

**DEED
RESTRICTIONS**

PIRATES BEACH

SECTION SEVEN

104402

RESTRICTIONS, COVENANTS
AND CONDITIONS

DEED OF TRUST
BOOK 2796 PAGE 605

PIRATES BEACH, SECTION SEVEN (7)
GALVESTON, TEXAS

THE STATE OF TEXAS)
COUNTY OF GALVESTON)

WHEREAS, MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST ("Developer"), a Texas corporation, is the owner of the following described property situated in Galveston County, Texas, to-wit:

All lots in Pirates Beach, Section Seven (7) a subdivision in Galveston County, Texas, according to the Plat thereof recorded in Volume 15, Page 57, of the Plat Records in the Office of the County Clerk of Galveston County, Texas;

all of the hereinabove described property being hereinafter sometimes referred to as "Said Lots", "the Property", or "the Subdivision"; and,

WHEREAS, it is the desire of Developer to establish a uniform plan for the development, improvement and sale of the Property, and to insure the preservation of such uniform plan for the benefit of Developer as well as future owners of the Property:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THAT, Mitchell Development Corporation of the Southwest, a Texas corporation, with offices and principal place of business in the City of Houston, Harris County, Texas, acting herein by and through its duly authorized officers, does hereby adopt, establish and impose the following reservations, restrictions, covenants and conditions upon the Property, which shall constitute covenants running with the title to the land and shall inure to the benefit of Developer, its successors and assigns, and to each and every purchaser of one or more lots in the subdivision, their successors and assigns, and any one of said beneficiaries shall have the right to enforce these restrictions by any available legal process.

RESTRICTIONS, COVENANTS AND CONDITIONS

1. Land Use and Building Type. The Property shall be used for residential purposes only, and only one detached single-family dwelling shall be erected on any one lot. No commercial activity shall be conducted on or from any of Said Lots, except that a lot owner may from time to time rent his home to another for residential purposes.

2. Resubdivision. No lot may be resubdivided except between or among the owners of abutting lots and

thereafter each owner's resulting oversize tract shall be considered as one lot. Nothing herein contained shall prohibit the construction of a single residence on portions of two lots, in which case both such lots shall be considered as one lot for building purposes. Irrespective of the foregoing provisions of this paragraph, the maintenance assessment hereinafter set forth shall be and remain applicable to all lots as originally platted.

3. Architectural Control and Construction Time.

No building, fence, wall, pier, dock, swimming pool, play ground equipment, outdoor cooking or eating facility of permanent nature or other structure of any kind shall be commenced, erected, or maintained upon any lot in the Subdivision, nor shall any exterior addition or change or alteration of the exterior be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee (herein sometimes called "the Committee") composed of three or more representatives from time to time appointed by Developer. The persons serving from time to time on the Committee may be removed, with or without cause, by Developer at such times and for such reasons as Developer may determine in the exercise of its sole discretion. In the event of the removal or resignation of one or more members of the Committee, the Developer shall promptly designate other persons to replace those who are removed. Approval by the Committee shall be granted or withheld based upon compliance with the provisions of this instrument, quality of materials, harmony of external design with the existing and proposed structures, location with respect to topographical and finished grade elevation, and such other relevant considerations as the Committee may, in the exercise of its sole discretion, determine to be of significance in such determination. Each application made for architectural control approval shall be accompanied by a fee of \$150.00 to defray expenses of the Committee and by plans and specifications of all proposed construction and other work to be done, including a plot plan showing the location on the lot and the dimensions of all proposed walls, drives, curb cuts, structures and other matters relevant to architectural approval. If the plans and specifications are approved by the Committee, a Certificate of Compliance shall be issued authorizing construction of the proposed improvements in accordance with the plans and specifications so approved. In the event the Committee fails to approve or disapprove the plans within forty-five (45) days after same have been submitted to it, approval will be presumed and this paragraph will be deemed to have been fully complied with. After the plans for construction have been approved pursuant hereto, and the pilings have been set, the lot owner or builder shall have a maximum of six (6) months to complete the exterior construction. Exterior construction shall be deemed complete when the structure or structures have been painted or stained, and when all construction materials and debris have been cleaned up and removed from the site.

