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DECLARATION OF PROTECTIVE COVENANTS

ALVA G. WISE
REGISTER OF DEEDS
DARE COUNTY, N.C.

POTESKEET VILLAGE SUBDIVISION

THIS DECLARATION, made this the 21st day of August, 1980, by North Banks Development Company, a general partnership organized and existing under the laws of the State of North Carolina, with its principal office in Point Harbor, North Carolina, hereinafter called "Declarant";

W I T N E S S E T H :

WHEREAS, Declarant is the owner of all of the lands shown on the map hereinafter referred to, and

WHEREAS, Declarant desires to subject lots 1 through 4, both inclusive, and lots 6 through 41, both inclusive, of said lands to certain protective covenants and use restrictions for the benefit of all of the owners of the property within said area;

WHEREAS, lot 5 may be used to provide an easement of access to adjoining properties, and therefore is to be exempt from the provisions of these restrictive covenants if it is so used as an easement of access or roadway to adjoining properties. However, if said lot 5 is not used as an easement of access or roadway to adjoining properties, said lot number 5 shall be subject to the provisions of these restrictive covenants.

NOW, THEREFORE, Declarant hereby covenants and agrees with all of the persons, firms or corporations now owning or hereafter acquiring any property owned by it and referred to above, being lots 1 through 4, both inclusive, and lots 6 through 41, both inclusive, and lot 5 if it is not used for an easement of access or roadway to adjoining properties, all owned by Declarant as shown on that certain plat entitled "Subdivision Map of Poteskeet Village, North Banks Development Company, Village of Duck, Atlantic Township, Dare County, North Carolina", prepared by C. P. Lewis, Registered Land Surveyor, survey completed April 22, 1980, and plat completed May 13, 1980, and recorded in Plat Cabinet A, Slides 269 and 270, Dare County Public Registry, said map or plat being incorporated herein by reference for a more complete and precise description, are hereby subjected to the following restrictions as to the use thereof, running with said properties by whomsoever owned.

Additional lands may become subject to this Declaration. The Declarant, its successors and assigns, has the option at any time prior to July 1, 1990,

to bring additional lands into the scheme of this Declaration. The additions authorized under this and the succeeding sub-sections shall be made by filing of record a Supplementary Declaration of Protective Covenants with respect to the additional property which shall extend the scheme of the Covenants and Restrictions of this Declaration of such property. Any Supplementary Declarations may contain complimentary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as such are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke the Covenants established by this Declaration on the properties described herein.

If any person, firm, partnership, or other legal entity, subsequently acquiring title to or possession of any lot or lots within said subdivision, or his or her heirs or assigns, and successors in interest, shall violate any of the restrictions hereinafter set out, it shall be lawful for any person owning real property situated in said subdivision, to institute legal proceedings against the person or persons or entity, for violating any of said restrictions, and either prevent him or it from doing so, or recover damages for such violation, or both. Invalidation of any of these covenants by judgment or court order shall in no wise effect any of the other provisions, which shall remain in full force and effect.

I

Residential Use.

(a) The lots shall be exclusively used for residential purposes only. No lots or lands included in this Declaration shall be used or occupied for the manufacture or sale of any articles or for any commercial purposes of any kind whatsoever, or for the conducting of any business.

(b) Lots containing less than 10,000 square feet shall be limited to single-family residences. Lots containing less than 12,000 square feet shall be limited to duplex units. Lots containing less than 14,000 square feet shall be limited to triplex units. Lots containing more than 14,000 square feet shall be limited to quadruplex units. If one owner acquires two or more adjoining lots, then and in that event the adjoining two or more lots or portions thereof may be used as one building site, and the side lot lines and easements referred to herein shall apply to the outside perimeter line of the combined lots; PROVIDED, however, that nothing contained herein shall permit the construction of a structure containing more than four dwelling units within the subdivision.

II

Type, Size and Construction.

(a) In order to preserve a consistent and natural beauty and to protect

purchasers in this property from having undesirable types of architecture placed on abutting properties with a consequent depreciation to the whole, no residence, improvements or alterations on said premises shall be constructed or started until construction plans and specifications have been submitted in writing and approved by the Declarant, its successors or assigns. All such written plans shall show the location of the proposed structure on the lot. The approved copy of said plans and specifications shall be left in the permanent possession of the Declarant, its successors or assigns. The plot plan should include the proposed location and elevation of such building or structure, drive and parking area. Any additions to such premises, including fencing, will require like additional approval.

(b) The Declarant, its successors or assigns, may refuse approval of plans, specifications, or location of structures for any reason whatsoever, including purely aesthetic considerations, which is in the sole discretion of the Declarant, its successors or assigns.

(c) No dwelling shall be constructed on any building site containing less than eleven hundred (1100) square feet of living floor space. There shall be excluded from the above definition and calculation of wall space, garages, breezeways, porches, unfinished attics, even though the breezeways and porches are enclosed.

(d) Prior to the delivery of any materials to the construction site, a driveway must be constructed to the building site.

(e) All pilings used in the construction must be at least eight (8) inch by eight (8) inch pilings and must meet the minimum standards as set forth in the Dare County Building Code.

(f) Should the lower area of the building not be enclosed, the owner must attach slatting not less than one (1) inch by four (4) inches to the pilings in order to create an enclosed effect. Each slat or board shall not be less than four (4) inches apart.

