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STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

DECLARATION OF RESTRICTIONS  
OF  
MARATHON LANDING

Dec 11 4 16 PM '87

RECORDED AND VERIFIED  
REBECCA M. TUCKER  
REGISTER OF DEEDS  
NEW HANOVER CO. NC

KNOW ALL MEN BY THESE PRESENTS, that the undersigned NORTH-STATE PROPERTIES OF WILMINGTON, INC., a North Carolina Corporation, (hereinafter referred to as "Declarant"), who are the Owner and Developer of that certain subdivision in Cape Fear Township, New Hanover County, North Carolina, known as Marathon Landing Subdivision.

W I T N E S S E T H:

THAT, WHEREAS, DECLARANT is the owner of all of the lots in of Marathon Landing Subdivision, <sup>Section I</sup> a map of which is recorded in Map Book 28 at Page 27 of the New Hanover County Registry; and

WHEREAS, it is the desire of Declarant, for itself, its successors and assigns, to provide a uniform plan of development for all of the lots located in said Subdivision;

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NOW, THEREFORE, DECLARANT, for itself, its successors and assigns does hereby covenant, and agree and declare to and with all persons, firms, or corporations, now owning or hereafter acquiring any property in Marathon Landing Subdivision, <sup>Section I</sup> that all of the lots in said Subdivision as shown on the map thereof recorded in Map Book 28 at Page 27 of the New Hanover County Registry, are hereby made subject to the following restrictions as to the use, thereof, running with the land by whomsoever owned, to-wit:

1. RESIDENTIAL USE ONLY: All lots shall be known as single-family residential lots, and shall be used for residential purposes only and may not be used for commercial purposes. No building shall be erected, altered, placed, or permitted to remain on any such lot other than one detached single family dwelling not to exceed two and one-half (2 ) stories in height and a private garage for more than two cars.

2. SETBACK REQUIREMENTS: Since the establishment of standard inflexible building setback lines for location of houses on lots tends to create houses in line with each other and, consequently, adversely affects privacy, view, preservation of important trees and other ecological and related considerations, no specific setback lines are established by these Restrictions. However, in order to assure that the Subdivision will be attractive and the items referred given maximum affect, the Declarant reserves the right to control and approve absolutely the site and location of any house or dwelling or other structure upon any lot. In any event, no house shall be erected closer to the front lot line or nearer to any side lot line than the

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Allen Macdonald  
PO. BOX 241  
Wilm NC 28401

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minimum distances established by applicable New Hanover County ordinances.

3. NO DIVISION OF LOTS: No lot shall be re-subdivided unless a part of the subdivided lot becomes a part of a whole lot, and the remainder of the subdivided lot becomes a part of another whole lot.

4. NO TEMPORARY STRUCTURE: No house trailer, mobile home, basement, tent, shack, garage or garage apartment, barn or other outbuilding erected on any of said property may at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted, nor shall any temporary structure or trailer be placed on said lot.

5. NO NUISANCE OR OFFENSIVE ACTIVITY: No noxious or offensive activity shall be carried on or upon any lot nor shall anything be done thereon which may be or may become an annoyance, embarrassment, discomfort or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds on such lot which would tend to substantially decrease the beauty of the neighborhood as a whole or the specific area. No inoperative cars shall be allowed on any lot.

6. PLANS APPROVED: No dwelling may be erected, placed, or permitted to remain on any lot in said Subdivision unless and until the design, plans, and specifications for the same shall have first been approved by Declarant, or its designated agents. Upon written request by a lot owner for approval of a design or plan, Declarant, or their designated agents, shall have ten (10) days in which to approve or disapprove such plans. In the event of failure to approve or disapprove within ten (10) days such approval will not be required, provided the design and plan of the proposed building is in harmony with the existing structures in the section. It is the express intention of the Declarant to maintain in this section a uniform plan of development with respect to design, size, type, cost and general appearance of the structures on the lots therein. Approval or disapproval may be given orally or in writing.

7. SIZE OF BUILDING: No dwelling with an interior of less than 1,350 square feet of living space (exclusive of porches, steps, walks, breezeways, carports and garages) may be erected, placed, or permitted to remain upon any lot in this section; provided that in cases where the area is not more than ten percent (10%) below the minimum above set out, Declarant, or its designated agents, may, at their option, approve the construction of the dwelling if it is in conformity with the general development of the Subdivision.

8. EXTERIOR OF DWELLING: All dwellings must be constructed of wood, brick, brick veneer, or stone and with architectural designs appropriate to the Subdivision. Garages on dwelling lots must be constructed of the same material as specified for the dwelling.

9. SEWAGE DISPOSAL: Until such time as municipal sewage is available, sewage disposal shall only be by septic tank to meet the approval of the North Carolina State Board of Health.

10. SIGNS: No sign or billboard of any description shall be displayed on any lot other than private nameplates or

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signs for identification of the resident and signs advertising the property "for sale" or "for rent".

11. FENCES: No chain link fence in excess of four (4') feet in height shall be erected on any lot. No fence of any other material in excess of four (4') feet shall be erected on any lot unless written approval thereof has been obtained from the developer. No fence shall be permitted nearer the front line than the back corners of the house constructed on said lot.

12. MODULAR AND PREFABRICATED HOMES: Modular and prefabricated homes and previously constructed houses may not be erected and placed on any lot, without the expressed written consent of the Declarant.