It shall be the responsibility of the lot owner during construction to remove in a timely manner all trash, lumber, and debris of any other description associated with such construction so as to preserve a neat and orderly appearance to his lot, and, upon completion of construction, to completely remove all remaining construction debris from his lot. If, in the opinion of the Committee, a lot owner fails to remove such construction debris in a timely manner, the Committee shall have the option to cause

such debris removed from the lot, and the cost of such work shall be charged to the lot owner and shall be payable upon demand to the Committee. Any amounts owing to the Committee hereunder shall be secured by the Vendor's Lien hereinafter mentioned in Paragraph 20.

No exterior aerial antenna, flag pole, or other structure of any kind (except a chimney) shall project above the uppermost roof line of any structure on any lot in the Property.

The Architectural Control Committee shall have the power and the authority, to be exercised in its sole discretion, to authorize variances and exemptions from the terms and provisions of any of the restrictive covenants and requirements set forth in this paragraph as to any one or more lots. The rights, powers and duties reserved to Developer by this instrument and by this paragraph 3, shall remain in force and effect so long as the covenants and restrictions set forth herein shall be and remain in force and effect. The terms and provisions of this paragraph 3 may be enforced in the same manner as the other terms and provisions hereof are enforced pursuant to paragraph 24 hereof.

4. Dwelling Size. Only one detached single-family type dwelling may be erected on any lot in the Property and each such dwelling shall contain not less than 1,100 square feet of living area, not less than 300 square feet of covered deck area, and not less than 100 square feet of closed-in ground storage area.

5. Type of Construction, Materials and Landscape.

(a) Every structure, building or addition thereto shall be affixed to the ground in a permanent manner.

(b) All elevated structures shall be built on pilings or other type of elevated foundation designed so that the foundation will aesthetically conform to standards set by the Committee.

(c) No round pilings shall be permitted, unless concrete, and no elevated structure or house may be erected on any lot unless the plans and specifications therefor provide for the structure or house to have a minimum of eighteen (18") inches overhang past the pilings.

(d) No angle bracing from pilings to floor stringers will be permitted. Elevated structures may be cross-braced against the floor joists to prevent racking of structures, and floor joist stringers must be of adequate size to carry floor joists without angle bracing from the pilings to the stringers.

(e) All houses and other structures must be kept in good repair, and painted when necessary to preserve the attractiveness thereof. No exposed, untreated or unstained wood, except decking, will be permitted.

(f) The main floor of each house must be at least thirteen (13') feet above mean high tide and no house, building or structure shall be more than two (2) stories of living area in height.

(g) Toilet facilities of all houses shall be installed inside each house, and shall be connected before use with a sewage disposal system approved by the City of Galveston. No other sewage disposal system will be permitted in the subdivision other than a central sewage system serving the Subdivision. No septic tank or privy shall be installed, erected or maintained on the premises. Nothing herein contained to the contrary or seemingly to the contrary shall prevent the installation and use of sanitary sewer facilities by a water district or other governmental authority in the Subdivision. Each lot owner will, at his expense, extend his residence connection line to an outside perimeter of the lot as designated by Developer or a utility district, as the case may be.

(h) Developer recommends that all piling be sunk to a depth of at least ten (10') feet.

(i) Upon completion of a house each lot owner shall plant on his lot at least four palm trees, of a minimum height of ten (10') feet at the time of planting, and shall install a concrete driveway extending to the street pavement. Notwithstanding the foregoing, however, the Pirates Beach and Pirates Cove Architectural Committee shall have the right to consider and approve or disapprove, in its sole discretion, other types of driveway pavement upon written request of the lot owner.

(j) Notwithstanding anything herein contained to the contrary, building modules may be raised in the Subdivision provided however that no such building module may be raised with horizontal or vertical type aluminum siding, and provided further that each such building module to be raised in said subdivision must first be approved by the Committee.

