

DECLARATION OF PROTECTIVE COVENANTS
KITTY HAWK LANDING - section 5

WHEREAS, DECATUR PARTNERSHIP is the owners of that certain tract of land known as Kitty Hawk Landing, Section 5, as shown map or plat thereof made by Professional Land Surveying, Inc., duly recorded in Play Cabinet B, Slides 13, 14 and 15, Dare County Registry and;

WHEREAS, Decatur Partnership, hereinafter called "Declarant", intends to sell lots in said subdivision subject to certain protective restrictions, reservations, and covenants in order to insure the most beneficial development of the said subdivision as a residential subdivision and to prevent any such use thereof as might tend to diminish the value or pleasurable enjoyment thereof, and it is the purpose of this declaration to declare and make known the covenants, conditions and restrictions which shall apply to the lands as shown on said plat, referenced above.

NOW THEREFORE, Decatur Partnership, hereby declares and makes known that the following restrictions, reservations and covenants are hereby imposed upon the said subdivision which shall run with the land in the subdivision and shall be binding upon all lot owners, their agents, heirs and assigns, and upon all parties and persons claiming by, through or under them.

1. Easements. The declarant reserves a perpetual, assignable and releasable easement and right of way over, on and under the lot 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, drainage 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.

2. Residential Use. No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted remain on any lot other than one single family residence. Only one family shall occupy the main dwelling and its accessory building provided however, that servants' quarters or a guest suite may be erected, but such facilities may not be rented, leased or sold separately from the main premises. No business or business activity may be carried on upon the property at any time.

3. Subdivision of Lots. No lot shall be subdivided, or its boundary lines changed, except with the prior written consent of Decatur Partnership, however, it shall be permissible to combine two or more adjacent lots, which have a common ownership, into one tract of land for purposes of building a dwelling which would be authorized on such lots individually. In the event of such a combination, the setback requirements relating to the common boundary between the lots will not prohibit building upon that boundary so long as setback requirements relating to the outside border of the tract are met. This provision does not reduce or remove any other restriction which may exist as a result of this declaration.

4. Plans. No building, fences or other structure shall be erected, placed, moved into, maintained or in any way altered on any lot within the subdivision until the proposed building plans, specifications, exterior color or finish, plot plan (showing proposed location and elevation of such building or structure, drives and parking areas) shall have been submitted in duplicate to Declarant in writing as evidenced by an approved copy of the elevation plans left in the permanent possession of the Declarant. The Declarant or its successor or designee may refuse to approve plans, locations, or specifications upon any ground, including purely aesthetic considerations, which in the sole discretion of the Declarant shall seem sufficient. No alterations in the exterior appearance of any building or other structure shall be made without like approval by Declarant. The minimum square footage required shall be 1000 square feet of living area, exclusive of porches, patios, garages, unfinished areas and other protrusions from the base dimensions of the residence. The exterior of all houses and other structures, after the approval of the building plans, must be completed within six (6) months from the commencement of construction, except where such completion is impossible, or results in great hardship to the owner or builder due to strikes, fire, national emergencies, or calamities. Where more than 6 months is required due to the size or type of structure the owner shall have the right to reasonably extend the time of completion.

5. Maintenance of Buildings. All buildings, structures and their appurtenances shall be maintained in a suitable state of repair; in the event of destruction or casualty, premises are to be cleared and debris removed within sixty days from the date of such casualty. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkept condition of buildings or other structures or grounds on his lot which shall tend substantially to decrease the beauty of the neighborhood and of the subdivision as a whole. Upon the failure of an owner to comply with this requirement, the Declarant reserves the right at its option, within three (3) weeks after written notice has been mailed to such lot owner's last known address, to clean such property up or remove same if such property has been destroyed by fire or other disaster and Declarant's expense in so doing shall constitute a lien upon such owner's lot and improvements thereof, enforceable in the same manner as a mortgage or deed of trust.

6. Temporary Buildings. No trailer, double wide modules, tent, shack or other temporary building shall be erected or placed on the lands within the subdivision except a temporary building as may be necessary for the storage of materials or the convenience of workmen shall be permitted during the erection of a residence upon said lands, and such temporary structure shall be removed from said premises upon issuance of an occupancy permit of such residence.

