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Bk:RB5541 Pg:360
02/07/2013 02:14:58 PM 1/12

FILED Deborah B. Brooks
Register of Deeds, Orange Co, NC
Recording Fee: \$26.00
NC Real Estate TX: \$.00



ML

CB 1060

Prepared by and Return to: UNC Property Office - Jeff Kidd - 103 Airport Dr.
Chapel Hill NC 27599
Orange County Parcel Identification Number(s): _____

9789-15-0184 *[initials]*
9779-88-6375 *[initials]*
DECLARATION OF
RESTRICTIVE COVENANTS

STATE OF NORTH CAROLINA
COUNTY OF ORANGE

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made as of the date set forth in the notary acknowledgement below, by the STATE OF NORTH CAROLINA, a body politic and corporate ("Declarant"), whose mailing address is State of North Carolina, State Property Office, 1321 Mail Service Center, Raleigh, NC 27699-1321.

WITNESSETH:

WHEREAS, Declarant owns in fee simple certain real property consisting of approximately 947 acres, lying and being in the Town of Chapel Hill and in the Town of Carrboro, Orange County, North Carolina and being known as the "Carolina North Property", which is more particularly depicted on Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, portions of the Carolina North Property consisting of three (3) separate parcels or tracts of land, described with specificity below and collectively referred to herein as the "Conservation Areas," contain significant ecological attributes, including mature forest, wildlife corridors, streams, wetlands, and other riparian resources, which provide for aquatic habitat, terrestrial habitat, water quality, flood control, and opportunities for human recreation, education and research; and

WHEREAS, Declarant desires, on behalf of the University of North Carolina at Chapel Hill ("University"), an agency of the Declarant, to make this Declaration for the purpose of preserving and protecting the significant ecological attributes of the Conservation Areas; and



WHEREAS, the University and the Town of Chapel Hill entered into that certain Development Agreement pertaining to the Carolina North Property, effective July 1, 2009, and recorded in Book 4785 at page 1 in the Office of the Orange County Register of Deeds, as subsequently modified, amended or extended from time to time (“Development Agreement”); and

WHEREAS, in furtherance of the Development Agreement, the University Board of Trustees approved this Declaration at a meeting held on the 26th day of July 2012; and

WHEREAS, the execution of this Declaration for and on behalf of Declarant has been duly approved by the Council of State by resolution adopted at a meeting held in the City of Raleigh, North Carolina, on the 4th day of December 2012.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Declarant, subject to the terms, covenants and conditions of this Declaration, hereby restricts the use of the Conservation Areas in accordance with Section 5.5.1 of the Development Agreement and for the purposes set forth herein.

I. CONSERVATION AREAS. The term “Conservation Areas,” as used herein, refers collectively to the three (3) separate parcels or tracts of land located within the Carolina North Property being individually identified as (1) the “Crow Branch Conservation Area,” as more particularly described in Exhibit B; (2) the “Bolin Creek East Conservation Area,” as more particularly described in Exhibit C; and (3) the “Bolin Creek West Conservation Area,” as more particularly described in Exhibit D. The Conservation Areas are subject to the covenants and restrictions set forth herein.

II. PURPOSE OF DECLARATION. This Declaration is made for the purpose of maintaining, restoring, enhancing, and preserving the ecological attributes of the Conservation Areas that contribute to the protection and improvement of aquatic habitat, terrestrial habitat, water quality, flood control, and opportunities for human recreation, education and research. The covenants and restrictions set forth in this Declaration are intended to constitute a “conservation agreement” as defined by G.S. 121-35(1) in that the covenants and restrictions imposed herein shall serve to retain the applicable land and water areas predominantly in their natural, scenic or open condition.

