

NORTH CAROLINA
TOWN OF TOPSAIL BEACH

SPECIAL USE PERMIT

FOR

SERENITY POINT DEVELOPMENT CO.

In accordance with the provisions of the Town of Topsail Beach ordinances, amendments thereto, and other applicable rules and regulations, the Town of Topsail Beach (hereinafter referred to as Town) hereby issues a special use permit to Serenity Point Development Company (hereinafter called Developer) to begin construction of its proposed twenty-seven (27) duplex apartments southwest of Godwin Avenue and southwest and east of the Sixth Subdivision, pursuant to the application dated November 8, 1983, and the subsequent modified amendments to said application dated August 2, 1983, said special use permit having been issued under the following terms and conditions:

1. This special use permit shall become voidable unless the duplex apartments, sewage treatment plant, utilities, street, and all other areas of the proposed project are constructed in accordance with the applications, and all revisions thereof, plans specifications, and any other requirements herein contained, copies of said applications, plans, and other supporting documents being hereto attached and made a part of this permit as if fully set out herein.

2. This special use permit is expressly limited to the use and benefit of the applicant, and shall not be transferable or assignable without the prior written approval of the Town of Topsail Beach, and is effective to grant only those rights as are described in the application, specifications, supporting data, plans, and as herein further required, and are expressly subject to those conditions or limitations herein contained. For the purpose of interpretation of the provisions herein contained relative to a transfer or assignment, the transfer of a majority of shares of the corporation to any other person, firm or corporation, whether in one transfer or in multiple transfers shall constitute a prohibited transfer within the meaning of this paragraph.

3. No structures designed for human habitation shall be constructed over, upon or across any street, alley or other right-of-way.

4. All streets as shown on Developer's plans, a copy of which is hereto attached and labeled "Serenity Point Development Plans", prepared by John Stirewalt, A.I.A., shall be constructed as shown on said plans, and shall be dedicated for use as road rights-of-way for the use by the public and owners within said development for the purpose of ingress, egress, and regress, and shall be constructed in accordance with the requirements as established by the Town Engineer. Provided, however, it is expressly understood and agreed that the requirement for dedication for public use shall not be construed nor is it intended to mean that the Town will or can accept said streets for maintenance.

Under the provisions of the Coastal Area Management Act, the Town is expressly prohibited from expending public funds within an inlet hazard area such as is the case in this instance. Provided, further, any streets, access areas and/or dedicated rights-of-way shall be free of all liens and encumbrances.

5. All streets, utilities, and access areas shall be completed and operational prior to the issuance of any occupancy permits for any apartment or other habitation constructed in the permitted area.

6. That the Developer shall immediately dedicate a 20-foot wide ocean access area and a 60-foot wide inlet access area at the locations depicted on the plan referred to in paragraph 4 above. The Developer agrees to construct a wooden cross walk at their own expense over the ocean access area within seven (7) months of the issuance of this permit or the construction of units numbers 1 - 6, whichever occurs first.

7. Developer shall immediately provide the town with a current survey and map or maps prepared, certified and sealed by a registered surveyor or professional engineer, drawn to scale depicting the perimeter of the entire project, a copy of which is attached. Prior to the sale of any lot within the development or the issuance of a building permit for the construction of any residential building within the development, whichever comes first, the developer shall submit to the Town, which shall be made a part of this permit, a survey and map of the lot or lots in question prepared, certified and sealed by a registered surveyor or professional engineer, drawn to scale, depicting the

perimeter and square footage of the lot or lots and, in the case of a building permit, showing the location of the proposed structure on the lot or lots in sufficient detail to enable the Building Inspector to determine whether applicable setbacks and other dimensional requirements are met.

8. Developer shall provide the Town with all designs and specifications showing the design, placement, and method of operation of all proposed utility lines, sewage treatment plants, or similiar installations, together with all applicable state and county permits issued therefore prior to beginning construction of such facilities. Developer agrees that it shall install and maintain all such systems at its own expense. Copies of such plans and permits shall be attached to and made a part of this permit, as if fully set out herein.

9. Developer shall only be entitled to construct duplex apartments on each of the twenty-seven (27) lots as permitted under the C.A.M.A. permit, and Lots Nos. 1-10 shall be not less than 30,000 square feet in size, and Lots Nos. 11-27, not less than 8,500 square feet in size. As stated in paragraph 7 above, no road right-of-way easement areas or access areas shall be included within the square footage computation of each lot as required above.

