

BOOK 436 PAGE 457

FILED

JUL 2 PM 4 44

CHARLENE Y. HOWDY
REGISTER OF DEEDS
CURRITUCK COUNTY N.C.

Prepared by and return to
Woody, Merrell, Wills & Wills, L.L.P.
P.O. Drawer 270
Kitty Hawk, NC 27049

AMENDMENT NUMBER TWO
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS AMENDMENT Number Two to the Declaration of Covenants, Conditions and Restrictions of the Magnolia Bay Subdivision of The Currituck Club (the "Agreement") is made this 25th day of June, 1998, by and between *The Currituck Associates-Residential Partnership, a North Carolina General Partnership*, (the "*Partnership*") and DMD, LLC of Currituck, A/K/A DMD, LLC, a North Carolina Limited Liability Company ("*DMD*").

WITNESSETH:

WHEREAS, the *Partnership* as the owner of certain real property located in Currituck County, North Carolina did, on or about February 1, 1996, enter into an Option Agreement (the "*Option*") between the *Partnership* and Bernard Mancuso, Jr., a Memorandum of which is recorded in Deed Book 380, Page 425 in the Office of the Register of Deeds of Currituck County, North Carolina ("*Memorandum of Option*") governing the sale of seventy (70) lots (more or less) in a subdivision known as Magnolia Bay, The Currituck Club, (the "*Subdivision*"); and

WHEREAS, *DMD* as holder of the Option recorded a Declaration of Covenants, Conditions and Restrictions (at times either the "*Declaration*" or the "*Covenants*") on April 18, 1996 in Deed Book 380, Page 434 in the Office of the Register of Deeds of Currituck County, North Carolina, which Covenants set forth certain restrictions, duties, rights and privileges of those persons who purchase lots within the Subdivision, which Covenants are incorporated herein by this reference as if fully set out; and

WHEREAS, the Covenants were reviewed and approved by the *Partnership* prior to the recording thereof and with the intent of the *Partnership* that such Covenants would be applicable to and binding upon the *Partnership*, *DMD* and all owners who would acquire lots in the Subdivision; and

WHEREAS, on or about April 18, 1996, *Partnership*, with the concurrence of *DMD*, recorded a plat of Phase I, of Magnolia Bay, in Plat Cabinet F, Slides 20, 21; and

WHEREAS, on or about July 23, 1996, *Partnership*, with the concurrence of *DMD*, recorded an amendment to the Plat (the "*Amended Plat*") in Plat Cabinet F, Slides 62 & 63; and,

WHEREAS, on or about November 19, 1997, Partnership, with the concurrence of DMD, recorded an Addendum to the Amended Plat ("Addendum I to the Amended Plat") in Plat Cabinet F, Slide 215 adjusting the lot lines of Lots 7, 8, 31 & 44 located in Phase I of Magnolia Bay, The Currituck Club; and,

WHEREAS, on or about June 25, 1998, Partnership, with the concurrence of DMD, recorded Addendum II to the Amended Plat ("Addendum II to the Amended Plat") adjusting the lot lines of Lot 10 located in Phase I of Magnolia Bay, The Currituck Club, (the original plat, the Amended Plat, the Addendum I to the Amended Plat, and Addendum II to the Amended Plat, hereinafter collectively, the "Plat"); and,

WHEREAS, the Partnership and DMD intend by this Agreement to amend the Plat as shown on the Addendum II to the Amended Plat,

NOW, THEREFORE, the Partnership and DMD by the execution and recording of this Agreement hereby jointly and severally amend the Covenants as follows:

1. The Plat is amended by relocating Lot 10 from its original location as shown on the original and Amended Plat to the location as shown on the Addendum II to the Amended Plat. Such relocation does not increase the Lot sizes, violate any set back requirement or result in a net reduction of any Open Space or Common Area for the Magnolia Bay Development.
2. Addendum II to the Amended Plat is recorded in Plat Cabinet F, Slide 293, Office of the Register of Deeds of Currituck County, is subject to all the terms and provisions of the Covenants as herein amended, and shall be considered as part of the "Plat" as that term is defined and used in the Declaration.
3. A copy of Addendum II to the Amended Plat, reduced in size, is attached to this Agreement and made a part hereof as Attachment One.

