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NEW HANOVER COUNTY, NC

TAMMY THEUSCH BEASLEY

REGISTER OF DEEDS

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DECLARATION OF
MARINA STREET YACHT CLUB CONDOMINIUM

Sandra Overbeck
Developer and Declarant

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THIS DECLARATION OF MARINA STREET YACHT CLUB CONDOMINIUM (hereinafter referred to as the "Declaration"), made this the 15th day of November, 2016, by Sandra Overbeck (the "Declarant"), pursuant to the provisions of Chapter 47C of the General Statutes of the State of North Carolina (sometimes hereinafter referred to as the "Condominium Act" or the "Act") to All Prospective Purchasers or Owners of property described herein;

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real estate and appurtenant easements located in New Hanover County, North Carolina, said real estate being more particularly described on Exhibit A attached hereto and incorporated herein by reference; and,

WHEREAS, There exists on the property described on Exhibit A one building, docks, piers, walkways and other improvements utilized as a wet-slip marina containing two residences; and,

WHEREAS, it is the desire of the Declarant to submit the real property described on Exhibit A, together with the improvements thereon constructed and the easements appurtenant thereto, to the provisions of the Act to provide for the condominium form of ownership; and,

WHEREAS, Declarant hereby establishes by this Declaration a plan for the individual ownership of Units and the co-ownership by individual and separate owners thereof, as tenants in common, of all of the remaining property in the Condominium and assigning certain portions of the remaining property in the Condominium as Limited Common Elements (as hereinafter defined) for the exclusive use and benefit of the owners of the Units to which said Limited Common Elements are assigned herein.

NOW, THEREFORE, Declarant does hereby declare that the property described on Exhibit A attached hereto and incorporated herein by reference shall be held, conveyed, encumbered, used, occupied, improved, sold, mortgaged, and otherwise conveyed subject to the rules, regulations, restrictions, covenants, conditions, uses and obligations set forth in this Declaration. All such rules, regulations, restrictions, covenants, conditions, uses and obligations are declared and agreed to be in furtherance of a plan for the creation of the Condominium and the use, enjoyment and rental of Units and shall be deemed to run with the land and be a burden on and a benefit to the Declarant, its successors and assigns, and on and to any Person acquiring or owning any interest in the real property in the Condominium and any improvements thereto, and such parties' grantees, successors, heirs, assigns, executors, administrators and devisees. Individual Owners, their employees, guests, tenants and all Persons using or possessing any property within the Condominium are subject to the provisions of this Declaration.

ARTICLE 1.

ESTABLISHMENT OF CONDOMINIUM

On that property described on Exhibit A, attached hereto and incorporated herein by reference, there exists a parcel of land together with a building comprised of two (2) Building Units, a mailbox structure containing fifteen (15) Slip Units, and other appurtenant improvements. The Declarant has allocated certain Limited Common Elements, including Slips and parking spaces, to the Units. Declarant does hereby submit the real property, riparian rights and appurtenant easements, and the improvements lying within the land area described on Exhibit A to condominium ownership under the provisions of the Act, and hereby declares the same to be a condominium to be known and identified as "Marina Street Yacht Club Condominium". The maximum number of Units which the Declarant reserves the right to create is twenty-five (25). The Condominium is located in New Hanover County, North Carolina.

ARTICLE 2.

SURVEY PLATS AND PLANS

A survey of the land and appurtenant riparian rights, and plat and plans of the improvements constituting the Condominium identifying the Units, the Common Elements and the Limited Common Elements, as said terms are herein defined, and containing the information required by N.C. Gen. Stat. § 47C-2-109(b) and (c) is recorded in the office of the Register of Deeds of New Hanover County on even or similar date as this Declaration, said survey and plat and plans being incorporated herein by reference. Each Unit is identified by a specific number on the Condominium Plat, and no Unit bears the same number as any other Unit. The Units included in the Condominium are numbered 1 through 17, all as shown on the Condominium Plat.

ARTICLE 3.

DEFINITIONS

As used in this Declaration and the exhibits attached hereto, the Bylaws, the Articles of Incorporation, and all amendments thereof, unless the context requires otherwise, the following definitions shall prevail:

Section 3.1 Act. "Act" means Chapter 47C of the General Statutes of North Carolina designated as the North Carolina Condominium Act.

Section 3.2 Articles of Incorporation. "Articles of Incorporation" means the Articles of Incorporation for Marina Street Yacht Club Association, Inc. filed in the office of the Secretary of State of North Carolina.

Section 3.3 Association. "Association" means the owners association organized pursuant to the Act and incorporated under Chapter 55A of the General Statutes of North Carolina, and shall be known as Marina Street Yacht Club Association, Inc. and its successor.

Section 3.4 Board of Directors or Board. "Board of Directors" or "Board" means the body responsible for operation and administration of the Condominium and the Association. The Board shall be selected as provided in the Bylaws.

