

#08-1257

Covenants and Restrictions for
BLUE YONDER SUBDIVISION

BOOK 497 PAGE 928

Signed and notarized October 27, 2007
Recorded Clarke County Court House, Deed Book 188, Page 361

THIS DEED OF CORRECTION of the DEED OF DEDICATION made and dated the 4th day of January, 1998, by and between Richard C. Plater, Jr., of the one part, hereinafter called the Grantor, and Pamela R. Plater, wife of Richard C. Plater, Jr., of the other part, hereinafter called the Additional Grantor – which was recorded in Deed Book of Clarke County number 185, on page 447:

WHEREAS, the Grantor was conveyed 322 acres called "The Slate Ridge Tract" by Double E Land & Cattle Co. by deed dated April 15, 1983 and recorded in the Clerk's Office of the Circuit Court of Clarke County, Virginia, in Deed Book 150, at page 9; and

WHEREAS, the Grantor desires to subdivide a part or portion of said property consisting of 56.4033 acres and to place certain conditions and restrictions against the subdivided lots.

NOW, THEREFORE, WITNESSETH:

1. The plat of BLUE YONDER SUBDIVISION, as shown on the attached plat of survey (consisting of seven [7] sheets) prepared by Ken W. Erickson, C.L.S., is with the free consent and in accordance with the desire of the Grantor herein, as well as that of the additional Grantor.
2. The purpose of this subdivision is to establish a line of residents along the right-of-way of the Calmes Neck Private Road, which forms the Eastern, upper line of the Subdivision – residents who will be environmentally dynamic and devoted to their natural surroundings, to the forest, to the wildlife, and to the geologically unusual "Ivy Spring valley" just to their West, in the "Hopper of Slate Ridge", a property of 265.5967 acres which has been conveyed to Clarke County's land conservation trust, "The Burwell-van Lennep Foundation", for perpetual preservation as a wilderness area. The Foundation will count on "BLUE YONDER" residents to guard their lots and the "Hopper" from trespass, trash dumping, stealing, tree cutting, trapping and hunting.
3. Each lot in the Subdivision shall be subject to the following Covenants and Restrictions, which shall be considered real and running with the land and shall be binding upon the Grantor and all subsequent owners of the lots:
 - a. No building of a temporary nature or mobile home shall be placed or permitted on any lot except those customarily used in connection with the erection of a dwelling, and in such cases for a period not to exceed six (6) months; and none shall be used at any time as a residence. Likewise, no camper, trailer or other vehicle shall be used at any time on any lot as a residence or for sleeping purposes. No permanent home shall be constructed on any lot if it has a total floor space of less than 2,500 square feet, counting all floors. No more than one residence shall be constructed on each lot.
 - b. Each lot shall be used for residential and recreational purposes only, except that non-advertised in-house offices and home occupations located within the house and not open to the public shall be permitted to the extent allowed by the Zoning and Subdivision Ordinances of Clarke County.
 - c. No signs, billboards or advertising of any nature shall be erected or maintained on any lot, or upon any building erected thereon, except for directional and information signs of the Grantor; and except for sale and rental signs, not larger than four (4) square feet in area.
 - d. No building shall be erected closer than thirty-five (35) feet to the private access road known as "The Calmes Neck Road", nor closer than fifty (50) feet from either side-lot line, nor further from the road right-of-way than four hundred (400) feet; the foundations for the walls of the house shall be located west of a South-Northerly line which is vertically ten (10) feet below the level of the surface of the Calmes Neck Road, and East of a similar line vertically forty (40) feet below said road. In the event that the topography or shape of the lot makes this compliance with this restriction difficult, exceptions may be made to the restrictions of this paragraph by the Grantor, his heirs or assignee, provided the exceptions are not in violation of the Clarke County Zoning or Subdivision Ordinances.
 - e. Clearing of trees or shrubbery on any lot for drain-fields, well-site, driveways, parking spaces, gardens and the construction of the house shall not exceed an area of one (1) acre (44,100) square feet) without the express permission of the Grantor, his heirs or assignee.
 - f. To prevent erosion, no entrance driveways shall have a gradient in excess of twelve (12) percent. All road ditches shall be drained off at intervals of one hundred (100) feet into horizontal spreaders. Where culverts are required, they shall not be smaller than twelve (12) inches in road ditches or than six (6) inches beneath driveways. All gutter downspouts shall flow away from the house almost horizontally through four (4) or six (6) inch perforated pipes buried four (4) to six (6) inches below ground level and ending in a bed of stones. All gutter overflows shall fall into an adequate catch-basin similarly drained through perforated pipes. All road cuts or fills creating banks shall have those banks lined by stone walls or by loose stone rip-rap. Foundation excavations shall be refilled against the outside of the house walls and anchored with loose stone. All erosion channels or incipient gulleys shall be blocked by evergreen trees, cut and laid with the butt down the wash, and anchored with stones. Planting of bare spots shall be protected by wash by baled hay, etc.
 - g. If a driveway or parking approach is constructed across a road gutter or ditch where this would obstruct drainage along the roadside, then a pipe or culvert of adequate size, and not less than twelve inches in diameter, shall be installed by the owner of the lot in such fashion that the upper end of the culvert is buried to a depth such that the lower one-fourth diameter of the culvert is below the bottom of the ditch – at the lot-owner's expense. The owner shall not interfere with the drainage of surface water on to or off of this or her lot to the detriment of any other lot.
 - h. The septic system on each lot shall be designed and constructed in accordance with the requirements of the Health Department of Clarke County, Virginia. Two septic tanks are required to be used in tandem at the lower side of the house and to be pumped to the entrance of the drain-field. The drain-field must be located in the area designated and

