

RET Judy/Bald Head  
TOTAL 38 REV      TC# 38  
REC#      CK AMT      CK#       
CASH      REF      BY NR

**AMENDMENT AND ANNEXATION TO PROTECTIVE COVENANTS**  
**BALD HEAD ISLAND STAGE TWO**  
**KINNAKEET WOODS, CAPE FEAR STATION**  
**(ECO TRACT B)**

This Amendment and Annexation to Protective Covenants, Bald Head Island Stage Two, ("Amendment") is made by Bald Head Island Limited this 21<sup>st</sup> day of March, 2005.

RECITALS:

Bald Head Island Limited, a Texas Limited Partnership qualified to do business in the State of North Carolina ("Declarant") is the developer of property generally referred to as Bald Head Island. In furtherance of that plan of development, Declarant did record Protective Covenants for Bald Head Island Stage Two, dated August 3, 1995 ("Protective Covenants"), which Protective Covenants are recorded in Deed Book 1045, Page 676 et seq., Brunswick County Registry. Paragraph 2 of the Protective Covenants authorizes and allows Declarant to annex additional property on Bald Head Island to the provisions of the Protective Covenants, and to subject lots so annexed to building and site restrictions as may be set out in the Amendment annexing said lots.

By execution and recordation of this Amendment, it is the intent of the Declarant to annex those properties described hereinafter to the terms, provisions and conditions of the Protective Covenants, subject to the specific provisions contained herein.

The Protective Covenants, as previously amended, are hereby further amended as follows:

1. **ADDITIONAL PROPERTIES.** The provisions of the Protective Covenants shall apply fully to all of the property (including even-numbered Lots 5430 through 5444) which is shown on that plat recorded in Map Cabinet 3a, Instrument 79, Brunswick County Registry ("Plat"), as the same may be amended from time to time. As used herein, "Lot" shall mean any numbered Lot designated for residential use as shown on the Plat made subject to the Protective Covenants by this Amendment.

2. ASSOCIATION. As set out in the Protective Covenants, Declarant has chartered a North Carolina non-profit homeowners association named Bald Head Island Stage Two Association, Inc. ("Association"). The owner of each Lot shall be a member of the Association, and shall be required to pay dues thereto as set out in the Protective Covenants. The owner of each of the Lots shall begin paying dues to the Association as of the date of acquisition of title, and as for Lots owned by Declarant or an entity owned or controlled by Declarant, as of January 1, 2006, if not previously conveyed to a third party.
3. SINGLE FAMILY UTILIZATION. Except for such other uses as are hereinafter reserved to Declarant, all Lots shall be limited to use only for single family residential purposes. All of the provisions of Paragraph 3 of the Protective Covenants are specifically incorporated herein by reference.
4. SETBACKS. There shall be no setbacks, other than those imposed by the Village of Bald Head Island or other governmental authority, as set forth on the Plat, or as contained in the Cape Fear Station Design Guidelines ("Guidelines"), except that all construction of every Living Unit is subject to the approval of the Committee, as more fully set out in Paragraph 4 of the Protective Covenants. No construction except improvements allowed in accordance with the ordinances of the Village of Bald Head Island shall be allowed within any setback imposed by the Village of Bald Head Island. The Plat sets forth a minimum setback of ten (10') feet on the front of each Lot where it abuts the public right-of-way known as Kinnakeet Way. The primary Living Unit may not be constructed within any setback, no matter by whom established. Improvements other than the primary Living Unit, if approved by the Committee, may be constructed within setbacks established by Declarant.
5. COMBINATION OF LOTS. Any two or more contiguous Lots shown on the Plat may be combined into a single Lot, and the provisions of Paragraph 12 of the Protective Covenants shall apply thereto. In the event of such a combination of Lots, any easements or set back requirements, whether set forth herein or appearing on the Plat, which are located along or pertain to a Lot line between any two combined Lots, shall, upon such combination of Lots, be extinguished, provided that said easements shall be extinguished only to the extent that they are used to provide services solely to the combined Lots. Notwithstanding anything to the contrary contained herein or in the Design Guidelines, the maximum square footage of heated, enclosed living space for the primary Living Unit on any combination of Lots shall be limited to seventy-five (75%) percent of the total allowable maximum square footage for heated, enclosed living space for the combined Lots as set forth in the Design Guidelines. The remaining twenty-five (25%) percent of the total allowable maximum square footage for heated, enclosed living space may be utilized in other structure(s) permitted by the Design Guidelines and approved by the Committee for construction on the combined Lots.

