

Unofficial Document

Prepared by and return to:  
Cibry, Merrell, Wills & Wills, LLP  
Post Office Drawer 270  
Kitty Hawk, NC 27949

BOOK 439 PAGE 303

98

**SUPPLEMENTAL DECLARATION NUMBER ONE  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
MAGNOLIA BAY SUBDIVISION**

**THIS SUPPLEMENTAL DECLARATION** Number One to the Declaration of Covenants, Conditions and Restrictions of the Magnolia Bay Subdivision ("Supplemental Declaration One") is made this 6 day of August, 1998 by and between The Currituck Associates-Residential Partnership, a North Carolina General Partnership ("CARP") and DMD, LLC of Currituck, A/D/A DMD, LLC, a North Carolina Limited Liability Company ("DMD" or "Declarant");

**WITNESSETH:**

**WHEREAS**, CARP as the owner of certain real property (hereinafter, the "Property") located in Currituck County, North Carolina did, on or about February 1, 1996, enter into an Option Agreement (the "Option") between CARP 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 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 433 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 a portion of the Property designated as Phase 1, Magnolia Bay Subdivision, the Subdivision, which Covenants are incorporated herein by this reference as if fully set out; and

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

**WHEREAS**, CARP is the owner of the remaining portion of the Property described as that certain real property referenced as Phase 2, Magnolia Bay Subdivision, consisting of Lots 45 through 70, inclusive, and all of the private streets adjacent thereto, including, without limitation Hunt Club Drive, all located in Poplar Branch Township, Currituck County, Corolla, North Carolina, which real property is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference, as well as that certain plat prepared by Benchmark Surveying Services, P.C., dated September 30, 1997 and recorded in Plat Cabinet F, Slide 309, (the "Plat"), said Property hereinafter, referred to as the "Additional Property"; and

WHEREAS, pursuant to Article I, Section 2 of the Declaration, the Declarant has the right to bring within the scheme and operation of the Declaration all or any portion of the real property described in Exhibit "B" of the Declaration; and

WHEREAS, the Additional Property described herein constitutes a portion of the real property described in Exhibit "B" of the Declaration as recorded in Book 380, Page 464 in the Currituck County Public Registry and designated as "Phase 2 Future Development"; and

WHEREAS, Declarant (DMD) and CARP desire to bring the Additional Property described herein within the scheme and operation of the Declaration and to subject the Additional property to all of the terms, conditions and restrictions of the Declaration as provided therein.

NOW THEREFORE the Declarant, with the consent of CARP, hereby declares that the Property described on Exhibit "A" attached hereto is and shall be held, transferred, sold, conveyed and occupied subject to and together with the terms, conditions and provisions of the covenants, conditions, restrictions, easements, charges and liens set forth in the Declaration, and that the Additional Property shall constitute and be a part of "The Property" as that term is defined and provided for in the Declaration.

In addition to the foregoing, Declarant and CARP hereby reserve, for the benefit of The Currituck Associates-Residential Partnership, its successors and assigns, a 15 foot utility easement running across, through and under the southern fifteen feet (15') of Phase 2, Magnolia Bay, as shown on the above referenced Plat for purposes of installing, constructing, repairing and maintaining an underground discharge, drainage and conduit line from Lot 2, as shown on that certain plat recorded in Plat Cabinet E, Slide 94, Currituck County Registry, to the eastern shore line of the Currituck Sound. Said easement crosses portion of Lots 64, 65, 67 and 68, Phase 2, Magnolia Bay as shown on the above referenced Plat.

Except as hereby supplemented, the Declaration shall remain in full force and effect in accordance with the covenants, conditions, restrictions, terms and provisions therein.

IN WITNESS WHEREOF, the Declarant and CARP has caused this Supplemental Declaration to be duly executed under seal as of the date first above written.