7. **Signs.** There shall be no signs, billboards or advertising structures of any nature whatsoever placed on any lots or lands, except that one sign per lot not exceeding one square foot shall be allowed for identification of the property owner and signs and notices of the property for rent or sale provided such sign shall be no larger than 6 square feet in size. Also, no animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.
8. **Roads.** The lot owners shall be responsible for the maintenance and repair of the roads as shown on the plat of the property described above until such time as the North Carolina Highway Commission, or other State Agency with jurisdiction over the public roads, has accepted the roads for public maintenance.
9. **Occupancy.** No residence erected upon any lot shall be occupied in any manner prior to completion of construction and the connection of permanent utilities.
10. **Violations.** If the owners or occupants of any lot, or all of them or their successors and assigns shall violate any of the covenants and restrictions herein, it shall be the right of the developers herein, or their successors and assigns or any lot owner in the subdivision 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.
11. **Water and Sewage.** All wells and toilets and sewage units installed on the property shall be in accordance with the rules and regulations of the North Carolina Department of Health and the Dare County Environmental Health Department and shall be located on such lands in positions approved by such departments. No outside toilets will be permitted under any circumstances.
12. **Setbacks.** No building is to be constructed closer than 30 feet from any street or roadway nor closer than 8 feet from the side lines thereof, nor closer than 20% of the lot depth from rear property line. In the case of side property line which abuts street, the minimum setback shall be 15 feet. The portion of a lot abutting a street shall be the front yard, corner lots may have the front yard on either side abutting a street.
13. As long as it owns 10% or more of the lots in the property described above, Declarant reserves the right to include in any contract or deed thereafter made or entered into, such modifications and/or additions to these protective covenants, which will, in the sole opinion of Declarant, raise the standards or enhance the desirability of the subdivision as a residential area. Such reservation shall not be construed as authorizing Declarant to relieve any purchaser of any lot in the subdivision, in whole or in part, from any of the protective covenants set forth. Declarant may allow reasonable variances and adjustments of these covenants in order to overcome particular difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purposes hereof and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the subdivision.
14. Enforcement of these covenants, restrictions and declarations may be by Declarant or any owner of property subject to these covenants whether for equitable restraint against the violation thereof, or at law damages by virtue of any such violation and the invalidation of any one or more of the conditions and restrictions set out herein shall in no way affect any other of such provisions, all of which shall remain in full force and effect. The failure of Declarant or of any such party entitled to enforce any protective covenant contained in this declaration however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.
15. The foregoing conditions, reservations, declarations, covenants and easements shall be run with the lands and be binding upon all purchasers of lands or lots in said properties covered by these restrictions, and upon all persons or entities claiming under them through the 31st day of December, 1995, after which time the same shall be extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the lots subject thereto has been recorded, agreeing to change the restrictions and covenants in whole or part. For the purpose of such vote, the owners will be entitled to one (1) vote per lot regardless of the number of persons or entities owning any one lot.
16. Declarant reserves the right to bring other property belonging to said Declaration under these protective covenants by filing a supplementary declaration setting forth that purpose.
17. These covenants may be amended or changed by joinder of a majority of the lot owners within the said Kitty Hawk Landing, Section 5 in a written declaration to achieve such amendment.
18. Notwithstanding paragraph #2 above, duplex dwellings will be permitted on lots within this section if such dwellings would be allowed under the applicable ordinances of the Town of Kitty Hawk, and the lot size does not total less than 15,000 square feet. Declarants reserve the right to withdraw this authority at any time in the future, without regard to the number of lots sold in the section and upon such withdrawal of the authority to construct duplex dwellings, the lots shall then be considered suitable for single family dwellings only. Such withdrawal or change will not place a previously constructed duplex in violation of these covenants so long as the proper authority was granted at the time of construction in accordance with these covenants.

Recognizing the existence of a property owners association for Kitty Hawk Landing Subdivision, the owners of lots within this sect shall become members of such association, and the provisions contained in the restrictive covenants for other portions of Kitty Hawk Land Subdivision shall be equally effective and applicable to these lots, and specifically, the provisions relating to enforcement of liens and other mandatory payments by property owners to the association as set forth in the covenants of record in Book 174, Page 640, Dare County Registry, are incorporated herein by reference.

IN WITNESS WHEREOF, the Declarant has duly executed these covenants for the purposes therein expressed.

DECATUR PARTNERSHIP

BY: Mike A. Beacham
Mike A. Beacham
General Partner

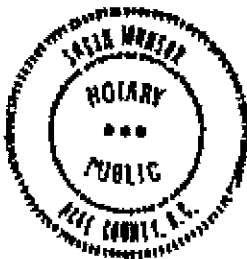
NORTH CAROLINA
DARE COUNTY

I, a Notary Public, in and for the State and County aforesaid, do hereby certify that Mike A. Beacham, general partner of Decatur Partnership, a North Carolina general partnership, did personally appear before me this day and acknowledge the due execution of the fore instrument.

WITNESS my hand and notarial seal, this the 32d day of November, 1981.

Susan Johnson
Notary Public

My Commission Expires: 10-2-83



NORTH CAROLINA DARE COUNTY

The foregoing Certificate(s) of Susan Johnson a Notary Public of Dare County, NC. 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 the first page hereof.

Alva Wise Register Deeds for Dare County

by Barbara M. Gray Assistant/Register of Deeds

Recorded 11-4-81

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