13. RIGHT OF WAY RESERVED: The Declarant reserves unto itself, its successors and assigns, the right to subject the real property in this Subdivision to a contract with Carolina Power & Light Company for the installation of street lighting, which contract requires or will require a continuing monthly payment to Carolina Power & Light Company by each residential customer for street lighting service.

14. TERM AND MODIFICATION: These covenants and restrictions are to run with the land and shall be binding on all parties and persons claiming under them until January 1, 2013, after which time all covenants and restrictions herein listed may be waived or released by a majority of the then lot owners.

15. EFFECT OF INVALIDATION: Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other covenants herein which shall remain in full force and effect.

16. AUTHORITY FOR ACTION: If the parties hereto, or any of them or their heirs, successors or assigns, shall violate or attempt to violate any of the covenants herein contained, it shall be lawful for any other person, or persons, owning any real property in said Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting any such covenant and either to prevent him from so doing or to recover damages or other dues for such violation.

17. BOAT LANDING AND ASSESSMENT FOR MAINTENANCE: Shown on the map of Marathon Landing is a area for a boat launching ramp and recreational use. This area shall be for the use of the lot owners under the following terms and conditions:

A. An Association called Marathon Landing Association shall be formed as soon as fifty (50%) percent of the lots have been sold by the Declarant and when the Association has been formed, the Declarant will convey the landing area to the Association.

B. The landing area may be used by any owner, immediate members of his family, his tenants or contract purchasers who reside on the property. Use by any other persons may be decided upon by the Association.

C. The Association may publish rules and regulations for the use of the recreational area and shall have the authority to suspend the voting rights and use of the facilities if there is a violation of said rules and regulations.

D. The Association shall adopt By-laws for the operation of the Association, which shall provide, among other things, that each lot shall have a vote in the selection of directors who shall manage the Association. The determination as to whether to incorporate the Association or to remain as an Association shall be made at the discretion of the Association members.

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E. By the acceptance of a deed, each property owner agrees that annual assessments and special assessments may be charged for the maintenance of the landing and recreational area and for capital improvements made thereon. Said assessments, together with the costs and reasonable attorneys fees, if collectible, shall be a charge on the land and shall be a continuing lien upon the property against which assessment is made. It shall be the right of the Association to file liens with the Clerk of Court for New Hanover County, but whether said liens are filed or not, they shall constitute a lien if unpaid.

F. Annual assessments shall be established by a vote of the Association, which shall consist of one (1) vote per lot (the Declarant shall have one vote for each lot unsold). The initial annual assessment until 1991 shall not be more than \$100.00 per lot. Annual assessments may be increased after January 1, 1991, by a vote of sixty (60%) percent of the lot owners who are voting in person or by proxy at a meeting duly called for this purpose, provided however, that the Board of Directors may establish the assessment at the same amount as the previous year's assessment without a meeting or vote of the Association.

G. Special assessments for capital improvements may be established by a vote of two-thirds (2/3) of the members of the Association at a regularly called meeting for that purpose with consent of two-thirds (2/3) of the votes of the Association who are voting in person or by proxy at said meeting.

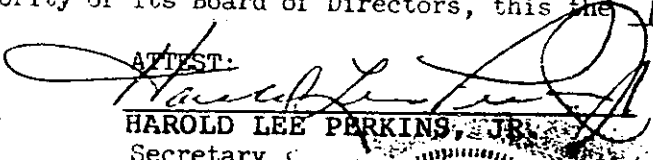
H. Written notice of a meeting for the purpose of establishing either annual or capital assessments shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

I. Assessments not paid within thirty (30) days of the due date shall bear interest at the rate of eight (8%) percent per annum from the due date and the Association may bring an action at law to foreclose the lien against the property as provided by the General Statutes of the State of North Carolina. Said action shall be either personally against the owners of the property or against the property itself.

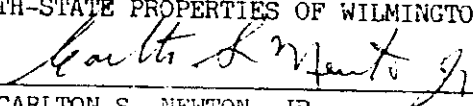
J. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. No sale or transfer shall relieve a lot from liability for any assessments already due or thereafter becoming due or from the liens thereof.

IN TESTIMONY WHEREOF, the said Declarant, NORTH-STATE PROPERTIES OF WILMINGTON, INC., a North Carolina Corporation, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, this the 11<sup>th</sup> day of December, 1987.

ATTEST:

  
HAROLD LEE PERKINS, JR.  
Secretary

NORTH-STATE PROPERTIES OF WILMINGTON, INC.

By:   
CARLTON S. NEWTON, JR.  
President

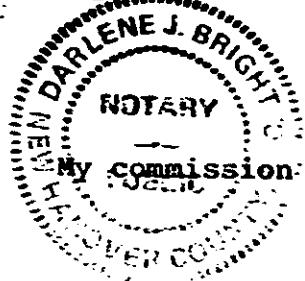


STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, a Notary Public of the County and State aforesaid certify that HAROLD LEE PERKINS, JR. personally came before me this day and acknowledged that he is Secretary of NORTH-STATE PROPERTIES OF WILMINGTON, INC., a North Carolina corporation, 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 him as its Secretary.

Witness my hand and official stamp or seal, this the 11<sup>th</sup> day of December, 1987.



Darlene J. Bright  
Notary Public

STATE OF NORTH CAROLINA  
New Hanover County  
The Forgoing Certificate of Darlene J. Bright  
Notary Public  
is certified to be correct.  
This the 11 day of Dec. 19 87

Rebecca P. Tucker, Register of Deeds  
By Phyllis Tucker  
Deputy