

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

Brunswick County—Register of Deeds  
Robert J. Robinson  
Inst #46109 Book 1380Page 714  
06/01/2000 08:49am Rec#44710

**AMENDMENT AND ANNEXATION TO PROTECTIVE COVENANTS**  
**BALD HEAD ISLAND STAGE TWO**  
**SINGLE FAMILY 5 AND 7**  
**CAPE FEAR STATION**

This Amendment and Annexation to Protective Covenants, Bald Head Island Stage Two, ("Amendment") is made by Bald Head Island Limited this 31<sup>st</sup> day of MAY, 2000.

**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 5220 through 5226, even-numbered Lots 5602 through 5616, odd-numbered Lots 5701 through 5709, and Lots 5231 and 5233) as shown on that plat recorded in Map Cabinet 22, Instrument 532, 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 January 1, 2001, 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 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.
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, the Lots shown on the Plat shall have the following lot type designations: even-numbered Lots 5220 through 5226 and 5602 through 5616 are designated "Village Common (VC)"; odd-numbered Lots 5703 through 5709 are designated "Sideyard (S)"; Lots 5231, 5233 and 5701 are designated "Cottage (C)". In accordance with the Guidelines, the minimum square footage of heated, enclosed living space for each approved Living Unit on even-numbered Lots 5220 through 5226 and 5602 through 5616 shall be 1,600 square feet, and the maximum shall be 5,000 square feet; on odd-numbered Lots 5703 through 5709, the minimum square footage of heated, enclosed living space for each Living Unit shall be 1,000 square feet, and the maximum shall be 30% of the total Lot area, but not to exceed 3,000 square feet; on Lots 5231, 5233 and 5701, the minimum square footage of heated, enclosed living space for each Living Unit shall be 700 square feet, and the maximum shall be 40% of the total Lot area, but not to exceed 2,000 square feet.

- (b) 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.
- (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) 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 even-numbered Lots 5220 through 5226 and 5602 through 5616, and Lot 5701, three thousand five hundred (3,500) square feet per Lot; for Lot 5703, four thousand (4,000) square feet per Lot; for odd-numbered Lots 5705 through 5709, three thousand (3,000) square feet per Lot; for Lots 5231 and 5233, two thousand five hundred (2,500) 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(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. 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.

- (e) As shown on the Plat, Keeper John Watts Alley is a private easement which provides vehicular access to the rear of even-numbered Lots 5602 through 5616, odd-numbered Lots 5701 through 5709, and Lot 5231, while Surflan John Price Alley is a private easement which provides vehicular access to the rear of even-numbered Lots 5220 through 5226. Both of said easements are hereby reserved for the benefit of the Association, its members, the Village of Bald Head Island, and all public and private utilities. The Declarant will hard-surface a minimum of ten (10') feet in width of both private easements with either asphalt or concrete. It is expressly understood and agreed that the Association shall be responsible for the maintenance and upkeep of both the private easements, in their entirety, including any walls or bulkheads therein, and shall cause them to be kept in good and passable condition at all times. The Association shall have no maintenance obligation as to any driveway or connection extending from either private easement, even if the same lies within the easement as shown on the Plat.
- (f) As shown on the Plat, all of the Lots abut at least one public road right-of-way, and all but one Lot also abut a private vehicular access easement. It is the intention of Declarant that driveways providing ingress to and egress from the Lots, both primary and secondary, shall be subject to the approval of the Committee as to size and location. 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 and the rear of his 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.
- (g) 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 alleys, upon, under and across the following: all portions of the two private vehicular access easements shown on the Plat, the front seven (7') feet of each Lot (adjacent to the public road rights-of-way), and five (5') feet along the side Lot lines of each Lot. There is further reserved, as shown on the Plat, for the benefit of the owners of the Lots, the Declarant, the Association, and all public and private utilities, a twenty (20') foot wide easement between Lot 5222 and Lot 5224 for the installation and maintenance of utilities.

- (h) No overnight parking shall be allowed within the private vehicular access easements as shown on the Plat, and the Association shall maintain at all times a vertical clearance of at least twelve (12') feet above said easement, in order to facilitate emergency vehicle ingress and egress to and from all Lots.
  - (i) 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.
  - (j) To the extent that the Village of Bald Head Island enforces driving regulations, including, without limitation, limitations on speed and requirements as to the qualification and condition of the driver of any vehicle, said regulations and conditions are herein specifically incorporated by reference, and the Village of Bald Head Island is specifically granted authority to enforce those regulations and conditions on the private easements shown on the Plat. It is expressly acknowledged and understood that the Village of Bald Head Island has no affirmative obligation to enforce said rules and regulations, but may elect to do so.
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 hereinbefore.

10. WAIVER. The Village of Bald Head Island is specifically released and held harmless from any claim for damages to property within Single Family 5 and 7, Cape Fear Station, whether such damage occurs to or within the private vehicular access easements shown on the Plat, to the extent such damages are caused by vehicles or equipment utilizing said private easements or otherwise responding to an emergency or providing municipal services to property within the Plat. It is specifically understood that there is a possibility that pavement or road shoulders could be damaged or destroyed, and the Association assumes the full responsibility for repairing any such damage. Emergency and municipal vehicles, including trash removal vehicles, are specifically authorized to utilize Keeper John Watts Alley and Surfman John Price Alley to provide municipal services.
11. SUPPLEMENTAL DUES. Paragraph 6 of the Protective Covenants specifically authorizes the Association to assess a common group of Lots independently of assessments to other Lots, to the extent that such common group of Lots only is benefitted by such assessment. It is expressly acknowledged and understood that the Association may assess only the owners of those Lots adjacent to Keeper John Watts Alley for all maintenance and upkeep expenses relating to improvements on and along said private vehicular access easement maintained by the Association, and may assess only the owners of those Lots adjacent to Surfman John Price Alley for all maintenance and upkeep expenses relating to improvements on and along said private vehicular access easement maintained by the Association, and the Association may but is not obligated to include reserves for replacement and maintenance of the road surfaces of both easements, which reserves shall be dedicated for the utilization of the repair and maintenance of the roads and their shoulders within the respective private easements as shown on the Plat.
12. 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)  
Kenneth M. Kirkman  
Attorney in Fact

