

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
DECLARATION OF
RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this 8th day of Nov. 2000 by SCHIEVELING PLANTATION DEVELOPMENT, L.L.C., [hereinafter "Declarant"].

RECITALS

WHEREAS, Declarant(s) is the owner(s) of certain real property located in Charleston County, South Carolina, known as Schieveling Plantation and more particularly described on the site plan attached hereto as Exhibit A and made a part hereby by this reference ["Property"]; and,

WHEREAS, as compensatory mitigation under Federal and South Carolina state law for Department of the Army Nationwide Permit No. SAC-12-99-1130-W issued by the U.S. Army Corps of Engineers, Charleston District (the Corps), and certified by the SC Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management (DHEC), and in recognition of the continuing benefit to the permitted property, and for the protection of waters of the United States and scenic, resource, environmental, and general property values, Declarant(s) have agreed to place certain restrictive covenants on the Property, in order that the Property shall remain substantially in its natural condition forever.

NOW THEREFORE, Declarant(s) hereby declare that the Property shall be held, transferred, conveyed, leased, occupied or otherwise disposed of and used subject to the following restrictive covenants, which shall run with the land and be binding on all heirs, successors, assigns, lessees, or other occupiers or users.

1. **Prohibitions.** Declarant(s) are and shall be prohibited from the following: filling, draining, flooding, dredging, impounding, clearing, burning, cutting or destroying vegetation, cultivating, excavating, erecting, constructing, releasing wastes, or otherwise doing any work on the Property; introducing exotic species into the Property (except biological controls preapproved in writing by the Corps and DHEC); and from changing the grade or elevation, impairing the flow or circulation of waters, reducing the reach of waters, and any other discharge or activity requiring a permit under clean water or water pollution control laws and regulations, as amended.

The following are expressly excepted from the paragraph:

- a) cumulatively very small impacts associated with hunting (excluding planting or burning), fishing, and similar recreational or educational activities, consistent with the continuing natural condition of the property;
- b) removal or trimming of trees hazardous to person or property, or of timber downed or damaged due to natural disaster;
- c) restoration or mitigation required under law;
- d) construction of ditches, swales, and outfalls as pre-approved in writing by the Corps and DHEC that are both required and the minimum necessary for compliance with applicable stormwater management and sediment reduction laws and regulations. This submittal shall be as part of a single and complete stormwater management plan for the entire project. These ditches shall not be constructed so as to drain wetlands through alteration of the hydrology. Activities allowed under this exception shall be limited as follows:

- i. all such activities shall be applicable to upland buffer areas only and not wetlands,
 - ii. all such activities shall be the minimum size and number necessary,
 - iii. ditches and swales shall have a bottom width of not more than five feet (1.52 meters), a depth below adjacent ground elevations of not more than four feet (1.22 meters), and a side slope of not less than three feet vertical to one foot horizontal (3V:1H),
 - iv. the side slopes and surrounding areas of ditches and swales shall be stabilized and restored immediately following construction with natural vegetation. The bottoms of ditches and swales may be cleared and periodically maintained by removal of vegetation. Vegetation shall not be removed by the use of herbicides or other chemical means,
 - v. upon completion of the work, disturbed areas other than ditches and swales shall be restored to the original contours and elevations and shall be permanently stabilized by restoration of natural vegetation;
- e) installation and maintenance of necessary utilities in designated upland buffer areas as pre-approved in writing by the Corps and DHEC. All excavated areas shall be restored to pre-existing grade immediately following construction. Utility construction in wetland mitigation areas may be allowed if properly permitted by appropriate state and federal authorities;
- f) construction and maintenance of pedestrian paths and/or boardwalks up to 4' in width as pre-approved in writing by the Corps and DHEC;

g) the noted 3.48 acre marsh wetland buffer allows for selective clearing (which consists of removing trees 6" DBH or smaller, limbing trees to remain and removing understory vegetation above 3 foot while prohibiting the installation of turf) to be done up to 33 1/3% of the buffer width in each individual lot or a projection of the adjacent lot lines in accordance with the Ashley River Special Area Management Plan to allow vistas, and river access for possible community dock.