(k) A semi-underground electric distribution system will be installed in that part of the Subdivision designated Semi-Underground Residential Subdivision, which semi-underground service area shall embrace all lots in the Subdivision. The owner of each lot in the Semi-Underground Residential Subdivision shall, at his own cost, furnish, install, own and maintain (all in accordance with the requirements of the local governing authorities and the national electric code) the underground service cable and appurtenances from the point of the electric company's metering on the customer's structure to the point of attachment at such company's energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the owner of each lot shall, at his own expense, furnish, install, own and maintain a meter loop (in accordance with the current standards and specifications of the electric company furnishing service) for the location and installation of the meter on such owner's lot. For so long as semi-underground service is maintained, electric service to each lot in the Semi-Underground Residential Subdivision shall be uniform in character

and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

6. Location of Improvements. No building, porch overhang or stairs shall be located closer to the street than the front building setback line as shown on the recorded plat and no closer than five (5) feet to any side lot line. Further, no construction or landscaping over three (3) feet in height may be placed or permitted to remain in the areas set out in Exhibit "A" attached hereto and incorporated herein for all purposes. Above-ground propane tanks must be screened from public view by planting or decorative fence. Corner lots shall be deemed to front on the street along which such lot has the least amount of frontage, except those houses which have been excepted by said Committee by reason of outstanding or unusual design. No fence shall be erected in front of the front building setback line, and no rear yard fencing shall be higher than four (4) feet. No building or permanent structure of any type shall be built, placed or permitted to remain on any portion of a lot designated as "Open Space Reserve" on the map or plat of the Subdivision, as recorded in the office of the County Clerk of Galveston County, Texas. Those Open Space Reserves adjoining the common lot lines of lots 59 & 60, 77 & 78 and 94 & 95 shall be dedicated and set aside as non-vehicular access easements for the use of all lot owners in Pirates Beach and Pirates Cove.

7. Easements. Easements for the installation and maintenance of utilities, drainage facilities, roads and streets heretofore granted are reserved as shown on the recorded plat. No utility company, water district or other authorized entity or political subdivision using the easements herein referred to shall be liable for any damage done by themselves, their successors, assigns, agents, employees, or servants, to shrubbery, trees or flowers or other property of the owner situated on the land covered by said easements. Developer reserves the right to grant (without the consent of any lot owner) such additional easements as may, in the opinion of Developer, be necessary to properly serve the Subdivision's requirements.

8. Annoyances or Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood or to a person of reasonable sensibilities.

9. Animals. Except as hereinafter provided, no animals, livestock, or poultry of any kind shall be kept, raised or bred on any lot in the Subdivision. Not more than two (2) dogs and/or cats may be kept on a lot, provided they are kept only for the use and pleasure of the owner and are not kept, bred or maintained for commercial purposes.

10. Drainage Structures. Drainage structures under private driveways shall be either of two types: (1) where the drainage ditch is of sufficient size to accommodate the culvert as described herein without causing the driveway to be elevated above the street level, drainage structures shall be buried underneath the private driveway, and shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater, and shall be a minimum of 1 3/4 square feet

(19-inch diameter pipe culvert); (2) where the drainage ditch is of insufficient size to accommodate the culvert above described, the drainage structure may be a dip in the private driveway that will allow the free flow of water over the driveway.

11. Condition of the Surface Lots. The cutting of grass and weeds, and the collection of garbage, trash and rubbish shall be the responsibility of each lot owner, and may be handled by a third party or parties on an individual contract basis. The owner or occupant of each lot shall at all times keep the weeds and grass thereon cut in a sanitary, healthful and attractive manner. No owner or occupant of any lot shall in any event use his lot or any part thereof for the storage of materials or equipment except such materials and equipment as may be needed for normal, immediate residential building requirements, nor shall they permit the accumulation of garbage, trash, rubbish, or refuse of any kind thereon. In the event of default on the part of the owner or occupant of any lot in observing any of the above requirements, or in the event any garbage, trash, rubbish or refuse is allowed to remain on the individual owner's premises for a longer period of time than one (1) week, with the exception that a maximum of thirty (30) days is granted to clear debris and repair damage due to hurricanes or other acts of God. Developer (and the successors and assigns of Developer in a like capacity), without liability to such owner or occupant in trespass or otherwise, may enter upon such lot and cut or cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash, rubbish or debris so as to place such lot in a neat, attractive, healthful and sanitary condition, in which case Developer shall bill the owner or occupant for such work. The owner or occupant, as the case may be, agrees by purchase or occupancy of any lot in the Subdivision, to pay such statement within fifteen (15) days of receipt thereof.