with the conformation approved by the Clarke County Health Department. No building shall be constructed closer than fifty feet to the drain-field perimeter.

- i. Each lot shall be maintained as much as possible in a natural state, and in a state not permitting unsightly or otherwise offensive conditions, such as collections of garbage or refuse. All refuse containers, fuel tanks, garden equipment, trucks and unlicensed vehicles shall be screened (by hedge, wall or fence) from view from the road or from adjoining lots. Fences may be erected in the front or side yards, but not to the rear of the home. Fences may be constructed of stone or wood, but must be kept in good repair.
 - j. No liquid or solid waste shall be dumped or otherwise disposed of on any lot of BLUE YONDER SUBDIVISION or on land adjacent to those lots, or on the Calmes Neck Road or right-of-way or across said right-of-way. Pick up trash containers shall be hidden from view in dark-painted bins.
 - k. No walkway, driveway or parking area shall be closer than ten (10) feet to a drain-field, tank, pump or well-site.
 - l. No building shall have a roof of which any part is higher than seven (7) feet above the level of the road. External painting of all buildings or stationary objects on any lot must be of a color which blends in with the natural colors of the landscape, especially when viewed from the road or from the Valley.
 - m. All floodlights shall be directed toward the buildings on the lots in such manner that no bulb shall be visible from the road to the East or from the Valley to the West. All lighting within buildings shall be so arranged that no bare bulb is visible through an unshaded window.
 - n. From the moment that any house construction is begun on any lot, the lot shall have four completed parking spaces, each measuring at least ten (10) by thirty (3) feet, off the Calmes Neck Road and its right-of-way. Parking beside the road and on the right-of-way shall be only temporary and limited only to a single line of vehicles, headed South and not blocking any entries or driveways.
 - o. Utility lines will be brought to the lots underground and all utility lines from this main power cable, to the buildings and well-head, shall be underground save for their final connection.
 - p. No lot may be subdivided except for the purpose of making a boundary line adjustment between the lot and an adjacent lot.
 - q. The use of poured cement, concrete block or cinder block as the exterior siding of any building shall not be permitted. Stuccoed siding shall be permitted. All block foundations and exposed basements shall be pargeted. The exterior of any building or of any improvement being constructed shall be completed within twelve (12) months from the date construction was begun.
 - r. In order to insure the preservation of the lots in BLUE YONDER SUBDIVISION in a wilderness condition as much as is consistent with the necessities of the builders and the convenience of the residents, particularly considering their enjoyment of the views to the West and of their forestall environment. Grantor retains the right to permit or to forbid anyone to cut, saw, ring, top or trim one or more trees or shrubs without the express written permission of the developer, his heirs or assignee. Only the following purposes shall constitute valid reasons to request permission to fell or trim trees or shrubs in this subdivision:
 - A. To clear the primary areas of construction, not exceeding 44,100 square feet
 - B. Additional clearing within the above limit to permit essential construction
 - C. To remove dead wood
 - D. To eliminate a danger
 - E. To improve the environment for a superior plant or tree
 - F. To permit sunshine or light
 - G. To open or improve a view or a vista (but not a panorama) having a width not greater than fifty (50) feet at a twenty-five foot distance from the house.