THIS AGREEMENT is executed the date, month and year above written.

THE CURRITUCK ASSOCIATES-
RESIDENTIAL PARTNERSHIP (SEAL)

By: Boddie-Noell Enterprises, Inc., (SEAL)
General Partner

By: Charles J. Hayes, Jr. (SEAL)
Charles J. Hayes, Jr.
Attorney in Fact

DMD, LLC OF CURRITUCK
d/b/a DMD, LLC (SEAL)

By: Bernard Mancuso (SEAL)
Bernard Mancuso
Member Manager

Unofficial Copy

NORTH CAROLINA
COUNTY OF DARE

I, a Notary Public, for said County and State, do hereby certify that Charles J. Hayes, Jr., attorney in fact for Boddie-Noell Enterprises, Inc., personally appeared before me this day, and being duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of Boddie-Noell Enterprises, Inc. 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 Currituck, State of North Carolina on the 21st day of June, 1993, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Charles J. Hayes, Jr., acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and on behalf of Boddie-Noell Enterprises, Inc.

WITNESS, my hand and official seal or stamp, this 25th day of June, 1998

James E. Aley
NOTARY PUBLIC



My commission expires 12/19/98

NORTH CAROLINA
COUNTY OF DARE

I, a Notary Public, for said County and State, do hereby certify that Bernard Mancuso, Jr., personally appeared before me this day and stated that he is a Member Manager of DMD, LLC of Currituck, a/k/a DMD, LLC, a North Carolina Limited Liability Company, (the "Company") and that under and pursuant to the terms and the conditions of the Operating Agreement he is duly authorized to execute this document on behalf of the Company.

WITNESS, my hand and official seal or stamp, this 25th day of June 1998.

James E. Aley
NOTARY PUBLIC

My commission expires 12/28/98



Unofficial Document

Unofficial Document

BOOK 436 PAGE 460

Affix copy of *Addendum II to the Amended Plat of Phase I of Magnolia Bay, The Currituck Club*