III. RESTRICTED OR PROHIBITED USES AND ACTIVITIES. Consistent with the purpose of this Declaration, the following specific uses and activities within the Conservation Areas are restricted or prohibited as indicated below:

A. Construction. Construction or placement of buildings, roads, billboards or other advertising, utilities or other structures on or above the ground is prohibited in the Conservation Areas. Construction or placement of signs is prohibited in the Conservation Areas except for directional and boundary signs, interpretive signs describing the conservation values of the



Conservation Areas, and signs and kiosks prescribing rules and regulations for the use of the Conservation Areas.

B. Dumping and Landfill Activities. Dumping or placing soil or other substances or materials as landfill, or dumping or placing trash, waste or unsightly or offensive materials is prohibited in the Conservation Areas.

C. Vegetation Destruction. Removal or destruction of healthy native trees, shrubs or other vegetation is prohibited in the Conservation Areas, unless done as a component of an established forest management plan.

D. Excavation or Dredging. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface is prohibited in the Conservation Areas.

E. Detrimental Surface Use. Surface use except for forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition is prohibited in the Conservation Areas.

F. Activities Detrimental to Drainage; Flood Control, etc. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation are prohibited in the Conservation Areas.

G. Other Detrimental Acts. Other acts or uses detrimental to the retention of land or water areas are prohibited in the Conservation Areas.

H. Construction of New Trails and Greenways. Construction of new trails (except for potential greenways and paths that are located and approved pursuant to the terms of the Development Agreement) is prohibited in the Conservation Areas.

IV. PERMITTED USES AND ACTIVITIES. Consistent with the purpose of this Declaration and notwithstanding anything to the contrary in Section III, the following uses and activities within the Conservation Areas are permitted or reserved as indicated below:

A. Recreational, Research and Educational Activities. Appropriate research, educational, and recreational activities are permitted in the Conservation Areas to the extent they are not prohibited by Section III of this Declaration.

B. Sustainable Trail Maintenance. Sustainable trail maintenance activities are permitted in the Conservation Areas. Such maintenance shall include minor repair, restoration, or relocation of existing trails. Such trail work shall adhere to the guidelines for sustainable single track trails as set forth by the International Mountain Bike Association.



C. Crossings of Waterways. Where a road or trail necessarily must cross a watercourse in the Conservation Areas, the development and maintenance of such crossing is permitted in a resource conservation district so long as such crossing (i) is located and designed so as to allow convenient access by wildlife through and beyond such crossing, (ii) is designed to safely convey floodwaters to the same extent as before construction of such crossing, (iii) minimizes built-upon area, and (iv) maximizes the use of best management practices, and (v) otherwise is consistent with the terms of the Development Agreement. Motorized vehicles are permitted on trails and roads within the Conservation Areas, if operated or authorized by the University, for all purposes not prohibited by Section III of this Declaration.

D. Restoration Activities. Restoration activities are permitted in the Conservation Areas, including, but not limited to, planting of trees, shrubs and herbaceous vegetation, removal of invasive exotic species, utilization of equipment to grade, fill, and prepare the soil, modification of hydrology, and installation of natural and manmade materials as needed to direct in-stream, above ground, and subterranean water flow according to a restoration plan based on best practices. Use of pesticides is permitted for the control and removal of invasive exotic species.

E. Existing Conditions. All uses of land in the Conservation Areas existing as of the effective date of the Development Agreement (July 1, 2009) are permitted, including maintenance of utilities and utility corridors. Exhibit E depicts the conditions existing in the Conservation Areas as of the effective date of the Development Agreement.

F. Other Permitted Uses and Activities. Other land uses and activities are permitted in the Conservation Areas to the extent they are not prohibited by Section III of this Declaration.

V. ENFORCEMENT, MAINTENANCE AND FUNDING. The right of enforcement of this Declaration is hereby granted to and vested entirely with the University, its successors and assigns. The University shall be responsible for maintaining the Conservation Areas and for monitoring compliance with the covenants and restrictions imposed herein. The performance of these obligations may be carried out by University employees, by contractors, or by a combination of the two. The University shall provide the funding necessary on an annual basis for the performance of these obligations. Each year, the University will publicly release the results of the compliance monitoring for the preceding year, together with a general description of maintenance activities conducted in the Conservation Areas during such period.

