

NORTH CAROLINA
CURRITUCK COUNTY

BOOK 208 PAGE 882

DECLARATION OF PROTECTIVE COVENANTS AND CONDITIONS

SPINDRIFT SUBDIVISION
Kitty Hawk Land Company
Currituck County, North Carolina

APPLICABILITY

THIS DECLARATION, made this 11th day of December, 1980 shall be applicable to SPINDRIFT SUBDIVISION as described on the map or plat thereof prepared for KITTY HAWK LAND COMPANY (hereinafter "KHL") by William T. Robbins, trading as South Surveying and Land Planning, Registered Land Surveyor, the said subdivision plat being duly recorded in Plat Cabinet B, Slides 128-129 & 130, in the Office of the Register of Deeds of Currituck County, North Carolina.

ARTICLE I: PURPOSES

It is the purpose of this declaration to insure the best and the most appropriate use, development and improvement of each building site or lot shown on said subdivision plat; to protect the owners of building sites against any use of other building sites or lots in the subdivision which will depreciate the market value of their said building sites or lots; to preserve so far as practicable the natural beauty of said building sites or lots; to avoid the erection thereon of poorly designed or proportioned structures; to prevent structures being built of improper or unsuitable materials; to insure the highest and best use and development of said building sites or lots; to encourage and secure the erection of attractive homes thereon, with appropriate location of said homes on building sites or lots; to prevent haphazard and inharmonious improvement of building sites or lots, to assure open spaces between structures; and in general to provide for a high quality of improvement of said building sites or lots, thereby enhancing and making more secure the investments made by purchasers of building sites and preserving, as fully as possible, the natural beauty of both the common areas and individual building sites.

ARTICLE II: RESIDENTIAL BUILDING SITES AND STREETS

Section 1: Residential Use. No building site or lot shall be used for any purpose other than single family residential purposes. No building or other structure shall be erected, altered, placed, or permitted to remain on any lot other than one single family residence and any accessory buildings approved in accordance with the terms of Section 3 of this Article II. No business or business activity may be carried on upon the property at any time, provided, however, that nothing herein shall preclude KHL, its subsidiaries, affiliates, employees, successors and assigns, from using all or part of the dwellings owned by them for the purpose of carrying on business directly related to the development, marketing, and/or management of Spindrift Subdivision.

Section 2: Subdivision of Lots. No lot shall be subdivided, or its boundary lines changed, except with the prior written consent of KHL. However, it shall be permissible to combine two or more adjacent lots, which are owned by a single owner, into one tract of land for the purpose of building a dwelling thereon which would be authorized on such lots individually. In the event of such a combination of contiguous

lots, the setback requirements relating to the common boundary between the lots will not prohibit building upon that boundary so long as sideline/setback requirements relating to the outside perimeter of the combined lots are satisfied. This provision does not relieve or remove any other restriction or covenant which may exist as a result of this Declaration.

Section 3. Approval of Plans. No building or other structure, site work or clearing preparatory to construction shall be begun, altered, added to, maintained, or constructed on any lot until the building and/or site plans and specifications for any such work have been reviewed and approved in writing by KHL. Before commencing such review, a lot owner shall submit to KHL three (3) complete sets of plans and specifications, including, but not limited to: a site plan, a foundation plan, a floor plan or plans, the four directional elevations, and a schedule of proposed exterior colors and materials. No change from such approved plans and specifications shall be made, nor shall subsequent alterations be made to the site or building without the express written approval of KHL. KHL may approve the plans, siteing or specifications conditionally, or it may refuse approval upon any grounds, including purely aesthetic considerations, which in its sole discretion shall appear warranted in order to accomplish the purposes recited in Article I of this Declaration.

If proposed plans shall include any structure proposed to be constructed on a foundation consisting in whole or in part of pilings, KHL specifically reserves the right to limit the amount of exposure allowed for any such pilings, and to require screening or enclosure of all exposed pilings with solid panels, open lattice or plant materials, or a combination thereof.