12. Temporary Structures. No structure of a temporary character, including, but not limited to, trailers, tents, shacks, mobile homes, boats or motor vehicles of any type, shall ever be maintained or used on any lot at any time as a residence, either temporarily or permanently. All boat trailers, boats and boat riggings must be parked under the main building. Parking of automotive vehicles on road shoulders is prohibited.

13. Filling and Digging or Removal of Dirt. The digging of dirt or the removal of any dirt from any lot is prohibited except where necessary in conjunction with landscaping or construction being done on such lot. No filling material which will have the effect of changing the grade level of any lot shall be placed on such lot without the prior approval in writing of the Committee.

14. Signs and Billboards. No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any lot without the prior consent in writing of the Committee. Developer or the Committee shall have the right to remove any such signs, advertisements, billboards or structures placed on any lot within the Subdivision without such consent, and in so doing shall not be liable for trespass or any damages in connection therewith or arising from such removal.

15. Hunting. No hunting nor the discharge of firearms shall be permitted within the Subdivision.

16. Treasures and Artifacts. Mitchell reserves a one-half (1/2) interest in all treasures and artifacts found on any lot within the Subdivision.

17. Maintenance Charge. Each lot, within the property except as hereinafter provided, is hereby subject to a minimum annual maintenance charge of \$84.00 per year for the purpose of creating a fund to be known as a "Maintenance Fund". Said maintenance charge may be increased from time to time by the Committee in an annual amount not to exceed 10% of the maintenance charge for the previous year, up to a maximum charge of \$168.00 a lot per year if, in the sole discretion of the Committee, such action is required to satisfy funding requirements for those expenses enumerated in paragraph 18 below. After said maximum charge of \$168.00 per lot has been reached, thereafter the Committee shall have the right, in its sole discretion, to increase the annual maintenance charge by a percentage increase equal to the percentage increase in the Consumer Price Index - All Items, 1967 equals 100 (as defined by the U.S. Department of Labor, Bureau of Labor Statistics) for the year next preceding the year for which the assessment is being made. Should the U.S. Department of Labor, Bureau of Labor Statistics cease to publish the Consumer Price Index - All Items, 1967 equals 100, the Committee shall select such other indices which in its judgment reflect the then broad range of economic factors represented in the said Consumer Price Index - All Items, 1967 equals 100. Said maintenance charge shall be due and payable annually in advance on or before the first day of July of each year to the Committee at its office in Houston, Texas. The maintenance charge on any lot purchased after July 1st of any year (covering the period of time from the purchase thereof to June 30 of the ensuing year) shall be prorated in the proportion that the number of months remaining prior to July 1st of said ensuing year bears to a whole year. All maintenance charges referred to herein, together with any and all liens securing payment of the same, are hereby transferred, assigned and conveyed to the Committee. It is expressly agreed that all unsold lots owned by Developer and its successors and assigns, shall be excluded from such maintenance charge. The sole and only obligation of Developer in connection with the purposes for which said Maintenance Fund has been created is to keep the grass and weeds mowed on all unsold lots. Notwithstanding the foregoing, Developer may, at its sole option, assume and agree to pay other expenditures for the benefit of owners or occupants of lots in the subdivision.

