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FOR REGISTRATION REGISTER OF DEEDS
REBECCA P. SMITH
NEW HANOVER COUNTY, NC
2007 FEB 22 04:14:20 PM
BK:5145 PG:1866-1883 FEE:\$62.00

INSTRUMENT # 2007008966

Prepared by: Kenneth A. Shanklin
and return to: SHANKLIN & NICHOLS, LLP
214 Market Street
Post Office Box 1347
Wilmington, NC 28402-1347
Telephone: (910) 762-9400
Telefax: (910) 251-1773

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

**DECLARATION OF COVENANTS
FOR
CONSERVATION AREAS**

THIS DECLARATION OF COVENANTS FOR CONSERVATION AREAS is made this 16th day of February, 2007, by and between RAIFORD G. TRASK, JR., TRUSTEE under the Raiford G. Trask, Jr. Revocable Trust, and any amendments thereto, dated May 23, 2006 (see Memorandum of the Trust recorded in Book 5042 at Pages 1382-1396 of the New Hanover County Registry), ETHEL TRASK COUPLAND, TRUSTEE, under the Ethel Trask Coupland Revocable Trust, and any amendments thereto, dated March 17, 2005 (see Memorandum of the Trust recorded in Book 5141 at Pages 1016-1026 of the New Hanover County Registry), and D. WEBSTER TRASK and wife, JULIA C. TRASK, of Wilmington, North Carolina ("Declarants"). (This Declaration of Covenants for Conservation Areas, as may be amended from time to time, is referred to as the "Covenant.")

RETURN TO: MANNING, FULTON & SKINNER

BACKGROUND STATEMENT

Declarants are the owners of the property described on the Plat (as referenced and defined below and referred to herein as the "Property") which will become a mixed-use planned community currently known or to be known as "Autumn Hall." This Covenant is being recorded to satisfy the requirements of the U.S. Army Corps of Engineers, Wilmington District ("District") with respect to preserving mitigation property within the Autumn Hall community.

Article I **Statement of Binding Effect**

Declarants hereby irrevocably declare that the Property described on the Plat as Conservation Areas (as such terms are described and defined below) shall be held, sold, and conveyed subject to the covenants and easements contained herein, which shall run with title to the Conservation Areas and shall inure to the benefit of and be binding upon all persons having any right, title, or interest in such property.

Article II **Covenant**

The areas shown on that certain "Wetland Preservation Map of Autumn Hall," dated February 12, 2007 and recorded in Map Book 51 at Page 45 of the New Hanover County Registry (the "Plat") as conservation areas or wetlands impact areas ("Conservation Areas") shall be maintained in perpetuity in their natural or mitigated condition, which Plat is incorporated herein by reference and made a part hereof.

No person or entity shall perform any of the following activities on such Conservation Areas:

- a. fill, grade, excavate or perform any other land disturbing activities;
- b. cut, mow, burn, remove, or harm any vegetation;
- c. construct or place any roads, trails, walkways, buildings, mobile homes, signs, utility poles or towers, or any other permanent or temporary structures;
- d. drain or otherwise disrupt or alter the hydrology or drainage ways of the Conservation Areas;
- e. dump or store soil, trash, or other waste; or
- f. graze or water animals, or use for any agricultural or horticultural purpose.

Notwithstanding this prohibition, the following acts and documents are excepted from these limitations and are expressly permitted:

- g. City of Wilmington Drainage Easement. Notwithstanding any provisions in this Covenant to the contrary, Declarants shall be allowed to execute in favor of the City of Wilmington a Drainage Easement, of the nature and to the extent set forth in that document attached hereto as Exhibit "A," to allow for the City's maintenance and inspection of that drainage feature known as Two-Mile Branch.
- h. 40-Foot Wide Sewer Utility Easement to the New Hanover County Water and Sewer District. Notwithstanding any provisions in this Covenant to the contrary, Declarants shall be allowed to maintain, continue and relocate, if necessary, an existing 40-foot wide easement previously granted to the New Hanover County Water and Sewer District by that certain Easement dated October 1, 1985 and recorded on February 14, 1986 in Book 1318 at Page 255 in the New Hanover County Registry. This easement is shown on a map recorded on February 13, 1986, in Map Book 25 at Page 162 of the New Hanover County Registry. Furthermore, this easement is shown on a Map of Autumn Hall Golf Course prepared by Arnold W. Carson, PLS, and recorded in Map Book 41 at Page 33 of the New Hanover County Registry.
- i. Forty-Five (45) Foot Wide Easement for Pedestrian Bridge and Utilities: Notwithstanding any provisions in this Covenant to the contrary, Declarants shall be allowed to use, construct improvements and maintain such improvements in a 45-foot wide easement for pedestrian bridge and utilities previously reserved by Raiford G. Trask, Jr., Ethel T. Coupland and Daniel Webster Trask, from the conveyance of a 10.01 Acs. + Tract to New Hanover County, being known as the Cleanwater Management Trust Fund Tract, as described in that certain Deed dated September 27, 2005 and recorded November 30, 2005 in Book 4944 at Pages 2365-2374 of the New Hanover County Registry. The Grantors of that conveyance, Raiford G. Trask, Jr., Ethel T. Coupland and Daniel Webster Trask, reserved unto themselves and their heirs and assigns a 45-foot wide easement for pedestrian bridge and utilities as referenced on the Cleanwater Management Trust Fund Map recorded in Map Book 48 at Page 369 of the New Hanover County Register of Deeds and as described in paragraph A in Exhibit A to the Deed. The Grantors reserve the right within the 45-foot easement to construct, maintain and repair a pedestrian bridge for the purposes of ingress, egress and regress from Teal Street to the Grantors' Autumn Hall MX Development by pedestrians and non-motorized bikes and for installation, maintenance and repair of utilities.
- j. Authorized Impact Areas in the Conservation Areas and Wetlands as shown on the Plat: Notwithstanding any provisions in this Covenant to the contrary, Declarants shall be allowed to impact, use, construct improvements and maintain such improvements in areas classified as Stream Impact A, Stream Impact B and Wetland Impact Areas as shown on the Plat as above referenced and in accordance with the U.S. Army Corps of Engineers Permit to the Declarants issued in conjunction with this Covenant.

- k. Authorized hand clearing within conservation areas: Limited hand clearing of certain deciduous vegetation and removal of underbrush vegetation of less than 2 inch caliper will be permitted within streams and wetlands as may be required from time to time by the City of Wilmington for drainage and public health purposes.

This Covenant is intended to ensure continued compliance with the mitigation condition of a Clean Water Act authorization issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID, and therefore may be enforced by the United States of America. This Covenant is to run with the land, and shall be binding on Declarants and their heirs, successors, assigns, and successors-in-title to the Conservation Areas, and all parties claiming under Declarants.

Article III **GENERAL**

3.1. Amendments. This Covenant may not be amended without the express written consent of the District. Any amendment shall also require Declarants' written consent for so long as Declarants own any property within the Autumn Hall community.

Amendments to this Covenant shall become effective upon recordation unless a later effective date is specified therein. In no event shall a change of conditions or circumstances operate to amend any provisions of this Covenant.

3.2. Duration. This Covenant is intended to run with title to and bind the Conservation Areas and, unless terminated by agreement of the owner(s) of the Conservation Areas and the District, this Covenant shall have perpetual duration. If North Carolina law hereafter limits the period during which all or any of this Covenant may run with the land, then to the extent consistent with such law, this Covenant shall automatically be extended at the expiration of such period for successive periods of 20 years.

3.3. Interpretation. This Covenant shall be governed by and construed under North Carolina law.

3.4. Waiver. No failure to exercise any power under this Covenant or insist upon strict compliance with this Covenant and no custom or practice at variance with the terms of this Covenant shall constitute a waiver of the right to demand exact compliance with the terms of this Covenant.

3.5. Severability. Invalidation of any provision of this Covenant, in whole or in part, or any application of a provision of this Covenant by judgment or court order shall in no way affect other provisions or applications.

3.6. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

3.7. Successors. Any reference to Declarants shall include the heirs, successors and assigns of Declarants, including the ultimate Developer(s) of the Property and the Master Property Owners Association for Autumn Hall and their successors and assigns, and any reference to the District shall include the successors and assigns of the District. By execution of this Covenant, the Declarants shall not be deemed the developers of the Property.

3.8. Declarant Assignment. Upon conveyance of all or any portion of the Conservation Areas, all liabilities and obligations of Declarants hereunder shall terminate as to Declarants for all acts and matters after the conveyance with respect to the part conveyed. Such assignment and/or conveyance shall not require the consent or approval of the District or any other party. Furthermore, the Declarants hereunder, being the initial Declarants, intend to assign their obligations hereunder to one or more entities that will develop the Autumn Hall mixed use community.

