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Pd 14,50

DECLARATION OF AMENDMENT
TO
DECLARATION OF EASEMENTS, COVENANTS AND
RESTRICTIONS APPLICABLE TO UNITS 2 AND 3, INCLUSIVE
OF PHASE I OF THE MALLARD POINT SUBDIVISION AND SUPPLEMENTARY
DECLARATIONS AND APPROVALS OF ADDITIONS
AND
DEVELOPER'S APPROVAL OF AMENDMENTS

THIS DECLARATION OF AMENDMENT is made and entered into on this the
3rd day of July, 1988, by the undersigned members of the MALLARD POINT
OWNERS ASSOCIATION, INC.

WITNESSETH:

THAT WHEREAS on Sunday, July 3, 1988, at the hour of 6:00 P.M., a Special Meeting of the members of Mallard Point Owners Association, Inc. was held at the park area at Mallard Point Lake, in Scott County, Kentucky, there being a quorum present at the said meeting, the members individually attending or represented at the meeting by proxy being entitled to cast 324 votes of the 410 total authorized votes of the membership of the Association; and,

WHEREAS, notice was sent to all members of the Association at least sixty (60) days prior to the said meeting of proposed amendments to the following:

The "Declaration of Easements, Covenants and Restrictions Applicable to Units 2 and 3, Inclusive of the Mallard Point Subdivision," dated the 18th day of July, 1985, and filed of record in the Scott County Court Clerk's Office in Deed Book 162, pages 383-400, hereinafter referred to as "Original Declaration;"

The "Supplementary Declaration of Easements, Covenants and Restrictions Applicable to Unit 1 of Phase II of the Mallard Point Subdivision and Approval of Addition," dated the 15th day of July 1986, and filed of record in the aforesaid Clerk's Office in Deed Book 166, pages 428-431, hereinafter referred to as "First Supplementary Declaration;"

The "Supplementary Declaration of Easements, Covenants and Restrictions Applicable to Unit 2 of Phase II of the Mallard Point Subdivision and Approval of Addition," dated the 14th day of July, 1987, and filed of record in the aforesaid Clerk's Office in Deed Book 171, pages 357-360, hereinafter referred to as "Second Supplementary Declaration;"

The "Supplementary Declaration of Easements, Covenants and Restrictions Applicable to Unit 1 of Phase III of the Mallard Point Subdivision and Approval of Addition," dated the 24th day of November, 1987, and filed of record in the aforesaid Clerk's Office in Miscellaneous Book 2, pages 492-495, hereinafter referred to as "Third Supplementary Declaration;"

pursuant to the provisions of Section 9.04 of the Original Declaration; and,

WHEREAS, at the said meeting, the members of the Association approved the amendment of the foregoing Original and Supplementary Declarations by the affirmative vote of 324 of the total authorized votes of the Association, their affirmative vote being SEVENTY-NINE & 02/100THS (79.02%) percent of the total votes of the Association, and being in excess of the voting percentages required under Sections 3.03, 8.05, and 9.04 of the Original Declaration;

WHEREAS, pursuant to Section 9.04 of the Original Declaration, the undersigned, being the Owners of lots authorized to vote 324 of the total 410 votes of the Association, which totals SEVENTY-NINE & 02/100THS (79.02%) percent of the same and which percentage is in excess of the required seventy (70%) percent thereof, have executed this instrument;

NOW, THEREFORE, pursuant to the provisions of Section 9.04 of the "Original Declaration," the members of Mallard Point Owners Association, Inc., have duly adopted

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the following amendments to the Original Declaration and the three above mentioned Supplementary Declarations:

Removal 11

- 1.) Section 2.01 of the Original Declaration. Amendment: Lots 1, 2, and 3 of Block A, and Lots 9, 10, 11, and 12 of Block B, all in Unit 2 of Phase I are hereby removed from the listing of property subject to the Original Declaration.
- 2.) Section 4.01 of the Original Declaration. Amendment: After the words "final record plats" in the fourth line of that Section the following words are hereby inserted: "and the plats of property subsequently made subject to this Declaration pursuant to the provisions of Section 2.02, above."
- 3.) Section 4.01(d) of the Original Declaration. Amendment: This subparagraph is hereby deleted in its entirety and, in substitution thereof, the following subparagraph is hereby added:

"The right of the Association to dedicate or transfer such part or all of the common areas to which it may have received legal title to any public or governmental entity or other entity authorized by law and willing to assume the duties and responsibilities of the Association with regard thereto, subject, however, to such conditions as may be imposed by the members; provided, however, that no such dedication or transfer shall be effective unless approved by the affirmative vote of members entitled to cast fifty-one (51%) percent of the votes of the membership, agreeing to the terms of the dedication or transfer, and provided further that written notice of the proposed dedication or transfer is mailed to every member at least thirty (30) days in advance of the meeting at which such matter is to be considered, and,"
- 4.) Section 4.01(e) of the Original Declaration. Amendment: The following words are hereby added at the end of this subparagraph: ", subject to the provisions hereof and such rules and regulations as may from time to time be promulgated by the Association."
- 5.) Section 5.01 of the Original Declaration. Amendment: The word "thereby" is hereby substituted for the word "hereby" in the next to the last line of that Section.
- 6.) Section 5.02(b) of the Original Declaration. Amendment: The words "and sewage treatment plants" are hereby inserted after the words "any sanitary sewer lines" in the seventh line of that subparagraph.
- 7.) Section 5.02(d) of the Original Declaration. Amendment: The phrase "and the construction, equipping, operation and maintenance of any private fire station(s) within or serving the Mallard Point Subdivision" is hereby inserted before the semicolon at the end of that subparagraph.
- 8.) Section 5.02(h) of the Original Declaration. Amendment: The inadvertently omitted letter "c" from the intended word "common" in the second line of that subparagraph is hereby inserted.
- 9.) Section 5.04 of the Original Declaration. Amendment: The "twenty (20) days" notice period is hereby increased to "thirty (30) days" in the next to last line of the first paragraph of this Section.
- 10.) Section 5.09 of the Original Declaration. Amendment: The words "from the date hereof" in the third line of that Section are hereby deleted and, in substitution thereof, the following phrase is hereby inserted: "from the date of the last addition of property subsequently made subject to this Declaration pursuant to the provisions of Section 2.02, above."
- 11.) Section 6.01(b) of the Original Declaration. Amendment: This Section is hereby amended in its entirety to henceforth provide as follows:

"Special assessments for acquisitions of and/or capital improvements to: streets and rights of way, dams, designated lake and park areas, sanitary sewer

collection and treatment lines and facilities, water lines, storm water retention areas and run off ditches and culverts, security and maintenance equipment, facilities, and other equipment and/or improvements, including those for private fire stations which may be located within or serve the Mallard Point Subdivision; such assessments to fixed, established, and collected from time to time as hereinafter provided; and,"

- 12.) Section 6.03 of the Original Declaration. Amendment: The "twenty (20) days" notice period provided in the next to last sentence of that Section is hereby amended to "thirty (30) days."
- 13.) Section 6.08 of the Original Declaration. Amendment: The following sentence is hereby added to the end of this Section: "Anything in the foregoing to the contrary notwithstanding, the Board of Directors may waive late charges when, in its sole discretion, it deems such a waiver to be just and proper."
- 14.) Section 7.01 of the Original Declaration. Amendment: The insurance limits set forth in this Section are hereby reduced to \$1,000,000.00 per person, with regard to bodily injury, a \$1,000,000.00 limit per occurrence, and a \$500,000.00 minimum property damage limit, from the \$10,000,000.00 limit per occurrence and \$5,000,000.00 property damage limit.
- 15.) Section 7.02 of the Original Declaration. Amendment: The following sentence is hereby added to the end of this Section: "Any of the foregoing provisions in this Section and Section 7.01, above, may be waived or modified by the Board of Directors of the Association when, in its sole discretion, the Board deems it reasonably necessary in order to secure coverage at reasonable costs."
- 16.) Section 7.03 of the Original Declaration. Amendment: The phrase "or any liability of the Association to others, in excess of its insurance coverage," is hereby added after the words "estimated costs," in the seventh line of that Section.
- 17.) Section 8.02 of the Original Declaration. Amendment: The last three lines of this Section are hereby deleted and in substitution thereof the following provisions are hereby inserted:

For purposes of this Section, the lowest level of any residential dwelling shall be deemed to be a "basement" if the side, front, or back walls of which are wholly or partially underground. A residential building shall not be constructed or permitted to remain on any tract unless the same shall have an attached two or more car garage ("attached" being defined as a contiguous and integral part of the main dwelling). There shall be no carports attached or unattached.
- 18.) Section 8.05 of the Original Declaration. Amendment: The words "by an affirmative vote of the members of the Association holding seventy (70%) percent or more of the voting rights of the Association" are hereby deleted, and, in substitution thereof, the following words are hereby inserted: "as provided in Section 9.04 of this Declaration, as amended."
- 19.) Section 8.05(g) of the Original Declaration. Amendment: This subparagraph is hereby deleted in its entirety and the substitution thereof of the corresponding provision in the Supplementary Declarations is hereby added, as follows:

"There shall be no precut, modular or mobile home built or located upon any lot. All material used in construction of any residential dwelling shall be custom cut on site, with the exception of pre-manufactured roof trusses, pre-hung doors, windows, and other minor structural components. There shall be no exposed block on the exterior of any residence and/or improvements; and, all construction materials to be used will meet or exceed the applicable building code standards of Georgetown-Scott County. Unless otherwise approved

by Developer, all exterior colors on any residence or improvements located upon any lot shall be white or earthtones (brown, beige, etc.). No buildings or structures of a temporary character, including, but not limited to, storage huts, trailers, tents, shacks, barns or other such structures shall be constructed or permitted to remain upon any lot, unless reasonably necessary during construction, or as may be otherwise approved by the Developer or Association, as provided in this Declaration."

- 20.) Section 8.05(k) of the Original Declaration. Amendment: This subparagraph is hereby deleted in its entirety and in substitution thereof the corresponding provision in the Supplementary Declarations is hereby added, as follows:

"All docks must be approved in writing by Developer prior to construction or installation. Docks shall be constructed only of natural wood, and shall be unpainted. No dock shall have a total surface area in excess of 144 square feet, or extend into any lake more than fifteen (15) feet from the bank, at the normal pool of the said lake. Developer, however, may, in its sole discretion, require smaller surface areas as a condition of approval of any dock. Access ramps to docks, if wooden, shall be natural wood only (unpainted). If metal, such access ramps shall be painted black. Only Developer approved flotation blocks may be used for dock construction and no barrels or other unapproved flotation materials may be used. No raised or diving platforms shall be constructed. All docks are to be completely flat, and there shall be no railing on any dock. Diving boards shall be permitted, although the same shall remain unpainted and not raised. There shall be no rope, cable, or other swings, within fifty (50') feet of the lake. There shall be no houseboats or any boats in excess of sixteen (16) feet allowed on the lake, and no boat shall be propelled by any engine or motor with a rated capacity in excess of ten (10) H.P., except for boats maintained by the Developer or by the Association (for the official use of security and maintenance personnel)."