Unofficial Document

Unofficial Document

Attachment ONE

NORTH CAROLINA, CURRITUCK COUNTY

The foregoing certificate(s) of James A. Alexy, Notary of Currituck Co., NC

is (are) certified

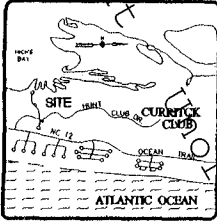
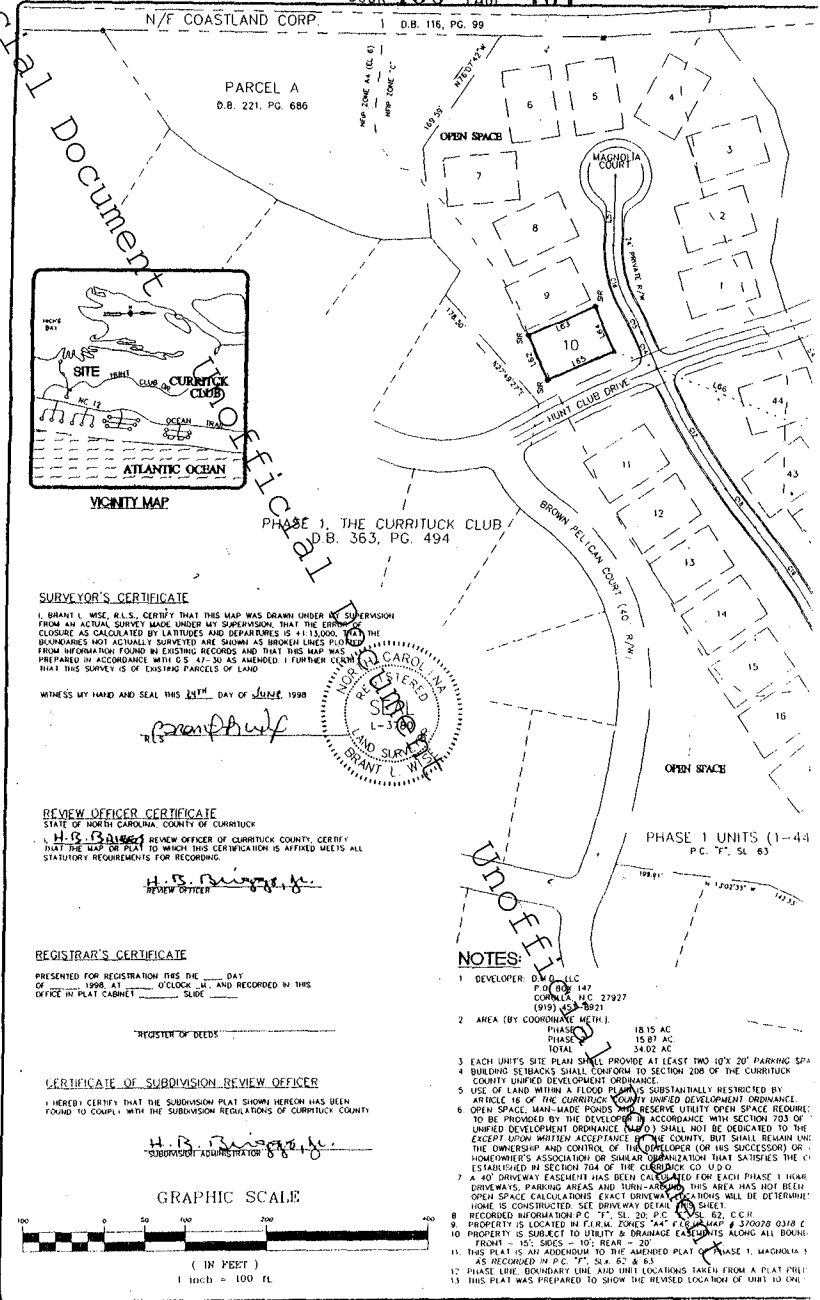
to be correct. This instrument was presented for registration at 4:44 o'clock PM, on July 2,

19 98, and recorded in Book 436, Page 457.

Charles J. Davis
Register of Deeds

By Mary A. Adams
Deputy Register of Deeds

Unofficial Document



SURVEYOR'S CERTIFICATE

I, BRANT L. WISE, R.L.S., CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, THAT THE ELEVATION OF THE CLOSURE AS CALCULATED BY LATITUDES AND DEPARTURES IS +113.000, THAT THE BOUNDARIES NOT ACTUALLY SURVEYED ARE SHOWN AS DOTTED LINES PLACED FROM INFORMATION FOUND IN EXISTING RECORDS AND THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. I FURTHER CERTIFY THAT THIS SURVEY IS OF EXISTING PARCELS OF LAND.

WITNESS MY HAND AND SEAL THIS 24TH DAY OF JUNE, 1998

Brant L. Wise



REVIEW OFFICER CERTIFICATE

I, H. B. RICHARDS, REVIEW OFFICER OF CURRITUCK COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

H. B. Richards
REVIEW OFFICER

REGISTRAR'S CERTIFICATE

PRESENTED FOR REGISTRATION THIS ____ DAY OF _____, 1998, AT _____ O'CLOCK _____, AND RECORDED IN THIS OFFICE IN PLAT CABINET _____ SLICE _____

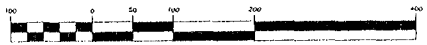
REGISTER OF DEEDS

CERTIFICATE OF SUBMISSION REVIEW OFFICER

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF CURRITUCK COUNTY.

H. B. Richards
SUBDIVISION REVIEW OFFICER

GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.

