

BK: RB 6107

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BY: ANGELA ENGLISH

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2017039475

NEW HANOVER COUNTY, NC

TAMMY THEUSCH BEASLEY

REGISTER OF DEEDS

NC FEE \$26.00

PROTECTIVE COVENANTS CONCERNING LANDSCAPING AND PRIVATE DRIVE

THIS PROTECTIVE COVENANTS CONCERNING LANDSCAPING AND PRIVATE DRIVE (“Agreement”) is made as of December 6, 2017 by **TCHAM V, LLC** (“TCHAM”) to **JAMESBOROUGH COURT CONDOMINIUM OWNERS ASSOCIATION, INC.** (“Jamesborough”).

Background Statements

A. Jamesborough is a North Carolina condominium association comprised of the owners of units of the Jamesborough Court Condominium located in Wilmington, North Carolina.

B. TCHAM is the current owner of certain real property located in Wilmington, North Carolina, and more particularly described on **Exhibit A** (the “TCHAM Parcel”) attached hereto and incorporated herein by this reference.

C. Jamesborough and TCHAM have entered into that certain “Settlement Agreement and Mutual Release” dated September 8, 2017, pursuant to which TCHAM has, concurrently with TCHAM’s execution and delivery of this Agreement, executed and delivered to Jamesborough a General Warranty Deed recorded in Book 6107, Page 1580 New Hanover County Registry, conveying to Jamesborough that certain parcel of land more particularly described on **Exhibit B** (the “Conveyed FDA 3 Parcel”), attached hereto and incorporated herein by reference.

D. The TCHAM Parcel and the Conveyed FDA 3 Parcel are abutting properties.

E. Jamesborough has concurrently executed and delivered a “Deed of Easement” to TCHAM recorded in Book 6107, Page 1609 New Hanover County Registry, which is, by this reference, incorporated herein (the “Access Easement”). The Access Easement grants the owner(s) of the TCHAM Parcel certain access rights and utility rights upon Jamesborough’s property.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by TCHAM, TCHAM agrees and declares as follows:

ARTICLE 1
PROTECTIVE COVENANTS

1.1 TCHAM does hereby declare, adopt, establish, and grant to Jamesborough the following protective and restrictive covenants:

(a) Landscape. TCHAM shall not construct any improvements, other than a driveway, parking area, landscaping, and utility easement lines, within that portion of the TCHAM Parcel more particularly described on **Exhibit C** attached hereto (the "Landscape Area"). The Landscape Area will be restricted to driveway, parking areas, utility easement, and landscaping purposes. The landscaping will be maintained by TCHAM, and may include plants, shrubs, grasses, trees, mulch, lighting, decorative fencing, an irrigation system, comparable landscaping plants and materials, and one or more uninhabitable structures that serve utility or similar functions (e.g. pump houses, electric junction boxes, etc.). The landscaping will be of a quality at least similar to that which currently exists, but may be changed from time to time (e.g., from grass to shrubs) ("Protective Covenant 1"). As to parking within that portion of the TCHAM Parcel more particularly described on Exhibit C, no parking areas shall be located closer than fifteen feet from the rear-most property line of Jamesborough, such rear-most property line being the line shown as Line L12 on Condo Book 15, Page 72.

(b) Driveway. In the event TCHAM constructs a driveway connecting to Jamesborough's existing driveway, the driveway so constructed shall be connected to such existing driveway in a manner that does not eliminate any parking spaces as now clearly marked on Jamesborough's property. The portion of such constructed driveway located within the Landscape Area shall be paved, not to exceed 16 feet in width (exclusive of curbing), and of materials similar to that currently existing on Jamesborough's existing driveway ("Protective Covenant 2"; Protective Covenant 1 and Protective Covenant 2, collectively, the "Protective Covenants, and singularly, a "Protective Covenant"). The general location of such driveway is shown on **Exhibit D** attached hereto.

(c) Any unit that utilizes the driveway described in Article 1.1(b) shall have at least two and one-half parking spaces.

1.2 TO HAVE AND TO HOLD the Protective Covenants hereby declared, adopted, established and granted to Jamesborough and its successors and assigns in title forever, it being acknowledged that the Protective Covenants are for the use and benefit of, and run with the Conveyed FDA 3 Parcel and shall burden and run with the TCHAM Parcel.