Section 3.5 Boat. "Boat" means and refers to any motorboat, sailboat, yacht or other watercraft which is self-propelled; provided, however, this term shall exclude any houseboat, floating home, or house-like barge. In the event of any dispute as to whether a particular Boat is permitted to be kept in a Slip or otherwise operated within the Condominium, the determination of the Declarant during the Development Period, and thereafter, the determination of a majority of the Board of Directors made, in its sole discretion, shall be dispositive.

Section 3.6 Building Unit. "Building Unit" means Units 1 and 2. The Building Units include a parcel of land and the improvements located thereon as depicted on the Condominium Plat. The vertical boundaries of the Building Units shall be depicted on the Condominium Plat and the Building Units shall have no horizontal boundaries.

Section 3.7 Business or Trade. "Business" or "Trade" means their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the family of the producer of such goods or services and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

Section 3.8 Bylaws. "Bylaws" means the Bylaws of the Association as they may be amended from time to time.

Section 3.9 CAMA Permit. "CAMA Permit" means a permit or permits issued by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission, and or all amendments, extensions or renewals thereof, allowing for the construction and operation of the building, docks, piers and other improvements within or upon the Condominium.

Section 3.10 Common Elements. "Common Elements" means and comprise (i) all of the real property, improvements and facilities of the Condominium, excluding the Units as herein defined, (ii) all pilings, docks, finger piers and ramps, (iii) the CAMA Permit, (iv) any and all Riparian Easements hereinafter defined, (v) all Riparian Rights appurtenant to the Property, (vi) all personal property held and maintained by the Association for the joint use and enjoyment of all the Owners of Units, including, but not limited to, utility lines, piping and

conduits to the point of connection in any Utility Pedestal, and (vii) all permits for construction, maintenance and operation of the Condominium assigned by Declarant to the Association or otherwise procured or acquired by the Association.

Notwithstanding this definition, to the extent that the provisions of the Act apply to "Common Elements," including, without limitation, the provisions of Section 47C-3-112, those provisions shall apply only to the real property portions of the Common Elements.

Section 3.11 Common Expenses. "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

Section 3.12 Condominium. "Condominium" means the Property described on Exhibit A, easements appurtenant to the Property and Riparian Rights, together with the Riparian Easement(s), if any, all improvements existing thereon or hereinafter constructed thereon.

Section 3.13 Condominium Documents. "Condominium Documents" means collectively the Articles of Incorporation, the Bylaws, this Declaration, the Rules and Regulations adopted by the Association, and resolutions of the Board, all as may be amended, restated, and revised from time to time. Any exhibit, schedule, or amendment to a Condominium Document shall be considered a part of that document.

Section 3.14 Condominium Plats. "Condominium Plats" means the condominium surveys and/or plats of the Condominium recorded in the Register of Deeds, including without limitation the plat referenced in Article 2 above which is recorded in Condominium Book 18, at Page 348 in the Register of Deeds and any and all supplements and amendments thereto.

Section 3.15 Declarant. "Declarant" means Sandra Overbeck, her heirs, successors and assigns, and any Person or entity who succeeds to any Special Declarant Rights as provided herein or pursuant to the Condominium Act.

Section 3.16 Declaration. "Declaration" means this instrument and any amendments thereto.

Section 3.17 Development Period. "Development Period" means the period ending on the earliest of (a) thirty (30) years from the date this Declaration is recorded in the Register of Deeds or (b) the date specified by Declarant in a written notice to the Association or recorded document stating that the Development Period is to terminate on that date so stated.

Section 3.18 Development Rights. "Development Rights" means the rights reserved by Declarant under Article 27 of this Declaration.

Section 3.19 Director. "Director" means a member of the Board of the Association.

Section 3.20 Limited Common Elements. "Limited Common Elements" means those portions of the Common Elements allocated by operation of N.C. Gen. Stat. § 47C-2-102 for the exclusive use of one or more but fewer than all of the Units, including, without limitation, Slips, parking spaces, Utility Pedestals, those portions of the Common Elements described in this Declaration as Limited Common Elements and those portions of the Common Elements designated as Limited Common Elements on the Condominium Plats. Portions of the finger piers and the individual Slips shown and designated on the Condominium Plats shall be Limited Common Elements.

Section 3.21 Member. "Member" means a Person having membership in the Association consistent with Article 9 of this Declaration.

Section 3.22 Mortgage. "Mortgage" means a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 3.23 Mortgagee. "Mortgagee" means a beneficiary or holder of a Mortgage.

Section 3.24 Owner. "Owner" means any Person owning one or more Units, but shall not include a Mortgagee unless such Mortgagee has acquired title pursuant to foreclosure or some other process in lieu of foreclosure.