NOTES:

1. DEVELOPER: D.M.O., LLC
P.O. BOX 147
CORNELIUS, N.C. 27927
(919) 458-7921
2. AREA (BY COORDINATE METHOD)
PHASE 1: 18.15 AC
PHASE 2: 15.87 AC
TOTAL: 34.02 AC
3. EACH UNIT'S SITE PLANS SHALL PROVIDE AT LEAST TWO 10' X 20' PARKING SPACES.
4. BUILDING SETBACKS SHALL CONFORM TO SECTION 208 OF THE CURRITUCK COUNTY UNIFIED DEVELOPMENT ORDINANCE.
5. USE OF LAND WITHIN A FLOOD PLAIN IS SUBSTANTIALLY RESTRICTED BY ARTICLE 16 OF THE CURRITUCK COUNTY UNIFIED DEVELOPMENT ORDINANCE.
6. OPEN SPACE, BARRIADRE PONDS AND RESERVE UTILITY OPEN SPACE REQUIREMENTS TO BE PROVIDED BY THE DEVELOPER IN ACCORDANCE WITH SECTION 703 OF UNIFIED DEVELOPMENT ORDINANCE (UDO) SHALL NOT BE DEDICATED TO THE EXCEPT FOR USE WITHIN ACCEPTANCE BY THE COUNTY, BUT SHALL REMAIN UNDER THE OWNERSHIP AND CONTROL OF THE DEVELOPER (OR HIS SUCCESSOR) OR HOMEOWNER'S ASSOCIATION OR SIMILAR ORGANIZATION THAT SATISFIES THE REQUIREMENTS ESTABLISHED IN SECTION 704 OF THE CURRITUCK COUNTY UDO.
7. A 40' DRIVEWAY EASEMENT HAS BEEN CALCULATED FOR EACH PHASE I NEAR DRIVEWAYS, PARKING AREAS AND TURN-AROUNDS. THIS AREA HAS NOT BEEN OPEN SPACE. CALCULATIONS EXACT DRIVEWAY LOCATIONS WILL BE DETERMINED IF HOME IS CONSTRUCTED. SEE DRIVEWAY DETAIL (S) SHEET.
8. RECORDED INFORMATION P.C. 77, SL. 20, P.C. 208, 62, C.C.R.
9. PROPERTY IS LOCATED IN F.L.R.M. ZONES "A" P.L. MAP # 37092 0318 C.
10. PROPERTY IS SUBJECT TO UTILITY & DRAINAGE EASEMENTS ALONG ALL BORDERS. FRONT - 15', SIDES - 10', REAR - 20'.
11. THIS PLAT IS AN ADDENDUM TO THE AMENDED PLAT OF PHASE 1, MAGNOLIA AS RECORDED IN P.C. 77, SL. 62, & 63.
12. PHASE LINE, BOUNDARY LINE AND UNIT LOCATIONS TAKEN FROM A PLAT FILED.
13. THIS PLAT WAS PREPARED TO SHOW THE REVISED LOCATION OF UNIT 108.

THIS MAP IS NOT A CERTIFIED SURVEY AND NO RELIANCE MAY BE PLACED IN ITS ACCURACY.

