RECORDED - 417183
KATHERINE LEE PAYNE
REGISTER OF DEEDS
GUILFORD COUNTY, NC
BOOK: 5132
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12/28/2000 10:28:55

Return to: Brooks Law Firm (Ilm)
P.O. Box 26000
Greensboro, NC 27420

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT ("Deed") is granted on this 27th day of December, 2000, by RAFE ROYLE and wife, MARIANNE PHILLIPS ROYLE (collectively, "Grantor"), to the PIEDMONT LAND CONSERVANCY, a North Carolina non-profit corporation ("Grantee"), for the purpose of forever conserving the open space character, agricultural productivity and scenic qualities of the subject property.

WITNESSETH THAT:

The Grantor is the sole owner in fee simple of the real property legally described in Exhibit A, attached to and made a part of this Deed, which consists of approximately 33.298 acres of land, together with buildings and other improvements, located in Deep River Township, Guilford County, North Carolina (the "Property").

12/28/2000 GUILFORD CO. NC
1 MISC DOCUMENTS 417183 $6.00
13 MISC DOC ADDN PGS $26.00

The Property is primarily pasture and cropland with approximately a third of the property being a mixed pine-hardwood forest. A tributary of the Deep River traverses the property and the 2 branches of the Deep River converge approximately 1 mile south of the farm. Several species of wildlife such as deer, groundhog, raccoon, opossum, squirrel, and songbirds are known to either reside on the property or utilize its resources. Currently, the adjacent properties are mostly wooded or used for farmland.

1 PROBATE FEE $2.00

The rural, forest, and scenic characteristics of the Property, its current use and state of improvement, are described in a *Present Conditions Report* prepared by the Grantee with the cooperation of the Grantor and acknowledged by both to be complete and accurate as of the date of this Deed (the "Report"), a copy of the Report is attached hereto as Exhibit B. The Report will be used by the Grantee to assure that any future changes in the use of the Property will be consistent with the terms of this Deed. However, the Report is not intended to preclude the use of other evidence to establish the present condition of the Property if there is a controversy over its use.

The Grantor has agreed to convey to the Grantee by donation a conservation easement in the Property for the purpose of assuring that under the perpetual stewardship of the Grantee, the open space character and agricultural productivity and scenic qualities of the Property will be conserved and maintained forever and that the uses of the Property that are inconsistent with these conservation purposes will be prevented or corrected.

The conservation purposes of this Deed are recognized by, and the grant of this Deed will serve, the following clearly delineated governmental conservation policies:

– The Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. §§ 4201, et seq., whose purpose is "to minimize the extent to which Federal programs and policies contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that

001076

001077

Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government and private programs and policies to protect farmland;" and

-- North Carolina General Statutes §§ 139-2 et seq., which provide that "it is hereby declared . . . that the farm, forest and grazing lands of the State of North Carolina are among the basic assets of the State and the preservation of these lands is necessary to protect and promote the health, safety and general welfare of its people . . . it is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this State;" and

-- The North Carolina Conservation and Historic Preservation Agreements Act, North Carolina General Statutes §§ 121-34 et seq., which permit the creation of conservation easements.

The Grantee is a "qualified conservation organization," as defined by the Internal Revenue Code of 1986, as amended, and accepts the responsibility of enforcing the terms of this Deed and upholding its conservation purposes forever.

The Grantor owns the entire fee simple interest in the Property, including the entire mineral estate.

NOW, THEREFORE, for the reasons given, and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Grantor, the Grantor grants and conveys to the Grantee, and the Grantee accepts, a conservation easement, in perpetuity, for the purpose of conserving and forever maintaining the open space character, agricultural productivity and scenic qualities of the Property, that shall authorize the Grantee to take appropriate legal action in law or equity to enjoin, prohibit and remedy any violation of the terms of the easement created by this Deed and to enter the Property at reasonable times to observe and document the state of preservation and to prevent any violation of the terms of the easement created by this Deed.