In no event will KHL, in the exercise of its discretion, approve plans for any single family residence with a total area of less than 1,700 square feet, excluding garages and accessory buildings, and a heated living area, excluding porches, steps and other appurtenant parts of the said residence, of less than 1,200 square feet.

When construction of any improvement has not begun before the expiration of six (6) months following approval, said approval shall expire and become of no further force and effect; thereafter the plans for such improvement shall be resubmitted to KHL for approval and KHL may, in its discretion, either grant approval of the plans or disapprove them.

Section 4. Building Location. KHL reserves unto itself the right to determine the precise location of any building or other structure to be constructed or placed on a lot. However, such siteing or location of improvements shall be made by KHL only after a reasonable time has been allowed for the lot owner to submit site plans proposing such precise location to KHL and for KHL to review said plans. It is the intent of KHL in determining building location to attempt to encourage a relationship of structure and terrain that will lessen the adverse impact to adjoining building sites insofar as bulk or mass, height, and views of the ocean are concerned.

In no event shall KHL, in the exercise of its discretion, approve the location of a residence or garage within 10 feet of the sidelines of said lot, or within 20 feet of a sideline abutting a street, within 25 feet of the rear lines thereof, or within 25 feet of the front of said lot except that on Lots 9

through 16, inclusive, a residence or garage need only observe a 20 foot setback from the front line (abutting Land Fall Court).

Section 5. Completion of Building. The exterior of all buildings and structures erected upon said lot shall be completed within twelve (12) months after commencing construction. However, where completion is, in the opinion of KHL, impossible, or would result in severe hardship to the lot owner or his agents, KHL may extend the time for construction.

Section 6. Streets. The streets within the subdivision are private and their use shall be limited to lot owners in the subdivision and their invitees and guests.

Section 7. Utilities and Antennae. All utilities shall be placed underground. The erection of any visible antennae shall be done only with the approval of KHL. Request for approval of any such antennae will be made in writing to KHL and be accompanied by sufficient drawings, measurements and information so as to enable KHL to fully understand the visual impact of said antennae.

Section 8. Screening. Each lot owner shall provide screening from public view, approved in writing by KHL, for fuel tanks, service yards, air conditioning units, clothes lines, water tanks, rubbish storage receptacles, or for any other appurtenance which KHL, in its sole discretion from time to time require.

Garbage containers or receptacles which are to be picked up by any regularly scheduled collection service shall be moved out to the street no sooner than 12 hours prior to collection time and moved away from the street no later than 12 hours after collection unless there is provided by the lot owner an approved facility that entirely hides such containers from view. Any such screening will require written approval by KHL prior to erection.

Section 9. Temporary Structures. No temporary structure, such as a trailer, tent, or shack, shall be placed upon any lot.

Section 10. Vegetation. No existing vegetation or sand dunes shall be disturbed without the express written consent of KHL. KHL shall require written proposals for the restabilization of any disturbed area. Any vegetation disturbed during construction shall be repaired to the satisfaction of KHL prior to the owner applying for an occupancy permit from Currituck County. This covenant shall not prevent KHL from engaging in such clearing, moving, and pruning activities as are necessary to affect the overall plan of development.

Section 11. Sewage Disposal. Prior to commencing construction of any residence any permits required by governmental authorities for sewage disposal shall be obtained and the location of such proposed sewage disposal facility approved in writing by KHL as part of the approval process required by Article II, Section 3 of this Declaration. Governmental approval of such systems shall be obtained after completion, with a copy of approval being forwarded to KHL prior to occupancy of the residence.

Section 12. Connection to Utilities. No public or private utilities may be permanently connected to any residence until KHL has verified compliance with these covenants and with the plans and specifications submitted and approved pursuant to Section 3 of this Article II. Such verification shall be

obtained in writing from KHL before any permanent utility connections are made to any residence in Spindrift Subdivision.

Section 13. Water Distribution System. If a community or central water system provides water service to Spindrift Subdivision, water service to each lot in the subdivision to which the water service is available from the community or central water system shall be obtained only from the said community or central water system. The connection to the community or central water system shall be approved by KHL in accordance with the provisions of Section 12 of this Article II.