Any such request shall receive timely investigation and consideration, but not necessarily approval, by the developer, his heirs or assignee.
 - s. No animals shall be permitted on any lot except for household pets requiring no more than a fenced yard.
 - t. No nuisances or obnoxious behavior shall be permitted on any lot. Specifically forbidden are light-colored dish antennas, exposed garbage or carcasses, piles of litter or trash, unattended fires, loud or disturbing noises, or gunfire save in self-defense.
 - u. Nothing herein is to be construed to prevent the Grantor, his heirs or assignee from placing further restrictions or easements on any lot in this Subdivision that shall not have already been sold by him or them. In addition, nothing shall prevent the Grantor, his heirs or assignee from making reasonable exceptions to any restriction herein where topography or other conditions of the lot make the enforcement of a restriction impossible, impractical or unreasonable.
 - v. If any lot owner shall violate any of the covenants contained herein, any lot owner of this Subdivision may bring proceedings at law or in equity against the person or persons violating any such covenant, either to prevent him, her or them from so doing or to recover damages or other amounts for such violation. Further, in the event that any owner of said lots shall violate any of the covenants contained herein, as determined by a majority of the Board of Directors of the Calmes Neck Lot Owners Association, or of the Board of Trustees of the Burwell-van Lennep Foundation, either or both of said Boards, after fifteen (15) days notice of same to the owner, shall have the right, through its agents and employees to bring suit as above and enter upon said lot to correct the violation. Such action shall not be deemed a trespass, and the cost of same shall be the personal debt of the lot owner in violation.
 - w. Invalidation of any of these covenants by judgment or court order shall in no wise affect any of the other provisions, which shall remain in force and effect.
4. Each lot owner shall have the right of egress and ingress from and to his, her or their lot, to County Road 606, over the Calmes Neck Road. The Calmes Neck Road is private and has not been dedicated or constructed for public use in accordance with the requirements of the State of Virginia for inclusion in the State system. Likewise, Clarke County has not and will not accept responsibility for construction, upgrading, or maintenance of the Calmes Neck Road or of any easement on to the BLUE YONDER SUBDIVISION lots.

- 5. The owner of each lot, when construction of a building thereon has commenced, shall pay annually one (1) "Annual Charge" (being the annual assessment for the maintenance of roads and recreation areas made against landowners with buildings in the Calmes Neck Estates Subdivision), which amount is at present set annually by and is payable to Double E Land & Cattle Company; or, (upon its assumption of the responsibilities for operations and maintenance) by and to the Calmes Neck Property Owners Association.

The obligation to pay one (1) "Annual Charge" is conditioned upon the "BLUE YONDER" lot owner being permitted to be a member of the Calmes Neck Property Owners Association and receive all the benefits of being a member of the Association (provided that all rules and regulations of the Association are complied with) which include but are not limited to the right to use the Calmes Neck Roads and all common areas available to Association members, presently including a swimming pool, picnic and camping area, beach area, dock or launching area and nature trails. This right of use shall be exercised in such a manner as to protect and preserve the natural vegetation and wildlife of the areas, to maintain peace and quiet in the areas, and to keep their facilities in a good and clear condition. These rights of use may be regulated by the Double E Land and Cattle Company or by the Calmes Neck Property Owners Association.

- 6. The Additional Grantor herein, as wife of the Grantor, joins in this instrument for the purpose of, and does not hereby consent to, the action taken by this instrument.
- 7. The Grantor has donated a right-of-way fifty (50) feet in width contiguous to part of the South end of Lot A to the Burwell-van Lennep Foundation for purposes of ingress and egress to or from lands of the Foundation, which donation out of Lot A shall run with the titles to said lands. Said right-of-way is described on the fourth sheet of the attached plat as a BOUNDARY LINE ADJUSTMENT.

The Grantor also has donated to the Foundation an easement having a width of fifty feet across the Southern end of Lot H tangent to Lot G for the purposes of ingress, egress and fire control to, from and on lands of the Foundation, retaining the right of owners of Lots G and H to use this right-of-way as a driveway to their dwellings. Title to this right-of-way shall run with those of the two lots, "G" and "H" and of the lands of the Foundation. Said right-of-way is described on the seventh sheet of the attached plat as "50' ACCESS EASEMENT FOR FIRE CONTROL".

AFFIDAVIT: The undersigned hereby certifies that the above amended covenants and restrictions is a true copy, containing all the provisions required to this date by the Clarke County Planning Commission.

WITNESS the following signature and seal

KAREN RILEY ISRAEL *Karen Riley Israel*

County/City of Fairfax
 Commonwealth/State of Virginia
 The foregoing instrument was subscribed and sworn before me this 27 day of October 2007, by Karen Riley Israel
 (name of person seeking acknowledgment)
Sandra Lee Steele
 Notary Public
 My commission expires: 7.31.08
Registration #348944