2. **Amendment.** After recording, these restrictive covenants may only be amended by a recorded document signed by the Corps and DHEC and Declarant. The recorded document, as amended, shall be consistent with the Charleston District model conservation restrictions at the time of amendment. Amendment shall be allowed at the discretion of the Corps and DHEC, in consultation with resource agencies as appropriate, and then only in exceptional circumstances. Mitigation for amendment impacts will be required pursuant to Charleston District mitigation policy at the time of amendment. There shall be no obligation to allow an amendment.

3. **Notice of Government.** Any permit application, or request for certification or modification, which may affect the Property, made to any governmental entity with authority over wetlands or other waters of the United States, shall expressly reference and include a copy (with the recording stamp) of these restrictive covenants.

4. **Reserved Rights.** It is expressly understood and agreed that these restrictive covenants do not grant or convey to members of the general public any rights of ownership, entry or use of the Property. These restrictive covenants are created solely for the protection of the Property, and for the consideration and values set forth above, and Declarant reserve the

ownership of the fee simple estate and all rights appertaining thereto, including without limitation the rights to exclude others and to use the property for all purposes not inconsistent with these restrictive covenants.

5. **Compliance Inspection.** The Corps, DHEC, and their authorized agents shall have the right to enter and go upon the lands of Declarant, to inspect the Property and take actions necessary to verify compliance with these restrictive covenants.

6. **Enforcement.** The Declarant grant to the Corps, the U.S. Department of Justice, and/or DHEC, a discretionary right to enforce these restrictive covenants in a judicial action against any person or other entities violating or attempting to violate these restrictive covenants provided, however, that no violation of these restrictive covenants shall result in a forfeiture or reversion of title. In any enforcement action, an enforcing agency shall be entitled to a complete restoration for any violation, as well as any other judicial remedy such as civil penalties. Nothing herein shall limit the right of the Corps to modify, suspend, or revoke the Permit.

7. **Property Transfers.** Declarant shall include the following notice on all deeds, mortgages, plats, or any other legal instruments used to convey any interest in the Property (failure to comply with this paragraph does not impair the validity or enforceability of these restrictive covenants):

NOTICE: This Property Subject to Declaration of Restrictive Covenants Recorded in the R.M.C. Office for Charleston County in Book ____ at Page ____.

8. **Marking of Property.** The perimeter of the Property shall at all times be plainly marked by permanent signs saying " Protected Natural Area", or equivalent, permanent marking system.

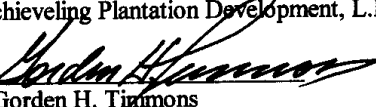
9. **Recording of Exhibit.** An Exhibit, attached hereto as Exhibit A, depicting the boundaries of the Property subject to these restrictive covenants shall be attached to this Declaration of Restrictive Covenants and recorded in the deed records office for each county in which the Property is situated simultaneously with the recording of these restrictive covenants.


10. **Separability Provision.** Should any separable part of these restrictive covenants be held contrary to law, the remainder shall continue in full force and effect.

IN WITNESS WHEREOF, SCHIEVELING PLANTATION DEVELOPMENT, LLC has caused these presents to be executed by its duly authorized Officers this 8th day of November, 2000.

DECLARANT:

Schieveling Plantation Development, L.L.C.