I. Covenants and Restrictions Regarding Use

The Grantor promises that it will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the covenants below. It also authorizes the Grantee to enforce these covenants in the manner described below. However, unless otherwise specified below, nothing in this Deed shall require the Grantor to take any action to restore the condition of the Property after any Act of God or other event over which it had no control. The Grantor understands that nothing in this Deed relieves it of any obligation or restriction on the use of the Property imposed by law.

1. Industrial and Commercial Use

Industrial and commercial activities and any right of passage for such purposes are prohibited, except for those activities directly relating to agricultural practices conducted solely on the Property.

001078

2. **Construction of Buildings and Other Structures**

The construction or reconstruction of any building or other structure, except those existing on the date of this Deed or previously approved by the Grantee, is prohibited except in accordance with subparagraphs (a), (b), (c), and (d) below and with paragraph 10 below. Before undertaking any construction or reconstruction that requires advance permission, the Grantor shall provide the Grantee with at least thirty (30) days notice before beginning any construction or reconstruction.

(a) Fences - Existing fences may be repaired and replaced, and new fences may be built anywhere on the Property for purposes of reasonable and customary management of livestock and wildlife without any further permission of the Grantee.

(b) Agricultural Structures and Improvements - New buildings and other structures and improvements to be used solely for agricultural purposes, including the processing or sale of farm products predominantly grown or raised on the Property, but not including any dwelling or farm labor housing, may be built on the Property with the advance written permission of the Grantee.

(c) Location of Structures and Improvements - The other subparagraphs notwithstanding, no building, structure or other improvement shall be unnecessarily located on prime or unique soils, or otherwise significantly diminish the open space character, forest and agricultural production capacity or scenic qualities of the Property as compared to those conditions existing on the date of this Deed. Further, prior to the commencement of construction of any such building, structure or other improvement on the Property, Grantor shall give written notice to Grantee.

(d) Single Family Residential Dwellings – One (1) new single-family residential dwelling, together with reasonable appurtenances such as garages, sheds, and gazebos, may be built upon and subdivided from the Property; provided, however, such rights shall be subject to the following requirements: (1) all such structures shall be contained within a building envelope no larger than two (2) acres, and (2) the location of the dwelling and appurtenances shall be consistent with the conservation purposes of this Deed of Conservation Easement and shall be subject to the prior written approval of Grantee, which shall not be unreasonably withheld.

3. **Subdivision**

The subdivision of the Property, whether by physical or legal process, is prohibited on the Property, except as provided for in subparagraph 2(d), which pertains to the single-family residential dwelling.

4. **Development Rights**

The Grantor hereby grants to the Grantee all development rights (except as specifically reserved herein) that are now or hereafter allocated to, implied, reserved or inherent in the

001079

Property, and the parties agree that such rights are terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property adjacent or otherwise, nor used for the purpose of calculating permissible lot yield of the Property or any other property.

5. Conservation Practices

All farming operations shall be conducted substantially in accordance with a conservation plan that addresses soil and water conservation, pest management, nutrient management and habitat protection. The conservation plan shall be prepared by Grantor and is subject to the approval of Grantee, whose approval shall not be unreasonably withheld. This plan shall be updated periodically, and in any event at the time the basic type of agricultural operation on the Property changes or at the time ownership of the Property changes. It shall be the responsibility of the Grantor to insure the preparation and periodic updating of the conservation plan provided for in this paragraph.

6. Timber Harvesting

Trees may be cut to control insects and disease, to prevent personal injury and property damage, and for firewood and other domestic uses, including construction of permitted buildings and fences on the Property. Any commercial timber harvesting is prohibited on the Property.

7. Mining

The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel or any other mineral substance, using any method whatsoever, is prohibited without the prior written consent of the Grantee, which may be granted or denied in the sole discretion of the Grantee; provided, however, notwithstanding the foregoing, Grantor shall have the right to extract soil, sand, gravel or rock from the Property solely in connection with and ancillary to the farming and forestry operations being conducted solely on the Property without the necessity of obtaining the prior written consent of the Grantee thereto .