1.3 Miscellaneous. TCHAM covenants that it is seized of the TCHAM Parcel in fee simple and has the right and authority to grant the Protective Covenants described herein, and that it will warrant the title to the TCHAM Parcel against the claims of all persons claiming by or through TCHAM. The Protective Covenants touch and concern the land and shall run with the land and shall burden the TCHAM Parcel, and be appurtenant to and benefit the Conveyed FDA 3 Parcel. Any references in this Article 1 to "TCHAM" or "Jamesborough" by name shall be deemed to extend to the respective successors in title to each of them. Unless the context clearly requires a different construction, all references to the Conveyed FDA 3 Parcel and the TCHAM Parcel shall be deemed to include any portions thereof, whether created by a future subdivision or otherwise in accordance with applicable law. These Protective Covenants shall be enforceable by an action for specific performance or injunctive relief, among other rights and remedies available hereunder or at law or in equity, it being agreed that an action for damages would not be an adequate remedy for a breach or other violation of a Protective Covenant.

1.4 TCHAM may make all available uses of the property shown on Exhibit C not inconsistent with these terms, including, without limitation, granting a non-exclusive landscape easement to the City of Wilmington or other governmental authority, and granting easements to public or private utility companies.

ARTICLE 2 DURATION OF PROTECTIVE COVENANTS

The Protective Covenants set forth in this Agreement shall continue in full force and effect in perpetuity from the date of recordation hereof, unless the Protective Covenants are terminated by (i) an agreement executed, acknowledged and recorded by the then-fee simple record owners of the Conveyed FDA 3 Parcel, or (ii) the same owner hereafter holds record title to the TCHAM Parcel and the Conveyed FDA 3 Parcel.

ARTICLE 3 MISCELLANEOUS

The Background Statements above are not mere recitals, and are incorporated herein by this reference. The determination by any court of competent jurisdiction that any provision of this Agreement is not enforceable in accordance with its terms shall not affect the validity or enforceability of any of the remaining provisions; rather, any such unenforceable provision shall be stricken or modified in accordance with the court's decision, and this Agreement, as modified, shall continue to be binding and enforceable. This Agreement consists only of the express written terms and conditions set forth in this Agreement. Except as set forth hereinabove, all understandings and agreements heretofore made between Jamesborough and TCHAM with respect to the subject matter of this Agreement are merged into this Agreement, which alone fully and completely expresses the parties' understanding. There are no promises or agreements, oral or otherwise, inducing entry into this Agreement, except only as expressly set forth in writing herein.

TCHAM V, LLC has caused this instrument to be signed in its company name by its duly authorized member or manager, the day and year first written above.

TCHAM V, LLC

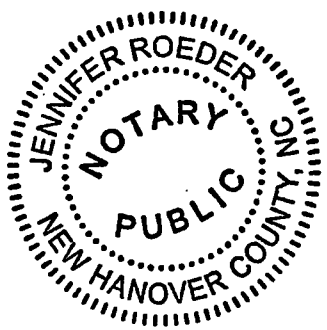
By: [Signature]
Printed Name: James T. Waddill IV
Title: Member-Manager

STATE OF NORTH CAROLINA
COUNTY OF New Hanover

I, Jennifer Roeder, a Notary Public in and for the State and County aforesaid, do hereby certify that James T. Waddill IV personally appeared before me this day and acknowledged that he is Member-Manager of TCHAM V, LLC and acknowledged, on behalf of TCHAM V, LLC the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal, this 16th day of December, 2017.

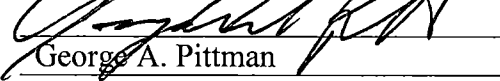
[AFFIX NOTARY STAMP/SEAL]



[Signature]
Notary Public
Printed/Typed Name: Jennifer Roeder
My Commission expires: 8-13-2020

IN WITNESS WHEREOF, Jamesborough joins in the execution of this Agreement to acknowledge its acceptance thereof.

JAMESBOROUGH COURT CONDOMINIUM OWNERS ASSOCIATION, INC.

