

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

DECLARATION of COVENANTS AND RESTRICTIONS

Declaration covers "Oak Drive Extension",

NQ Book 29, Page 97(i) 2002

THIS DECLARATION is made this 15th day of January, 2002, by GOLF SHORE & PROPERTIES, INC., a North Carolina corporation, and successor in interest in Brandywine Bay, Inc, hereinafter called "Declarant"

WITNESSETH:

WHEREAS Brandywine Bay, Inc., predecessor in interest to Declarant and the initial developer of Brandywine Bay Development, did previously record a Restrictions in Book 435, Page 362, Carteret County Registry (hereafter "Covenants") and,

WHEREAS said Covenants contemplated and provided for making additional property subject thereto, as may be amended or supplemented to the end that all of Brandywine Bay Development shall be developed in a uniform manner to the benefit of all present and future owners; and,

WHEREAS, to this end, Declarant, who is now the assignee of all of the rights of Brandywine Bay, Inc., now desires to subject additional property to the said Covenants and to amend or otherwise supplement the same as hereafter set forth.

NOW, THEREFORE, the Covenants shall, from the time of recordation of this Declaration, govern the use of all of the eight (8) lots described in Exhibit A hereto, said property being hereafter referred to as "Oak Drive Extension". In addition, the Covenants, as they apply to Oak Drive Extension, shall be amended or otherwise supplemented as follows:

1. The minimum square Footage for residences is set out in Article IV, Section i. (Residential), subparagraph (b) or said Covenants is hereby to amended and increased to "one thousand four hundred (1400) square feet" from 1200 square feet. All of the remainder of said subparagraph remains unchanged.

2. An additional subparagraph (c) is hereby added to Article IV, Section i. (Residential) of the Covenants, as follows:

(c) Two story houses must have a minimum of one thousand fifty (1050) square feet on the ground floor.

3. The minimum square footage for lots which can be built upon as set out in Article IV, Section v. (Redivision of Lots) of the Covenants is hereby amended and increased to "nine; thousand five hundred (9500) square feet from 9000 square, feet. All of the remainder of said subparagraph remains unchanged.

4. Article IV, Section iii. (fences) of the Covenants is hereby deleted in its entirety, and a new provision is added as follows:

No fence or wall shall be constructed or allowed to remain on any portion of a lot which is higher than live (5) feet above the ground level. However, solid fences not exceeding eight (8) feet in height may be constructed approximately parallel to those boundary lines of lots 3, 4, 5, 6, 7 & 8 which adjoin the right of ways of Highway 24 and McCabe Road -and at least ten (10) feet inside of said boundary lines.

5. Article IV, Section vi. (Easements) of the Covenants is amended to increase the width of the general utility casement from five (5) feet to ten (I U) feet in width along the boundary line of each lot which abuts on Oak Drive.

6. Article VI, Section;. (Utilities) of the Covenants is deleted in its entirety, and a new provision is added as follows:

Declarant covenants that either public or private water and sewage disposal systems will be available to purchasers of lots in Oak Drive Extension. All users of such systems shall pay the customary rates charged for such services by the appropriate provider thereof. All residences upon such lots shall be served by such systems, and no septic tanks shall be permitted. However, private wells may be installed provided they are limited to swimming. pools. landscape maintenance, or air temperature control devices. No discharge water from pool or air temperature control devices shall be discharged into the sewer system, however.

7. All of the, eight (8) lots in Oak Drive Extension are hereby designated as "residential single family" as that term is defined in the Covenants.

R. No sign or billboard of any kind shall be erected or allowed on any lot except a "for sale" or "for rent" sign not exceeding four square feet. This: provision shall not apply to Declarant, or its assigns, regarding advertising signs on any lot owned by Declarant which shall advertise the entire project.

9. All residential construction shall be completed not later than one year Rom the date of commencement of construction. Date of commencement of construction shall be the earlier of the day the first materials are delivered to the site or the day labor is commenced

10. All trash receptacles shall be screened from vices and all lots shall he maintained free of trash and debris.

11. No partially stripped, partially wrecked, or junk motor vehicle, or part thereof, shall be permitted to remain oil any street or lot.

12. All lots, whether occupied or unoccupied, shall he well maintained, and no unattractive growth or accumulation of rubbish or debris, whether manmade or natural. shall be permitted.

13. All owners of lots in Oak Drive Extension shall be members of the Brandywine Owners Association and subject to all of the rights and obligations thereof which arc not inconsistent with this Declaration.

14, All areas shown upon the recorded plat of Oak Drive Extension as "BUFFERS' or similar wording shall be kept in their natural states, undisturbed and unimproved.