8. Paving and Road Construction

No additional access roads, paved or unpaved, may be built, except for access roads to the structures identified in subparagraphs 2(b) and 2(d) of this Deed, provided the location of any such roads shall not substantially diminish or impair the open space character and agricultural productivity or scenic qualities of the Property as compared to those conditions existing on the date of this Deed. Prior to the commencement of construction of any such access road, Grantor shall notify Grantee of its intended construction of such road. No portion of the Property shall be paved or otherwise be covered with concrete, asphalt, or any other impervious paving material, except the access road existing on the date of this Deed may be paved, as well as any future access road to the residential dwelling permitted in subparagraph 2(d) of Article I of this Deed.

001080

9. Trash

The dumping or accumulation of any kind of trash or refuse on the Property, other than farm-related trash and refuse produced on the Property, which must be disposed of in accordance with prudent farming practices and shall not be kept in an unsightly or unsanitary condition, is strictly prohibited. However, this shall not prevent the storage of agricultural products and byproducts on the Property, so long as it is done in accordance with all applicable government laws and regulations.

10. Recreational Uses

Golf courses and paved airstrips are strictly prohibited on the Property. Other buildings and facilities for any other public or private recreational use may not be built on the Property, without the advance written permission of the Grantee, which may be granted or denied in the sole discretion of the Grantee. Grantor expressly reserves the right to continued use of the pool existing on the Property on the date of this Deed.

11. Utility Lines

Grantor reserves the right to maintain, repair and replace all above ground and underground sewer, power, telephone, natural gas, cable television and other lines ("Utility Lines") serving the Property on the date of this Agreement. Grantor further reserves the right to install and maintain, repair and replace any future Utility Lines as required for the operation of the single-family residential dwelling permitted in subparagraph 2(d) of Article I contained herein, or for agricultural structures permitted in subparagraph 2(b) of Article I contained herein, provided that placement and location of such Utility Lines shall not have a negative impact on the conservation values of the Property. Prior to the commencement of construction of any such Utility Lines, Grantor must obtain advance written permission from Grantee, which permission shall not unreasonably be withheld.

12. Waters

There shall be no disruption of natural pattern of current by damming, dredging or construction in any free flowing body of water, nor any manipulation or alteration of natural water courses, nor any activities or uses of the Property detrimental to water purity, provided that Grantor reserves the continued use of and right to maintain, repair and replace the stabilized stream crossing ford, as approved by the Natural Resource Conservation Service, existing on the date of this Deed, and more accurately described in the *Present Conditions Report*.

II. Rights Retained by the Grantor

Subject to interpretation under Article X, as owner of the Property, the Grantor retains the right to perform any act not specifically prohibited or limited by this Deed. These ownership rights include, but are not limited to, the right to exclude any member of the public from

180100

trespassing on the Property and the right to sell or otherwise transfer the Property to anyone it chooses.

III. **Responsibilities of the Grantor and the Grantee Not Affected**

Other than as specified herein, this Deed is not intended to impose any legal or other responsibility on the Grantee, or in any way to affect any existing obligation of the Grantor as owner of the Property. Among other things, this shall apply to:

(1) Taxes - The Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If the Grantee is ever required to pay any taxes or assessments on its interest in the Property, the Grantor will reimburse the Grantee for the same.

(2) Upkeep and Maintenance - The Grantor shall continue to be solely responsible for the upkeep and maintenance of the Property, to the extent it may be required by law. The Grantee shall have no obligation for the upkeep or maintenance of the Property.

(2) Liability and Indemnification - If the Grantee is ever required by a court to pay damages resulting from personal injury or property damage that occurs on the Property, the Grantor shall indemnify and reimburse the Grantee for these payments, as well as for reasonable attorneys' fees and other expenses of defending itself, unless the Grantee or any of its agents have committed a deliberate act that is determined by a court to be the sole cause of the injury or damage. In addition, Grantor warrants that Grantee shall be maintained as a named insured on Grantor's property insurance policies covering the Property.