- 21.) Section 9.04 of the Original Declaration. Amendment: The first sentence of that Section is hereby deleted in its entirety, and in substitution thereof the following two sentences are hereby inserted: "Any provisions of these covenants may be amended or changed in whole or in part by the affirmative vote of the holders of fifty-one (51%) percent of the authorized votes of the Association at any regular or special meeting of the Association; provided, however, that no instrument of amendment or change shall be effective unless executed and recorded with the Scott County Court Clerk at least thirty (30) days in advance of the effective date of such amendment or change, and unless written notice of the proposed amendment or change is sent to every owner at least thirty (30) days in advance of the meeting at which any such proposed amendment or change is to be considered. Upon adoption of any amendment or change to this or any Supplementary Declaration, the Board shall cause such amendments and/or restated Declarations and Supplementary Declarations to be filed, as it shall determine to be necessary to accurately represent the actions of the Association, and such amendments and/or restated Declaration and Supplementary Declarations shall be binding upon the subject property and persons as provided in Section 9.01, above."

- 22.) Section 10.01 of the Original Declaration. Amendment: The words "the date hereof" are hereby deleted from the ninth line from the bottom of that Section and, in substitution thereof, the following words are hereby inserted: "the date of the last addition of property made subject to this Declaration pursuant to the provisions of Section 2.02, above."
- 23.) Section 10.02 of the Original Declaration. Amendment: The words "the date hereof" are hereby deleted from the sixth line from the bottom of that Section and, in substitution thereof, the following words are hereby inserted: "the date of the last addition of property made subject to this

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Declaration pursuant to the provisions of Section 2.02, above."

- 24.) Article XI of the Original Declaration. Amendment: The erroneously designated "Article XI," on page 15 of the Original Declaration is hereby redesignated "Article IX".
- 25.) Article IX of the Original Declaration. Amendment: The addition of a new Section to "Article IX", on page 17 of the Original Declaration, to be denominated "Section 9.11. LAKE REFERENCES.", which shall provide as follows: "Anything in this Declaration to the contrary notwithstanding, all references to the lake and lake areas in this Declaration shall, unless otherwise required by the context hereof, refer to and apply to each and every lake within the area subject to this Declaration and within any additional property subsequently made subject hereto pursuant to the provisions of Section 2.02, above; and, all references to the normal pool of the lake shall refer to the respective normal pools of each such lake."
- 26.) Paragraphs 2 and 4 of each of the three Supplementary Declarations. Amendment: In view of the 22nd, 23rd and 25th Amendments of the Original Declaration listed above, these paragraphs in each of the three Supplementary Declaration are hereby deleted in their entirety.

APPROVAL OF AMENDMENTS

Pursuant to Section 9.04 of the Original Declaration, MARIC DEVELOPMENT CORPORATION, Developer of the Mallard Point Subdivision, in executing this Declaration hereby approves the amendment of Sections 5.09, 8.02, 9.04, 10.01 and 10.02, as well as any other amendments herein made for which its approval may be required under any other provision of the Original and any Supplementary Declaration.

EFFECTIVE DATE OF AMENDMENTS

The foregoing amendments shall become effective on the thirty-first (31st) day following the date upon which this Declaration of Amendment is filed of record in the Office of the Scott County Court Clerk.

IN WITNESS WHEREOF the undersigned have executed this document or caused the same to be executed by a duly authorized officer, partner, agent, proxy or attorney-in-fact on this day and year first above written.

MEMBER'S NAME (PLEASE PRINT)	MEMBER'S SIGNATURE	VOTES MEMBER CAST FOR ADOPTION OF AMENDMENTS
MARIC DEVELOPMENT CORPORATION	By: <u>[Signature]</u> , I.P. Authorized Officer	<u>226</u>
<u>David F James</u>	<u>[Signature]</u>	<u>1</u>
<u>Mary Doty</u>	<u>[Signature]</u>	<u>1</u>
<u>Ray Moss</u>	<u>[Signature]</u>	<u>1</u>
<u>R-L WAGNER</u>	<u>[Signature]</u>	<u>1</u>
<u>Charles L. Oser</u>	<u>[Signature]</u>	<u>3</u>
<u>Donna Oser</u>	<u>[Signature]</u>	<u>2</u>
<u>MARtha Deckerio</u>	<u>[Signature]</u>	<u>2</u>
<u>Tony Whiffield</u>	<u>[Signature]</u>	<u>1</u>
<u>Stuart Muir</u>	<u>[Signature]</u>	<u>1</u>
<u>Ken LIBERATORE</u>	<u>[Signature]</u>	<u>1</u>
<u>Lowell Vice</u>	<u>[Signature]</u>	<u>1</u>
<u>Richard Aliso</u>	<u>[Signature]</u>	<u>1</u>