THE CURRITUCK ASSOCIATES-  
RESIDENTIAL PARTNERSHIP

DMD, LLC OF CURRITUCK D/B/A  
DMD, LLC

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

By: Bernard Mancuso, Jr. (Seal)  
Member Manager

By: Charles J. Hayes, Jr.  
Charles J. Hayes, Jr.  
Attorney in Fact

Unofficial Document

NORTH CAROLINA  
COUNTY OF DARE

SEAL-STAMP 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.

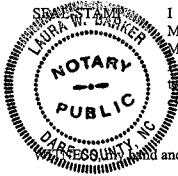
WITNESS, my hand and official seal or stamp, this 6<sup>th</sup> day of August, 1998

Robin Whitt Gallop  
NOTARY PUBLIC

My commission expires: 6-28-2003



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.

and official seal or stamp, this 6<sup>th</sup> day of August, 1998

Laura W. Barker  
NOTARY PUBLIC

My commission expires: May 18, 2002

EXHIBIT A

INSERT LEGAL DESCRIPTION  
FOR  
PHASE II MAGNOLIA BAY

Beginning at a concrete monument with North Carolina Grid Coordinates of N 285,536.795 (m) E 896,981.142 (m) and designated as "Control Corner-A" on a plat prepared by Noble and Associates, P.C. and recorded in P.C. F, SL. 20; C.C.R.; said corner being S 41° 33' 32" W 147.05' from the western Right of Way of Hunt Club Drive; thence, from said Point of Beginning S 25° 56' 20" W 500.00' to a concrete monument; thence, S 50° 20' 38" W 180.00' to a point; thence, S 08° 52' 06" W 150.00' to a concrete monument; thence, S 36° 16' 38" E 275.00' to a concrete monument; thence, S 01° 22' 14" E 110.00' to a point; thence, S 55° 30' 23" W 275.00' to a point; thence, S 81° 02' 56" W 165.00' to a point along the shoreline of the Currituck Sound; thence, along said shoreline S 36° 40' 26" E 60.08' to a point; thence, S 24° 08' 43" E 69.36' to a point; thence, S 01° 33' 32" W 43.89' to a point intersecting the common boundary line of the subject parcel and that of the National Audobon Society; thence, along said boundary line N 85° 20' 59" E 667.10' to a point in the southwest corner of Lot 2 of Turnpike Properties, Inc.; thence, N 33° 33' 01" W 200.00' to a point; thence, following a curve to the left with a radius of 1,225.00' and arc length of 544.41', said curve having a chord bearing of N 29° 44' 23" E and length of 539.94' to a point; thence, N 55° 30' 14" E 140.00' to a point; thence, N 26° 29' 46" W 60.00' to a point; thence, N 45° 37' 26" E 98.88' to a point; thence, N 20° 58' 38" W 75.41' to a point; thence, N 43° 31' 46" W 75.41' to a point located in the west Right of Way of Hunt Club Drive; thence, following said Right of Way along a curve to the right with a radius of 273.00' and an arc length of 269.17', said curve having a chord bearing of N 25° 55' 06" W and length of 258.40'; thence, continuing along said Right of Way and along a reverse curve having a radius of 184.29' and arc length of 147.37', said curve also having a chord bearing of N 20° 34' 52" W and length of 143.48' to a point; thence, N 43° 29' 22" W 58.12' to a point in said Right of Way; thence, N 38° 01' 50" W 45.74' to a point; thence, following a curve to the right with a radius of 345.00' and an arc length of 43.66' and a chord bearing of N 45° 31' 37" W and length of 43.63'; thence, cornering and running west of said Right of Way S 41° 33' 32" W 147.05' to the place and point of beginning. Said parcel containing 15.87 acres more or less.

2-9-98 Final

Page 4

Supplemental Declaration One

NORTH CAROLINA, CURRITUCK COUNTY

The foregoing certificate(s) of Robin Whitt Gallop & Laura W. Barker-Notaries of Dare Co., NC is (are) certified to be correct. This instrument was presented for registration at 8:04 o'clock AM on August 7 19 98, and recorded in Book 439, Page 303.

Charlene L. Dawdy  
Register of Deeds  
By Natalie R. Swiddy

Unofficial Document

Unofficial Document