3.9. Reference of the Covenant in the Master Covenants for the Autumn Hall Mixed-Use Community. This Covenant shall be referenced in the Master Declaration and Covenants for the entire Autumn Hall Mixed-Use Community ("Master Declaration"), which Master Declaration shall vest the Autumn Hall Master Property Owners Association, Inc., with authority to enforce this Covenant. Additionally, all Conservation Areas, as applicable, shall be shown on each final recorded plat(s) for Autumn Hall as required by Section 18-185(h)(5)(x) of the City of Wilmington Land Development Code. Each final plat shall reference this Covenant.

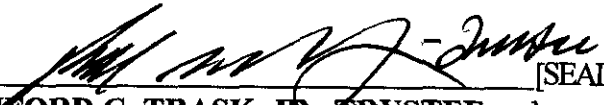
IN WITNESS WHEREOF, the undersigned Declarants have executed this Declaration of Covenants for Conservation Areas, as of the date first above written.

(SIGNATURE AND ACKNOWLEDGEMENT PAGES FOLLOW)

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SIGNATURE PAGE TO DECLARATION OF COVENANTS

DECLARANT:

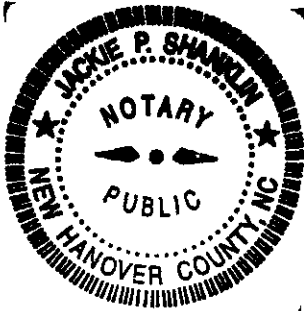

[SEAL]
RAIFORD G. TRASK, JR., TRUSTEE under
the Raiford G. Trask, Jr. Revocable Trust,
and any amendments thereto, dated May 23, 2006
(See Memorandum of the Trust recorded in Book
5042 at Pages 1382-1396 of the New Hanover
County Registry)

*Place Official
Seal below this
line*


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
(name of principal):

RAIFORD G. TRASK, JR., TRUSTEE under the
Raiford G. Trask, Jr. Revocable Trust,
and any amendments thereto, dated May 23, 2006
(See Memorandum of the Trust recorded in Book 5042 at
Pages 1382-1396 of the New Hanover County Registry)



Date: 2/22/07



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

Print Name exactly as Commissioned:
Jackie P. Shanklin

My Commission expires: 11/23/07

(ADDITIONAL SIGNATURE PAGES FOLLOW)

SIGNATURE PAGE TO DECLARATION OF COVENANTS

DECLARANT:

Ethel Trask Coupland, Trustee [SEAL]

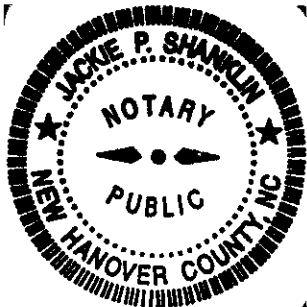
ETHEL TRASK COUPLAND, TRUSTEE under the Ethel Trask Coupland Revocable Trust, and any amendments thereto, dated March 17, 2005 (See Memorandum of the Trust recorded in Book 5141 at Pages 1016-1026 of the New Hanover County Registry)

NORTH CAROLINA, NEW HANOVER COUNTY.

Place Official Seal below this line

I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated (name of principal):

ETHEL TRASK COUPLAND, TRUSTEE under the Ethel Trask Coupland Revocable Trust, and any amendments thereto, dated March 17, 2005 (See Memorandum of the Trust recorded in Book 5141 at Pages 1016-1026 of the New Hanover County Registry).



Date: 2/22/07

Jackie P. Shanklin

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

Print Name exactly as Commissioned:

Jackie P. Shanklin

My Commission expires: 11/23/07

(ADDITIONAL SIGNATURE PAGES FOLLOW)

SIGNATURE PAGE TO DECLARATION OF COVENANTS

DECLARANT:



[SEAL]

D. WEBSTER TRASK

NORTH CAROLINA, NEW HANOVER COUNTY.