Section 3.25 Permit. "Permit" means any stormwater permit(s) issued by the Department of Environment and Natural Resources Division of Water Quality applicable to the Property, and any amendments, additions or replacements thereof.

Section 3.26 Person. "Person" means a natural person, limited liability company, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity or any combination thereof.

Section 3.27 Property. "Property" means the real estate described on Exhibit A, together with all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate, including the Riparian Rights and Riparian Easement(s), if any.

Section 3.28 Register of Deeds. "Register of Deeds" means the office of the Register of Deeds of New Hanover County, North Carolina.

Section 3.29 Riparian Easement. "Riparian Easement" means any and all easement(s), which may be granted by the State of North Carolina to the Association, as trustee and agent for the Owners consistent with the appurtenant undivided interest in the Common Elements allocated to each Owner, and all appurtenant rights, privileges, obligations and conditions set forth therein, pursuant to the provisions of N.C.G.S. Section 146-12, and any subsequent easements, and/or renewals and extensions thereof, granted to the Association.

Section 3.30 Riparian Rights. "Riparian Rights" means riparian and littoral rights, collectively, including the right to wharf out, moor and to tie up a boat, together with the right to maintain a channel to the navigable waterways, and other rights of access to and enjoyment of waterways given to an owner of land adjacent to a waterway.

Section 3.31 Slip. "Slip" or "Slips" means, and shall be a part of, Limited Common Elements bounded by portions of the piers and finger piers, and assigned to a particular Unit, all as shown and designated on the Condominium Plats. A Slip includes the portion of the Riparian Rights of the Condominium located within the boundaries of the Slip designated on the Condominium Plats. Utility lines, piping, conduits, cleats, mooring devices and permitted improvements located within a Slip or the Limited Common Elements comprising part of a Slip and extending into the Utility Pedestal, shall be considered betterments and improvements and not part of a Slip or the Limited Common Elements.

The lower horizontal boundary of each Slip is the plane measured three (3) feet above the upper surface of the Submerged Lands. The Slips do not have an upper horizontal boundary.

The perimeter boundaries of each Slip shall be the vertical planes coincident to the perimeter boundaries of each Slip as depicted on the Condominium Plats extended to their intersections with each other and with the upper and lower boundaries.

Section 3.32 Slip Units. "Slip Units" means Units identified as Slip Units in the Declaration and on the Condominium Plat. The Slip Units shall be located within a mailbox structure and the boundaries of the Slip Units will be shown on the Condominium Plat.

Section 3.33 Stormwater Management Facilities. "Stormwater Management Facilities" means all areas consisting of ditches and swales, retention ponds and other improvements which are constructed pursuant to, and regulated by, the Permit located within the Condominium.

Section 3.34 Submerged Lands. "Submerged Lands" means all lands and the Intracoastal Waterway bottom located within the Common Elements and lying beneath each Slip.

Section 3.35 Units. "Units" means a physical portion of the Condominium designated for separate ownership, the boundaries of which are shown on the Condominium Plats. Units shall include Slip Units and Building Units.

Section 3.36 Upkeep. "Upkeep" means maintenance and operation, and includes, without limitation, care, inspection, dredging, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

Section 3.37 Use Restrictions. "Use Restrictions" means the rules and use restrictions more fully defined as set forth in Section 6.4.

Section 3.38 Utility Company. "Utility Company" means a public or private company or entity duly licensed and authorized by the North Carolina Utilities Commission to provide utility services within a specified franchise area and any entity providing utility services on behalf of a body politic, municipality or other governmental body or entity.

Section 3.39 Utility Pedestal. "Utility Pedestal" means that fixture located on the Common Elements designed to provide utility services to one or more Slips, the use of which shall be exclusively allocated to the particular Slips utilizing the utilities extending into and from the Utility Pedestal.

Any word not defined herein, unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, have the meaning set out in N.C. Gen. Stat. § 47C-1-103.

ARTICLE 4.

ALLOCATION OF COMMON ELEMENT INTERESTS, COMMON EXPENSE LIABILITIES AND VOTES

Section 4.1 Common Elements Allocation. Each Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership. The Owner of each Unit also shall own, as an appurtenance to the ownership of said Unit, an undivided interest in the Common Elements. The proportional interest in the Common Elements allocated to each of the Units which presently exists, subject to amendment as provided herein, shall be equal for each Unit. The proportional interest in the Common Elements allocated to each Unit shall be reallocated among all the Units equally when new Units are created pursuant to the exercise of Development Rights.

Section 4.2 Common Expense Allocation. The portion of the Common Expenses of the Association shall be allocated equally to each Unit. The portion of Common Expenses for each Unit is as set out in Exhibit B. The proportional interest in the Common Expenses allocated to each Unit shall be reallocated among all the Units equally when new Units are created pursuant to the exercise of Development Rights.

