

1988 OCT 7 PM 5 08

Prepared by & Return To:  
Daniel D. Khoury, Attorney  
P. O. Box 1584  
Kill Devil Hills, N. C. 27948

NORTH CAROLINA  
DARE COUNTY

DORRIS A. FRY  
REGISTER OF DEEDS  
DARE COUNTY, N.C.  
AMENDMENT TO DECLARATION

THIS AMENDMENT to the Declaration of Condominium for the Oyster Pointe Condominium is entered into this 22nd day of September, 1988 by KITTY HAWK BAY DEVELOPMENT, CORPORATION, a North Carolina Corporation, and FIRST SERVICE CORPORATION OF NORTH CAROLINA, (herein collectively referred to as "Developer") pursuant to North Carolina Condominium Act, Chapter 47C, of the General Statutes of North Carolina;

WITNESSETH:

That the Developer had previously entered a Declaration of Condominium, recorded in Book 492, Page 454, Public Registry of Dare County, North Carolina, and Amendment thereto recorded in Book 497, Page 231, and an Amendment thereto recorded in Book 498, Page 702, and an Amendment recorded in Book 544, Page 484,

The Declarations and Amendments thereto describe a condominium known as Oyster Pointe Condominium, located in Atlantic Township, Town of Kill Devil Hills, Dare County, State of North Carolina and includes Phase I, Phase II, of said Condominium project.

Within the Declaration the Developer reserves certain developmental rights including specifically the right to add additional real estate to the Condominium project, a description of which additional real estate is attached hereto and marked, "Exhibit 1", and said additional real estate is designated as Phase III, on the plat referred to therein.

AND WHEREAS the Developer has agreed to sell and in contemporaneous with the execution of this Amendment has sold to Oyster Pointe Associates, Inc., the remaining real estate situated within said Condominium project and as to the original Developer's "developmental rights" or Special Declarant's Rights as provided in Chapter 47C-3-104 transfers such rights to Oyster Pointe Associates, Inc., as transferee;

AND WHEREAS this transaction is covered by the provisions of Chapter 47C-3-104 (b) 1, 3 and 4 of said Statute, the parties hereto not being an affiliate of the original Declarant.

The Developer specifically transfers to Oyster Pointe Associates, Inc., as transferee, the rights to execute and include therein Special Declarant's Rights or "developmental rights" as provided in such original Declaration in any security transaction requiring the execution of any mortgage, deed of trust or other instrument relating to the additional real estate described in the exhibit attached hereto. The provisions of Chapter 47C-3-104(e)2, are specifically included herein as if fully set forth.

The Developer as to the unsold units in Phases I and II of said Condominium retains the rights with respect to models, sales offices, signs, etc., until such units are sold by the original Developer.

All of the provisions of Chapter 47C-3-104, which relate to a transaction where the transferee is not an affiliate of the original Developer, are incorporated herein as if fully set forth in addition to the specific language of this Amendment.

AND WHEREAS the original Declaration of Condominium provided for a time frame within which the additional real estate will be improved and additional condominium units or structures would be built within a five-year period, as provided for in Chapter 47C, of the General Statutes of North Carolina;

AND WHEREAS an amendment to the Declaration of Condominium recorded in Book 544, at Page 484, in Article III, maker a provision contra to the original Declaration in stating that such units and structures would be built and completed on or before January 1, 1990 and such assertion is incorrect and not in accord with either the original Developer-Declarant or in accord with the contract with the transferee who joins in and accepts this Amendment to the Declaration of Condominium

DESCRIPTION OF REMAINING PROPERTY  
OYSTER POINTE CONDOMINIUM

AK 5-91-28 0060

A certain parcel of land located in the Town of Kill Devil Hills in the vicinity of First Flight Village, Dare County, North Carolina and more particularly described as follows:

The point of beginning for this description is located by certain bearings and distances from a point of reference. The point of reference is identified as the Northeastern corner of Lot No. 118 of the subdivision of First Flight Village, Section 3, Phase B as shown on the plat recorded in Plat Cabinet B at Slide 50 of the Dare County Registry. The point of beginning is located by the following courses and distances from the point of reference: Beginning at the point of reference and running North 00 deg. 29 min. 56 sec. West a distance of 119.54 feet to a point, thence continuing along the right-of-way of Bay Drive along a curve to the right when proceeding in a Northerly direction an arc distance of 96.31 feet to a point, said curve having a radius of 462.13 feet; thence turning and running North 44 deg. 06 min. 57 sec. West a distance of 243.91 feet to a point; thence running North 73 deg. 06 min. 57 sec. West a distance of 258.00 feet to a point; thence South 26 deg. 53 min. 03 sec. West a distance of 50 feet to a point; thence South 69 deg. 23 min. 03 sec. West a distance of 97 feet to a point; thence North 39 deg. 36 min. 57 sec. West a distance of 64 feet to a point marking the point or place of beginning. Running thence from the point of beginning as established by the preceding courses and distances from the point of reference the following description of the property: Running South 68 deg. 27 min. 15 sec. West a distance of 67.78 feet to a point; thence South 55 deg. 53 min. 03 sec. West a distance of 198.0 feet to a point; thence North 11 deg. 06 min. 57 sec. West a distance of 68.76 feet to a point; thence North 04 deg. 13 min. 31 sec. West a distance of 190.02 feet to a point; thence North 04 deg. 02 min. 57 sec. East a distance of 394.21 feet to a point; thence South 84 deg. 16 min. 05 sec. East a distance of 317.31 feet to a point; thence South 60 deg. 45 min. 55 sec. East a distance of 150.53 feet to a point; thence South 29 deg. 14 min. 05 sec. West a distance of 63 feet to a point; thence South 77 deg. 06 min. 45 sec. West a distance of 48.88 feet to a point; thence South 29 deg. 52 min. 29 sec. West a distance of 50.0 feet to a point; thence South 60 deg. 07 min. 31 sec. East a distance of 133.0 feet to a point; thence South 16 deg. 20 min. 00 sec. West a distance of 63.12 feet to a point; thence South 22 deg. 56 min. 03 sec. West a distance of 144.86 feet to a point; thence North 60 deg. 06 min. 02 sec. West a distance of 117.67 feet to a point; thence South 29 deg. 53 min. 57 sec. West a distance of 113.32 feet to a point, said point marking the point or place of beginning.

Same being an area consisting of 4.93 acres.

Said lands being shown on a map or plat by C. P. Lewis, Registered Surveyor, dated September 19, 1987 and November 11, 1987, and recorded in Unit of Ownership Book 3, at Page 314, Dare County Public Registry, and designated on said plat as, "Exhibit A-1, Additional Real Estate 4.93 acres".

United Federal Savings and Loan Association is the holder of a certain deed of trust on the property described in the Amendment to Declaration of Unit Ownership for the Oyster Pointe Condominium project, hereinabove set forth. The deed of trust is recorded in Book 444, at Page 603, of the Dare County Public Registry to Battle, Winslow, Scott and Wiley, P. A. for the benefit of United Federal Savings and Loan Association. As the holder of said mortgage, United Federal Savings and Loan Association does hereby consent to the terms, conditions, covenants and provisions in the foregoing Amendment to Declaration of Condominium which are referred to herein and agrees that the lien of the deed of trust and any of the covenants contained therein and any and all interest of the Savings and Loan as mortgagee or holder of that certain deed of trust are subject to the terms, conditions and covenants contained in the foregoing Amendment to the Declaration. United Federal Savings and Loan Association has requested its trustee to join in the execution of this Consent.

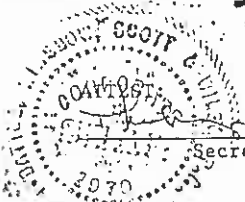
In Witness Whereof the trustee and the holder have caused this instrument to be executed by their duly authorized officers, this the 4th day of September, 1988.

