

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF DUNBAR LANDING, PHASE II

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this 8th day of May, 1992, by CLAUD O'SHIELDS, JR. and wife, JUDY A. O'SHIELDS, hereinafter referred to as "Declarant".

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STATEMENT OF PURPOSE

Declarant is the owner of certain real property located in New Hanover County, North Carolina, which is more particularly described on Exhibit "A" which is attached hereto and incorporated herein by reference. Declarant desires to create upon a portion of said property an exclusive residential community of single family residences to be named DUNBAR LANDING, PHASE II and, to that end, has caused to be recorded a map of said subdivision in Map Book 32 at page 199 of the New Hanover County Registry.

Declarant desires to ensure the attractiveness of Dunbar Landing, Phase II, and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within Dunbar Landing, Phase II, and to provide for the maintenance and upkeep of certain easements, common areas and facilities in Dunbar Landing, Phase II. To this end the Declarant desires to subject the real property described herein to the covenants, conditions, restrictions, easements, charges, liens and responsibilities hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

NOW, THEREFORE, Declarant by this DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS does declare that all of the property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges, liens and responsibilities set forth in this DECLARATION which shall run with the described real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Restrictions on Use and Occupancy

1. All lots in Dunbar Landing Subdivision, Phase II, are intended for use and shall be used for detached single family residences only. No structure shall be erected, placed, altered or permitted to remain on any lot in Dunbar Landing, Phase II, other than one detached single family dwelling not to exceed 2-1/2 stories in height and such outbuildings as are usually accessory to a single family residence dwelling, including a private enclosed garage with a second story for guests and/or servants' quarters which garage shall not be rented separately for remuneration. Any such appurtenant building must be constructed of the same type materials, the same quality of construction, the same or similar style and with the same exterior surface color as the original dwelling on the lot. The floor of said appurtenant structure shall be concrete. No such appurtenant structure shall be erected or placed in front of houses on any of the lots in the subdivision.

2. No lot within the subdivision as shown on the map recorded in Map Book 32 at Page 199 may be further divided or subdivided in any manner with the exception of Lot 8 as shown thereon. Lot 8 may, without the consent of the owners of any of the other lots within the subdivision, be subdivided by Declarant, their heirs or assigns, into not more than three (3) additional lots. If said Lot 8 is subdivided, then each of the lots created by said subdivision shall be bound by these covenants and restrictions as if said division had occurred prior to the recording hereof.

DRAWN BY

*Jeffrey P. Kester*ROUNTREE & SEAGLE
WILMINGTON, NORTH CAROLINA

RETURNED TO

Rebecca E. Williams

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3. No single family residence containing less than 1600 square feet of enclosed dwelling area shall be constructed, located or permitted on any lot. The minimum square footage required hereby shall not include any porches (whether enclosed or open), steps, walks, breezeways, carports or garages.

4. The front of all lots of this subdivision shall be that side of the described lots which face or abut the 30-foot access and utility easement, all of which is shown on the map of Dunbar Landing, Phase II, recorded in Map Book 32 at Page 199 of the New Hanover County Registry. No structure shall be erected on any lot closer than eighty (80) feet from the said 30-foot access and utility easement. All other setbacks, including side and rear, shall be as established by the New Hanover County Zoning Ordinance.

5. No plants or shrubs shall be planted, or allowed to grow, or permitted to remain, upon Lots 4, 5 and 6 within eighty (80) feet of the access and utility easement shown on the recorded map of Phase II, Dunbar Landing, as referenced above, which exceed four (4) feet in height, measured from the natural grade of the land. Trees shall be allowed to be planted within the 80-foot front setback area on Lots 4, 5 and 6 provided that they shall be pruned on a regular basis so as to minimize obstruction of the view of Pages Creek from any and all lots in the said subdivision. No trees shall be planted in such a manner as to create a wall or hedge which may obstruct the view of Pages Creek by the owners of the lots within the subdivision. The intent of this section is to allow for the uniform landscaping of the lots within the subdivision with as little obstruction of the view of Pages Creek from any or all of the lots in said subdivision.

6. No house trailer, mobile home, tent, shack or temporary structure of any nature shall be located on any lot or used at any time as a residence, temporarily or permanently. No outside toilets, privy, surface closets or the like shall be maintained on any lot, except that portable sanitary toilets may be located on the lots during the course of construction of the single family residence provided for herein. Notwithstanding the foregoing, said portable sanitary toilet shall be placed at such a location on the lot so as not to be visible from any roadway or easement accessing any other lot in the subdivision.