If no such community or central water system is in operation at the time when approval of plans is obtained pursuant to the terms of Section 3 of this Article II, then private wells conforming to all applicable governmental regulations may be constructed on any affected lot to provide water to the lot until connection to the community or central water system can be made. In addition, private wells may, with the approval of KHL, be located on the lots to supplement the community or central water system for such uses as lawn and garden maintenance.

KHL may require, in its sole discretion, its written approval of the location of all such wells as part of the site plan approval requirement of Section 3 of this Article II. KHL's said approval shall include its approval of the location of the septic tank, grease trap, junction box and nitrification drainage field on each lot. KHL may, in its sole discretion, require standards more stringent than those of governmental agencies. In no way does this right of approval by KHL create any responsibility on behalf of KHL to grant or require such approvals.

Section 14. Occupancy. No residence erected upon any lot shall be occupied in any way as a residence prior to completion of construction and the connection of permanent utilities.

Section 15. Signs. KHL may, in its sole discretion, determine the location, size, material and color of any "for sale" or "for rent" signs placed on any lots in the subdivision and may issue guidelines to aid in the implementation of this provision. All other signs are prohibited unless approved in writing by KHL. KHL shall not be prevented by this provision from erecting such signs which, in its sole discretion, may be deemed necessary or beneficial to the development or marketing of the subdivision or the normal conduct of its business, provided that any signs so erected shall be within the acceptable limits as defined by the said guidelines applicable to all other lot owners in the subdivision.

Section 16. Mail and Delivery Boxes. KHL may, in its sole discretion, determine the standards and issue guidelines for the implementation thereof, for the location, material of which constructed, color and design of all mail and newspaper receptacles and the manner in which said receptacles are to be identified.

Section 17. Pets. No animals of any kind shall be kept, raised or bred on any lot, except a reasonable number of the usual or normal domestic pets such as dogs or cats. Such domestic pets shall not be kept, raised or bred for commercial purposes and must be under the physical control of the lot owner at all times.

Section 18. Vehicle Storage. On each lot the owner thereof shall provide an improved non-porous surface for the parking of

at least two (2) motor vehicles. The storage of travel trailers, campers, trucks and self-propelled mobile homes shall be in such a manner so as not to be visible from the street. Campers, travel trailers, trucks, self-propelled mobile homes, and other such vehicles shall not be occupied as a residence while parked on any lot in the subdivision.

Section 19. Nuisances. Each lot owner shall at all times maintain the exterior of his residence and the surrounding grounds of his lot in a clean, tidy and safe condition. No lot shall be used in whole or in part for the storage of anything which might cause such lot to appear cluttered, unclean or obnoxious to the eye; nor shall any substance, thing or material be kept on any lot that might emit foul or obnoxious odors, noises or create conditions that will or may disturb the serenity, safety, or comfort of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any lot. Nothing shall be done thereon tending to create a nuisance to the neighborhood.

Section 20. Entry. Each lot owner shall keep his lot cleared of unsightly underbrush, weeds or debris, but if any said lot owner shall permit the same to exist on his property and fail to remove the same within 30 days after being requested to do so by KHL, KHL or its agents may enter upon the lot for the purpose of cleaning, clearing or cutting the grass, underbrush or debris, which in KHL's opinion, detracts from the overall beauty or natural character of the neighborhood or adversely affects the safety or health of the residents. Such entrance on any lot shall not be deemed a trespass. The expenses of entry and removal shall be the personal debt of the lot owner and shall also constitute a lien upon the lot until paid. Said lien may be enforced as provided in Article IV of this Declaration. The provisions of this Section shall not be construed to obligate KHL to provide such services.

Section 21. Easements for Utilities and Drainage. KHL for the benefit of itself, its successors and assigns, and/or such utility companies that may service the subdivision from time to time, reserves a perpetual right, privilege and easement ten (10) feet in width on the front, rear and side lot lines to construct, maintain and operate in, upon, across and through said easement, in a workmanlike manner, electric, telephone, gas, sewer, water, drainage and other conveniences together with the right at all times to enter upon the said easement with men and equipment for the purpose of inspecting, altering and repairing the same. KHL reserves the right to maintain or otherwise keep clear any obstructions that may adversely affect the proper maintenance and operation of the various utility systems and further reserves a perpetual right to enter upon any lot for the purpose of constructing or maintaining emergency drainageways for the benefit, health, and safety of the subdivision and its inhabitants. These restrictions, however, shall not obligate KHL to provide or maintain any such utilities, services or easements.

