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NORTH CAROLINA

SURF AND SOUND SUBDIVISION

DARE COUNTY

PHASE II DORRIS A. FRY

REGISTER OF DEEDS

DECLARATION OF RESTRICTIVE COVENANTS

Prepared by
and
Return to:
NORMAN W. SHEARIN, JR.
SHEARIN & ARCHBELL
ATTORNEYS AT LAW
KITTY HAWK, N. C.

WHEREAS, THE SURF 'N' SOUND PARTNERSHIP (hereinafter referred to as "Surf 'n' Sound") is the fee simple owner of those certain lots or parcels of land located near the Village of Frisco, Hatteras Township, Dare County, North Carolina, and shown as Lots 15 through 27, inclusive, on map or plat entitled "Surf and Sound - Phase II" prepared by Donald E. Wood, Registered Land Surveyor, dated August 15, 1988 and recorded on June 14, 1989 in Plat Cabinet C, Slide 82B, in the office of the Register of Deeds of Dare County, North Carolina;

WHEREAS, Surf 'n' Sound intends to develop Lots 15 through 27, inclusive, as shown on the aforesaid plat, according to a common scheme with the objective that the restrictions herein imposed shall inure to the benefit of each and all of the purchasers of Lots 15 through 27, inclusive, as shown on said plat; and it is the purpose of this declaration to declare and make known the covenants and restrictions which shall apply to Lots 15 through 27, inclusive, as shown on the aforesaid map;

NOW, THEREFORE, Surf 'n' Sound does by this instrument declare and make known that the following covenants and restrictions are to run with Lots 15 through 27, inclusive, as shown on the map hereinbefore designated, and shall be binding upon its successors in interest:

1. All the lots in this subdivision shall be used for single family residential purposes only.

2. No signs or posters of any nature shall be placed on the said lots without the written permission of Surf 'n' Sound, its successors and assigns. No animals, livestock or poultry of any kind, other than household pets, shall be kept on any lots.

3. In order to preserve a desirable uniformity of beauty and to protect purchasers of lots within the subdivision from having undesirable types of architecture placed on adjoining lots, no building, fence or other structure shall be erected, placed, moved onto, maintained or in any way altered on any lot in the subdivision until such time as the proposed building plans, specifications, exterior color or finish, plot plan (showing the proposed location and elevation of such building or structure, drives and parking areas) and construction schedule shall have been approved in writing by Surf 'n' Sound or its successor(s) in interest as developer(s) of the subdivision. All

exterior antennae shall be approved in writing by Surf 'n' Sound prior to erection. Any earthmoving or earth-disturbing activity shall be approved in writing by Surf 'n' Sound prior to the commencement of such activity. Surf 'n' Sound may refuse approval of plans, location or specifications upon any ground, including purely aesthetic considerations, which in the sole discretion of Surf 'n' Sound shall be deemed sufficient. However, in no event will Surf 'n' Sound approve plans for a residential structure having less than 950 square feet of enclosed living space. No alterations in the exterior appearance of any building or other structure shall be made without similar approval being obtained from Surf 'n' Sound. Two (2) copies of all plans and related information shall be furnished to Surf 'n' Sound, one (1) of which shall be retained by it for its use.

4. The exterior of all residences and other permanent structures in the subdivision shall be completed within one (1) year after the commencement of construction. No structure shall be used at any time, either temporarily or permanently, as a residence until the exterior of such structure is complete.

5. No trailer or temporary structures, such as tents, shacks, garages, barns or other outbuildings shall be used on any lot in this subdivision at any time as a permanent or temporary residence. However, this provision shall not prevent Surf and Sound or its duly authorized agent from using any such structure(s) as sales or construction office(s).

6. No lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear to be in an unclean or untidy condition, or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property. All buildings, structures and their 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 cleared and debris removed within ninety (90) days of such casualty.