VI. DURATION. This Declaration and the covenants and restrictions imposed herein shall be binding upon and inure to the benefit of Declarant, its successors and assigns, and shall continue as a servitude running in perpetuity with the property.

[signatures on following page]



IN TESTIMONY WHEREOF, the State of North Carolina has caused this instrument to be executed in its name by ~~PATRICK L.~~ MCCRORY, Governor, attested by ELAINE R. MARSHALL, Secretary of State, and the Great Seal of the State of North Carolina hereunto affixed, by virtue of the power and authority aforesaid, all as of the date set forth in the notary acknowledgment below.

STATE OF NORTH CAROLINA

By: Pat McCrory
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

APPROVED AT TO FORM:
ROY COOPER, Attorney General

By: [Signature]
Assistant Attorney General



STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Laurentia A. Bolton, a Notary Public of Wake County and State of North Carolina, do hereby certify that ELAINE F. MARSHALL, Secretary of State of North Carolina, personally came before me this day and acknowledged that she is Secretary of State of North Carolina, and that by authority duly given and as the act of the State, the foregoing instrument was signed in its name by ~~PATRICK L.~~ MCCRORY, Governor of the State of North Carolina, sealed with the Great Seal of the State of North Carolina, and attested by herself as Secretary of State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the 28th day of January, 2013.

Laurentia A. Bolton
Notary Public
Print Name: LAURENTIA A. BOLTON

My Commission Expires: 12-8-2013





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EXHIBIT A Carolina North Property



Carolina North Tract (approximately 947 acres)

Approximately 304 acres in Carrboro jurisdiction (area west of dashed line)

Approximately 643 acres in Chapel Hill jurisdiction (area east of dashed line)

THIS MAP IS NOT A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A
LOCAL GOVERNMENT AGENCY FOR
COMPLIANCE WITH ANY APPLICABLE
LAND DEVELOPMENT REGULATIONS.



EXHIBIT B
Description of Crow Branch Conservation Area

Beginning at an existing iron pipe lying on the Eastern Right-of-Way of the Southern Railroad, a 100' Right-of-Way, and being a common corner to Tilson Homestead Properties, LLC, Deed Book 5208, Page 451, and the University of North Carolina; thence on the property of the University of North Carolina S 48° 23' 50" E, a distance of 151.82 feet to a concrete monument set, being the true **Point of Beginning**; thence the following courses and distances:

S 89° 35' 45" E, a distance of 490.98 feet to a concrete monument set; thence

S 03° 12' 40" E, a distance of 806.14 feet to a concrete monument set; thence

S 89° 35' 45" E, a distance of 1024.48 feet to a concrete monument set; thence

S 19° 43' 05" E, a distance of 957.02 feet to a concrete monument set; thence

S 43° 08' 49" W, a distance of 993.52 feet to an iron rod set in rock outcrop; thence

N 40° 52' 28" W, a distance of 1743.61 feet to a concrete monument set; thence

N 03° 12' 40" W, a distance of 1124.69 to the point and place of beginning, containing 2,221,560 square feet, or 51.000 acres, more or less.