Section 4.3 Voting Allocation. The vote in the Association allocated to each Unit shall be equal and shall be one (1) vote per Unit.

ARTICLE 5.

LIMITED COMMON ELEMENTS.

Section 5.1 Slips. The Slips are Limited Common Elements appurtenant to the Unit to which the Slip is allocated or assigned as set forth on Exhibit B to this Declaration.

Each Slip is an appurtenance to the Unit to which it is assigned or allocated; and, except as may be leased consistent with the provisions of this Declaration, any purported conveyance, encumbrance, sale or other transfer of a Slip made without the Unit to which that Slip is allocated shall be void and unenforceable.

Slips allocated or assigned to particular Units may be reassigned or reallocated to other Owners by a supplement to the Declaration executed by all of the Owners between or among whose Units the reassignments or reallocations are made ("Supplemental Declaration"). No reassignment of Slips among Owners shall be permitted without the prior written consent of the Declarant during the Development Period, and the Association after the termination of the Development Period. The Association shall prepare, at the expense of the Owners whose Slips are being reassigned, a Supplemental Declaration, which shall be executed by said Owners and recorded in the office of the Register of Deeds. The Supplemental Declaration shall be recorded in the same manner as a deed in the names of the particular Owners and the Association.

Declarant may, pursuant to N.C. Gen. Stat. § 47C-2-105(a)(7), allocate any or all of the portion of the Common Element depicted on the Condominium Plat as "Common Element May Be Allocated As Limited Common Element" as Limited Common Element by recording a Supplemental Declaration and a Condominium Plat depicting the newly allocated Limited Common Element. The Supplemental Declaration shall set forth the Unit or Units to which the newly allocated Limited Common Element is allocated or assigned.

Section 5.2 Parking Spaces. Two parking spaces within the Common Elements shall be Limited Common Elements with one parking space appurtenant to Unit 1 and one parking space appurtenant to Unit 2 as depicted on the Condominium Plat.

ARTICLE 6.

PLAN OF DEVELOPMENT, USE RESTRICTIONS, ENCUMBRANCES AND RESTRAINTS ON TRANSFER

Section 6.1 Plan of Development. Declarant has established a general plan of development and occupancy for the Property under this Declaration in order to protect all Owners' quality of life and collective interests, the aesthetic and environmental quality within the Property, and the vitality of and sense of community within the Property, all subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, needs, and desires within the Condominium.

This Declaration, including the Use Restrictions, attached as Exhibit C, and the rules and resolutions adopted by the Board or the Members establish affirmative and negative covenants, easements, and restrictions on the Property.

All provisions of the Condominium Documents shall apply to all Owners, their family members, occupants, tenants, guests and invitees.

Section 6.2 Authority to Promulgate Rules.

(a) Subject to the terms of this Article and in accordance with its duty of care and undivided loyalty to the Association and its Members, the Board may adopt additional rules and regulations regarding the Common Elements, including the Slips and parking spaces, not inconsistent with the Use Restrictions set forth in Exhibit C, and other such rules and regulations permitted by, and not inconsistent with, the Act (said rules and regulations are referred to herein as the "Rules and Regulations"). The Board is expressly authorized to adopt, amend and restate from time to time, rules and regulations applicable to the Condominium, including the Slips during times of emergencies, including emergencies created by weather. Such Rules and Regulations may require the removal of Boats from the Slips and the Condominium.

(b) The Owners, at a meeting duly called for such purpose, may adopt Rules and Regulations which modify, cancel, limit or create exceptions to adopted Rules and Regulations by a vote of Owners representing sixty-seven percent (67%) of the total vote in the Condominium. Provided that such action to adopt, modify, cancel, limit or create exceptions to Rules and Regulations shall require the approval of Declarant during the Development Period.

(c) At least fifteen (15) days prior to the effective date of any action under subsections (a) or (b) of this Section, the Board shall send a copy of the new rule to each Owner specifying the effective date of such new rule. The Association shall provide, without cost, a copy of the Rules and Regulations then in effect to any requesting Member or Mortgagee.

(d) Nothing in this Article shall authorize the Board or the Owners to modify, repeal or expand the Condominium Documents except as such documents may be amended as provided therein.

Section 6.3 Owners' Acknowledgment. All Owners are subject to the Use Restrictions and are given notice that (a) their ability to use their privately owned property is limited thereby, and (b) the Board and/or the Owners may adopt, delete, modify, create exceptions to, or amend the Rules and Regulations.

Each Owner by acceptance of a deed acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Use Restrictions and Rules and Regulations may change from time to time.

Section 6.4 Use Restrictions. The Units and Common Elements are declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the Condominium and those set forth in the Use Restrictions attached hereto at Exhibit C.

Section 6.5 Maximum Boat Dimension. The size of a Boat that may be stored in each Slip is limited to the maximum dimensions designated on Exhibit B. No Owner may