

FILED in PERSON County, NC
on Jul 11 2003 at 04:45:33 PM
by: AMANDA H. GARRETT
REGISTER OF DEEDS
BOOK 441 PAGE 575

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
DAYFIELD**

Prepared by: J. Linwood Cates, Esquire

**NORTH CAROLINA
PERSON COUNTY**

THIS DECLARATION, made this the 26th day of June, 2003, by DAYBAR, INC. AND CAROLINA-VIRGINIA PROPERTIES, INC., hereinafter collectively referred to as "Declarant";

WITNESSETH:

WHEREAS, the DECLARANT is the owner of certain real property lying and being in the Flat River Township, Person County and more particularly described as follows:

Lying and being in Flat River Township, Person County, North Carolina, and being all of what are shown and designated as Lot Nos. 1 through 33, and also those roadways designated as "Cyber Court" and "Fletcher Ridge Rd." as shown, delineated, and depicted, and being in accordance with, a plat of actual survey by Neal C. Hamlett, P.L.S. #2465, dated June, 2003, and entitled "PLAT OF SURVEY DAYFIELD"; and for purposes of augmentation, insofar as furnishment of metes and bounds, courses and distances, is concerned, said plat is hereby incorporated and made an integral part of this document by express reference being thereto made, the same being duly recorded in the Person County Registry at Plat Cabinet 13, Hanger 379 & 380.

NOW, THEREFORE, the DECLARANT, as well as other parties to this Agreement, agree that all lots comprising the lands hereinafter referred to shall be sold subject to the restrictive covenants hereinafter set out, and all grantees of the said lots agree to be bound by the covenants herein contained.

That the DECLARANT desires to make and therefore hereby does make the aforescribed real property subject to the protective covenants and restrictions hereby declared to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to guard against the erection hereon of poorly designed or proportioned structures, and structures built of improper or suitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate location thereof on lots; to prevent haphazard and inharmonious improvements of lots; to secure and maintain proper setbacks from street, and adequate free spaces between structures, and in general to provide adequately for a high type of quality of improvement in said property, and thereby enhance the values of investments made by purchasers of lots therein.

The DECLARANT hereby reserves the right to subject other real property to the restrictions as set forth herein. The DECLARANT may, but is not required to, annex additional lands that it now owns or may own in the future by filing a supplemental declaration or declarations expressly referring to these covenants and by describing the land to be annexed. The DECLARANT also reserves the right to amend or add to the restrictive covenants in order to further promote the aforesaid goals of the Dayfield Subdivision.

DEFINITIONS BOOK 441 PAGE 576

Section 1. "Association" shall mean and refer to Dayfield Property Owners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performances of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinafter described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) maintained by the Association for the common use and enjoyment of the owners. The Common Area to be maintained by the Association at the time of the conveyance of the first lot are those private roads named Cyber Court and Fletcher Ridge Road as shown on the plats of the said property recorded in Plat Cabinet 13, Hanger 379 & 380, Person County Registry.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the Common Area.

Section 6. "DECLARANT" shall mean and refer to DAYBAR, INC. AND CAROLINA-VIRGINIA PROPERTIES, INC., their successors and assigns.