By: 
Gorden H. Timmons
Its: Member


Witness


Witness

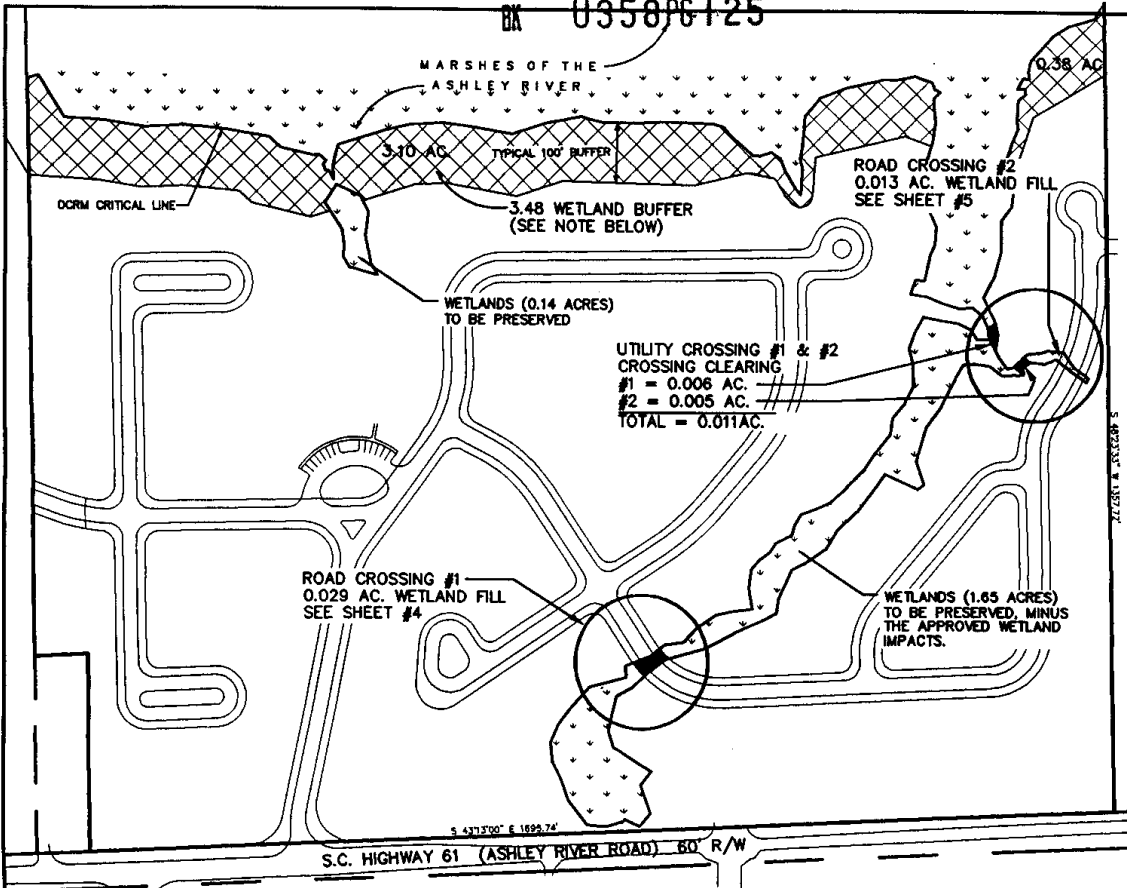
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me, Beth Cox, the undersigned witness, and made oath that (s)he saw the within named Schieveling Plantation Development, LLC by Gorden H. Timmons, its Member, sign, seal and as its act and deed deliver the within named Declaration of Restrictive Covenants; and that (s)he with the other witness named above witnessed the execution thereof.

Beth Cox
Witness

SWORN to before me
this 8th day of November, 2000.

[Signature]
Notary Public for South Carolina
My Commission Expires: 8-11-2010



NOTE:
 The noted 3.48 acre marsh wetland buffer allows for selective clearing (which consists of removing trees 6" DBH or smaller, limbing trees to remain and removing understorey vegetation above 3 foot while prohibiting the installation of turf) to be done up to 33 1/3% of the buffer width in each individual lot or a projection of the adjacent lot lines in accordance with the Ashley River Special Area Plan to allow vistas, and river access for possible community dock.

WETLAND MASTERPLAN EXHIBIT "A"

Proposed Activity:

NATIONWIDE PERMIT #14: WETLAND FILL FOR 2 PUBLIC ROAD CROSSINGS (0.042 AC.) AND
 NATIONWIDE PERMIT #12 FOR A 2 x 15' WIDE PUBLIC UTILITY CROSSING (0.011 AC.)
 TOTAL WETLAND IMPACT - 0.053 AC.

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| Project Title: SCHIEVELING PLANTATION | |
| Project Location: CITY OF CHARLESTON - CHARLESTON COUNTY - SOUTH CAROLINA | |
| Applicant: SCHIEVELING PLANTATION DEVELOPMENT, L.L.C. | |
| Date: 7-5-99 | Scale: NOT TO SCALE |
| Application # SAC 12-99-11-30-W | Sheet 3 of 10 |

Mason Law Firm

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CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

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