By: 
Printed Name: George A. Pittman
Title: President

STATE OF NORTH CAROLINA
COUNTY OF New Hanover

I, A. Francine Mitchell Skinner, a Notary Public in and for the State and County aforesaid, do hereby certify that George A. Pittman personally appeared before me this day and acknowledged that he is President of **Jamesborough Court Condominium Owners Association, Inc.** and acknowledged, on behalf of **Jamesborough Court Condominium Owners Association, Inc.** the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal, this 5th day of December, 2017.

[AFFIX NOTARY STAMP/SEAL]

A. Francine Mitchell Skinner
Notary Public
Printed/Typed Name: A. Francine Mitchell Skinner
My Commission expires: 04/29/2018



EXHIBIT A

A certain tract or parcel of land lying and being in the City of Wilmington, New Hanover County, North Carolina, and being part of "Future Development Area 3", as shown on Condominium Plat Book 15, at Page 72, New Hanover County Registry, and being more particularly described as follows:

Beginning at the northeastern corner of "Future Development Area 3" (Condominium Plat Book 15, Page 72), said point being located N 29-21-11 E 510.66 ft. from the southeastern corner of "Future Development Area 1" (Condominium Plat Book 15, Page 72), said southeastern corner being on the northern right of way of Wrightsville Avenue and being 503'+- from the intersection of New Orleans Place: Proceed from said point of beginning and with said eastern line N 29-21-11 E 972.31 ft. to the northern most corner of said "Future Development Area 3", thence with the western line of "Future Development Area 3" S 40-44-45 W 1,018.94 ft. to a point, thence leaving said western line and with a curve to the left having a radius of 51.00 ft. a chord S 07-04-16 E 75.58 ft., thence N 29-16-45 E 87.14 ft., thence S 60-45-13 E 17.64 ft., thence N 29-14-47 E 28.50 ft., thence S60-45-13 E 98.81 ft., thence S 29-16-05 W 28.48 ft., thence S 60-38-49 E 40.07 ft. to the point of beginning and containing 2.20 acres.

All bearings are relative to Condominium Plat Book 15, Page 72, of the New Hanover County Registry.

EXHIBIT B

A certain tract or parcel of land lying and being in the City of Wilmington, New Hanover County, North Carolina and being part of "Future Development Area 3", as shown on Condominium Plat Book 15, at Page 72, of the New Hanover County Registry, and being more particularly described as follows:

Beginning at a point at the southwestern corner of "Future Development Area 3" (Condominium Plat Book 15, Page 72), said point being located N 40-44-45 E 219.08 ft. from the southwestern corner of "Future Development Area 2" (Condominium Plat Book 15, Page 72), said southwestern corner being on the northern right of way of Wrightsville Avenue and being 800'+- from the intersection of New Orleans Place: Proceed from said point of beginning and with the lines of said "Future Development Area 3" lines S 60-20-00 E 121.85 ft., thence N 29-09-37 E 53.63 ft., thence N 60-50-23 W 25.45 ft., thence N 29-09-37 E 16.10 ft., thence N 60-50-23 W 21.00 ft., thence N 29-09-37 E 98.80 ft., thence S 60-50-23 E 21.00 ft., thence N 41-03-07 E 14.92 ft., thence N 29-16-45 E 24.51 ft., thence leaving said "Future Development Area 3" lines and with a curve to the right having a radius of 51.00 ft. a chord N 07-04-16 W 75.58 ft. to the point in the western line of "Future Development Area 3" line thence with said western line S 40-44-44 W 273.09 ft. to the point of beginning and containing 0.36 acres.

All bearings are relative to Condominium Plat Book 15, Page 72, of the New Hanover County Registry.

EXHIBIT C

A certain tract of land lying and being in the City of Wilmington, New Hanover County, North Carolina and more particularly described as follows:

Beginning at a southeastern corner of "Future Development Area 3" (as shown on Condominium Plat Book 15, Page 72), said point being located N 29-21-11 E 510.66 ft. from the southeastern corner of "Future Development Area 1" (as shown on Condominium Plat Book 15, Page 72), said southeastern corner being on the northern right of way of Wrightsville Avenue (also being the southeastern corner of "Future Development Area 1 as shown on said plat) and being 503'+- from the intersection of New Orleans Place: Proceed from said point of beginning and with the eastern line of said "Future Development Area 3" N 29-21-11 E 53.55 ft., thence across said "Future Development Area 3" as shown on said plat on a line having a bearing of N 60-45-13 W approximately 185.20 ft. to the point where said line intersects the western line of "Future Development Area 3" as shown on said plat, thence with said western line S 40-44-45 W 81.37 ft. to a point; thence with a curve to the left having a radius of 51.00 ft. a chord S 07-04-16 E 75.58 ft. to the point in an eastern line of "Future Development Area 3" as shown on said plat; runs thence with the line of said "Future Development Area 3" as follows: N 29-16-45 E 87.13 feet, thence S 60-45-13 E 17.64 ft., N 29-14-47 E 23.50 ft., S 60-45-13 E 49.40 ft., N 29-14-47 E 5.0 feet, S 60-45-13 E 49.40 ft., S 29-14-47 W 28.48 ft., and S 60-36-49 E 40.07 ft. to the point of Beginning.

All bearings are relative to Condominium Plat Book 15, Page 72, of the New Hanover County Registry.