7. No pre-manufactured or prefabricated house shall be erected, constructed or allowed to be placed on the lots in the subdivision. This does not preclude the use of pre-constructed floor and roof trusses that are commonly used in the construction of stick built homes.

8. No illegal, noxious or offensive trade, activity or condition shall be permitted, carried on or maintained on any lot or part of any lot or common areas, nor shall any use be made of any portion of said property which may be or become an annoyance or nuisance to the neighborhood or to any lot owner in the subdivision.

9. No animals, livestock or poultry of any kind shall be raised, bred, kept or maintained on any lot except for dogs, cats, and other household pets. Notwithstanding the foregoing, no dogs, cats or other household pets may be kept, bred, or maintained for any commercial purposes.

10. Unsightly, inoperative, stripped or junked motor vehicles, boats, trailers, utility trailers or the like cannot be maintained or stored on the property either prior to or after the residence thereon has been erected.

11. All boats, boat trailers and recreational vehicles shall be stored behind the rear of the house on each lot.

12. No trash, ashes, garbage, rubbish or other refuse shall be dumped, stored or permitted to accumulate on any lot or other area in the subdivision. Each lot owner shall provide receptacles for garbage in a screened area on his lot not generally visible from any street, road or access easement in the subdivision.

13. Any dwelling or improvement on any lot which is destroyed in whole or in part by fire or other casualty must be rebuilt or all debris removed and the lot restored to a slightly condition with reasonable promptness, provided, however, that in no event shall any debris from said casualty remain on such lot longer than three (3) months.

14. No sign (excluding typical "For Sale" and builder identification signs), billboard or other advertising structure of any kind may be erected or maintained upon any lot.

15. All dwelling connections for all utilities including but not limited to water, electricity, gas, telephone and television shall be run underground from the proper connecting points to the dwelling structure in such manner as may be acceptable to the appropriate utility authority. Said utility lines shall be located within the areas in the subdivision designated as "access and utility easement" upon the map of Dunbar Landing, Phase II, recorded in Map Book 32 at Page 199 of the New Hanover County Registry and Declarant does hereby convey a non-exclusive easement over and under said easement area to each of the owners in this subdivision for the purposes set forth in this section.

16. Until such time that countywide or community water and sewer services are made available to said subdivision, the owner of each lot in the subdivision shall construct and maintain a septic system or other sewage disposal system as may be approved by the New Hanover County Health Department (or other agency vested with authority of approval of said sewer systems). No later than sixty (60) days after county-wide or community sewer services are made available to this subdivision, the owner of each lot in this subdivision shall, at their own expense, install such sewer lines or pipes from their residence to the county gravity line, force main or other tap line adjoining or accessing the lots in the subdivision as made available by the county. The owner tie-in or tap for the county or community sewer system for Lots 4, 5, 6 and 7 shall be located along the northwesternmost line of those lots, abutting the area shown upon said recorded plat as the "Old 30-foot Roadway". The owner of Lot 8, or any subdivision thereof, their successors and assigns, shall bear the expense, if any, of installing such lines as may be necessary, within the area designated on said map of Dunbar Landing, Phase II, as 30-foot access and utility easement, to tie into or tap into the county or community sewer system.

Nothing herein or hereby shall be construed as a warranty of suitability of the lots within said subdivision, or any future subdivision thereof, for a septic system or other sewer disposal system as may be allowed by the New Hanover County Health Department.

17. Enforcement of these restrictions and conditions shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or condition, either to restrain violation thereof or to recover damages therefor.

ARTICLE II

Easements, Amenities and Facilities

A. The owner of each lot in this subdivision shall have a non-exclusive easement for ingress and egress over and across the area designated as a thirty (30) foot private access easement upon

the plat of Dunbar Landing, Phase II, recorded in Map Book 32 at Page 199 of the New Hanover County, North Carolina, Registry. Said easement for ingress and egress shall be appurtenant to each lot in Dunbar Landing, Phase II, and shall run with the land.

B. Pier and Boat Dock. Declarant has constructed, or will construct, a pier and floating boat dock extending from the high ground adjoining Pages Creek into Pages Creek in the approximate location shown on the map recorded in Map Book 32 at Page 199 of the New Hanover County, North Carolina, Registry. Lots 4, 5, 6 and 7 shall each have appurtenant to them a boat slip of approximately twenty-four (24) feet in length. Declarant shall assign and designate a slip to each of the lots and the owner of each lot shall have an exclusive right to use the boat slip so designated and assigned. Declarant reserves and retains the exclusive right to the use of any slips not designated by him for the exclusive individual use of the owners of Lots 4, 5, 6 and 7, as set forth above. Except for those slips not designated by the Declarant, the slips assigned to each lot shall not be severable from the ownership of that lot, and shall run with the land. Nothing herein shall prohibit the Declarant from assigning or designating any of the remaining slips reserved unto Declarant, to anyone, including but not limited to the owners of any lots within the subdivision of Lot 8, as and when that division shall occur.