ARCHITECTURAL CONTROL

- (a) No lot shall be used except for residential and related purposes.
- (b) No home or other structure shall be erected, placed, or altered on any lot until the construction plans and specifications and plan showing the location of the structure have been filed with and approved in writing in advance by the DECLARANT or his assigns as to quality of workmanship, building materials, exterior colors, harmony of exterior design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed, or altered on any lot unless similarly approved. All building setback lines shall conform to local zoning ordinances. In addition, no buildings shall be located within fifty (50) feet of the right-of-way of the development or state roads and no buildings shall be located within twenty (20) feet of any side or back lot line.
- (c) All dwellings shall be owner occupied save for those rentals approved by DECLARANT in writing in advance. Nothing contained herein shall be deemed to prohibit the use of a lot or lots for the purpose of providing residential utility services to and for other lots.
- (d) No dwelling shall be allowed, erected, or permitted to remain on the subject property unless said dwelling shall contain at least 1,600 square feet of heated, finished living space, excluding garages, carports, basements, storage areas, and porches. No dwelling, outbuilding, or other structure shall exceed two and one-half stories in height exclusive of any basement area. No mobile home, tent, shack, double-wide trailer (whether on or off frame) shall be erected, placed, or permitted to remain on the above-described property without regard to whether it is placed on permanent foundation. Modular homes are allowed only upon Declarant's approval. Declarant can grant 10% variance with required 2 car garage.
- (e) The exterior of all building foundations shall be finished with brick, stone, or stucco; no unfinished concrete block foundations shall be permitted. All roofs shall be covered with asphalt-type shingles or slate; no tin or aluminum roof coverings shall be allowed. All exterior siding shall be brick, rock, stucco, finished wood, painted hardboard, or vinyl.
- (f) All work to be performed within the subdivision must be done by a competent and reputable contractor, which contractor must be approved in writing in advance by the

DECLARANT. In addition, the exterior of all dwellings and other structures must be completed within twelve months after the commencement of construction, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities. Furthermore, all driveways must be gravel at the beginning of any construction on the premises.

- (g) All residential houses shall be served by separate wells and septic systems. All such wells and septic systems shall be constructed and maintained in full compliance with the applicable regulations and laws governing private wells and septic systems.
- (h) All driveways installed to reach any portion of the property from the subdivision or state road must use a pipe of sufficient size and length to meet North Carolina Department of Transportation standards for connection to a public road in effect at the time of installation.
- (i) The DECLARANT reserves the right to authorize variances in the height, building material, minimum size, and set back requirements. Even though the DECLARANT reserves this right to authorize a variance, he is not required to. Furthermore, such variances shall not be materially injurious or detrimental to the other owners and it should not conflict with the stated goals of these covenants.

RESTRICTIONS

All property described above shall be used for single family residential purposes and shall be restricted further as follows:

- (a) All driveways must be paved from the street and connect to the home. Furthermore, all driveways must be gravel at the beginning of any construction on the premises.
- (b) The DECLARANT reserves the right to utilize all roadways located on the above-referenced plats for future development, including lands that may be purchased by the DECLARANT, his successors, and assigns in the future. In addition, no lot can be further subdivided unless such further subdivision of a lot is approved in writing by the DECLARANT.
- (c) No oil drum, outside propane tank, above ground swimming pools, window air-conditioners, ham radio or T. V. towers, discs or antennas may be used on any lot without the written consent of the DECLARANT or his assigns.
- (d) No farm animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot. Dogs, cats, or other household pets may be kept, up to a maximum of three, provided: (1) They are not kept, bred, or maintained for any commercial purposes; (2) When outside of the homes, each pet shall be restrained by pet owner on their premises; (3) No pet shall show any sign of being ferocious; (4) No pet shall be allowed to become a nuisance by barking or otherwise disturbing the neighbors. Pens or other structures may be used with DECLARANT'S or his assigns written permission.
- (e) No portion of the property shall be used as a business.
- (f) No sign of any kind, other than those owned or used by DECLARANT or his assigns shall be displayed to the public view on any lot except one sign of not more than (5) square feet advertising the property for sale.
- (g) No outbuilding, driveway, clothesline, mailbox, lamppost, trash receptacle, porch, or deck shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure are filed with and approved in writing in advance by the DECLARANT or his assigns.
- (h) No garbage or trash shall be burned on any lot and no lot shall be used or maintained as a dumping station for rubbish. All garbage, trash, or other refuse shall be kept in clean and covered receptacles located either in the rear of said homes or in a building, cabana, or other enclosed structure, so that the contents thereof shall not be visible from the street. It shall be the duty of all lots owners to see that their garbage, trash, and other refuse is systematically and weekly collected by a refuse collector.
- (i) No noxious, offensive, immoral, or illegal activity shall be carried on upon any lot, nor shall any act be committed thereon which would constitute an annoyance or nuisance to the other residences of the subdivision or to the general public.