Notwithstanding anything contained herein to the contrary, in the event either the public and/or private roads and/or streets in the subdivision (including, but not limited to, access roads) are damaged by hurricane, flood, storm or other act of nature, and the County of Galveston does not satisfactorily repair such roads, the annual maintenance charge may be increased annually during the next ensuing collection period or periods by an amount not to exceed one-half (1/2) of the then current annual maintenance charge in order to raise sufficient funds to pay the cost of restoring such roads or streets to their former condition and the funds collected by reason of such increase may be used to repair

such damage and/or to reimburse Developer, its successors or assigns, for any expense, including interest, if any, which it may have incurred in connection with the repair of such damage. After the total cost of such repairs, including interest, if any, has been paid, the annual maintenance charge shall revert to such amount as may have been collected annually prior to such increase, subject to the right of the Committee, its successors or assigns, to increase the maintenance charge as herein provided.

18. All sums accruing to such Maintenance Fund shall be applied, so far as sufficient, towards the payment of maintenance expenses incurred in connection with any or all of the following: lighting, sidewalks (if any), paths, public and/or private roads and/or streets (including, but not limited to, access roads), public canals, parks, playgrounds, Gulf and Bay lot owner facilities, esplanades, collecting and disposing of garbage, trash, and rubbish from common areas, and doing other things necessary or desirable in the opinion of the Committee to keep the Property neat and in good order, or which the Committee considers of a general benefit to the owners or occupants of lots in the Subdivision. In this connection, it is understood that the judgment of the Committee in the expenditures of the Maintenance Fund shall be final so long as such judgment is exercised in good faith. It is further understood that the Committee shall have the right to commingle the sums comprising the Maintenance Fund with sums comprising other Maintenance Funds in other Sections of the Pirates Beach Subdivision and to expend portions of the Maintenance Fund for the purposes herein specified for the benefit of other Sections in the Pirates Beach Subdivision.

19. To secure the payment of the aforesaid maintenance charge, there is reserved in the deed by which each lot is conveyed the vendor's lien for the benefit of the Committee, such reservation to be effective by a reference to this instrument contained in each such deed, such lien to be enforceable by such beneficiary through the appropriate means at law, provided, however, that any lien securing the maintenance charge as to each lot is hereby specifically made secondary, subordinate and inferior to all liens, presently or in the future, given, granted and created at the instance or request of the owner of any such lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such lot, and it is hereby further provided that as a condition precedent to any proceeding to enforce such lien upon any lot against which there is an outstanding valid and subsisting first mortgage lien, such beneficiary shall give the holder of such first mortgage lien sixty (60) days' written notice of such proposed action, such notice to be sent to the nearest office of such mortgage holder by prepaid United States registered or certified mail, such notice to contain a statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of the owner of any such mortgage, said beneficiary shall acknowledge in writing to such owner its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien. The purchaser of any lot in the Subdivision shall, at the request of Developer, its successors or assigns, execute and deliver (at the time the lot is conveyed to such purchaser) such instruments as Developer, its successors or assigns may require as additional security for payment of the maintenance charge.

RECORDED
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20. The above maintenance charge and assessment will remain in effect for the full term (and extended term or terms, if applicable) of the within covenants.

21. Lot owners in all sections of Pirates Beach and Pirates Cove Subdivisions shall have the use of the combined recreational facilities within said subdivisions.

22. Each owner of one or more lots in the Subdivision shall, within thirty (30) days following closing of the purchase of such lot or lots, make application for a Social or Superior Membership in the Galveston Country Club on a form to be provided by said Club. The initiation fee for Social members shall be waived for applications received during this thirty day period. If accepted to membership, the lot owner shall timely pay all dues and fees as may be established by the Galveston Country Club for Social Membership from time to time, during the period of ownership of a lot in the Subdivision and shall comply with all rules and regulations promulgated by the Club for the conduct of its members. Social Membership dues for persons purchasing lots from the Developer in the Subdivision before January 1, 1978 shall be \$10.00 per month which is \$5.00 less than that paid by other Social members. Developer covenants and agrees that Social membership dues in the Galveston Country Club shall not be increased over ten percent per year beginning on January 1, 1978. At no time shall monthly dues charged owners of lots in the Subdivision exceed the dues for other Social Memberships in the Club. Payment of such dues and fees shall be secured by a lien as provided in paragraph 19 above.