7. Easements are reserved along and within five (5) feet of all side lot lines and within ten (10) feet of all front lot lines for the construction and perpetual maintenance of conduits, wires and fixtures for electricity, telephone service, cablevision, water mains, sanitary and storm sewers, road drains, and other utilities or services, and to remove any obstacle which may at any time interfere or threaten to interfere with the maintenance of such lines, with right of ingress and egress from and across said premises to duly authorized maintenance personnel. This easement shall also extend along any owner's side and rear property lines where fractional lots are owned. It shall not be considered a violation of the terms of this easement if wires or cables pass under some portion of lots not within the ten (10) foot wide strip, provided such lines do not hinder the construction and maintenance of buildings situated on any such lot.

8. The street within the subdivision is private and the use thereof shall be limited to lot owners in the subdivision and their agents, invitees and guests.

9. For the express purpose of owning and maintaining the road or street and other common properties in the subdivision as shown on the aforesaid plat recorded in Plat Cabinet C, Slide 82B, Dare County Registry (including inter alia, Osprey Way and all other easements and common properties shown on the aforesaid plat) for the benefit of the said lot owners and any additions thereto, Surf 'n' Sound shall cause to be organized a property owners' association known as The Surf 'n' Sound Property Owners' Association II, of which each lot owner in the subdivision and any additions thereto shall be a member. Surf 'n' Sound reserves

the right to assign its rights pursuant to these covenants (and specifically without limitation paragraph 3 hereof) to said Association at such time as Surf 'n' Sound, in its sole discretion, determines that such Association is prepared to assume the obligations imposed by these covenants.

10. Each and every owner of a lot shown on the aforesaid plat of the subdivision recorded in Plat Cabinet C, Slide 82B, Dare County Registry, or any addition thereto, agrees to pay to The Surf 'n' Sound Property Owners' Association (hereinafter the "Association") on July 1 of each year for the maintenance of the streets, roads, and other common properties or amenities which the Association may hereafter acquire in Surf and Sound Subdivision as shown on the aforesaid plat and any additions thereto (including inter alia, Osprey Way and all other roads and easements and common properties shown on the aforesaid plat) the sum of One Hundred and No/100ths Dollars (\$100.00) on July 1, 1989; and the sum of One Hundred and No/100ths Dollars (\$100.00) on each and every July 1 thereafter unless and until terminated in accordance with paragraphs 17 or 18 of these covenants. The owners of said lots shall pay said sums promptly when they become due but in any event within thirty (30) days after July 1 of each year. Upon failure of said lot owners to pay said sums when due, the amount due shall become a lien upon the lot or lots owned by such lot owners which lien may be claimed by notice and enforced by civil action in the nature of the enforcement of a laborer's and materialmen's lien against real property pursuant to G.S. 44A-7, et seq. or, in the sole discretion of the Association, by civil action in the nature of the foreclosure of the lien of a deed of trust. In lieu of payment of said sums on lots owned by Surf 'n' Sound it may elect, in its sole discretion, to pay the remaining cost of maintaining the aforesaid roads, easements, and other common properties or amenities serving the lots in the subdivision. However, such action by Surf 'n' Sound shall in no way relieve the other owners of lots in the subdivision from their obligation to pay said sums for the maintenance of the aforesaid roads, streets, easements, and other common properties in the subdivision.

The Association, by majority vote of the Board of Directors, may increase or decrease the said sum due for maintenance and common expenses without amending this Declaration. Provided, however, that if there is an increase of over 25% in any one year, it must also receive the affirmative vote of a majority of the membership of the Association.

In the event a court of competent jurisdiction shall rule that any lot owner (other than Surf 'n' Sound) is not liable for the common expenses and assessments herein provided for, such owner shall pay every July 1, in lieu thereof, \$1,000.00 in annual assessments to the Association.

11. The standard to which said roads and streets in said subdivision shall be maintained is the same standard and condition maintained by Surf 'n' Sound as of the date hereof. Except as to the width thereof, said roads and streets were built in accordance with North Carolina Department of Transportation standards and specifications (which standards and specifications are incorporated by reference), and have been maintained in accordance with those standards.