Section 22. Property Owners Association. For the express purpose of owning and maintaining the roads, streets and other common properties in the subdivision as shown on the aforesaid plat recorded in Plat Cabinet B, Slides ~~128-129 & 130~~, Currituck County Registry, (including inter alia, Spindrift Trail, Land Fall Court, Clamshell Court and Ocean Trail, the improved walkways to the Atlantic Ocean located on Lots 11, 12, 16 and 17, jogging trails, drainage areas, open space and other common areas) for the benefit of the said lot owners, KHL will

cause to be incorporated a property owners association known as the Spindrift Property Owners Association, Inc., of which each lot owner in Spindrift shall be a member. KHL reserves the right to assign its rights pursuant to this Declaration and specifically Article II, Section 3 hereof to said Association at such time as KHL, in its sole discretion, determines that such Association is prepared to assume said obligations imposed by these covenants.

ARTICLE III: COMMON ELEMENTS

Section 1. Alterations. KHL, in fulfilling its general plan for improvement of the subdivision, hereby reserves, with respect to those areas denoted as "Common Area(s)", the improved walkways to the Atlantic Ocean on Lots 11, 12, 16 and 17, and all roads and streets shown on said subdivision plat the right to change and alter those elements and to install or alter utility and drainage facilities and such other facilities as are necessary or desirable for implementation of its plan of development. The right to change or alter the use of such property is reserved exclusively to KHL for its sole benefit.

Section 2. Common Areas, Walkways and Streets. To insure that land designated as Common Area(s), the improved walkways to the Atlantic Ocean on Lots 11, 12, 16 and 17, and all roads and streets shown on said subdivision plat, shall remain for the benefit of the property owners, each Spindrift lot owner shall have a perpetual easement to pass over and enjoy the areas or parcels so designated.

Section 3. Reservation for Private Uses. The reservation of all Common Area(s), the improved walkways to the Atlantic Ocean on Lots 11, 12, 16 and 17, and all roads and streets shown on said subdivision plat, is made solely for the private use of property owners of Spindrift Subdivision as designated herein, their families and guests, and not for the use and benefit of the general public.

Section 4. Reservation to KHL. Pursuant to its general plan of development, KHL reserves the right to make trails or paths through the Common Area(s), the improved walkways to the Atlantic Ocean on Lots 11, 12, 16 and 17, and all roads and streets shown on said subdivision plat, or to otherwise improve and enhance the said Common Area(s), the improved walkways to the Atlantic Ocean on Lots 11, 12, 16 and 17, and all roads and streets shown on said subdivision plat, including but not limited to, the protection of the Common Area(s), the improved walkways to the Atlantic Ocean on Lots 11, 12, 16 and 17, and all roads and streets shown on said subdivision plat, from erosion or other forms of degradation by planting, fencing or other expedient means.

Section 5. Disclaimer. The reservation of the Common Area(s), the improved walkways to the Atlantic Ocean on Lots 11, 12, 16 and 17, and all roads and streets shown on said subdivision plat, for the uses established hereby in no way obligates KHL to make any such improvement as have been mentioned in this Article III or to maintain any such improvement if and when made.

Section 6. Limited Use of Common Areas and Walkways. Any and all Common Area(s) and improved walkways to the Atlantic Ocean designated on the plat to which this declaration is applicable shall be available for use and access by pedestrians

or persons on bicycles only and shall not be used by any type of motorized conveyance.