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MEMBER'S NAME
(PLEASE PRINT)

MEMBER'S SIGNATURE

VOTES MEMBER CAST
FOR ADOPTION OF
AMENDMENTS

MEMBER'S NAME (PLEASE PRINT)	MEMBER'S SIGNATURE	VOTES MEMBER CAST FOR ADOPTION OF AMENDMENTS
<u>Cherise M. Simecek</u>	<u>Cherise M. Simecek</u>	1
<u>Becky Craft</u>	<u>Rebecca V. Craft</u>	1
<u>Barbara Dietrich</u>	<u>Barbara Dietrich</u>	1
<u>LARRY YEAST</u>	<u>Larry Yeast</u>	1
<u>Jim Murphy (MURPHY)</u>	<u>Jim Murphy</u>	1
<u>JACOB T. THIESSEN</u>	<u>Jacob T. Thiesen</u>	1
<u>ACE CANNON</u>	<u>Ace Cannon</u>	1
<u>Tracy McDaniel</u>	<u>Tracy McDaniel</u>	1
<u>CYNTHIA P. ALBRECHT</u>	<u>Cynthia P. Albrecht</u>	1
<u>Nita Ashlock</u>	<u>Nita Ashlock</u>	1
<u>Larry French</u>	<u>Larry French</u>	1
<u>Fenton T. Scholl</u>	<u>Fenton T. Scholl</u>	1
<u>Earl Aldrich</u>	<u>Earl Aldrich</u>	1
<u>Kathie Marx</u>	<u>Kathie Marx</u>	1
<u>Brenda Rogers</u>	<u>Brenda Rogers</u>	1
<u>Larry Goff</u>	<u>Larry Goff</u>	1
<u>W.R. VINEX</u>	<u>W.R. Vinex</u>	1
<u>CAROLYN MIFFLIN</u>	<u>C. Mifflin</u>	1
<u>Tom Freeman</u>	<u>Tom Freeman</u>	1
<u>Harold Jordan</u>	<u>Harold Jordan</u>	1
<u>JONATHAN ADDINGTON</u>	<u>Jonathan Addington</u>	1
<u>John S. Gugg</u>	<u>John S. Gugg</u>	1
<u>KATHLEEN SCHWING</u>	<u>Kathleen Schwing</u>	2
<u>BOBBY KEVINIGER</u>	<u>Bobby Kevinger</u>	1
<u>MARIE ROSE</u>	<u>Marie Rose</u>	1
<u>WACK CORNTO</u>	<u>Wack Cornito</u>	5
<u>Ginger Merrill</u>	<u>Ginger Merrill</u>	1
<u>Edwin H. Gritton, JR</u>	<u>E. H. Gritton Jr</u>	1
<u>Henry Watson</u>	<u>J. Kern Watson</u>	22
<u>Michael Dawson</u>	<u>Michael Dawson</u>	1
<u>CHARLES E. STANLEY</u>	<u>Charles E. Stanley</u>	1
<u>Jim Shopouch</u>	<u>Jim Shopouch</u>	2
<u>James L. Baker</u>	<u>James L. Baker</u>	2
<u>James L. Belva</u>	<u>James L. Belva</u>	1

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This Declaration of Amendment
was prepared by:

ERIC S. SMITH
ATTORNEY AT LAW
117 West Second Street
Lexington, KY 40507


ERIC S. SMITH

↓ Please mail to:

MARIC DEVELOPMENT CORPORATION
138 E. MAIN STREET
GEORGETOWN, KY 40324