23. Term and Enforcement. These covenants, restrictions and conditions set forth in this declaration shall be deemed to run with all or any portion of the Property, and shall be a burden and benefit to Developer, its successors and assigns, and any persons acquiring or owning any interests in the Property, their grantees, successors, heirs, executors, administrators or assigns, and shall run with the land and shall be binding upon all parties and persons claiming under Developer until December 31, 1997, at which time these covenants shall be extended automatically for successive periods of ten (10) years each unless an instrument signed by the majority of the then owners of lots within the Property has been duly executed and acknowledged, changing said covenants, restrictions and conditions, in whole or in part, and filed of record in Galveston County, Texas. Enforcement of these covenants, conditions and restrictions, including specifically but not limited to, the terms and provisions of paragraph 3 hereof, may be had by any proceedings at law or in equity against any person or persons so violating or attempting to violate any of the provisions hereof, including by means of actions to restrain or prevent such violation or attempted violation by injunction, prohibitive or mandatory. It shall not be a prerequisite to the granting of any such injunction that there be an inadequate remedy at law, or that there be any showing of irreparable harm or damage if such injunction is not granted. In addition, any person entitled to enforce the provisions hereof may recover such damages, either actual or punitive, as such person may show himself justly entitled by reason of such violation of the terms and provisions hereof. Such enforcement may be by the owner of any lot within the Property, by Developer, or by any association of owners of

lots in Pirates Beach and Pirates Cove Subdivisions, as provided by law. Failure by any person or persons to enforce any covenant, restriction, or condition herein contained, or acquiescence in any violation hereof, shall not be deemed the waiver of the right to enforce against the violator or others the provisions so violated or any other provision.

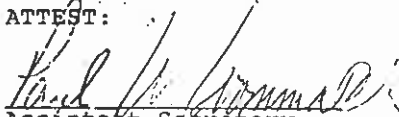
24. Responsibility of Developer. It is expressly understood and agreed that Developer assumes no obligation, responsibility or liability in the execution of these reservations, restrictions, covenants and conditions, and further that any or all duties, responsibilities, maintenance charges, and/or rights contained, established or reserved herein may be assigned, transferred and conveyed to a civic club or similar organization at any time Developer is reasonably assured that said civic club or similar organization is able to function for the benefit of all owners of lots in the Subdivision.

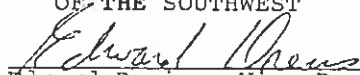
25. Severability. Invalidation of any one of these covenants by judgment or other court order shall in nowise affect any of the other provisions, such other provisions to remain in full force and effect.

26. Amendments of These Restrictions. Any part or all of these covenants, conditions and/or restrictions may be amended at any time and from time to time by an instrument duly executed, acknowledged and recorded in the office of the County Clerk of Galveston County, Texas, signed by the owners of a majority of the lots in the Subdivision, provided that only one vote shall be allowed for each lot in the Subdivision, regardless of whether more than one person owns a lot, and provided, further, that when one person or the Developer owns more than one lot, he or it shall be entitled to one vote for each lot owned.

27. Headings. All sections and paragraph headings used herein are for convenience only and shall have no efficacy in construing any of the restrictions, covenants and/or conditions herein contained.

WITNESS the execution hereof this the 23rd day of February, 1977.

ATTEST:

Assistant Secretary

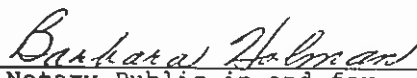
MITCHELL DEVELOPMENT CORPORATION
OF THE SOUTHWEST

Edward Dreiss, Vice President

THE STATE OF TEXAS X

COUNTY OF MONTGOMERY X

BEFORE ME, the undersigned authority, on this day personally appeared EDWARD DREISS, known to me to be the person whose name is subscribed to the foregoing instrument as Vice President of MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST, a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 23rd day of February, 1977.