12. Some portions of the lots in Surf and Sound Subdivision are located in areas of environmental concern (AECs) as that term is defined in the Coastal Area Management Act (CAMA). A major or minor CAMA permit may be required before any construction, development, or any land-disturbing activity whatsoever is undertaken on any lot in the subdivision. A lot owner must submit to Surf 'n' Sound, as part of the review process established in paragraph 3 of this Declaration, proof satisfactory to Surf 'n' Sound that a CAMA permit has or is being obtained or that such a permit is not necessary for that particular lot.

13. Portions of lots 19 through 27 inclusive, lie within the wetlands jurisdiction line established by the U.S. Army Corps of Engineers. Approvals must be obtained from the Department of the Army for the discharge of dredged or fill material and other activities in said wetlands.

14. No building, improvement, or structure shall be located on any lot beyond the following minimum setback lines:

Front (Street)	25 feet
Rear (Sound)	20 percent of lot depth, not to exceed 20 feet
Side	10 feet
Side Adjoining a Street	15 feet

Surf 'n' Sound may, for reasons deemed sufficient by Surf 'n' Sound, modify or waive the setback requirements herein established for any lot in the subdivision.

15. The lots in the subdivision are, as of the date of this Declaration, located in an area designated as a Flood Zone A-5. Each lot owner must provide Surf 'n' Sound, as part of the review process established in paragraph 3 of this Declaration, proof satisfactory to Surf 'n' Sound that requirements will be observed so that flood insurance coverage may be obtained.

16. North Carolina law requires that prior to construction on any lot, the Dare County Health Department determine the site suitability, method and adequacy of sewage treatment, and a supply or source of potable water, for each individual lot in the subdivision, before any improvements may be constructed or placed on the said lot. Lots must be individually evaluated as to topography, drainage, soil porosity, and suitability to support a ground absorption sewage disposal system. Each lot owner is required to provide an adequate and properly approved underground septic tank or other sewage disposal system approved by the Dare County Health Department on each lot owned and must provide to Surf 'n' Sound, as part of the review process established in paragraph 3 of this Declaration, proof, satisfactory to Surf 'n' Sound that any necessary approvals for sewage disposal have been or are being obtained.

Potable water is available to each lot from a community water system owned, operated and maintained by the Cape Hatteras Water Association, Inc. The Cape Hatteras Water Association, Inc. will require the payment of a recurring fee by each lot owner for water.

17. Surf 'n' Sound may, at its option, by filing a supplemental Declaration of Restrictive Covenants, bring within the scheme of this development additional lands and subject them to the restrictions herein imposed, or by filing an amendment to these covenants make such additions, deletions or other changes to these covenants as it may see fit.

18. These restrictions shall be binding on the land in the said subdivision and all parties owning the said land or in possession thereof for a period of twenty (20) years from the date hereof and shall be extended thereafter for successive periods of ten (10) years each unless, prior to the expiration of the initial 20 year period or any such 10 year period thereafter, an instrument signed by the owners of record of a majority of the lots in the subdivision has been recorded revoking or modifying these restrictions.

IN WITNESS WHEREOF, The Surf 'n' Sound Partnership has caused this instrument to be executed in the name of the partnership by its managing general partner this _____ day of June, 1989.

THE SURF 'N' SOUND PARTNERSHIP,
A North Carolina General Partnership

By: Billy G. Roughton (SEAL)
Billy G. Roughton,
Managing Partner

STATE OF NORTH CAROLINA
COUNTY OF DARE Currituck

I, a Notary Public of the County and State aforesaid, certify that BILLY G. ROUGHTON, managing general partner of The Surf 'n' Sound Partnership, a North Carolina general partnership, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this 31st day of June, 1989.

Carol H. Miller
Notary Public

My commission expires:

October 7, 1992

NORTH CAROLINA

DARE COUNTY

The foregoing certificate of Carol H. Miller,
a Notary Public of Currituck Co., NC
is 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.

Dorris A. Fry
Register of Deeds

By: Dana Jean Wade
~~Deputy~~ Assistant Register of Deeds

NORTH CAROLINA

SURF AND SOUND SUBDIVISION 17 PM 3 03

DARE COUNTY

PHASE II

DEEDS & EREY

REGISTER OF DEEDS

DARE COUNTY, N.C.