IV. **Enforcement**

The Grantee shall have the right to prevent and correct violations of the terms of this Deed and to enforce the covenants and restrictions contained herein. With reasonable advance notice to the Grantor, the Grantee may enter the Property for the purpose of inspecting for violations. If the Grantee finds what it believes is a violation, it may at its discretion take appropriate legal action. The Grantee shall give the Grantor written notice of any violation and thirty (30) days to correct it, before filing any legal action, unless the Grantee determines that an ongoing or imminent violation could irreversibly diminish or impair the open space character, agricultural or forest productivity, or scenic qualities of the Property, in which case the Grantee may proceed immediately with appropriate legal action. If a court with jurisdiction determines that a violation may exist or has occurred, the Grantee may obtain an injunction to stop it, temporarily or permanently. A court may also issue an injunction requiring the Grantor to restore the Property to its condition prior to the violation. In any case where a court finds that a violation has occurred or is threatened, the Grantor shall reimburse the Grantee for all its expenses incurred in preventing, or stopping and correcting the violation, including but not limited to reasonable attorney's fees. The failure of the Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time.

001082

V. **Transfer of Easement**

The Grantee shall have the right to transfer the easement created by this Deed to any public agency or private nonprofit organization that, at the time of transfer, is a "qualified organization" under § 170(h) of the Internal Revenue Code of 1986, as amended (including, without limitation, The Conservation Trust for North Carolina), but only if the agency or organization expressly agrees to assume the responsibility imposed on the Grantee by this Deed. If the Grantee ever ceases to exist or no longer qualifies under § 170(h) or applicable state law, a court with jurisdiction shall transfer the easement created by this Deed to another qualified organization having similar purposes that agrees to assume the responsibility.

VI. **Transfer of Property**

Any time the Property itself, or any interest in it, is transferred by the Grantor to any third party, the Grantor shall notify the Grantee in writing prior to the transfer of the property, and the document of conveyance shall expressly refer to this Deed of Conservation Easement.

VII. **Amendment of Easement**

The easement created by this Deed may be amended only with the written consent of Grantee and Grantor. Any such amendment shall be consistent with the purposes of this Deed and shall comply with Section 170(h) of the Internal Revenue Code of 1986, as amended, or any regulations promulgated in accordance with that section. Any such amendment shall also be consistent with the North Carolina Conservation and Historic Preservation Agreements Act, North Carolina General Statute § 121-34, et seq., or any regulations promulgated pursuant to that law.

VIII. **Termination of Easement**

If it determines that conditions on or surrounding the Property change so much that it becomes impossible to fulfill the conservation purposes of this Deed of Conservation Easement, a court with jurisdiction may, at the request of the Grantor and the Grantee, terminate the easement created by this Deed. If condemnation of a part of the Property or of the entire Property by public authority renders it impossible to fulfill any of these conservation purposes, as determined by the Grantee, in the exercise of its discretion, the easement created by this Deed may be terminated through condemnation proceedings. If the easement created by this Deed is terminated and the Property is sold or taken for public use, then, as required by § 1.170A-14(g)(6) of the IRS regulations, the Grantee shall be entitled to a percentage of the gross sale proceeds or condemnation award equal to the ratio of the appraised value of the easement created by this Deed to the unrestricted fair market value of the Property, as these values are determined on the date of this Deed. The Grantee shall use the proceeds consistently with the conservation purposes of this Deed.

001083

IX. **Merger**

The Grantor and Grantee agree that the terms of this Deed of Conservation Easement shall survive any merger of the fee and easements interests in the Property.

X. **Interpretation**

This Deed shall be interpreted under the laws of the State of North Carolina, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes. If there are any conflicts between the terms contained within the body of this Deed and the terms of any exhibit to this Deed, the terms of the body of this Deed shall prevail over the conflicting terms of the exhibit.