6. LIMITATION ON HEIGHT. No structure constructed on any Lot shall exceed thirty-five (35) feet in height as measured from the lowest natural point where the building perimeter meets grade to the roof ridge. The provisions of Paragraph 19 of the Protective Covenants are specifically incorporated herein by reference.
7. BUILDING AND SITE RESTRICTIONS. All Lots as shown on the Plat shall be subject to the following restrictions:
- (a) The Declarant has adopted certain Design Guidelines for the Cape Fear Station Development (“Guidelines”), which are incorporated herein by this reference, and which will be applied by the Committee when approval is sought for construction pursuant to the Protective Covenants. All Lots shown on the Plat are subject to both the general Guidelines and the specific Guidelines applicable to the lot types described therein, as the same may be amended from time to time by Declarant or the Association. Declarant reserves the right to change the lot type designation for any Lot prior to the sale of said Lot to a third party, notwithstanding the sale of other Lots which are subject to the Guidelines. For purposes of the Guidelines, all Lots shown on the Plat are designated “Manor (M)”, and in accordance with the Guidelines, the minimum square footage of heated, enclosed living space for each approved Living Unit on said two Lots shall be 1,600 square feet for each Lot, and the maximum shall be 30% of the total Lot area, but not to exceed 3,500 square feet.
  - (b) Each Lot owner shall keep the grounds on his or her Lot and all structures located thereon in a clean, neat and sightly condition, and shall provide for the regular removal of all trash or refuse from the Lot.
  - (c) No animals, livestock or poultry of any kind shall be kept or maintained on any Lot except that no more than 2 dogs or cats are allowed, provided they are attended as required by the ordinances of the Village of Bald Head Island.
  - (d) The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8-980920MOD, as issued by the Division of Water Quality under NCAC 2H.1000. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit. These covenants (as well as all other provisions of the Protective Covenants) are to run with the land and be binding on all persons and parties claiming under them. Each Lot shall contain a maximum allowable built upon area (BUA)

which may be covered by impervious surfaces (as defined by the Department of Environmental Management). For each of the Lots shown on the Plat, the maximum allowable BUA is as follows: three thousand five hundred (3,500) square feet per Lot. These allotted amounts include any BUA constructed within the Lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. BUA includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, and coquina, but does not include raised, open wood decking, or the water surface of swimming pools. Filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with the development except for average driveway crossings, is strictly prohibited. Each Lot will maintain a thirty (30') foot wide vegetated buffer between all impervious areas and surface waters, and all roof drains shall terminate at least thirty (30') feet from the mean high water mark of surface waters. This Paragraph 7(d) may be enforced by the State of North Carolina, as well as any other party entitled to enforce the Protective Covenants. To the extent that the State of North Carolina should revise its existing stormwater permit to allow different impervious surface amount(s) on any one of more of the Lots, upon filing by Declarant or the Association of a notice of said change in permit, the impervious surface limitation as to said Lot or Lots shall be automatically deemed amended to comply with the changed impervious surface limitation allowed by the State of North Carolina by permit. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality, and alteration of the drainage as shown on the approved plant may not take place without the concurrence of the Division of Water Quality.

- (e) As shown on the Plat, all of the Lots abut the public road right-of-way known as Kinnakeet Way. It is the intention of Declarant that all driveways providing ingress to and egress from the Lots shall be subject to the approval of the Committee as to size and location, and shall be in accordance with the Protective Covenants and Guidelines. Each owner shall, as required by the Association and/or the Village of Bald Head Island, install address bollards or other approved property identification at the front of his or her Lot. No improvements shall be constructed by the Owner of any Lot to the extent located between the public street adjacent to the Living Unit on said Lot, and the entry to the Living Unit closest thereto, which would significantly impede emergency access to said entry. Fencing must have unlocked gates sufficiently wide to accommodate such access.
- (f) There are hereby reserved for the benefit of the owners of the Lots within the Plat, the Declarant, the Association, and all public and private utilities, and for the benefit of the Village of Bald Head Island, that certain easement, as

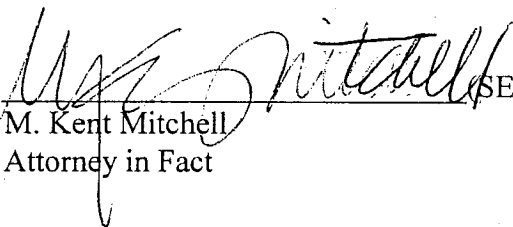
shown on the Plat, for the installation and maintenance of all utilities, public and private, and the maintenance of all roads, upon, under and across the front seven (7') feet of each Lot where it abuts a public right-of-way.