ARTICLE IV: FEES

Each and every owner of a lot shown on the aforesaid plat of Spindrifft Subdivision agrees to pay to the Spindrifft Property Owners Association, Inc., (hereinafter "the Association") on July 1 of each year for the maintenance of the streets, roads and other common areas, properties or amenities which the Association may hereafter acquire in Spindrifft, and as shown on the aforesaid plat (including, inter alia, Spindrifft Trail, Land Fall Court, Clamshell Court, Ocean Trail, the improved walkways to the Atlantic Ocean, jogging trails, drainage areas and open space) the sum of TWO HUNDRED DOLLARS (\$200.00) beginning on July 1, 1986; and thereafter the sum of TWO HUNDRED DOLLARS (\$200.00) on each and every July 1 unless and until terminated in accordance with Article V, Section 1 or 4, 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 laborer's and materialmen's liens 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 KHL, KHL may elect, in its sole discretion, to pay the entire cost of maintaining the aforesaid roads serving the lots in the subdivision. However, such action by KHL 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, and other common areas or properties in the subdivision.

The standard to which said roads and streets in said subdivision shall be maintained will be the same standard and condition maintained by KHL as of the date hereof. Said roads and streets were built in accordance with North Carolina Department of Transportation standards and specifications existing as of July 1, 1985, (which standards and specifications as published by the North Carolina Department of Transportation are incorporated by reference) and have been maintained since that time in accordance with those standards.

ARTICLE V: GENERAL PROVISIONS

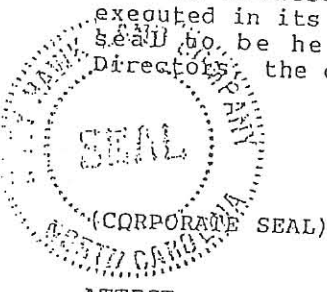
Section 1. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming by, through or under them for a period of 30 years from the date these covenants are recorded in the Office of the Register of Deeds of Currituck County, North Carolina. Thereafter the binding force of said covenants shall be automatically extended and continued for successive periods of 10 years each unless an instrument signed by the then owners of a majority of the lots in the subdivision has been recorded altering said covenants in whole or in part.

Section 2. Enforcement. In the event of a violation or breach of any of these restrictions by any property owner, or

agent of such owner, the owners of lots in the subdivision, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, KHL shall have the right, whenever there shall have been built on any lot in the subdivision any structure which is in violation of these restrictions, to enter upon the property where such violation exists, and summarily abate or remove the same at the expense of the owner, if after 30 days written notice of such violation, it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction or condition contained in this Declaration, however long maintained, shall not be deemed a waiver of the right to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

Section 3. Severability. Invalidation of any of these covenants, or any part thereof, by judgment or court order shall in no way affect any of the other provisions of these covenants which remaining provisions shall continue in full force and effect.

IN WITNESS WHEREOF, KHL has caused this instrument to be executed in its corporate name by its authorized officers and its Directors the day and year first above written.



KITTY HAWK LAND COMPANY

By: Charles J. Hayes, Jr.
Charles J. Hayes, Jr.,
President

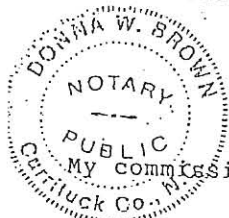
ATTEST:

Leslie M. Whitley
Leslie M. Whitley, Assistant Secretary

NORTH CAROLINA
DARE COUNTY

This is to certify that on the 11th day of November, 1982, before me personally came Leslie M. Whitley, with whom I am personally acquainted, who, being by me duly sworn, says that Charles J. Hayes, Jr. is the President, and Leslie M. Whitley is the Assistant Secretary of KITTY HAWK LAND COMPANY, a North Carolina corporation, the corporation described in and which execute the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said President, and that said President and Assistant Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and notarial seal the day and year first above written.



Donna W. Brown
Notary Public

My commission expires: 10/8/90

NORTH CAROLINA
CURRITUCK COUNTY

The foregoing certificate of Donna W. Brown,
a Notary Public of Currituck County, North Carolina, is
certified to be correct.

This instrument is recorded in the book and at the page and
on the date and at the time shown on the first page hereof.

Charlene G. Dowdy
Register of Deeds

By: _____
Deputy/Assistant Register of Deeds

Filed for registration on the
13 day of December, 1985
at 2:21 o'clock P. M.
Charlene G. Dowdy
Register of Deeds