(SEAL)  
 ATTEST:  
*Ray Fawell*  
 Secretary  
 (SEAL)

UNITED FEDERAL SAVINGS AND LOAN ASSOCIATION  
 By: *J.O. Clifford*  
 President

BATTLE, WINSLOW, SCOTT & WILEY, P.A., TRUSTEE  
 By: *Marshall D. Gallop*  
 President

*Wallace H. McCown* (SEAL)  
 Wallace H. McCown, Substitute Trustee



STATE OF North Carolina, COUNTY OF WAKE  
 I, a Notary Public of the County and State aforesaid, certify that Ray Fawell Secretary of UNITED FEDERAL SAVINGS AND LOAN ASSOCIATION, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and official stamp or seal, this 4<sup>th</sup> day of September, 1988.  
 My Commission expires: 8-28-91  
*Stephen M. ...*  
 Notary Public



STATE OF North Carolina, COUNTY OF Wake  
 I, a Notary Public of the County and State aforesaid, certify that Thomas L. ... Secretary of BATTLE, WINSLOW, SCOTT & WILEY, P.A., TRUSTEE, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and official stamp or seal, this 5 day of October, 1988.  
 My Commission expires: Oct. 11, 1989  
*Hazel J. Bryant*  
 Notary Public

(NOTARIAL SEAL)  
**HAZEL J. DRYANT**  
 Notary Public  
 Nash County, N.C.  
 My Comm. Expires 10-11-89

HAZEL J. DRYANT  
 Notary Public  
 Nash County, N.C.

NOW, THEREFORE it is mutually understood and agreed by and between the Declarant-Developer as transferor and Oyster Point Associates, Inc. as transferee that said original Declaration of Condominium shall control and that the lands described as Additional Lands, copy of which description is attached to this Amendment, shall govern and that such structures in the remaining lands shall be completed within five (5) years from the date provided for in accordance with Chapter 47C, and in accordance with the original Declaration of Condominium.

AND WHEREAS, in the original Declaration of Condominium the property description included the entire original parcel of land containing 15.7 acres, when in fact Phase I and Phase II of said Condominium have not included the parcel of land described in this Amendment as remaining lands and such description is hereby deleted from "original property" and is in fact the property upon which the remaining condominiums of Phase III can and may be constructed.

NOW, THEREFORE it is mutually agreed by and between all parties hereto that the description of the lands attached hereto of 4.93 acres is in fact remaining lands and not a part of the original Phase I of said Condominium.

IN WITNESS WHEREOF the Developer has caused this instrument to be executed in its several corporate names, its appropriate officers signatures affixed hereto and the corporate seals, all as the acts and deeds of said corporations, and;

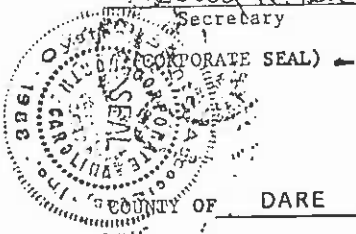
IN WITNESS WHEREOF Oyster Point Associates, Inc. as transferee under the terms of Chapter 47C-3-104 has hereunto set its hand and seal with respect to this Amendment and the special declarants rights or "Developmental Rights" relating to this Condominium.

OYSTER POINT ASSOCIATES, INC.

By: [Signature]  
President

ATTEST:

[Signature]  
Secretary



COUNTY OF DARE, STATE OF NORTH CAROLINA

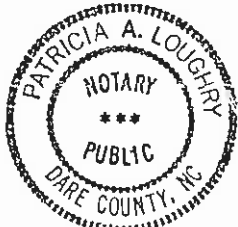
I, a Notary Public of the County and State aforesaid, certify that Sherry N. Beckham personally came before me this day and acknowledged that she is Secretary of OYSTER POINT ASSOCIATES, INC., a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its Secretary.

Witness my hand and official stamp or seal, this the 7th day of October, 1988.

My Commission expires: 10-5-90.

