

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

Brunswick County—Register of Deeds
Robert J. Robinson
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02/14/2001 03:47:45pm Rec# 65177

AMENDMENT AND ANNEXATION TO PROTECTIVE COVENANTS
BALD HEAD ISLAND STAGE TWO
SINGLE FAMILY 14
CAPE FEAR STATION

This Amendment and Annexation to Protective Covenants, Bald Head Island Stage Two, ("Amendment") is made by Bald Head Island Limited this 14th day of February, 2001.

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 4020 through 4034) as shown on that plat recorded in Map Cabinet 23, Instrument 538, 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

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owned or controlled by Declarant, as of the first day of the calendar month immediately following the recording of the Plat.

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 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. 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.
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.
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

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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, the Lots shown on the Plat shall have the following lot type designations: even-numbered Lots 4020 through 4034 are designated "Beach Lots". In accordance with the Guidelines, the minimum square footage of heated, enclosed living space for each approved Living Unit on said even-numbered Lots 4020 through 4034 shall be 2,000 square feet, and the maximum shall be 6,000 square feet.

- (b) 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 Lot by the Committee.
- (c) Each Lot owner shall keep the grounds on his 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.
- (d) 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.
- (e) In order to comply with the North Carolina Coastal Storm Water Regulations enacted by the Department of Environmental Management of the State of North Carolina, each Lot shall contain a maximum square footage covered by impervious surfaces (as defined by the Department of Environmental Management), which limitation shall be as follows: for all Lots on the Plat, five thousand five hundred (5,500) square feet per Lot. Impervious surfaces include structures, paved surfaces, walkways, patios of brick, stone, slate and similar materials, and use of other materials that substantially negatively impact the ability of water to be assimilated into the soil. This provision is intended to ensure continued compliance with storm water runoff regulations adopted by the State of North Carolina, and therefore this Paragraph 7(e) 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 imperious surface amount(s) on any one of more of the Lots, upon filing by

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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. This provision, as well as all other provisions of the Protective Covenants, runs with the land and is binding on all persons owning any Lot as shown on the Plat. No amendment of this provision shall be allowed unless consented to in writing by the State of North Carolina, Department of Environmental Management.

- (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, those certain easements for the installation and maintenance of all utilities, public and private, and the maintenance of all roads and rights-of-way, upon, under and across the following: the front seven (7') feet of each Lot (adjacent to the public road right-of-way). There is further reserved, for the benefit of the owners of the Lots, the Declarant and the Association, a pedestrian access easement fifteen (15') feet in width, from Station House Way to the high water line of the Atlantic Ocean, upon and across that strip of land lying south of and adjacent to Lot 4020, as shown on the Plat. Said pedestrian access easement shall be conveyed to the Village of Bald Head Island by Declarant.
- (g) There is hereby reserved for the benefit of the Village of Bald Head Island, its successors and assigns (including, *inter alia*, the United States Army Corps of Engineers or its contractors), a perpetual, alienable and releaseable easement in, over, under, upon and across those lands lying between the waters of the Atlantic Ocean and the first continuous line of mature, salt-tolerant vegetation or the 11-foot NGVD contour (whichever is more seaward) adjacent to said body of water, as to all of the Lots shown on the Plat, allowing the Village of Bald Head Island, its successors and assigns, to go upon said lands as necessary or appropriate for the deposit, placement, replacement, maintenance, stabilization, movement, grading, regrading and excavation of soils, including dredged soils, in order to accomplish beach nourishment and renourishment, and/or dune construction, stabilization and maintenance, including the right to travel on, over or under said lands with such machinery as may be reasonably necessary to accomplish the purpose of such easement, to conduct reasonable studies thereof, and to perform all activities necessarily ancillary to the undertaking and successful conclusion of any beach nourishment or Federal beach disposal project and, from time to time, to reenter the said lands for said purposes.
- (h) There is shown on the Plat a Conservation Easement (indicated by the shaded area on all Lots) totalling 3.51 acres in size, within which is a buffer zone

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twenty-five (25') feet in width along the north side of Lot 4034 and the east side of all Lots on the Plat. No construction or land disturbing activities of any kind shall be allowed in or upon the Conservation Easement area, except for beach nourishment activities as described above, installation of underground utilities or drainage structures as approved by the appropriate authorities, and private pedestrian crossings as are necessary or convenient for obtaining beach access, provided that all such crossings shall be located at the specific sites described in the Guidelines for Beach Lots, and shall conform to all requirements set forth in the Guidelines. The Conservation Easement area shall be kept in its natural state. No removal of vegetation, and no landscaping or altering of the terrain shall be allowed, except as may be required to allow the limited activities and construction described in this paragraph 7(h).

- (i) There will be installed on each of the Lots, by Bald Head Island Utilities, Inc., its successors or assigns (hereinafter Utility Company), 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 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 the Utility Company 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 the Utility Company, 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. The Utility Company 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 the Utility Company, its agents and employees, free and harmless from liability therefor.
8. 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.
9. 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 herein.

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10. **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 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
a Texas Limited Partnership

By: [Signature] (SEAL)
Z.O. Hamilton
Attorney in Fact

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STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

I, Shaina Inman, a Notary Public for said County and State, do hereby certify that Z.O. Hamilton, 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 in 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 1430 at Page 482, 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 Z.O. Hamilton acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for an in behalf of the said Bald Head Island Limited.

WITNESS my hand and official seal, this the 14th day of February, 2001.

My Commission Expires: 9/4/04
OFFICIAL SEAL
NOTARY PUBLIC - North Carolina
BRUNSWICK COUNTY
SHAINA INMAN
My Commission Expires 9/4/04

Shaina Inman
Notary Public

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

The Foregoing (or annexed) Certificate(s) of SHAINA INMAN

Notary(ies) Public is (are) Certified to be Correct.

This Instrument was filed for Registration on this 14th Day of February, 2001
in the Book and Page shown on the First Page hereof.

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