ND: 4830-4654-6244, v. 6

PRELIMINARY EXHIBIT PROPOSED ACCESS DRIVE

WRIGHTSVILLE PLACE

EXHIBIT

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D

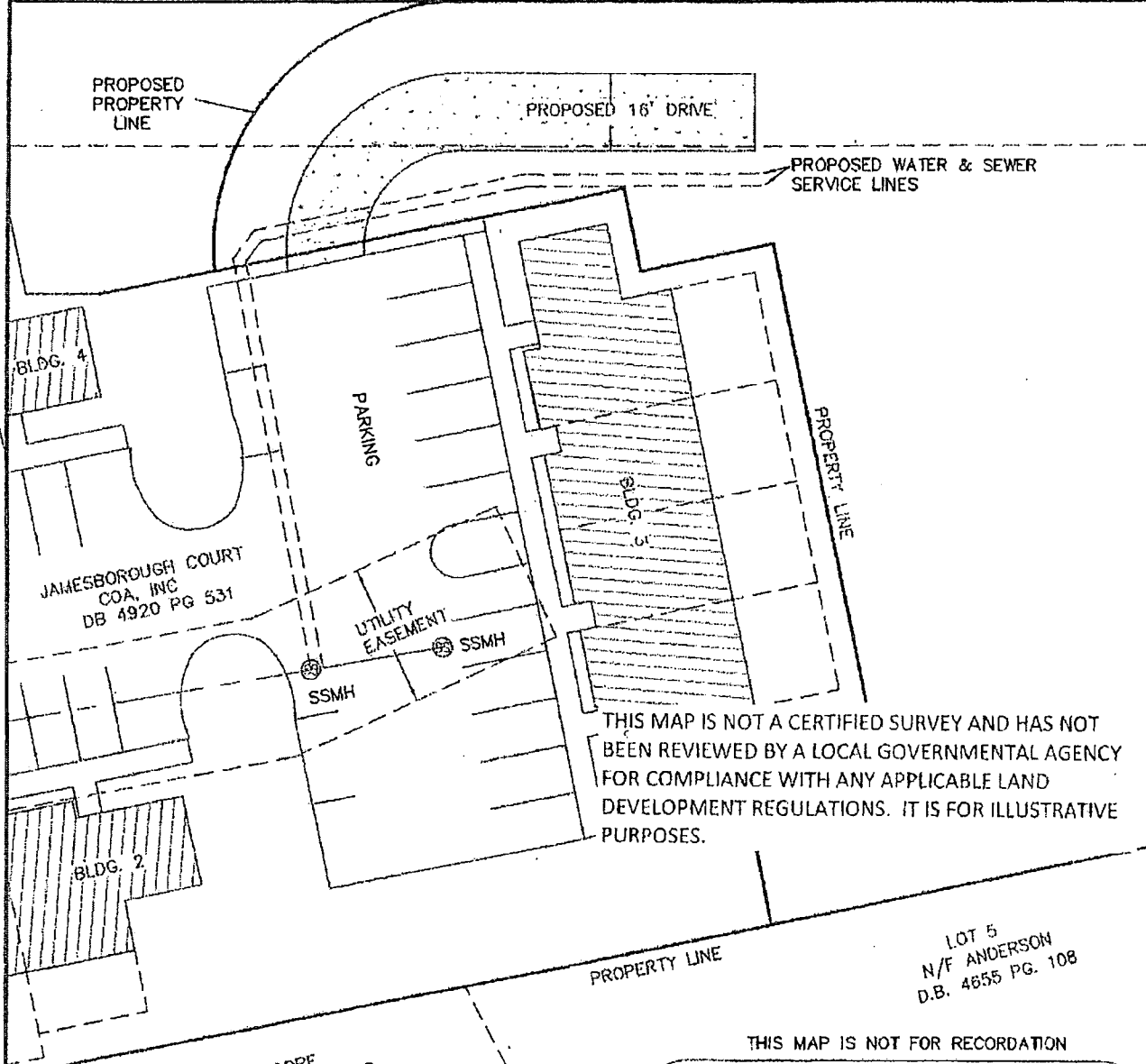


PROPERTY LINE

PROPOSED
PROPERTY
LINE

PROPOSED 16' DRIVE

PROPOSED WATER & SEWER
SERVICE LINES



JAMESBOROUGH COURT
COA, INC
DB 4920 PG 531

PARKING

UTILITY
EASEMENT

SSMH

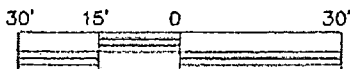
SSMH

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT
BEEN REVIEWED BY A LOCAL GOVERNMENTAL AGENCY
FOR COMPLIANCE WITH ANY APPLICABLE LAND
DEVELOPMENT REGULATIONS. IT IS FOR ILLUSTRATIVE
PURPOSES.

LOT 5
N/F ANDERSON
D.B. 4855 PG. 108

PROPERTY LINE

N/F GORE
D.B. 3931 PG. 412
LOT 3



THIS MAP IS NOT FOR RECORDATION

HANOVER DESIGN SERVICES, P.A.
LAND SURVEYORS ENGINEERS & LAND PLANNERS

1123 FLORAL PARKWAY
WILMINGTON, N.C. 28403
PHONE: (910) 343-8002
FAX: (910) 343-9941
FIRM CERTIFICATE C-0597
JOB #####



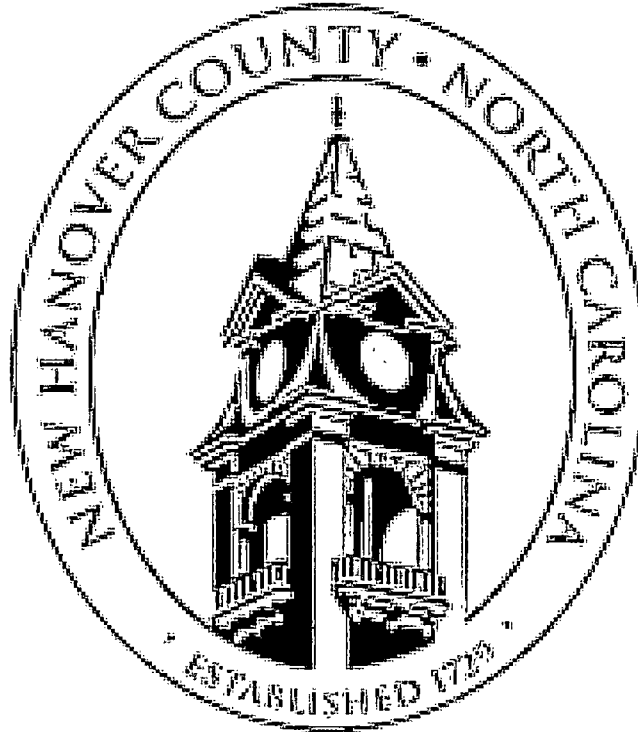
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REGULATIONS AND HAS NOT BEEN REVIEWED FOR
COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS**

TAMMY THEUSCH
BEASLEY
Register of Deeds

New Hanover County

Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401
Telephone 910-798-4530 • Fax 910-798-7716



State of North Carolina, County of NEW HANOVER
Filed For Registration: 12/08/2017 01:26:32 PM
Book: RB 6107 Page: 1619-1628
10 PGS \$26.00
Real Property \$26.00
Recorder: ANGELA ENGLISH
Document No: 2017039475

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