[Signature]  
Notary Public

(NOTARIAL SEAL)



KITTY HAWK BAY DEVELOPMENT CORPORATION,  
A North Carolina Corporation

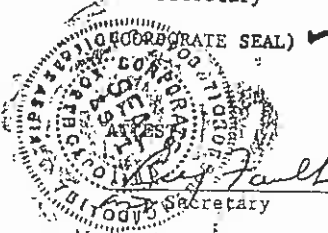
By: John H. Slif  
President

ATTEST

[Signature]  
Secretary

FIRST SERVICE CORPORATION OF NORTH CAROLINA

By: J.O. Clifton  
President



CONSENTED TO:

UNITED FEDERAL SAVINGS & LOAN ASSOCIATION

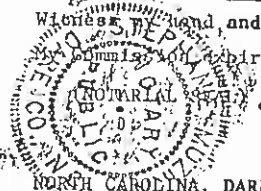
By: J.O. Clifton President  
By: Marshall A. [Signature] Trustee  
ATTEST: [Signature] Secretary  
NORTH CAROLINA, DARE COUNTY

ATTEST:

Billy Faulkner  
not. Secy

I, a Notary Public of the County and State aforesaid, certify that Robert HARRIS personally came before me this day and acknowledged that he is Secretary of KITTY HAWK BAY DEVELOPMENT CORPORATION, a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary.

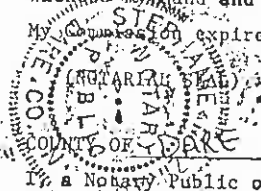
Witness my hand and official stamp or seal, this 4<sup>th</sup> day of August, 1988.  
My Commission expires: 8-28-91  
Stephanie Muzika  
Notary Public



NORTH CAROLINA, DARE COUNTY

I, a Notary Public of the County and State aforesaid, certify that Billy FAULKNER personally came before me this day and acknowledged that he is Secretary of FIRST SERVICE CORPORATION OF NORTH CAROLINA, a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary.

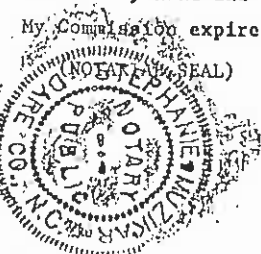
Witness my hand and official stamp or seal, this 4<sup>th</sup> day of August, 1988.  
My Commission expires: 8-28-91  
Stephanie Muzika  
Notary Public



STATE OF NC

I, a Notary Public of the County and State aforesaid, certify that Billy FAULKNER personally came before me this day and acknowledged that he is Secretary of UNITED FEDERAL SAVINGS & LOAN ASSOCIATION, a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and official stamp or seal, this 4 day of August, 1988.  
My Commission expires: 8-28-91  
Stephanie Muzika  
Notary Public



STATE OF NORTH CAROLINA, COUNTY OF DARE  
I, A Notary Public of the County and State aforesaid, certify that  
Wallace H. McCown, Substitute Trustee,  
personally appeared before me this day and acknowledged the execution  
of the foregoing instrument. Witness my hand and official stamp or  
seal, this 7th day of October, 1988.



My Commission expires: 10-5-90.

Patricia L. Laughy  
Notary Public

The foregoing Certificate(s) on \_\_\_\_\_

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

By \_\_\_\_\_ REGISTER OF DEEDS FOR DARE COUNTY  
Deputy/Assistant-Register of Deeds

STATE OF NORTH CAROLINA  
COUNTY OF NASH

I, HAZEL J. BRYANT, a Notary Public of the County and State  
aforesaid, certify that Thomas L. Young personally appeared before  
me this day and acknowledged that he is Secretary of Battle, Winslow,  
Scott & Wiley, P.A., a corporation, and that by authority duly given  
and as the act of the corporation, the foregoing instrument was signed  
in its name by its Vice President, sealed with its corporate seal and  
attested by him as its Secretary.

Witness my hand and notarial stamp, this 5th day of October, 1988.

Hazel J. Bryant  
Notary Public

My Commission Expires: 10-11-89

HAZEL J. BRYANT  
Notary Public  
Nash County, N.C.  
My Comm. Expires 10-11-89

NORTH CAROLINA DARE COUNTY

The foregoing certificate(s) of Patricia L. Laughy, Stephanie  
Muzikar and Hazel J. Bryant

is/are certified to be correct. This instrument and this certificate are duly  
registered at the date and time in the Book and Page shown on the first page hereof.

Dorris A. Fry Register of Deeds for Dare County  
By Patricia L. Laughy ~~Assistant~~ Register of Deeds