C. The area shown upon map of Dunbar Landing, Phase II, recorded in Map Book 32 at Page 199 in the New Hanover County Registry designated as "COMMON AREA FOR DUNBAR LANDING LOTS" shall be for the common use and enjoyment of the owners of lots in Dunbar Landing, as shown upon the subdivision plat of same recorded in Map Book 30 at Page 194 of the New Hanover County Registry, of Dunbar Landing, Phase II, as shown upon a map of same recorded in Map Book 32 at Page 199 of the New Hanover County Registry, and of owners of any subdivision of Lot 8 as and when said subdivision may occur. Notwithstanding the foregoing, no motor vehicles of any kind may be parked or left upon the common area except in those areas designated as parking areas, and only for such periods of time during which the lot owner, or owners, are using the said common area. Further, no structures may be erected or placed upon the common area except low level picnic tables, trash receptacles and the like. Nothing herein shall obligate Declarant to further improve the common areas or to place tables or trash receptacles thereon.

D. Every lot owner, his family and guests shall conform to and abide by the rules and regulations for the use of the boat slips, dock, pier and the common area as may from time to time be promulgated by the Declarant.

E. The owner of each lot, by acceptance of a deed therefor, whether or not it should be so expressed in such deed, is deemed to covenant and agree to pay one-fifth (1/5) of the cost of upkeep, maintenance and repair to the pier or dock facility (including boat slips), the common area as shown upon the map recorded in Map Book 32 at Page 199 of the New Hanover County Registry, and the 30-foot access and utility easement shown upon the plat of Dunbar Landing, Phase II, described hereinabove.

F. Maintenance. The owners of a majority of lots, including the lots from the subdivision of Lot 8, in Dunbar Landing, Phase II, shall determine what repairs, maintenance or upkeep is necessary for the access and utility easements, common areas and the boat dock or pier facility described herein. The owner of each of the lots in Dunbar Landing, Phase II, shall be responsible for the payment of one-fifth (1/5) of the cost of the repairs, maintenance, and upkeep, and water and power expenses for those services provided to the pier and for any ad valorem taxes assessed against any of the common areas and facilities. Any maintenance fee or charge levied against a lot in this subdivision remaining unpaid for a period of thirty (30) days or longer, after demand for

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payment is made by the remaining lot owners, shall constitute a lien on the lot when filed of record in the Office of the Clerk of Superior Court of New Hanover County in the manner provided therefore by Article 8, Chapter 44, of the General Statutes. The lien for the maintenance fee shall include reasonable attorney fees and interest on the outstanding balance at ten (10%) percent per annum. The lien so filed shall be enforceable by filing an action to foreclose said lien or, alternatively, in the same manner as the foreclosure of a mortgage or deed of trust containing a power of sale. The remedies referred to herein shall not be exclusive and are in addition to any other remedies provided by law.

G. Insurance. The owners of a majority of lots in Dunbar Landing, Phase II, may elect to procure general liability insurance against injury or damage to persons or property on or about the dock facilities or the common areas described in the plat recorded in Map Book 32 at Page 199 of the New Hanover County Registry. The amounts of coverage shall be as determined by the owners of a majority of the lots in Dunbar Landing, Phase II. The premium for said policy shall be considered a maintenance charge as set forth in Paragraph F above to be paid by the owners of the lots in the subdivision on a prorata basis and shall be enforceable as a maintenance charge.

H. Maintenance Fee. The lien of the maintenance fee provided for herein shall be subordinate to the lien of any first mortgage recorded in the New Hanover County Registry. Sale or transfer of any lots shall not affect the lien. However, the sale or transfer of any lot pursuant to foreclosure of a first mortgage, or any proceeding in lieu thereof, shall extinguish the lien as to payments which came due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE III

Waiver

No provision contained in these restrictions shall be deemed to have been waived, abandoned, or abrogated by reason of failure to enforce them on the part of any person as to the same or similar future violations, no matter how often the failure to enforce is repeated.