DECLARATION OF RESTRICTIVE COVENANTS

Prepared by
and
Notary to
NICHOLAS W. SHERMAN, JR.
NICHOLAS W. SHERMAN, JR.
ATTORNEY AT LAW
KITEY HAWK, N.C.

WHEREAS, THE SURF 'N' SOUND PARTNERSHIP (hereinafter referred to as "Surf 'N' Sound") is the fee simple owner of those certain lots or parcels of land located near the Village of Frisco, Hatteras Township, Dare County, North Carolina, and shown as Lots 15 through 27, inclusive, on map or plat entitled "Surf and Sound - Recombination of Lots 16, 17, 18, 19, Frisco, Dare County, North Carolina," prepared by Carlos F. Gomez, Registered Land Surveyor, dated December 8, 1989 and recorded on December 12, 1989 in Plat Cabinet C, Slide 100E, in the office of the Register of Deeds of Dare County, North Carolina;

WHEREAS, Surf 'N' Sound intends to develop Lots 15 through 27, inclusive, as shown on the aforesaid plat, according to a common scheme with the objective that the restrictions herein imposed shall inure to the benefit of each and all of the purchasers of Lots 15 through 27, inclusive, as shown on said plat; and it is the purpose of this declaration to declare and make known the covenants and restrictions which shall apply to Lots 15 through 27, inclusive, as shown on the aforesaid map;

NOW, THEREFORE, Surf 'N' Sound does by this instrument declare and make known that the following covenants and restrictions are to run with Lots 15 through 27, inclusive, as shown on the map hereinbefore designated, and shall be binding upon its successors in interest:

1. All the lots in this subdivision shall be used for single family residential purposes only.

2. No signs or posters of any nature shall be placed on the said lots without the written permission of Surf 'N' Sound, its successors and assigns. No animals, livestock or poultry of any kind, other than household pets, shall be kept on any lots.

3. In order to preserve a desirable uniformity of beauty and to protect purchasers of lots within the subdivision from having undesirable types of architecture placed on adjoining lots, no building, fence or other structure shall be erected, placed, moved onto, maintained or in any way altered on any lot in the subdivision until such time as the proposed building plans, specifications, exterior color or finish, plot plan (showing the proposed location and elevation of such building or structure, drives and parking areas) and construction schedule shall have been approved in writing by Surf 'N' Sound or its successor(s) in interest as developer(s) of the subdivision. All

exterior antennae shall be approved in writing by Surf 'N' Sound prior to erection. Any earthmoving or earth-disturbing activity shall be approved in writing by Surf 'N' Sound prior to the commencement of such activity. Surf 'N' Sound may refuse approval of plans, location or specifications upon any ground, including purely aesthetic considerations, which in the sole discretion of Surf 'N' Sound shall be deemed sufficient. However, in no event will Surf 'N' Sound approve plans for a residential structure having less than 950 square feet of enclosed living space. No alterations in the exterior appearance of any building or other structure shall be made without similar approval being obtained from Surf 'N' Sound. Two (2) copies of all plans and related information shall be furnished to Surf 'N' Sound, one (1) of which shall be retained by it for its use.

4. The exterior of all residences and other permanent structures in the subdivision shall be completed within one (1) year after the commencement of construction. No structure shall be used at any time, either temporarily or permanently, as a residence until the exterior of such structure is complete.

5. No trailer or temporary structures, such as tents, shacks, garages, barns or other outbuildings shall be used on any lot in this subdivision at any time as a permanent or temporary residence. However, this provision shall not prevent Surf and Sound or its duly authorized agent from using any such structure(s) as sales or construction office(s).

6. No lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear to be in an unclean or untidy condition, or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property. All buildings, structures and their 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 cleared and debris removed within ninety (90) days of such casualty.

