasonably necessary by the Board of Directors of the Association.

Nothing contained herein shall obligate the Association for back yard maintenance, for side yard maintenance beyond the fence line, for the replacement of any plants or shrubbery, or for the maintenance or repair to any structure within Stratton Village not expressly provided for herein.

6. Dues: In order to fund its obligations, the owner of every lot within Stratton Village is obligated and bound, whether or not expressly stated in any instrument of conveyance, to pay to the Association the following:

- A. Annual charges or dues to be paid monthly; and,
- B. Special assessments.

All such assessments, charges, and dues, together with any interest thereon, shall be a charge on the land and shall be a continuing lien upon the lot against which such assessments are made. Liens shall be perfected in the manner of a mechanics or materialmens lien under the North Carolina General Statutes; and, any liens for dues unpaid shall be filed within nine months after the due date of the payment of such assessments. Dues shall be due and payable monthly, in advance; special assessments shall be due and payable on the date denoted in the Resolution of the Board of Directors adopting such assessment. Any lien may be enforced in the manner of a Deed of Trust with power of sale, as allowed by North Carolina General Statutes, through a foreclosure proceeding. This instrument shall be deemed to give the President of the Association said power of sale.

Annual charges or dues shall be in an amount determined by majority vote of the Directors of the Association. The initial annual dues assessment shall be Fifty-Five Dollars (\$55.00) per month per improved lot and Thirteen Dollars (\$13.00) per month per unimproved lot, plus the amount of dues payable by such lot to the Masonboro Forest Homeowners Association, Inc. An improved lot shall be considered a lot with a primary residence located thereon which is reasonably suitable for occupancy, and for which a Certificate of Occupancy is or could be issued by appropriate officials provided, however, improved lots owned by the constructing contractor which are being offered for initial sale shall be assessed an amount equal to Fifty percent (50%) of the then current improved lot dues or assessments for a period of twelve (12) months following substantial completion and thereafter at the then existing regular improved lot rate. Dues shall be payable as for any improved lot beginning the first day of the month following such substantial completion. The dues for improved lots may be changed on an annual basis by majority vote of the Board of Directors; at all times the percentage paid by the owner of an unimproved lot shall be and remain Seventy-Five percent (75%) of the dues charged to an owner of an improved lot, exclusive of that portion of the dues payable to Masonboro Forest Homeowners Association, Inc.

The Association is specifically authorized and directed to collect from each of its members, as a part of its monthly charges or dues, those sums owed by the owner of each lot to Masonboro Forest Homeowners Association, Inc. The Association shall remit, on a schedule to be determined by Masonboro Forest Homeowners Association, Inc., on behalf of all the members within Stratton Village, those dues owed by all of such members to the Masonboro Forest Homeowners Association, Inc. The Association has the specific authority, as well as an affirmative obligation, to

collect all monthly charges or dues, as well as all special assessments, in accordance with the collection procedures set out in this paragraph.

Notwithstanding the provisions contained herein, the annual budget of the Association must be approved by the majority of the members voting in any regular or special membership meeting if the budget requires an increase in dues of Twenty percent (20%) or more over those paid in the immediately preceding year.

A special assessment may be levied from time to time by vote of a minimum of Seventy percent (70%) of the total votes cast in any regular or special meeting, called in accordance with the by-laws. A special assessment may be made for any purpose for which expenditures are allowed in accordance with this Declaration. The resolution approving such a special assessment shall specify the date payable.

Notwithstanding any provisions of these Protective Covenants, including this paragraph, the Board of Directors shall have the power and authority to levy any special assessment if, in the sole discretion of said Directors, the assessment is reasonably required to protect properties impacted in case of an emergency, such as a storm, or if required to satisfy the obligations of members of the Association to Masonboro Forest Homeowners Association, Inc. In such event, the Directors shall give written notice to the members so effected as promptly as possible after the determination of said assessment and the action shall be binding as if ratified by the requisite vote of the owners of lots within Stratton Village.

7. Sale of Unimproved Properties: To the extent that Declarant conveys unimproved lots within Stratton Village, the owner of such lot shall be obligated to construct on such lot a house with an exterior design approved by the Architectural Control Committee of Masonboro Forest Homeowners Association and the Architectural Conrail Committee of Stratton Village at Masonboro Forest Homeowners Association, Inc., if any. By acceptance of a deed, an owner accepts and agrees that the construction within Stratton Village shall conform to a particular style and standard of construction, and acknowledges that the Architectural Control Committee of the Masonboro Forest Homeowners Association, Inc. or the Stratton Village at Masonboro Forest Homeowners Association, Inc. is under no obligation to approve any plan not consistent herewith.

8. Improvements: As required by the Protective Covenants, the construction of any improvements, the erection of any structure, or the alteration of any approved landscaping on any lot must be approved in advance by the Architectural Control Committee of Masonboro Forest Homeowners Association, Inc. and Stratton Village at Masonboro Forest Homeowners Association, Inc., if any. Such improvements include, but are not limited to changes in exterior lighting; exterior paint colors, garage doors, doors windows, roof shingles, and landscaping (including the removal of any tree).

9. Survival: Except as specifically amended by this Amendment to Protective Covenants for Masonboro Forest, all provisions of the Protective Covenants (as amended) for Masonboro Forest shall be fully applicable to all lots within Stratton Village made applicable by this amendment, and the terms and conditions of the Protective Covenants shall remain in full force and effect as to all lots encumbered thereby.

IN WITNESS WHEREOF, said parties have caused this instrument to be executed in their corporate names by their corporate officers, and their corporate seals to be hereto affixed, all by

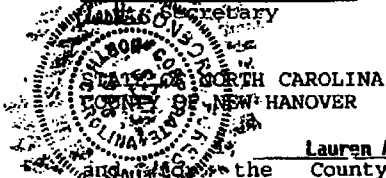
order of their Board of Directors first duly given, this the day and year first above written.

MASONBORO FOREST, INC.

BY: [Signature]  
President

ATTEST:

[Signature]  
Secretary

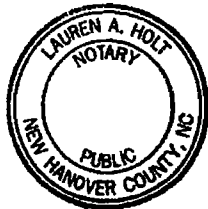


Lauren A. Holt, a Notary Public in the County aforesaid do hereby certify that Katherine G. Blaisdel personally came before me this day and acknowledged that she is Asst. Secretary of Masonboro Forest, Inc., and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by herself as its Asst. Secretary.

Witness my hand and official stamp or seal, this the 10th day of September, 1998.

[Signature]  
Notary Public

My commission expires: 9/12/2001



STATE OF NORTH CAROLINA  
New Hanover County  
The Foregoing / Annexed Certificate(s) of

Lauren A. Holt

Notary (Notaries) Public is/ are certified to be correct.

This the 29 day of Sept 1998

Mary Sue Oots, Register of deeds

by [Signature]

Deputy/Assistant