EXHIBIT C
Description of Bolin Creek East Conservation Area

Beginning at an existing concrete monument, being the southeast corner of the property of Chapel Hill City Board of Education, Inc., Deed Book 208, Page 15, and common to the property of the University of North Carolina; thence on the property of the University of North Carolina S 09° 49' 42" E, a distance of 480.38 feet to a concrete monument set in the Eastern Right-of-Way of the Southern Railroad, a 100' Right-of-Way, being the true **Point of Beginning**; thence on the property of the University of North Carolina the following courses and distances:

N 87° 39' 54" E, a distance of 300.00 feet to a concrete monument set; thence

S 02° 20' 06" E, a distance of 982.95 feet to a concrete monument set; thence

N 64° 38' 04" E, a distance of 877.57 feet to a concrete monument set; thence

S 55° 30' 32" E, a distance of 418.03 feet to a concrete monument set; thence

S 37° 55' 48" W, a distance of 197.09 feet to a concrete monument set; thence

S 64° 45' 38" W, a distance of 352.91 feet to a concrete monument set; thence

S 55° 18' 53" W, a distance of 1140.54 feet to a concrete monument set in the Eastern Right-of-Way of the Southern Railroad; thence along the Right-of-Way in a curve to the right having an arc length of 333.68 feet, a radius of 2115.92 feet, a chord of 333.33 feet, and a chord bearing of N 06° 51' 10" W to a point; thence N 02° 20' 06" W, a distance of 1455.93 feet to the point and place of beginning, containing 1,045,440 square feet, or 24.000 acres, more or less.



EXHIBIT D
Description of Bolin Creek West Conservation Area

Beginning at an existing concrete monument, being the southwest corner of the property of Chapel Hill City Board of Education, Inc., Deed Book 200, Page 957, the southeast corner of the State of North Carolina, Deed Book 1750, Page 470, and common to the property of the University of North Carolina; thence along the line of the State of North Carolina N 89° 47' 52" W, a distance of 467.11 feet to a concrete monument set, being the true **Point of Beginning**; thence on the property of the University of North Carolina the following courses and distances:

S 31° 18' 37" W, a distance of 2142.07 feet to a concrete monument set; thence

S 70° 43' 17" E, a distance of 1134.62 feet to a concrete monument set; thence

N 78° 00' 56" E, a distance of 1501.24 feet to a concrete monument set; thence

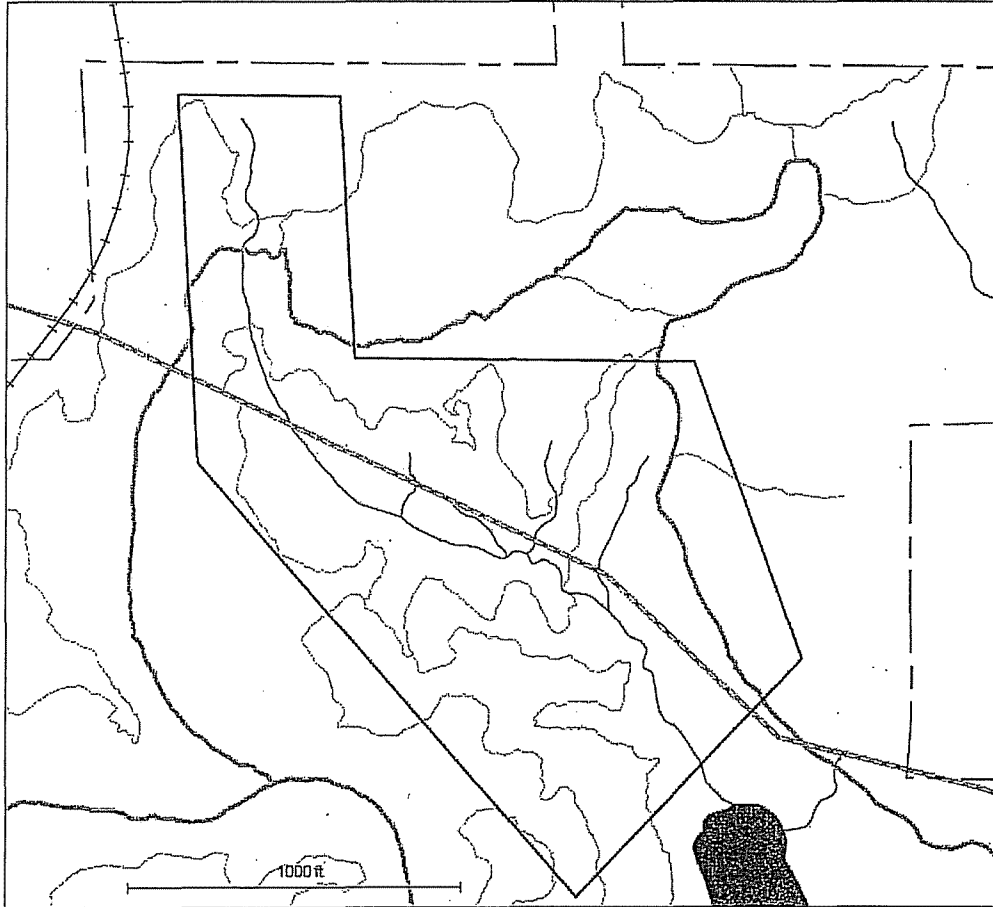
S 70° 57' 27" E, a distance of 187.18 feet to a concrete monument set in the Western Right-of-Way of the Sewell School Road; thence along the Right-of-Way in a curve to the left having an arc length of 904.14 feet, a radius of 2288.46 feet, a chord of 898.27 feet, and a chord bearing of S 14° 24' 00" E to a point; thence S 25° 43' 06" E, a distance of 32.86 feet to a "X" mark set in the top of a storm pipe in the line of Pleezy H. Craig, Jr., Deed Book 310, Page 56; thence along the line of Craig, N 59° 14' 42" W, a distance of 803.26 feet to an existing concrete monument, being common corner to P.H. Craig, Jr., Deed Book 282, Page 635; thence along the line of Craig N 61° 36' 29" W, a distance of 426.49 feet to a rock pile; thence S 20° 00' 05" W, a distance of 1203.74 feet to a point in the center of Bolin Creek, being a common corner to Spring Valley Homeowners Association of Carrboro, Inc.; thence along the line of the Homeowners Association and Spring Valley Subdivision, Phase 2, S 87° 01' 10" W, a distance of 792.07 feet to an existing concrete monument; thence on the property of the University of North Carolina N 63° 33' 57" W, a distance of 143.38 feet to a concrete monument set; thence S 87° 58' 31" W, a distance of 1928.60 feet to a concrete monument set in the line of Cobblestone Subdivision, Phase Three; thence along the line of Cobblestone Subdivision, Phase Three, N 34° 22' 32" E, a distance of 290.40 feet to an existing concrete monument; thence along the line of Cobblestone Subdivision, Phases Three, Five & Six, Wexford Subdivision, Phase Six, and Parker-Louis, LLC, Deed Book 4433, Page 17, N 02° 26' 13" E, a distance of 3587.16 feet to an existing concrete monument cornering the property of Parker-Louis, LLC; thence continuing with Parker-Louis, LLC, S 75° 19' 38" E, a distance of 1597.39 feet to an existing concrete monument, common corner to the State of North Carolina; thence along the line of the State of North Carolina, S 89° 47' 52" E, a distance of 621.28 feet to the point and place of beginning, containing 7,971,480 square feet, or 183.000 acres, more or less.



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EXHIBIT E

Existing Conditions: Crow Branch Conservation Area






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
Boundaries:

-  Conservation Area Boundaries
-  CN Property Boundary

Existing Manmade Features Occuring in Conservation Areas:

-  Existing Service Roads (Trail Use Allowed)
-  Existing Natural Surface Trails
-  Existing PSNC Natural Gas Pipeline

Other Site Features:

-  Streams
-  Railroad (with 100' ROW)