7. Easements are reserved along and within five (5) feet of all side lot lines and within ten (10) feet of all front lot lines for the construction and perpetual maintenance of conduits, wires and fixtures for electricity, telephone service, cablevision, water mains, sanitary and storm sewers, road drains, and other utilities or services, and to remove any obstacle which may at any time interfere or threaten to interfere with the maintenance of such lines, with right of ingress and egress from and across said premises to duly authorized maintenance personnel. This easement shall also extend along any owner's side and rear property lines where fractional lots are owned. It shall not be considered a violation of the terms of this easement if wires or cables pass under some portion of lots not within the ten (10) foot wide strip, provided such lines do not hinder the construction and maintenance of buildings situated on any such lot.

8. The street within the subdivision is private and the use thereof shall be limited to lot owners in the subdivision and their agents, invitees and guests.

9. For the express purpose of owning and maintaining the road or street and other common properties in the subdivision as shown on the aforesaid plat recorded in Plat Cabinet C, Slide 100E, Dare County Registry (including inter alia, Osprey Way and all other easements and common properties shown on the aforesaid plat) for the benefit of the said lot owners and any additions thereto, Surf 'N' Sound shall cause to be organized a property owners' association known as The Surf 'N' Sound Property Owners' Association II, of which each lot owner in the subdivision and any additions thereto shall be a member. Surf 'N' Sound reserves

the right to assign its rights pursuant to these covenants (and specifically without limitation paragraph 3 hereof) to said Association at such time as Surf 'N' Sound, in its sole discretion, determines that such Association is prepared to assume the obligations imposed by these covenants.

10. Each and every owner of a lot shown on the aforesaid plat of the subdivision recorded in Plat Cabinet C, Slide 82B, Dare County Registry, or any addition thereto, agrees to pay to The Surf 'N' Sound Property Owners' Association (hereinafter the "Association") on July 1 of each year for the maintenance of the streets, roads, and other common properties or amenities which the Association may hereafter acquire in Surf and Sound Subdivision as shown on the aforesaid plat and any additions thereto (including inter alia, Osprey Way and all other roads and easements and common properties shown on the aforesaid plat) the sum of One Hundred and No/100ths Dollars (\$100.00) on July 1, 1989; and the sum of One Hundred and No/100ths Dollars (\$100.00) on each and every July 1 thereafter unless and until terminated in accordance with paragraphs 17 or 18 of these covenants. The owners of said lots shall pay said sums promptly when they become due but in any event within thirty (30) days after July 1 of each year. Upon failure of said lot owners to pay said sums when due, the amount due shall become a lien upon the lot or lots owned by such lot owners which lien may be claimed by notice and enforced by civil action in the nature of the enforcement of a laborer's and materialmen's lien against real property pursuant to G.S. 44A-7, et seq. or, in the sole discretion of the Association, by civil action in the nature of the foreclosure of the lien of a deed of trust. In lieu of payment of said sums on lots owned by Surf 'N' Sound it may elect, in its sole discretion, to pay the remaining cost of maintaining the aforesaid roads, easements, and other common properties or amenities serving the lots in the subdivision. However, such action by Surf 'N' Sound shall in no way relieve the other owners of lots in the subdivision from their obligation to pay said sums for the maintenance of the aforesaid roads, streets, easements, and other common properties in the subdivision.

The Association, by majority vote of the Board of Directors, may increase or decrease the said sum due for maintenance and common expenses without amending this Declaration. Provided, however, that if there is an increase of over 25% in any one year, it must also receive the affirmative vote of a majority of the membership of the Association.

In the event a court of competent jurisdiction shall rule that any lot owner (other than Surf 'N' Sound) is not liable for the common expenses and assessments herein provided for, such owner shall pay every July 1, in lieu thereof, \$1,000.00 in annual assessments to the Association.

11. The standard to which said roads and streets in said subdivision shall be maintained is the same standard and condition maintained by Surf 'N' Sound as of the date hereof. Except as to the width thereof, said roads and streets were built in accordance with North Carolina Department of Transportation standards and specifications (which standards and specifications are incorporated by reference), and have been maintained in accordance with those standards.