- (g) Yards shall be maintained with natural vegetation. No grasses or ornamental vegetation shall be permitted, EXCEPT, in the event the Association adopts landscaping guidelines or standards specific to the Lots hereby annexed, then in that event such vegetation shall be permitted as is described in said guidelines or standards and approved for the Lots by the Committee.
  - (h) There will be installed on each of the Lots, by Bald Head Island Utilities, Inc., its successors or assigns (hereinafter "Utilities"), a grinder pump for the removal of waste water generated at the Lot, together with the equipment, pipes and lines necessary to process and transport the waste water from the grinder pump to the sewer main tap located in the utility easement at the front or side of the Lot. The grinder pump for each Lot shall be installed within the area of the Lot designated for that purpose in the Guidelines, subject to approval by Utilities of the suitability of the exact location of said grinder pump. In no event shall any grinder pump be installed within five (5') feet of the exterior wall of any dwelling. There is hereby reserved, for the benefit of the Declarant and Utilities, a perpetual and assignable easement and right-of-way over, upon, under and across each of the Lots for the purpose of installing, accessing, monitoring, maintaining, repairing and replacing the grinder pumps and the appurtenant equipment, pipes and lines, which easements and rights-of-way shall run with the land. Utilities shall be responsible only for the re-establishment of the grade of any Lot upon which the aforesaid installation, maintenance, repair or replacement activity occurs, and the Lot owner shall be responsible for the restoration of any improvements or landscaping damaged or disturbed by such activity, and shall hold Utilities, its agents and employees, free and harmless from liability therefor.
8. WAIVER. The Village of Bald Head Island is specifically released and held harmless from any claim for damages to property within Eco Tract B, Cape Fear Station, to the extent such damages are caused by Village vehicles or equipment responding to an emergency or providing municipal services to property within the Plat.
  9. DEFINITIONS. All capitalized terms set out within this Amendment shall have the meaning specified herein, and if not so specified, the definition as contained in the Protective Covenants shall be applicable.

- 10. INCORPORATION BY REFERENCE. Except as specifically amended by a provision contained within this Amendment, or by a specific limitation contained in the Protective Covenants, all the terms, provisions and conditions of the Protective Covenants are made fully applicable to the property described in Paragraph 1 hereinbefore.
  
- 11. DECLARANT RESERVATION. There is hereby reserved to the Declarant, and to any assignee to whom Declarant transfers or assigns its interests hereunder, the right to use any Lot owned or leased by Declarant as a model home, sales office, or for any similar purpose related to the marketing and sale of the Lots, in accordance with Village of Bald Head Island ordinances, notwithstanding any other provisions of this Amendment or the Protective Covenants to the contrary, this right to expire when Declarant or its assigns is no longer actively engaged in the original sale of subdivided Lots on Bald Head Island.

This Amendment is executed as of the day and year first above written, on behalf of Declarant, by its Attorney in Fact, under authority duly granted.

BALD HEAD ISLAND LIMITED (SEAL)  
a Texas Limited Partnership

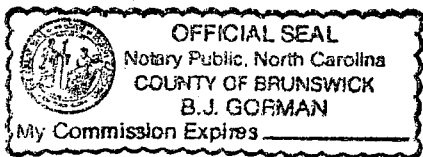
By:  (SEAL)  
M. Kent Mitchell  
Attorney in Fact

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

I, B.J. Gorman, a Notary Public for said County and State, do hereby certify that M. Kent Mitchell, attorney in fact for Bald Head Island Limited, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and on behalf of the said Bald Head Island Limited, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of the Register of Deeds in the County of Brunswick, State of North Carolina, in Deed Book 1143 at Page 912, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney.