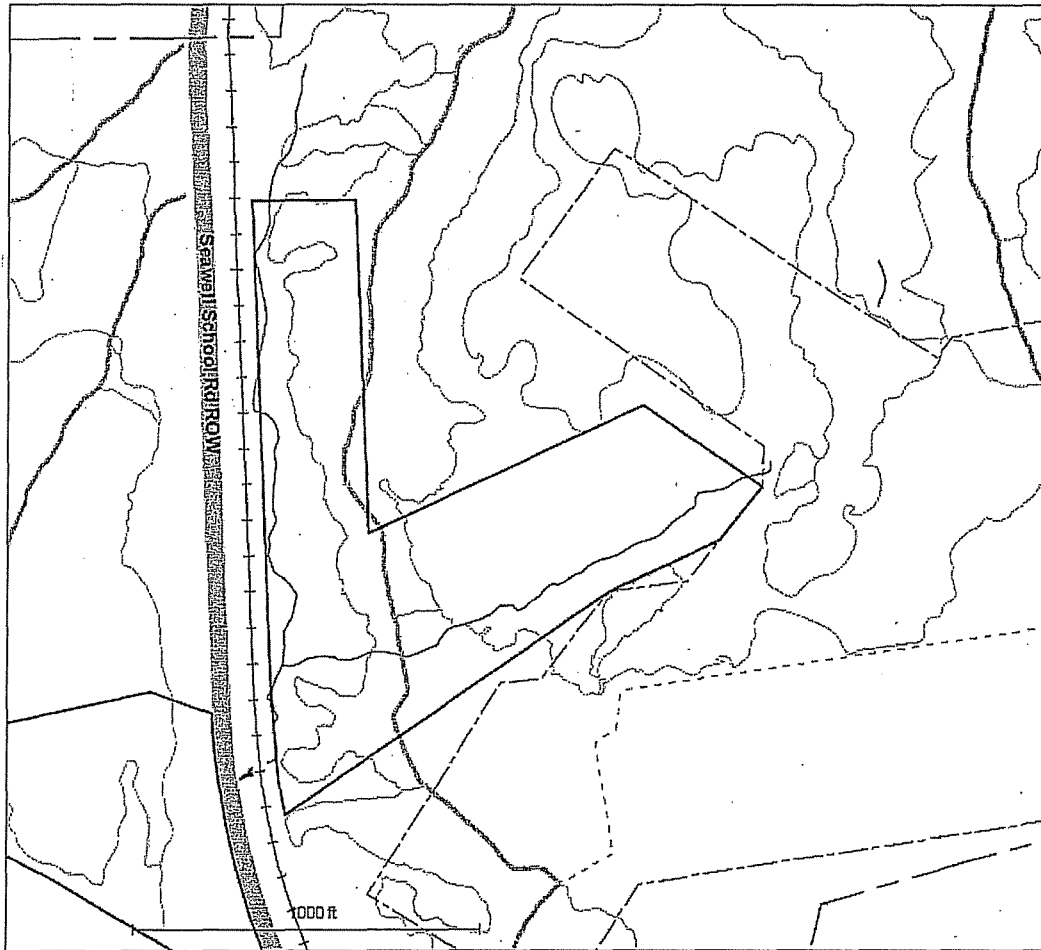
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AND HAS NOT BEEN REVIEWED BY A
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COMPLIANCE WITH ANY APPLICABLE
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EXHIBIT E (cont.)




Existing Conditions: Bolin Creek East Conservation Area






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Legend

Boundaries:

-  Conservation Area Boundaries
-  CN Property Boundary
-  50-year Development Area

Existing Manmade Features Occuring in Conservation Areas:

-  Existing Service Roads (Trail Use Allowed)
-  Existing Natural Surface Trails
-  UNC-CH ITS Telecom Cable



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EXHIBIT E (cont.)
Existing Conditions: Bolin Creek West Conservation Area



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Legend

Boundaries:

Conservation Area Boundaries

CN Property Boundary

Existing Manmade Features Occuring in Conservation Areas:

Existing Service Roads (Trail Use Allowed)

Existing Natural Surface Trails

OWASA Sanitary Sewers

Duke Energy Power Lines