12. Some portions of the lots in Surf and Sound Subdivision are located in areas of environmental concern (AECs) as that term is defined in the Coastal Area Management Act (CAMA). A major or minor CAMA permit may be required before any construction, development, or any land-disturbing activity whatsoever is undertaken on any lot in the subdivision. A lot owner must submit to Surf 'N' Sound, as part of the review process established in paragraph 3 of this Declaration, proof satisfactory to Surf 'N' Sound that a CAMA permit has or is being obtained or that such a permit is not necessary for that particular lot.

13. Portions of lots 19 through 27 inclusive, lie within the wetlands jurisdiction line established by the U.S. Army Corps of Engineers. Approvals must be obtained from the Department of the Army for the discharge of dredged or fill material and other activities in said wetlands.

14. No building, improvement, or structure shall be located on any lot beyond the following minimum setback lines:

Front (Street)	25 feet
Rear (Sound)	20 percent of lot depth, not to exceed 20 feet
Side	10 feet
Side Adjoining a Street	15 feet

Surf 'N' Sound may, for reasons deemed sufficient by Surf 'N' Sound, modify or waive the setback requirements herein established for any lot in the subdivision.

15. The lots in the subdivision are, as of the date of this Declaration, located in an area designated as a Flood Zone A-5. Each lot owner must provide Surf 'N' Sound, as part of the review process established in paragraph 3 of this Declaration, proof satisfactory to Surf 'N' Sound that requirements will be observed so that flood insurance coverage may be obtained.

16. North Carolina law requires that prior to construction on any lot, the Dare County Health Department determine the site suitability, method and adequacy of sewage treatment, and a supply or source of potable water, for each individual lot in the subdivision, before any improvements may be constructed or placed on the said lot. Lots must be individually evaluated as to topography, drainage, soil porosity, and suitability to support a ground absorption sewage disposal system. Each lot owner is required to provide an adequate and properly approved underground septic tank or other sewage disposal system approved by the Dare County Health Department on each lot owned and must provide to Surf 'N' Sound, as part of the review process established in paragraph 3 of this Declaration, proof, satisfactory to Surf 'N' Sound, that any necessary approvals for sewage disposal have been or are being obtained.

Potable water is available to each lot from a community water system owned, operated and maintained by the Cape Hatteras Water Association, Inc. The Cape Hatteras Water Association, Inc. will require the payment of a recurring fee by each lot owner for water.

17. Surf 'N' Sound may, at its option, by filing a supplemental Declaration of Restrictive Covenants, bring within the scheme of this development additional lands and subject them to the restrictions herein imposed, or by filing an amendment to these covenants make such additions, deletions or other changes to these covenants as it may see fit.

18. These restrictions shall be binding on the land in the said subdivision and all parties owning the said land or in possession thereof for a period of twenty (20) years from the date hereof and shall be extended thereafter for successive periods of ten (10) years each unless, prior to the expiration of the initial 20 year period or any such 10 year period thereafter, an instrument signed by the owners of record of a majority of the lots in the subdivision has been recorded revoking or modifying these restrictions.

IN WITNESS WHEREOF, The Surf 'N' Sound Partnership has caused this instrument to be executed in the name of the partnership by its managing general partner this 10th day of April, 1990.

THE SURF 'N' SOUND PARTNERSHIP,
A North Carolina General Partnership

By: Billy G. Roughton (SEAL)
Billy G. Roughton,
Managing Partner

STATE OF NORTH CAROLINA
COUNTY OF DARE

I, a Notary Public of the County and State aforesaid, certify that BILLY G. ROUGHTON, managing general partner of The Surf 'N' Sound Partnership, a North Carolina general partnership, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this 10th day of April, 1990.

Carol H. Miller
Notary Public

My commission expires:

October 7, 1992

NORTH CAROLINA

DARE COUNTY

The foregoing certificate of Carol H. Miller,
Notary Public & Currituck Co. NC
is 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.

Doris A. Gray
Register of Deeds

By: Dorinda Jean Ward
Deputy/Assistant Register of Deeds