I do further certify that the said M. Kent Mitchell acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for an on behalf of the said Bald Head Island Limited.

WITNESS my hand and official seal, this the 21<sup>st</sup> day of March, 2005.



B.J. Gorman  
Notary Public  
My Commission expires: 3/10/08

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

B. J. GORMAN

The Foregoing (or annexed) Certificate(s) of \_\_\_\_\_

Notary(ies) Public is (are) Certified to be Correct. 23rd Day of March, 2005  
This Instrument was filed for Registration on this \_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_  
in the Book and page shown on the First Page hereof.

Robert J. Robinson AK  
ROBERT J. ROBINSON, Register of Deeds

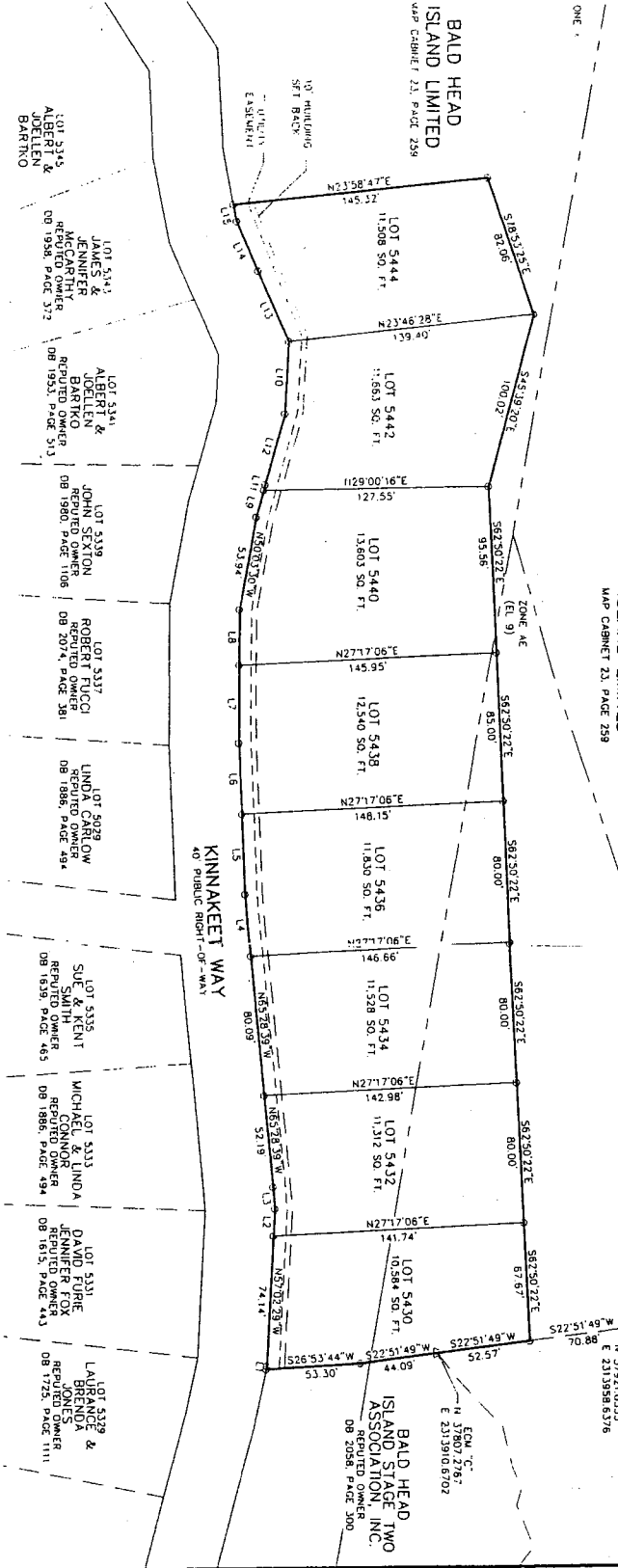
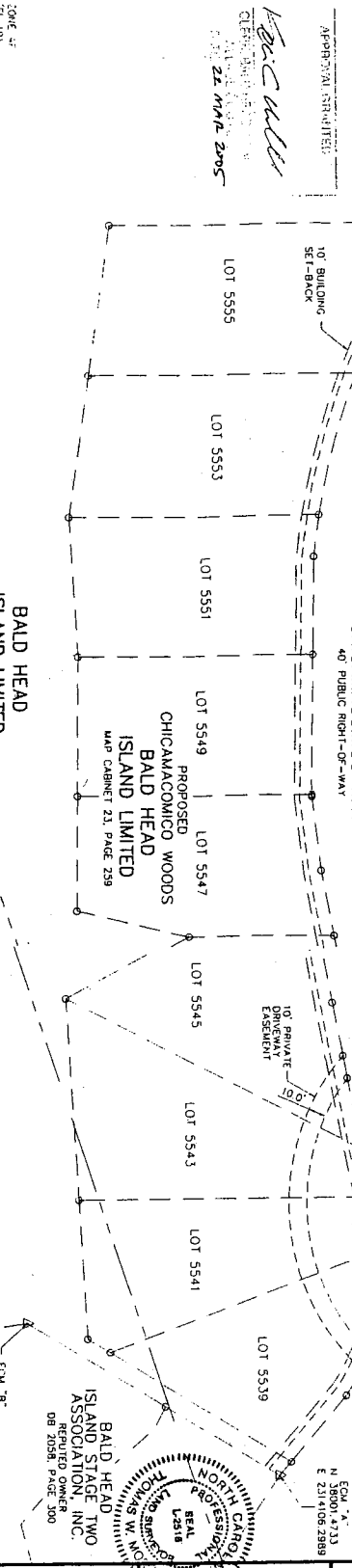
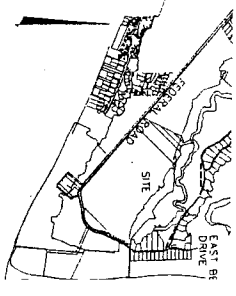
UNDESIGNED HEREON. KNOWLEDGES THAT THE LAND OWNERS ON THIS PLAT WITHIN THE SUBDIVISION HAVE BEEN ADVISED OF THE LOCATION OF THE PUBLIC RIGHT-OF-WAY AND THE LOCATION OF THE PUBLIC RIGHT-OF-WAY AND THE LOCATION OF THE PUBLIC RIGHT-OF-WAY AND THE LOCATION OF THE PUBLIC RIGHT-OF-WAY.