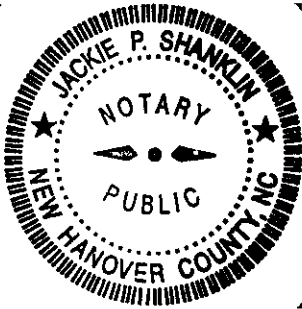
*Place Official
Seal below this
line*

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

(name of principal):

D. WEBSTER TRASK

Date: 2/16/07



Jackie P. Shanklin

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

Print Name exactly as Commissioned:

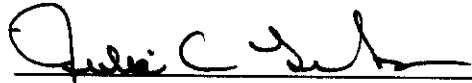
Jackie P. Shanklin

My Commission expires: 11/23/07

(ADDITIONAL SIGNATURE PAGE FOLLOWS)

SIGNATURE PAGE TO DECLARATION OF COVENANTS

DECLARANT:

 [SEAL]
JULIA C. TRASK

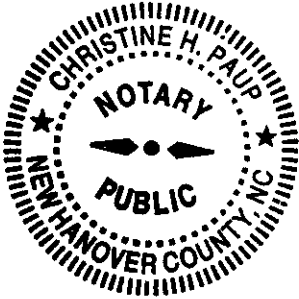
NORTH CAROLINA, NEW HANOVER COUNTY.

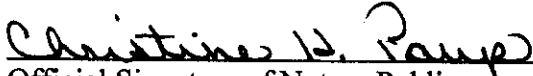
*Place Official
Seal below this
line*

I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated
(name of principal):

JULIA C. TRASK

Date: 2-16-07

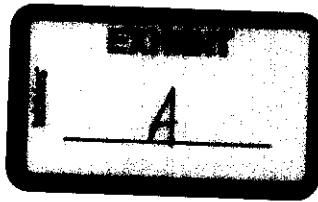



Official Signature of Notary Public
(Please sign exactly as Commissioned)

Print Name exactly as Commissioned:

Christine H. Paup

My Commission expires: 4-27-08



INSTRUMENT PREPARED BY:

Thomas C. Pollard
City Attorney
Post Office Box 1810
Wilmington, NC 28402
Telephone (910) 341-7820

STATE OF NORTH CAROLINA

**GENERAL UTILITY
MAINTENANCE EASEMENT**

COUNTY OF NEW HANOVER

PIN 3148-88-6272.000
1202 Eastwood Road, Wilmington, N.C.

THIS GRANT OF EASEMENT, executed this 16th day of February, 2007, by and between RAIFORD G. TRASK, JR., TRUSTEE under the Raiford G. Trask, Jr. Revocable Trust, and any amendments thereto, dated May 23, 2006 (*See* Memorandum of the Trust recorded in Book 5042 at Pages 1382-1396 of the New Hanover County Registry), ETHEL TRASK COUPLAND, TRUSTEE under the Ethel Trask Coupland Revocable Trust, and any amendments thereto, dated March 17, 2005 (see Memorandum of the Trust recorded in Book 5141 at Pages 1016-1026 of the New Hanover County Registry), and D. WEBSTER TRASK and wife, JULIA C. TRASK, of Wilmington, North Carolina, parties of the first part (hereinafter referred to as the "GRANTORS,"), and the CITY OF WILMINGTON, a municipal corporation organized and existing under the laws of the State of North Carolina, whose mailing address is Post Office Box 1810, Wilmington, North Carolina 28402 (hereinafter referred to as "GRANTEE");

[The designations *Grantors* and *Grantee* as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.]

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00) and other valuable consideration paid by the GRANTEE to the GRANTORS, receipt of which is hereby acknowledged, the GRANTORS have granted and by these presents do hereby grant unto the GRANTEE, its successors and assigns, the right, privilege and perpetual right-of-way and nonexclusive easement over, through, under and upon the 25-foot wide Drainage Easement area hereinafter described for the purpose of inspecting and maintaining the natural stream system of Two-Mile Branch, including the stream banks ("Stream"), for drainage purposes ("Drainage Easement"), said premises being a certain parcel or tract of land located in New Hanover County, North Carolina, and more particularly described as follows:

Easement Area:

A strip of land twenty-five (25) feet in width extending westward from and adjacent to the center line of Two-Mile Branch onto the property of the GRANTORS, as shown on a Map entitled "Wetland Preservation Map of Autumn Hall," dated February 12, 2007 and recorded in Map Book 51 at Page 45 of the New Hanover County Registry, prepared by Arnold W. Carson, PLS, lying and being in the City of Wilmington, North Carolina (the "Wetlands Plat"). The beginning point of this easement is where Two-Mile Branch intersects Rogersville Road (the Northeastern most corner of the Duck Haven Golf Course Tract" as shown on a Map of the Duck Haven Golf Course Tract recorded in Map Book 41 at Page 33 of the New Hanover County Registry) and designated as Point "A" on the Wetlands Plat, and runs southwardly along the Eastern Property line of the Duck Haven Golf Course Tract (which property line is the centerline of Two-Mile Branch) to the point of intersection of Two-Mile Branch with the East Prong of Bradley Creek, which point coincides with the point of intersection of the southern and eastern property lines of the Duck Haven Golf Course Tract as shown on the above referenced Wetlands Plat (which point is the southeastern most corner of the Duck Haven Golf Course Tract) and designated as Point "B" on the Wetlands Plat.

TO HAVE AND TO HOLD said right-of-way and easement to GRANTEE, its successors and assigns, forever. This right-of-way and easement hereby granted is appurtenant to and runs with the remainder of the land owned by Grantors as shown on the above referenced maps.

The GRANTORS reserve the right to use the Drainage Easement within the easement area so long as such easements do not materially interfere with the GRANTEE'S use of the easement area and the rights granted herein. The GRANTEE agrees that the activities permitted

by this Drainage Easement shall include visual inspection and the use of hand labor to remove obstructions, including trees and vegetation, from the stream. The GRANTEE shall not use any vehicles within the easement area. All maintenance activities shall be performed in an environmentally sound manner.

The GRANTEE shall at all times have the right to keep the area of the perpetual easement and right-of-way clear of all buildings or structures, or to remove those portions of trees, shrubs, bushes, stumps, exposed roots, undergrowth, or other vegetation as will in its judgment interfere with the purposes of this Drainage Easement. The GRANTEE shall endeavor to remove only that vegetation which, in its judgment, causes a reasonable threat to the flow and drainage of the Stream. The GRANTEE shall not undertake any earth-moving or land disturbing activity. Any vegetation cleared by GRANTEE shall be removed from the stream banks.

The GRANTORS expressly promise and agree not to construct or allow to be constructed any building, structure or other improvement, or to otherwise permit encroachment or interference with the GRANTEE'S rights hereunder except as provided herein. It is expressly understood and agreed, however, that the GRANTORS, their heirs, successors and assigns, shall retain the right to cultivate the ground lying within the boundaries of the right-of-way and use said easement for any other lawful purpose; provided, however, that such cultivation or use shall not be inconsistent with the rights herein granted to the GRANTEE, and GRANTEE shall not be liable for any damages or loss due to the exercise of its rights hereunder within its easement and right-of-way.

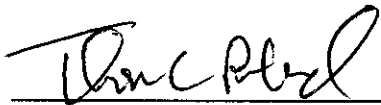
For the purpose of inspecting and maintaining the above-described stream, the GRANTEE shall have the right of ingress to and egress from the Drainage Easement over such private roads, alleys, ways or paths (hereinafter collectively referred to as "private roads") as may now or hereafter exist on the property of the GRANTORS. Any damages resulting to such private roads from the use by the GRANTEE shall be repaired by the GRANTEE at its expense. The right, however, is reserved to the GRANTORS or their heirs, successors and assigns to shift, relocate, close or abandon such private roads at any time and in their sole discretion. If there are no public or private roads reasonably convenient to the easement and right-of-way, the GRANTEE shall have such right of ingress and egress over the GRANTORS' property adjacent to the easement and right-of-way in such manner as shall occasion the least practicable damages and inconvenience to the GRANTORS and where GRANTORS may designate from time to time. The GRANTEE shall be liable for any consequential damages directly resulting from its exercise of the right of ingress and egress over adjoining property.

Said GRANTORS covenant and warrant that they are lawfully seized and possessed of the property described above; and that they have good right and lawful authority to convey said easement for the purposes herein expressed; and that GRANTORS for their heirs, successors, executors, administrators, and assigns covenant that they will warrant and defend said Drainage Easement against any and all claims and demands whatsoever, except for encumbrances of record.

This Drainage Easement is expressly subject and subordinate to that certain 40-Foot Wide Sewer Utility Easement to the New Hanover County Water and Sewer District previously granted to the New Hanover County Water and Sewer District by that certain Easement dated October 1, 1985 and recorded on February 14, 1986 in Book 1318 at Page 255 in the New Hanover County Registry, which Sewer Easement is shown on a map recorded on February 13, 1986, in Map Book 25 at Page 162 of the New Hanover County Registry.