10. Each dwelling unit shall be tapped onto and separately metered in its connection with the water distribution system. For purposes of clarity, a "dwelling unit" shall be defined as each unit within the duplex structure.

11. That the Developers shall provide two 10-foot wide utility easements for the installation of water and sewer mains, which 10-foot easements shall be 5 feet from each side of the centerline of the water and/or sewer mains, and shall be on opposite sides of the road, and be located within the road rights-of-way. In addition, there shall be retained, set aside or provided for, for the purpose of future maintenance of said water and/or sewer mains, a construction easement not to exceed 25 feet in width for the purpose of the future maintenance of the water and/or sewer mains.

12. The Developer shall not sell, convey, lease or otherwise transfer any tract or parcel of land within the permitted area to any person, firm or corporation without providing in writing evidence of compliance with the N.C.G.S. § 39-48, and said provisions shall be contained in each deed of conveyance. In addition, Developer shall provide each purchaser with sufficient warning to advise each purchaser and their heirs, successors, or assigns, that the Town has not and will not in the future maintain at public expense any utility lines, sewage treatment plants, roadways, crossover access structures, or any other areas within the permitted area. Developer shall provide the Town with an example or duplicate copy of said notice.

13. The Developer hereby agrees that the Town shall under no circumstances have any responsibility now or in the future in the maintenance or operation of the sewer treatment plant, lift stations, water mains, streets, lights, or any sewage lines contained within the project. The Developer further agrees

that this provision shall be incorporated in its declaration of restrictive covenants, or other declaratons and shall be binding upon Developer, its successors, transferees, and assigns, whether or not contained in any future deed or other muniment of title.

14. The Developer shall provide the Town with a professional architect and/or engineer's certification that each building (structure) and the dwelling units contained therein complies with all applicable State and Town building code provisions.

15. The Developer shall provide the Town Engineer with plans and details of the proposed bracing and fastening modifications of the dwelling units, and if the questions raised by the Engineer are not sufficiently answered with regard to the structural integrity of the units, the Developer, at their own expense, shall provide the Town with detailed structural analysis, if required, i.e., bolt sizes and placement, type and quantity of fasteners, number and placement of pilings, bracing, and wind design calculations, all of which shall be prepared by and contain the seal of a professional engineer and/or architect. The decision as to whether or not the additional data is needed shall be within the sole discretion of the Town Engineer.

16. The Developer shall construct and erect a soil berm around its sewer treatment plant sufficiently high to obscure a direct view of it, and around the perimeter of said plant. In addition, Developer shall plant shrubs or trees on and around the perimeter of said berm area at least five (5) feet in width and of sufficient density to prevent a viewer from plainly discerning

the type of operation contained therein. Said green belt shall reach a minimum average height of at least five (5) feet within five (5) years. Both the berm and green belt shall be of a sufficient height and density to minimize operating noises generated by said treatment plant.

17. Developer shall provide the Town with copies of all permits issued to it by any Federal, State, or County government or agency, and shall provide the Town with copies of any request or application made by it to any Federal, State, or County agency for a modification, alteration, or variance from any existing permit already issued, together with a copy of any response thereto. Copies thereof shall be sent to the Town Hall at the same time a request is made or a response received. Additionally, the Developer shall, prior to making any modification to any structure or location change, submit a copy of the proposed changes to the Town for its approval.

18. Any swimming pool constructed upon said permitted area shall not be drained onto any location other than the sewage disposal area.

19. Should any part of this permit be declared void, each shall be deemed severed from the other parts hereof, and the invalidity of any part shall not be deemed to affect any other part.

20. Should Developer violate any part hereof, be found to have misrepresented any material part, or fail or refuse to correct a violation, this permit shall be voidable by the Town.

21. The acceptance by Developer of this permit shall constitute a waiver by it of all other claims that it may have had as to any other permit, and may be plead in bar of any other claimed rights.

DATED: August 8, 1984

ATTEST:

Betty N. Harris
Town Clerk

ATTEST:

Secretary

TOWN OF TOPSAIL BEACH

BY: M.R. O'Keefe
Mayor

SERENITY POINT DEVELOPMENT CO.

BY: Nathan J. Landus
~~President~~ PARTNER