- (j) No hunting or the discharge of firearms shall be conducted on any portion of the property.
- (k) The buyer or purchaser of each lot, whether it shall be occupied or not, shall keep the lot mowed regularly, and weeds cut regularly, and clear of any unsightly objects, and in the event that the buyer or purchaser of any lot within the said subdivision breaches the restriction, the DECLARANT or his assigns reserve the right to enter upon the said lot and mow the grass, clean up the lot, and remove unsightly structures and objects, and the owner of said lot shall be liable to the DECLARANT or his assigns for the payment of said costs plus interest.
- (l) Where lots border on or contain ditches, drainage canals or streams, the owner of each lot shall keep that area, including the slopes down to the edge of the water, mowed and maintained regularly. Washouts or erosions on the lots shall be properly tended to by the respective lot owner. All landscaping changes or lot improvements must be approved in writing in advance by the DECLARANT or his assigns.
- (m) All recreation and playground equipment, including but not limited to swings, swing sets, picnic tables, barbecue grills, merry-go-rounds, playpens, sandboxes, toys, etc., shall be located in the rear yard of the home and not in the front yard and must be kept in neat order. "Front yard" in this subdivision refers to that portion of the yard from the residence to the road. "Rear yard" refers to that portion of the yard from the residence to the back property line.
- (n) All cars shall be parked in an orderly and neat fashion and in a driveway, carport, or garage (preferably parked in a garage). No oversize commercial vehicles shall be allowed on any of the lots. No inoperable or unlicensed vehicles shall be allowed on any lot for more than thirty (30) days, the purpose of this restriction being to prohibit any junk cars being located in the subdivision. No major auto repairs or maintenance shall be conducted in the subdivision.
- (o) All motorcycles shall be parked in an orderly and neat fashion in a driveway, carport, or garage. No motorized bicycle, moped, mini-bike, three-wheeler, four-wheeler, go-cart, or any other recreational vehicle generally manufactured for non-highway use may be ridden in subdivision. Nor shall such vehicles be ridden (or allowed to be ridden) on the roads or on the any of the lands owned by the DECLARANT unless authorized in writing by the DECLARANT.
- (p) All boats, campers, and travel utility trailers shall be stored and place in a garage, carport, or in the rear yard of the home and not in the front yard, and must be kept in neat order.
- (q) The DECLARANT, or his duly authorized representative hereby reserves unto himself, his successors, legal representative, and assigns, a perpetual and releasable easement, privilege, and right on, over, and under the ground to erect, maintain, and use television cables, electric and telephone poles, wires, cables, conduits, drainage ditches, sewers, water mains, and other suitable facilities for drainage purposes or for the conveyance and use of electricity, telephone, gas, water, or other public conveyances or utilities on, in, or over all the easements reserved or shown on subdivision plat, together with the right of ingress and egress to and from the lands affected by such easements. The DECLARANT or his assigns shall have the unrestricted right and power to release such easements.
- (r) The DECLARANT reserves the right to subject the real property in this subdivision to a contract with Carolina Power & Light Company and/or Piedmont Electric Membership Corporation for the installation of overhead and/or underground electric cables which may require an initial contribution, and/or the installation of street lighting, which will require a continuing monthly payment to Carolina Power & Light Company and/or Piedmont Electric Membership Corporation by the owner of each lot. Primary electric service lines throughout the subdivision shall be underground along the roadway. Primary electric service lines serving homes on individual lots in the subdivision shall be underground. This underground primary will follow individual lot property lines as closely as possible. Service from the transformer to the residence meter shall be underground. Primary underground costs shall be the financial responsibility of each lot purchaser/owner.
- (s) The DECLARANT, his heirs, successors, and assigns hereby reserve the right and easement to go upon any lots within the subdivision, on a temporary basis only, for the purpose of placing residential structures upon any adjacent lots. Any damage to such

Section 2. The Association shall have one class of voting membership who shall be composed of the owners.