15. Article V (Architectural Control Committee) of the Covenants is hereby deleted in its entirety, and a new Article V is added as follows:

ARTICLE V

Architectural Control Committee

There currently exists a standing Architectural Control Committee of the Association. However except as hereinafter provided, the eight lots in Oak Drive Extension shall not be governed by said standing Architectural Control Committee, but shall be governed by the Architectural Control Committee created and described below,

Section 1. General.

There is hereby created a separate Architectural Control Committee for the eight lots in Oak Drive Extension. Said committee shall consist of three (3) members. The members of the committee shall be appointed by Declarant until such time as all of the eight lots are conveyed by Declarant, or until such earlier time as Declarant shall elect one of the two options for transfer and control of such Architectural Control Committee as set out in subparagraphs (a) and (b) below. At the time all lots have been conveyed by Declarant, or at an earlier time at Declarant's election, Declarant may elect either of the following:

(a) To cause an election to be made among property Owners within Oak Drive Extension to select the members of the Architectural Control Committee, who shall be lot owners within Oak Drive Extension; or

(b) The functions of the Architectural Control Committee may be transferred by Declarant to the standing Architectural Control Committee of the Association.

Should Declarant elect to cause an election to be made among the Owners within Oak Drive Extension to select an Architectural Control Committee, voting shall be by simple majority vote conducted, in person or by written, signed proxy, by a quorum (defined as a minimum of 5 owners) at a meeting to be called of such owners, with not less than two (2) weeks advance written notice to each owner. Each lot shall have one vote for each open spot. At such election, one (1) member shall be elected for Member A spot which shall be for an initial term of one (1) year; one (1) member shall be elected for Member B spot which shall be for an initial term of two (2) years; and one (1) member shall be elected for Member C spot which shall be for an initial term of three (3) years. As each of the initial terms expire, successors shall be similarly elected for three year terms. Any vacancy on the Architectural Control Committee may be filled until the expiration of the unexpired term by the remaining member or members of such Architectural Control Committee. Should there be no remaining members, the replacement or replacements may be selected by the Declarant, or in the absence of selection by Declarant, the option set out in subparagraph (b) of this Article V, above shall be deemed to have been selected.

All complaints pertaining to, or violations of, this Declaration, whether regarding buildings, building additions, fences, shrubbery, animals, general appearance or otherwise, should be reported promptly to Declarant and/or the Chairman of the Architectural Control Committee.

No building fence or wall, sign or other structure shall be commenced erected or maintained upon a portion of the properties to which this Declaration, or amendments hereto apply, nor shall any addition, change or alteration to any exterior be made until the plans and specifications showing the nature, kind, height, materials, color and locations of the same shall have been submitted to and approved in writing by file Committee.

Section ii. Plans.

It shall not be required that house plans be prepared by a registered architect licensed to practice in the State of North Carolina. All plans presented to the Architectural Control Committee, must, however, be of professional quality, must be complete, and must fairly depict the exterior appearance and site plan for the proposed improvements. All plans and specifications must be submitted to the Architectural Control Committee at least ten (10) days prior to application for a building permit. The submissions shall show by plot plans, elevations and perspective sketches all proposed improvements including locations, architectural alterations and landscaping, in the event said Committee fails to act on a proper submission, in writing within thirty (30) days after sufficient plans have been submitted to it, this Article will be deemed to have been fully complied with, and the plans shall be deemed approved.

Section iii. Approval.

The Committee will review and shall approve the plans and specifications if the proposed improvements meet all of the requirements of this Declaration, if in its opinion, the exterior appearance of the property will be visibly compatible with other development in the subdivision. No architectural "style" or materials will be excluded; however, all materials, features and styles must be in the opinion of the Committee, professionally and aesthetically acceptable. Notification of approval or disapproval shall be in writing.

By acceptance of a deed to a lot in Oak Drive Extension, purchasers agree that the actions of the Committee are in the best interest of all Owners within the subdivision and that they will abide by the decisions of the Committee. Declarant, the Committee and other Owners may seek injunctions to compel compliance with Committee decisions, or damages resulting from failure to act in accordance with directions of the Committee.

Section iv. Site Standards.

All Owners agree to leave all vegetation, trees, brooks, creeks, hillsides, springs, water courses and ravines in as near their natural state as is compatible with good building and land use practices, to the end that an attractive exterior lot appearance will be evident at each building site, and in keeping with surrounding properties. The locations of buildings and parking areas be made such that the overall wooded nature of the subdivision shall be preserved and land left undisturbed. All site plans must show existing elevations and tree covers so that the Architectural Control Committee may determine if this provision had been adequately considered.

Section v. Appeal.