(g) All lot owners shall be responsible for the maintenance of a clean and orderly building site during the period of construction of all dwellings or improvements thereto. All debris and building scraps shall be collected and disposed of on a regular basis to insure that litter is not scattered to any other adjoining property.

(h) All dwellings having private inside bathroom facilities, private water wells, and septic tanks must conform to the minimum requirements in accordance with the Public Health Laws and Ordinances of the Dare County Board of Health.

(i) All structures shall be completed on the exterior within six (6) months from the start of construction. Any alterations to the original structures shall be completed within six (6) months.

(j) No house trailer, single-wide mobile home, double-wide mobile home, trailer, modular home, basement, tent, shack, garage, barn, other out buildings, or any structure of a temporary nature shall be occupied or stored on any residential lot, either permanently or temporarily.

(k) No structure shall be moved on any lot unless it shall conform with and be in compliance with the existing conditions set forth herein, including approval by the Declarant, its successors or assigns.

III

Set Back Restrictions. No building shall be erected or maintained on any lot closer than twenty-five (25) feet from the front lot line, nor closer than ten (10) feet from the side lines. No building shall be erected or maintained on any lot closer than twenty (20%) percent of the lot depth or twenty (20) feet, which ever is less, from the rear property line. No building shall be erected or maintained on the ocean front in violation of

any dune ordinances or laws enacted for the preservation of the dunes. For the purpose of this covenant, eaves, steps and open porches shall be considered as part of the building.

Subject to the provisions of Section II(a), the foregoing shall not preclude owners of ocean front lots from building and maintaining steps, walkways and cabanas on the eastern side of the primary residence.

IV

Nuisance.

(a) No nuisance or offensive, noisy, or illegal activity shall be done, suffered, or permitted upon any lot; no part of any lot shall be used or occupied injuriously to affect the use or value of the adjoining premises for residence purposes or the neighborhood wherein the premises are situated.

(b) No outdoor toilets or privies shall be permitted.

(c) Outside garbage and trash accumulation shall be emptied regularly, and all service utilities, fuel tanks, wood piles, and trash and garbage accumulation, are to be enclosed within a wall or fence of a size and type approved by the Declarant, its successors or assigns, so as to preclude same to cause any unsightly view.

(d) No signs of any kind, excepting signs advertising the property for rent or for sale, or to identify owner or occupant of the property, shall be erected on any lot. Said signs are to be no larger than 24" x 30". The Declarant, its successors or assigns, reserves the right to place such terms and conditions upon the size, design and placement of said signs, as it deems satisfactory.

(e) No animals, livestock or poultry of any kind, other than commonly accepted domestic pets, shall be kept or maintained on any lot. Said domestic pets shall not be permitted to run at large.

(f) No junk, wreck or inoperative automobile, truck, bus, boat, or any parts thereof shall be permitted to remain on the property, nor shall other unsightly materials be stored thereon.

(g) Owners of unoccupied lots shall at all times keep and maintain their property in this subdivision in an orderly manner and prevent the accumulation of rubbish and debris on the premises.

(h) All buildings, structures and other appurtenances shall be maintained in a suitable state of repair; and in the event of destruction by fire or other casualty, the premises are to be cleaned and cleared of debris within ninety (90) days from the date of such casualty.

V

Easement. The Declarant reserves to North Banks Development Company, its successors or assigns, a perpetual, assignable and releasable easement and right over, on and under the ground to erect, maintain and use electric, cable television and telephone poles, wires, cables, conduits, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, cable television, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in, over or under the front ten (10) feet, the rear ten (10) feet, and the side five (5) feet of each lot.

VI

Violation. If the owners or occupants of any lot, or all of them or their successors or assigns, shall violate any of the covenants and restrictions herein, it shall be the right of the North Banks Development Company, its successors or assigns, or any lot owners to institute proceedings at law or in equity against the person or persons violating or attempting to violate, any such covenant or restrictions for the purpose of preventing him or them

from so doing, or to recover damages for such violation, or both.

VII

Duration. These covenants, reservations, declarations, and conditions and easements shall run with the land and be binding upon all purchasers of lands or lands in said properties covered by these restrictions and upon all persons or entities claiming under and through them, until the Declarant has divested itself from the title of all of the said lots included within this Declaration, at which time said covenants, reservations and restrictions shall continue until the then owners of a majority of the lots shall record an instrument in the office of the Register of Deeds of Dare County, North Carolina, agreeing to change these covenants in whole or in part.

IN WITNESS WHEREOF, the North Banks Development Company, the Declarant herein, has caused these Declaration of Restrictive Covenants to be executed by one general partner for the purposes expressed herein.

NORTH BANKS DEVELOPMENT COMPANY

By:

Walter S. Jones
Walter S. Jones,
A General Partner

STATE OF NORTH CAROLINA
COUNTY OF DARE

I, a Notary Public of the County and State aforesaid, certify that Walter S. Jones, a general partner of North Banks Development Company, a general partnership, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal this 21st day of August, 1980.

My commission expires: 5/21/85

Martha B. Gannon
Notary Public

The foregoing Certificate(s) of Martha B. Gannon
Notary Public of Dare County
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Alma S. Wilson Register of Deeds for Dare County

By Martha B. Gannon Deputy/Assistant-Register of Deeds

8-00-80