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the properties; hereby covenants, and each owner of any lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the properties and for the improvement and maintenance of the roadway at least to the level of minimum standards set for NC DOT roads, and for street light maintenance through Piedmont Electric Membership.

Section 3. Maximum Annual Assessment. (a) The maximum assessment may not exceed TWO HUNDRED DOLLARS (\$200) per year per lot without the approval of two-thirds (2/3) of those in attendance at a properly noticed meeting as set out in Section 4. wherein a quorum, as defined herein, is present. (b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of member or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Uniform Rate of Assessment. Annual assessments must be fixed at a uniform rate for all lots, and may be collected on a monthly or annual basis.

Section 6. Date of Commencement of Annual Assessment: Due Dates. The annual assessments provided for herein shall commence effective January 1, 2003. The Board of Directors shall fix the amount of the annual assessment against each lot. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect

lots shall be promptly repaired by the DECLARANT or his assigns at its cost and such damaged lot shall be put in the same condition as before the encroachment.

- (t) Enforcement of these covenants and restrictions shall be by proceedings of law or in equity against any person violating or threatening or attempting to violate any covenant and such proceedings may be either to restrain violation or to assess for damages.
- (u) Invalidation of any one of these covenants and restrictions or of any provisions herein set forth by Judgment or Court Order shall in no way affect the other provisions hereof, which shall remain in full force and effect.
- (v) Failure of the DECLARANT, their successors, and/or assigns to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

DURATION

These covenants are to run with the lands and shall be binding on all persons claiming under them until January 1, 2023, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by vote of a majority of the then owners of the lots covered by these covenants, it is agreed to change said covenants in whole or in part.

If the parties, or any of them, or their heirs, successors, or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in said tract to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent it, her, him, or them from so doing, or to recover damages or other dues for such violation.

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the subdivision roads and any other Common Areas created in the future, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (A) the right of the Association to suspend the voting rights of an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (B) the subdivision roads serving in the property from the State Road have been constructed by the DECLARANT to North Carolina Department of Transportation specifications in order to make them eligible, once required residential density is attained, to be accepted for state maintenance. Therefore, DECLARANT hereby reserves the right to dedicate said roads for such maintenance;
- (C) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer except foreclosure, shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. Enforcement. The Declarant, the Association or any other owner of any portion of the Property shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges herein imposed pursuant to the provisions of these covenants.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

DAYBAR, INC.

CAROLINA-VIRGINIA PROPERTIES, INC.

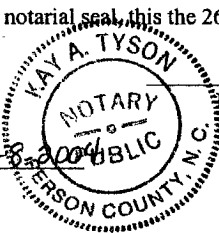
BY: Ronald N. Day (SEAL)
Ronald N. Day, President

BY: Clarence R. Pointer (SEAL)
Clarence R. Pointer, Vice-President

NORTH CAROLINA
PERSON COUNTY

I, Kay A. Tyson, a Notary Public of the aforesaid State and County, do certify that Ronald N. Day personally came before me this day and acknowledged that he is President of DAYBAR, INC., a North Carolina Corporation, and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and notarial seal, this the 26th day of June, 2003.



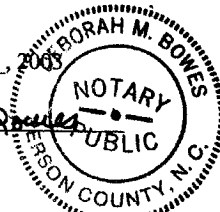
Kay A. Tyson
Notary Public

My Commission Expires: 5-8-2004

NORTH CAROLINA
PERSON COUNTY

I, Deborah M. Bowes, a Notary Public of the aforesaid State and County, do certify that Clarence R. Pointer personally came before me this day and acknowledged that he is ^{Vice} President of Carolina-Virginia Properties, Inc., a North Carolina Corporation, and that he, as ^{Vice} President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and notarial seal, this the 8th day of July, 2003



Deborah M. Bowes
Notary Public

My Commission Expires: 04-12-2004