ARTICLE IV

Duration

1. The covenants and restrictions contained in this Declaration shall run with and bind the land for a term of twenty (20) years from the day this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each unless the owners of all lots in the subdivision agree, in writing, that these restrictions shall be terminated.

2. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no way affect any other provisions hereof which shall remain in full force and effect.

ARTICLE V

Liberal Construction

The provisions of this Declaration shall be construed liberally to effectuate its purpose of creating a subdivision of fee simple ownership of lots and buildings, with each owner entitled to and burdened with the rights and easements equivalent to those of the other owners.

RECORDED & VERIFIED
REBECCA T. CHRISTIAN
REGISTER OF DEEDS
NEW HANOVER CO. NC

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ARTICLE VI

Captions

The captions preceding the various Articles and subparagraphs of these restrictions are for the convenience of reference only, and shall not be used as an aid in interpretation or construction of these restrictions. As used herein, the singular includes the plural and where there is more than one owner of a lot, said owners are jointly and severally liable for the obligations herein imposed. Throughout this Declaration, references to the masculine shall be deemed to include the feminine, the feminine to include the masculine and the neuter to include the masculine and feminine.

IN TESTIMONY WHEREOF, the Declarants have hereunto set their hands and seal the day and year first above written.

Declarant:

Claud O'Shields Jr (SEAL)
CLAUD O'SHIELDS, JR.

Judy A. O'Shields (SEAL)
JUDY A. O'SHIELDS

STATE OF NORTH CAROLINA

COUNTY OF Craven

I, Jeanne Gallaher, a Notary Public of the County and State aforesaid, certify that CLAUD O'SHIELDS, JR. and wife, JUDY A. O'SHIELDS, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 8th day of May, 1992.



My commission expires: May 13, 1992

Jeanne Gallaher
NOTARY PUBLIC

STATE OF NORTH CAROLINA
New Hanover County
The Foregoing/ Annexed Certificate of

Jeanne Gallaher

Notary (District) Public is/ are certified to be correct.

This the 11th day of MAY 1992
Rebecca Tucker Christian, Register of deeds

by Linda P. Plot
Deputy/Assistant

BEGINNING at an iron pipe in the southern line of an old 30 foot roadway which runs between Tracts 6 and 7 of the C.N. Dunn Place as recorded in Map Book 2 page 128 of the New Hanover County Registry, said iron pipe being located the following courses and distances from a right of way monument in the northwestern right of way line of Dunbar Road (S.R. 1490) (60 foot right of way) at the northeastern end of said Dunbar Road: north 67 degrees 31 minutes east 19 feet to an iron pipe at a turn in the southeastern right of way line of said 30 foot roadway, north 59 degrees 10 minutes east long the southeastern side of said roadway 18.16 feet, north 59 degrees 10 minutes east 289.3 feet to another turn in said roadway and north 53 degrees 20 minutes east 97.5 feet to the point of beginning, said beginning point also being the northern or northeastern corner of Tract 1 of the property conveyed to Allie M. Batson and husband, William C. Batson, Jr. by deed recorded in Book 1346 page 689 of the New Hanover County Registry; running thence from said beginning point south 37 degrees 38 minutes east along the northeasternmost line of the aforesaid Allie Batson tract 518.4 feet to an old iron pipe in the northwestern line of North Hills, Section 2-A, recorded in Map Book 16 page 42 of the New Hanover County Registry as conveyed to Irving Hewlett by deed recorded at Book 1012 page 183 of the New Hanover County Registry; thence along the northwestern line of said property conveyed to Irving Hewlett, north 47 degrees 38 minutes 30 seconds east to an iron pipe in the highwater line of Pages Creek, said iron pipe being a corner of the Irving P. Hewlett property conveyed to him in the above referenced deed; thence following the highwater line of Pages Creek in a northwardly and northwestwardly direction to a point where the highwater line of Pages Creek intersects the northeasternmost corner of the second tract of property conveyed to Allie Batson in the above referenced deed recorded in Book 1346 at Page 689 of the New Hanover County Registry; running thence with the southeastern boundary of said Allie Batson property south 53 degrees 20 minutes west 7 feet to an iron pipe on a bluff; thence the same course continued south 53 degrees to minutes west 393 feet to an iron pipe, the southernmost corner of Tract 2 of the property conveyed to Allie Batson in the aforesaid deed; thence continuing with the boundary of said Tract 2 of the Allie Batson property north 36 degrees 40 minutes west 200 feet to an iron pipe in the southeastern line of the above referenced 30 foot roadway; running thence with and along the southeastern line of said 30 foot roadway to the point of beginning.