THE VALUE OF BALD HEAD ISLAND DOES NOT REPRESENT THAT THIS MAP WAS APPROVED FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS FOR BRUNSWICK COUNTY, NORTH CAROLINA.

STATE OF NORTH CAROLINA  
 COUNTY OF BRUNSWICK  
 I, THOMAS W. MORGAN, REGISTERED SURVEYOR, DO HEREBY CERTIFY THAT THIS MAP WAS APPROVED FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS FOR BRUNSWICK COUNTY, NORTH CAROLINA.

N 36°01'43.33" E 231'10'8.2898"  
 S 89°51'14.97" E 232'51'49.70"  
 S 22°51'49.70" E 52.57'  
 S 22°51'49.70" E 52.57'

32/79



LEGEND:  
 NEW REBAR (SRT)  
 EXISTING CONCRETE MONUMENT (C)

NOTES:  
 - THE PLATTED TRAIL APPEARS TO BE IN FLOOD ZONE "AE". BASE ELEVATION 9 FEET AND IN ZONE "AE" (SEE PLAN).  
 - ALL LOTS ARE SUBJECT TO THE COVENANTS, CONDITIONS AND RESTRICTIONS FOR CAPE FEAR STATION PUBLIC WATER SYSTEMS.  
 - ALL LOTS ARE SUBJECT TO A "UTILITY EASEMENT" ZONING BY-LAW MASTER PLAN AND SETBACKS: FRONT: 10 FEET; REAR: 7/4 SIDES: 10 FEET.  
 - TOTAL PLATTED AREA: 217 ACRES.  
 - TOTAL NUMBER OF LOTS: 8.  
 - MINIMUM LOT SIZE: 10,384 SQ. FT.

OWNER: BALD HEAD ISLAND LIMITED  
 P.O. BOX 2069  
 BALD HEAD ISLAND, NC 28461

RECORDED 03/23/05  
 MC 32, P 79

THOMAS W. MORGAN  
 PROFESSIONAL LAND SURVEYOR  
 1027 SABBATH HOME RD., SW  
 SHELBY, NORTH CAROLINA 28452 (910)841-9392