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

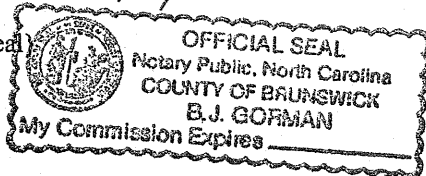
I, B.J. Gorman, a Notary Public for said County and State, do hereby certify that Kenneth M. Kirkman, attorney in fact for Bald Head Island Limited, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of the 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 1143 at Page 916, 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 Kenneth M. Kirkman 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 31<sup>st</sup> day of May, 2000.

My Commission expires: 3/10/03

{stamp/seal}



B.J. Gorman  
Notary Public

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

The Foregoing (or annexed) Certificate(s) of B J GORMAN

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

This Instrument was filed for Registration on this 1<sup>st</sup> Day of June, 2000  
in the Book and Page shown on the First Page hereof.

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

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

Brunswick County—Register of Deeds  
Robert J. Robinson  
Inst #48625 Book 1386 Page 945  
06/30/2000 08:33:42am Rec# 47421

**ADDENDUM TO AMENDMENT AND ANNEXATION**  
**TO PROTECTIVE COVENANTS**  
**BALD HEAD ISLAND STAGE TWO**  
**SINGLE FAMILY 5 AND 7**  
**CAPE FEAR STATION**

THIS ADDENDUM TO AMENDMENT AND ANNEXATION TO PROTECTIVE COVENANTS, BALD HEAD ISLAND STAGE TWO, SINGLE FAMILY 5 AND 7, CAPE FEAR STATION, is made as of the 15<sup>th</sup> day of June, 2000, as follows:

WHEREAS, Bald Head Island Limited, a Texas limited partnership, is the developer and the sole owner of that certain real property located in the Village of Bald Head Island and known as Single Family 5 and 7, Cape Fear Station, Brunswick County, North Carolina; and,

WHEREAS, Bald Head Island Limited, as Declarant, has heretofore caused to be recorded in the records of the Brunswick County Registry in Book 1380 at Page 714, an Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 5 and 7, Cape Fear Station, and has further caused to be recorded in said Registry in Map Book 22, Page 532, a Plat of survey which sets out and describes the real property and Lots subject to said Amendment and Annexation; and,

WHEREAS, the said Plat and Amendment set forth and describe certain easements which have been created or reserved by Declarant, and Declarant wishes to specify that pedestrian access shall be included in the use of the easement running over and across Lots 5222 and 5224 in Single Family 5;

NOW, THEREFORE, Bald Head Island Limited, Declarant and sole owner of all of the subject property and Lots, hereby revises the Amendment and Annexation to Protective Covenants for Bald Head Island Stage Two, Single Family 5 and 7, Cape Fear Station, as follows:

Subparagraph (g) of Paragraph 7, "BUILDING AND SITE RESTRICTIONS", is hereby deleted in its entirety and replaced with the following provision, to wit:

- (g) 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 alleys, upon, under and across the following: all portions of the two private vehicular access easements shown on the Plat, the front seven (7') feet of each Lot (adjacent to the public road rights-of-way), and five (5') feet along the side Lot lines of each Lot. There is further

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reserved, as shown on the Plat, for the benefit of the owners of the Lots, the Declarant, the Association, and all public and private utilities, a twenty (20') foot wide easement between Lot 5222 and Lot 5224 for the installation and maintenance of utilities and for pedestrian access between the public street, Whale Head Way, and the private Surfman John Price alley.

Except as specifically amended and supplemented by this Addendum, all of the terms, provisions and conditions of the Protective Covenants for Bald Head Island Stage Two, and of the Amendment and Annexation to Protective Covenants, Bald Head Island Stage Two, Single Family 5 and 7, Cape Fear Station, remain in full force and effect and fully applicable to the subject property described herein.

IN WITNESS WHEREOF, the undersigned being the Declarant herein has caused this instrument to be executed by its duly authorized attorney in fact, under seal, this the 15<sup>th</sup> day of June, 2000.

BALD HEAD ISLAND LIMITED (SEAL)  
a Texas Limited Partnership

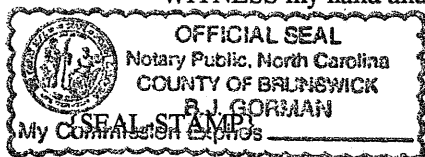
By: [Signature] (SEAL)  
Kenneth M. Kirkman  
Attorney in Fact

STATE OF NORTH CAROLINA  
BRUNSWICK COUNTY

I, B. J. Gorman, a Notary Public for said County and State, do hereby certify that Kenneth M. Kirkman, 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 1143 at Page 916, 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 Kenneth M. Kirkman acknowledged the due execution of the foregoing an annexed instrument for the purposes therein expressed for and in behalf of the said Bald Head Island Limited.

WITNESS my hand and official seal, this the 15<sup>th</sup> day of June, 2000.



B. J. Gorman  
Notary Public  
My commission expires: 3/10/03

STATE OF NORTH CAROLINA  
COUNTY OF BRUNSWICK

The Foregoing (or annexed) Certificate(s) of B J GORMAN