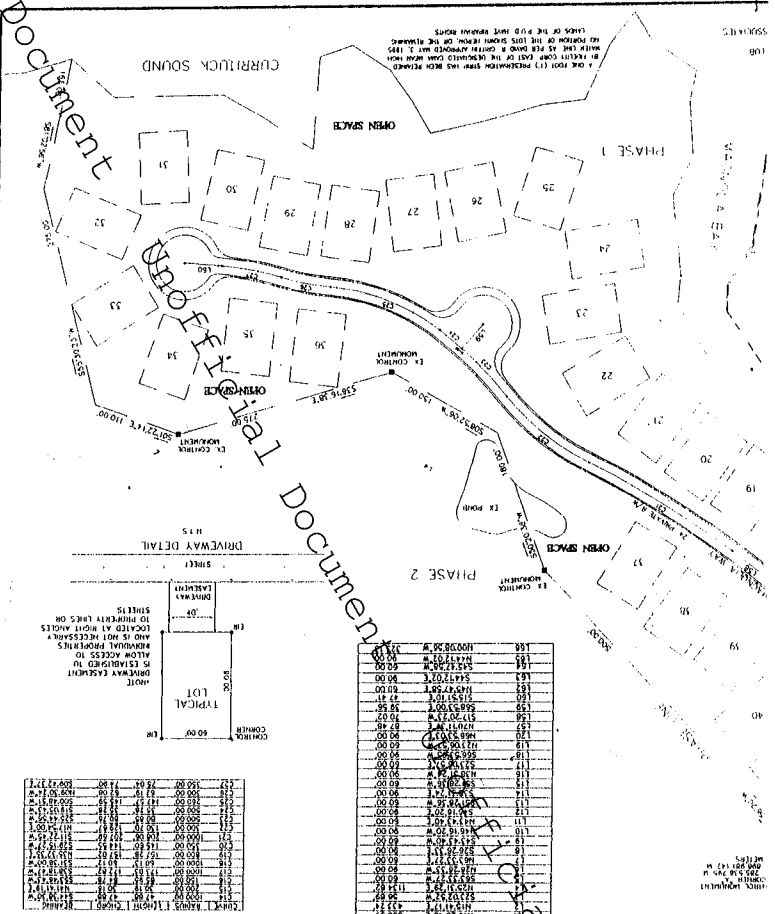
Unofficial Document

SHEET	1
PLAN NO.	5279008
PROJECT NO.	59822
DATE	6/17/99
BY	RECORD
APPROVED	

FINAL PLAT FOR:
MAGNOLIA BAY
 ADDENDUM II TO PHASE I, AMENDED
 POPULAR BRANCH TNSP
 CURRITUCK COUNTY
 NORTH CAROLINA

Copyright © 1997
 Benchmark Surveying Services, P.C.
 223 North Martin Street
 Elizabeth City, NC 27909
 (818) 536-5229
 (818) 536-1111 Fax

BENCHMARK
 SURVEYING SERVICES, P.C.



Station	Chord	Angle	Bearing	Distance	Area
1+00	100.00	90.00	N 0° 0' 0" E	100.00	5000.00
1+10	100.00	90.00	N 0° 0' 0" E	100.00	10000.00
1+20	100.00	90.00	N 0° 0' 0" E	100.00	15000.00
1+30	100.00	90.00	N 0° 0' 0" E	100.00	20000.00
1+40	100.00	90.00	N 0° 0' 0" E	100.00	25000.00
1+50	100.00	90.00	N 0° 0' 0" E	100.00	30000.00
1+60	100.00	90.00	N 0° 0' 0" E	100.00	35000.00
1+70	100.00	90.00	N 0° 0' 0" E	100.00	40000.00
1+80	100.00	90.00	N 0° 0' 0" E	100.00	45000.00
1+90	100.00	90.00	N 0° 0' 0" E	100.00	50000.00
2+00	100.00	90.00	N 0° 0' 0" E	100.00	55000.00
2+10	100.00	90.00	N 0° 0' 0" E	100.00	60000.00
2+20	100.00	90.00	N 0° 0' 0" E	100.00	65000.00
2+30	100.00	90.00	N 0° 0' 0" E	100.00	70000.00
2+40	100.00	90.00	N 0° 0' 0" E	100.00	75000.00
2+50	100.00	90.00	N 0° 0' 0" E	100.00	80000.00
2+60	100.00	90.00	N 0° 0' 0" E	100.00	85000.00
2+70	100.00	90.00	N 0° 0' 0" E	100.00	90000.00
2+80	100.00	90.00	N 0° 0' 0" E	100.00	95000.00
2+90	100.00	90.00	N 0° 0' 0" E	100.00	100000.00

PHYSICAL ADDRESS	Sheet No
1901	1
1902	2
1903	3
1904	4
1905	5
1906	6
1907	7
1908	8
1909	9
1910	10
1911	11
1912	12
1913	13
1914	14
1915	15
1916	16
1917	17
1918	18
1919	19
1920	20
1921	21
1922	22
1923	23
1924	24
1925	25
1926	26
1927	27
1928	28
1929	29
1930	30
1931	31
1932	32
1933	33
1934	34
1935	35
1936	36



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 MAY BE PLACED IN ITS ACCURACY.