

Fisher



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Onslow County, NC
Rebecca L. Pollard Reg. of Deeds

BK **3905** PG **112-116**

Prepared by: Glenn O'Keith Fisher, Attorney at Law

NORTH CAROLINA

ONslow COUNTY

**SECOND AMENDMENT OF DECLARATION
OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR ST. JAMES PARK OF
WILLIAMSBURG PLANTATION,
SECTIONS I AND SECTION II**

THIS SECOND AMENDMENT OF DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR ST. JAMES PARK OF WILLIAMSBURG
PLANTATION, SECTIONS I AND II, made this the 21st day of December, 2012 by JOHN
KOENIG, INC., a North Carolina corporation, whose address is 1763 Wilmington Highway,
Fayetteville, North Carolina, hereinafter referred to as "Declarant."

THAT WHEREAS, Declarant was the owner and developer of certain property located in
the City of Jacksonville, Onslow County, North Carolina and being more particularly described
as follows:

Being all of that land designated and known as "ST. JAMES PARK OF
WILLIAMSBURG PLANTATION, SECTION I" as shown on that certain plat
recorded in Plat Book 63, Page 184, Plat Cabinet N, Onslow County Registry;

and

WHEREAS, on or about February 23, 2012, Declarant caused to be recorded a certain
document entitled "Declaration of Covenants, Conditions and Restrictions for St. James Park of

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Williamsburg Plantation, Section I,” (hereinafter referred to as “Declaration”), said Declaration being recorded in Deed Book 3730, Page 622, Onslow County Registry; and

WHEREAS, by Amendment of Declaration of Covenants, Conditions and Restrictions for St. James Park of Williamsburg Plantation, Section I, (hereinafter referred to as the “First Amendment”), said First Amendment being recorded in Deed Book 3895, Page 131, Onslow County Registry, Declarant amended certain paragraphs of the Declaration related to stormwater and wetlands preservation; and

WHEREAS, Declarant is the owner of and developer of certain property located in the City of Jacksonville, Onslow County, North Carolina and being more particularly described as follows:

Being all of that land designated and known as “ST. JAMES PARK SECTION II OF WILLIAMSBURG PLANTATION” as shown on that certain plat recorded in Plat Book 65, Page 134, Plat Cabinet N, Onslow County Registry;

and

WHEREAS, by document entitled Supplement to the Declaration of Covenants, Conditions and Restrictions for St. James Park of Williamsburg Plantation, Section I, (hereinafter referred to as “Supplement”), said Supplement being recorded in Deed Book 3895, Page 137, Onslow County Registry, the Declarant annexed the land in Section II St. James Park into the Declaration and made said property subject to said Declaration; and

WHEREAS, the provisions of Article XIII of the Declaration provide that the Declarant can amend the Declaration without the consent of any other party; and

WHEREAS, the U.S. Army Corps of Engineers has requested an additional amendment of the language contained in Article XII Section 12.4 of the First Amendment regarding the preservation of wetlands; and

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WHEREAS, the Declarant has agreed to make such amendments to ensure continued compliance with the mitigation conditions of authorizations issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID 200600272;

NOW, THEREFORE, for valuable consideration in hand paid, the receipt of which is hereby acknowledged, Declarant does hereby amend the aforesaid Declaration recorded in Deed Book 3730, Page 622, Onslow County Registry and the First Amendment recorded in Deed Book 3895, Page 131, Onslow County Registry as follows:

1. By deleting Article XII Section 12.4 entitled "Provisions Relating to Wetlands" and any amendments thereto and in its entirety and replacing it with the following:

Section 12.4 Provisions Relating to Wetlands: All of the properties subject to these declarations, conditions, covenants and restrictions shall also be subject to the following Special Provisions Related to Wetlands:

A. In developing the property, the Declarant has agreed with the State of North Carolina and the Department of the Army Corps of Engineers (pursuant to a permit issued by the State of North Carolina and the Corps of Engineers) to restrict and prohibit any future filling and other detrimental activities in the wetlands areas which presently exist within the identified area of the property. Accordingly, all wetlands shown and delineated on the wetland survey plat dated March 19, 2007 and verified by Brad Shavor of the Corps of Engineers on or about August 10, 2007, and as shown on that plat entitled "Wetland Preservation Map Action ID: SAW 2006-00272 Prepared from JOHN KOENIG, INC. (OWNER)," dated November 30, 2012 and recorded in Map Book 65, Page 155, Cabinet N, Onslow County Registry, shall be maintained in perpetuity in their natural or mitigated condition. No person or entity shall fill, grade, excavate, or perform any other land disturbing activities; nor cut, remove, or harm any vegetation; nor construct any structures, nor allow animal grazing or watering or any other agricultural use on such conversation area. The covenant is intended to ensure continued compliance with the mitigation conditions of authorizations issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID 200600272, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it.

B. The areas shown on the recorded plat designated and known as "ST. JAMES PARK OF WILLIAMSBURG PLANTATION, SECTION I" recorded in Plat Book 63, Page 184, Plat Cabinet N, Onslow County Registry as conservation areas shall be maintained in perpetuity in their natural or mitigated condition. No person or entity shall perform any of the following activities on such conservation area:

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- 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 area
- e) dump or store soil, trash, or other waste
- f) graze or water animals, or use for any agricultural or horticultural purpose

C. 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 SAW-2006-00272, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it.

D. This section shall not be amended without the express written consent of the U. S. Army Corps of Engineers, Wilmington District.

- 2. That this amendment shall apply to the Declaration and the Supplement;
- 3. That except as amended herein, the provisions of the Declaration recorded in Deed Book 3730, Page 622, Onslow County Registry, the provisions of the First Amendment recorded in Deed Book 3895, Page 131, Onslow County Registry and the provisions of the Supplement recorded in Deed Book 3895, Page 137, Onslow County Registry shall remain in full force and effect.
- 4. In the event of a conflict between the provisions of this document and the Declaration recorded in Deed Book 3730, Page 622, Onslow County Registry, the provisions of the First Amendment recorded in Deed Book 3895, Page 131, Onslow County Registry and the provisions of the Supplement being recorded in Deed Book 3895, Page 137, Onslow County Registry, the provisions of this document shall prevail.
- 5. That the sole purpose of this document is to amend the wetlands preservation provisions as contained in Declaration recorded in Deed Book 3730, Page 622, Onslow County

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Registry and as contained in the First Amendment recorded in Deed Book 3895, Page 131, Onslow County Registry and to assure that said amendments apply to both St. James Park Section I recorded in Plat Book 63, Page 184, Plat Cabinet N, Onslow County Registry and St. James Park Section II recorded in Plat Book 65, Page 134, Plat Cabinet N, Onslow County Registry.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed and sealed this the day and date first above written.

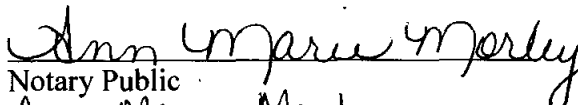
John Koenig, Inc.

By:  (SEAL)
John S. Koenig, President

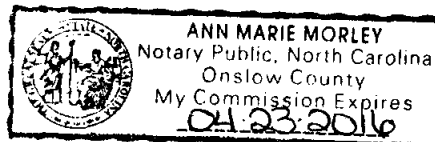
STATE OF NORTH CAROLINA
COUNTY OF Onslow

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: John S. Koenig, President of John Koenig, Inc.
This the 21 day of December, 2012.

NOTARY SEAL


Notary Public
Ann Marie Morley
Printed name of notary public

My commission expires: 04-23-2016



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