IN WITNESS WHEREOF, the GRANTORS have hereunto set their hands and seals, the day and year first above written.

APPROVED AS TO FORM:



City Attorney

(SIGNATURE AND ACKNOWLEDGEMENT PAGES FOLLOW)

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SIGNATURE PAGE TO GRANT OF EASEMENT

GRANTOR:

 [SEAL]

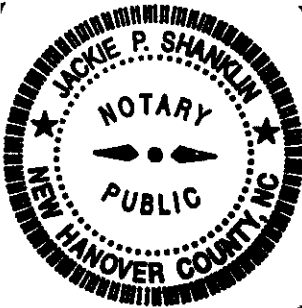
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NORTH CAROLINA, NEW HANOVER COUNTY.


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 (name of principal):

RAIFORD G. TRASK, JR., TRUSTEE under the Raiford G. Trask, Jr. Revocable Trust, and any amendments thereto, dated May 23, 2006 (See Memorandum of the Trust recorded in Book 5042 at Pages 1382-1396 of the New Hanover County Registry)

Place Official Seal below this line



Date: 2/22/07


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

Print Name exactly as Commissioned:
Jackie P. Shanklin

My Commission expires: 11/23/07

(ADDITIONAL SIGNATURE PAGES FOLLOW)

SIGNATURE PAGE TO GRANT OF EASEMENT

GRANTOR:

Ethel Trask Coupland, Trustee [SEAL]

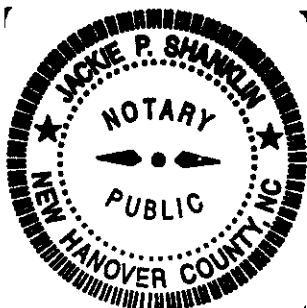
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NORTH CAROLINA, NEW HANOVER COUNTY.

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ETHEL T. COUPLAND, TRUSTEE under the Ethel Trask Coupland Revocable Trust, and any amendments thereto, dated March 17, 2005 (See Memorandum of the Trust recorded in Book 5141 at Pages 1016-1026 of the New Hanover County Registry)



Date: 2/22/07

Jackie P. Shanklin
Official Signature of Notary Public
(Please sign exactly as Commissioned)

Print Name exactly as Commissioned:
Jackie P. Shanklin

My Commission expires: 11/23/07

(ADDITIONAL SIGNATURE PAGES FOLLOW)

SIGNATURE PAGE TO GRANT OF EASEMENT

GRANTOR:

[Handwritten Signature]

[SEAL]

D. WEBSTER TRASK

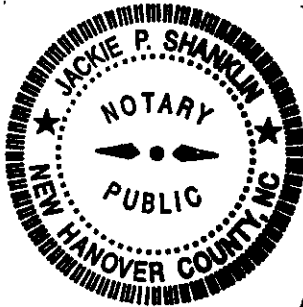
NORTH CAROLINA, NEW HANOVER COUNTY.

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 *(name of principal)*:

Place Official Seal below this line

D. WEBSTER TRASK

Date: 2/16/07



Jackie P. Shanklin

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

Print Name exactly as Commissioned:

Jackie P. Shanklin

My Commission expires: 11/23/07

(ADDITIONAL SIGNATURE PAGE FOLLOWS)

SIGNATURE PAGE TO GRANT OF EASEMENT

GRANTOR:

Julia C Trask [SEAL]
JULIA C. TRASK

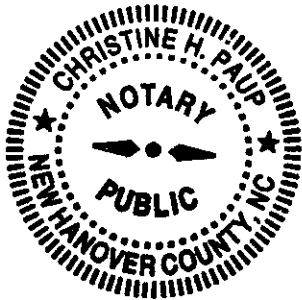
NORTH CAROLINA, NEW HANOVER COUNTY.

I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated
(name of principal):

JULIA C. TRASK

Date: 2-16-07

Place Official Seal below this line



Christine H. Paup
Official Signature of Notary Public
(Please sign exactly as Commissioned)

Print Name exactly as Commissioned:

Christine H. Paup

My Commission expires: 4-27-08



REBECCA P. SMITH
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration: 02/22/2007 04:14:20 PM
Book: RE 5145 **Page:** 1866-1883
Document No.: 2007008966
DECL 18 PGS \$62.00
Recorder: PHELPS, MICAH

State of North Carolina, County of New Hanover

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

2007008966

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