Notary Public in and for
Montgomery County, Texas

AMENDMENT TO RESTRICTIONS, COVENANTS AND CONDITIONS,
PIRATES BEACH, SECTION 7
GALVESTON COUNTY, TEXAS

DEED OF TRUST
BOOK 2908 PAGE 10
7908/101

THE STATE OF TEXAS §
COUNTY OF GALVESTON §

WHEREAS, by instrument dated February 23, 1977, recorded in Book 2796, Page 605, of the Deed of Trust Records of Galveston County, Texas, certain Restrictions, Covenants and Conditions were imposed upon all of the lots in Pirates Beach, Section 7, a subdivision in Galveston County, Texas, according to the map thereof, recorded in Volume 15, Page 57 of the Plat Records in the Office of the County Clerk of Galveston County, Texas;

WHEREAS, such Restrictions, Covenants and Conditions may be amended by an instrument signed by the owners of a majority of the lots in said subdivision, provided that only one vote shall be allowed for each lot in the subdivision, regardless of whether more than one person owns a lot, and provided further, that when one person or the developer owns more than one lot, he or it shall be entitled to one vote for each lot owned:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST, a Texas corporation with offices and place of business in The Woodlands, Montgomery County, Texas, acting herein by and through its undersigned duly authorized officers, the owner of a majority of the lots in Pirates Beach, Section 7, does by this instrument in writing, modify and amend the aforesaid Restrictions, Covenants and Conditions, in the following particulars:

Paragraph 6 captioned Location of Improvements on Page 5 of said Restrictions, Covenants and Conditions is hereby changed and amended so that such Paragraph will hereafter read and be as follows:

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BOOK 2908 PAGE 102

Paragraph 6. Location of Improvements. No building, porch, overhang or stairs shall be located closer to the street than the front building set-back line as shown on the recorded plat and no closer than five (5') feet to any side lot line. Further, no construction or landscaping over three (3') feet in height may be placed or permitted to remain in the areas crosshatched on Exhibit "A" attached hereto and incorporated herein for all purposes. Aboveground propane tanks must be screened from public view by planting or decorative fence. Corner lots shall be deemed to front on the street along which such lot has the least amount of frontage, except those houses which have been accepted by said committee by reason of outstanding or unusual design. No fence shall be erected in front of the front building set-back line and no rear yard fencing shall be higher than four (4') feet. No building or permanent structure of any type shall be built, placed, or permitted to remain on any portion of a lot designated as open space reserve on the map or plat of this subdivision as recorded in the Office of the County Clerk of Galveston County, Texas. Those open space reserves adjoining the common lot lines of Lots 8 and 9, 24 and 25, and 38 and 39, shall be and are hereby set aside as nonvehicular access easements for the use of all lot owners in Pirates Beach and Pirates Cove.

Except as heretofore and as herein amended, all of the provisions of said Restrictions, Covenants and Conditions dated February 23, 1977, recorded in Book 2796, Page 605 of the Deed of Trust Records of Galveston County, Texas shall remain in full force and effect as originally written.

EXECUTED this 2nd day of November,

1977.

ATTEST:



MITCHELL DEVELOPMENT CORPORATION
OF THE SOUTHWEST

By: Edward P. [Signature]
Senior Vice President

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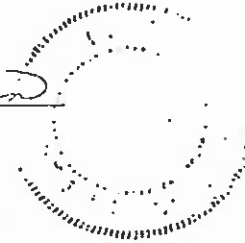
THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