Any Owner submitting plans, as required by this Declaration to the Architectural Control Committee, shall be entitled to appeal to the Board of Directors of the Association any adverse ruling. In order to avail himself of this right of appeal, the aggrieved party must notify the Board

of Directors, in writing, requesting, a hearing, said notification to be given to the Board of Directors within seven (7) days after his receipt of written notification of the adverse decision. The Association shall schedule the hearing within fourteen (14) days after receipt of said notice, shall give to aggrieved Owner written notice of the date of said hearing; and shall give the Owner the right to appear and personally state his case. The decision of file Board of Directors of the Association shall be controlling in all such matters, and all Owners hereby agree to be bound by such decision The Board shall overturn a decision of the Committee only if a finding is made that the decision of the Committee was arbitrary, and without rational basis.

16. Article VI (Stormwater Regulations) is hereby added as follows:

ARTICLE VI

Stormwater Regulations

The following covenants are intended to ensure ongoing compliance with State Stormwater Management Regulations and permit to be issued to Declarant by the Division of Water Quality under BCAC 2H.1000. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater management permit. These covenants are to run with the land and be binding on all persons and parties claiming under this. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the State. These covenants are as follows:

a. No more than 24,880 total square feet on all the lots shall be covered by structures or impervious materials. This allocated amount includes any built-upon area constructed within the lot boundary property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes structures, asphalt, gravel, concrete, brick, stone, slate, or similar materials but does not include wood decking or the water surface of swimming pools. The 24,880 total square feet of impervious area shall be allocated by the owners of such lots to another lot by (i) a written document signed by such owners(s) and recorded in the Carteret County Registry, and (ii) approval by the State Division of Water Quality under the Permit referenced above.

b. Filling or piping in any ditches or swales associated with the development except for average driveway crossings, is strictly prohibited by any persons.

c. Built-upon area in excess of the amount requires a State Stormwater Management permit modification prior to construction

d. This project proposes a curb outlet system. Each designated curb out outlet swale shown on the approved plan must be maintained at a minimum of 100' long with a 5:1 (11:V) side slopes or flatter, have longitudinal slope no steeper than 5% carry the flow from a 10 year storm in a non-corrosive manner, and maintain a dense vegetative cover.

e. All permitted runoff from future development shall be directed into the permitted stormwater control system. These connections of the stormwater control system shall be performed in a manner that maintains the integrity and performance of the system, as permitted.

17. Provisions Relating to Wetlands. All of the Properties subject in these Declarations, Conditions, Covenants and Restrictions shall also be subject to the following Special Provisions Relating to Wetlands, unless otherwise noted below. In developing the property, the Declarant has agreed with the State of North Carolina and the Department of the Army Corps of (pursuant tilt to a permit that May be issued by the State of North Carolina and the Corps of Engineers) to restrict and prohibit any future filling or other detrimental activities in the wetland areas which presently exist within the identified area of the property. Accordingly all wetlands shown and delineated on the wetland survey plat dated November 18, 2000, and verified by the Corps of Engineers on November 21 2000, shall be maintained pertuity in their natural or mitigated condition, except wetlands identified on lots 1, 5 and 228 square feet of wetlands identified on lot 7. No person or entity shall fill, grade, excavate, or perform any other land disturbing activities, nor cut, remove or harm any vegetation; nor construct any structures, nor allow grazing or watering or any other agricultural use on such conservation area. This covenant is intended to ensure continued compliance with mitigation condition of authorizations issued by State of North Carolina Division of Water Quality and the United States of America U.S. Army Corps of Engineers, Wilmington District, Action ID has not been assigned as of this time and therefore may be enforced by the State of North Carolina and/or by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it.

The above paragraph cannot be amended or modified without the express written consent of the U.S. Army Corps of Engineers, Wilmington District.

IN WITNESS WHEREOF Declarant has caused this Declaration to be executed in its corporate name by is authorized corporate officer, all by order of its Board of Directors first duly given, the day and year first above written.

GOLF & SHORE PROPERTIES, INC.

EXHIBIT A

BEGINNING at a point located at the intersection of the east right of way line of McCabe Road and the north right of way line of NC Highway 24; thence with the east right of way of McCabe Road N 15-16-44 E, 332.77' to a point thence S 74-49-25 E, 104 74' to a point; thence S 60-23-26 E, 154.21' to a point, thence S 82-55-11 E 52.74' to a point thence S 49-58-18 E, 111,45' to a point thence with a curve having a chord direction S 54-27-49 W, R-150.000' I=31.74' Ch 31.68' to a point: thence S 30-36-27 E. 50.00' to a point; thence S W-56-05 W, 221.40' to a point in the northern right of way of NC Highway 24; thence with the northern right of way of NC Highway 24 N 71-32-05 W, 434.74' to the point and place of beginning. The property is all of that property as shown on that plat entitled "Oak Drive Extension, Lots 1-8" by Stroud Engineering, dated 4-06-01. which description is incorporated herein by reference