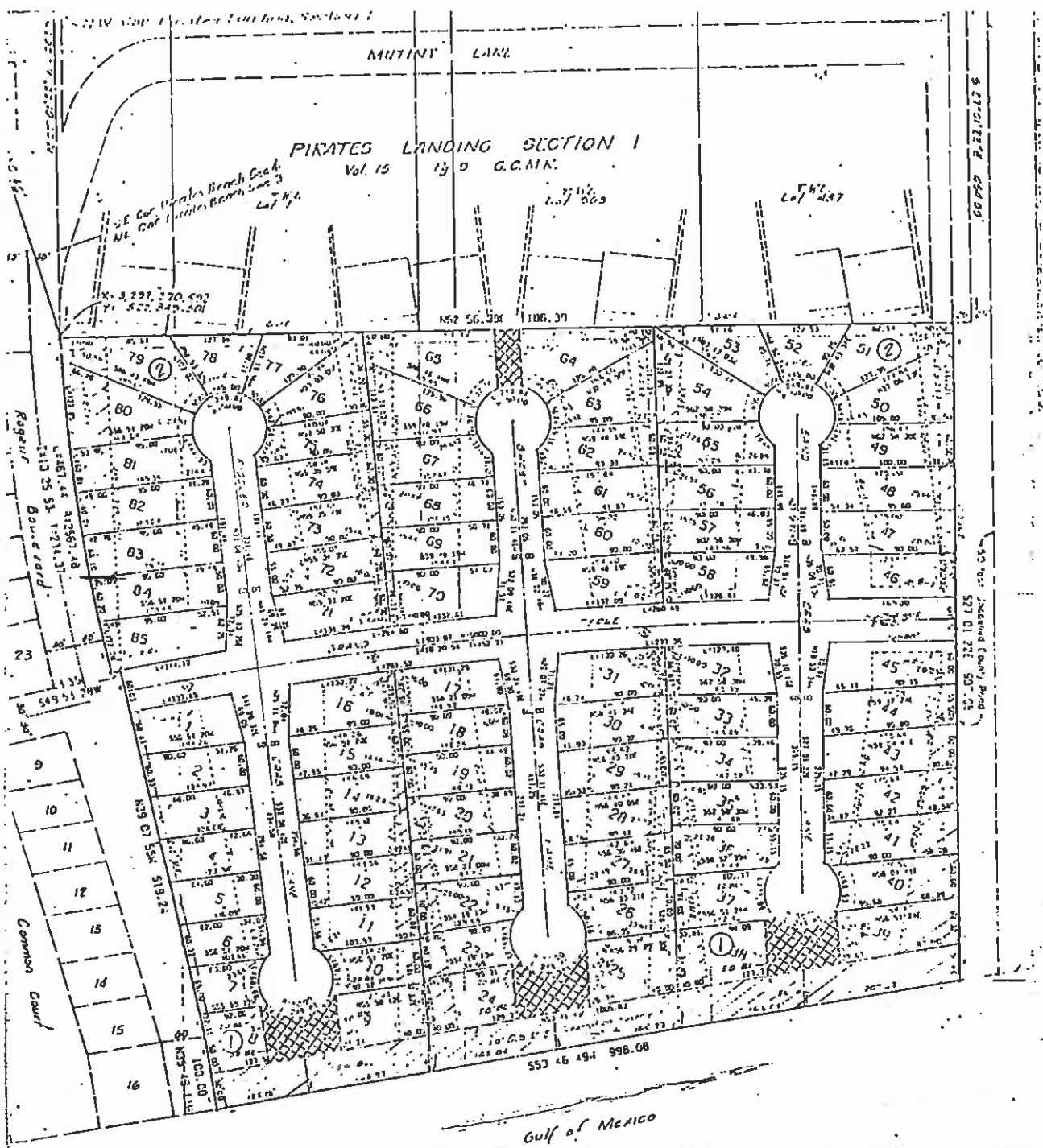
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BOOK 2908 PAGE 103

BEFORE ME, the undersigned authority, on this day personally appeared Edward Bruce, known to me to be the person whose name is subscribed to the foregoing instrument, as Senior Vice President of MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST, a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 2nd day of November, 1977.

Dale B. Flynn
Notary Public in and for
Montgomery County, Texas





PIRATES BEACH SECTION 7

A SUBDIVISION OF 25.0068 ACRES OUT OF LOTS 1 & 14 SECTION 3, & LOTS 503 & 487, SECTION 2 OF THE TRIMBLE & LINDSEY SURVEY OF GALVESTON ISLAND, GALVESTON COUNTY TEXAS

7 OPEN SPACE RESERVES
 OWNED BY MITCHELL DEVELOPMENT CORPORATION OF THE SOUTHWEST
 ENGINEER WILSON WINDLE & ASSOCIATES

DEED OF TRUST
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EXHIBIT "A"