XI. **Perpetual Duration**

The easement created by this Deed shall be a servitude running with the land in perpetuity. Every provision of this Deed that applies to the Grantor or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns and all other successors as their interests may appear.

XII. **Notices**

Any notices required by this Deed shall be in writing and shall be personally delivered or sent by first class mail, to Grantor and Grantee respectively at the following addresses, unless a party has been notified by the other of a change of address:

To Grantor:

Rafe and Marianne Royle
1609 Squire Davis Rd.
Kernersville, North Carolina 27284

To the Grantee:

Piedmont Land Conservancy
Post Office Box 4025
Greensboro, NC 27404-4025

In the event that a party to this Deed shall transfer its interest in the Property or under this Deed by conveyance, descent, devise, operation of law or otherwise, the transferee of such interest shall provide the nontransferring party with written notice of the change of address to which notice is to be sent hereunder.

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XIII. **Grantor's Title Warranty**

The Grantor warrants that it has good and sufficient title to the Property, free from all encumbrances except those set forth in Exhibit C attached to and made a part of this Deed, and hereby promises to defend the same against all claims that may be made against it.

XIV. **Grantor's Environmental Warranty**

Grantor has used on and/or applied to the Property feeds, supplements, fertilizers, pesticides, equipment lubricants and other substances in ordinary and routine farming applications and in accordance with their prescribed instructions for application or use. With the foregoing exception, Grantor warrants that it has no actual knowledge of a material release or threatened material release of hazardous substances or wastes on the Property during Grantor's ownership of the Property and hereby promises to defend and indemnify Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with any release or threatened release of hazardous substances or wastes by Grantor or violation of federal, state or local environmental laws by Grantor.

XV. **Subsequent Liens on Property**

No provisions of this Deed of Conservation Easement should be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such a borrowing shall be subordinate to this Deed of Conservation Easement.

[THIS SPACE INTENTIONALLY LEFT BLANK]

001085

XVI. **Acceptance**

As attested by the Seal of the Piedmont Land Conservancy and the signatures of its duly authorized officers affixed hereto, the Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Deed of Conservation Easement.

TO HAVE AND TO HOLD, this Deed of Conservation Easement unto the Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the Grantor and Grantee, intending to legally bind themselves, have set their hands and seals as of the date first written above.

GRANTOR

_____ (SEAL)
Rafe Royle

_____ (SEAL)
Marianne Phillips Royle

GRANTEE

PIEDMONT LAND CONSERVANCY, a
North Carolina non-profit corporation

By: _____
S. Leigh Rodenbough, IV,
Co-President

ATTEST:

_____ Secretary

[CORPORATE SEAL]

001096

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

I, Joyce F. Hackney, a Notary Public of said State and County, do hereby certify that RAFE ROYLE, _____ and MARIANNE PHILLIPS ROYLE, _____, personally came before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this the 27th day of December, 2000.

JOYCE F. HACKNEY NOTARY PUBLIC GUILFORD COUNTY, N.C.

Joyce F. Hackney
Notary Public

My commission expires: June 13, 2001

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

I, Jean L. Elder, a Notary Public of the County and State aforesaid, certify that Bethany W. Olmstead personally came before me this day and acknowledged that S he is Asst. Secretary of PIEDMONT LAND CONSERVANCY, a North Carolina non-profit corporation, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Co- President, sealed with its corporate seal, and attested by her self as its Asst. Secretary.

WITNESS my hand and official stamp or seal, this 22nd day of December, 2000.

Jean L. Elder
Notary Public

My commission expires: 5/24/02

JEAN L. ELDER NOTARY PUBLIC GUILFORD COUNTY CO., NC

001087

EXHIBIT A

LEGAL DESCRIPTION

BEGINNING at an existing stone, Northwest corner of the herein described tract, and Northeast corner of Frank P. Ring in Andrew W. Idol line, same being North 05 deg 08 min. 31 sec. East 1114.58 feet from an iron pin in the Southern right-of-way line of the right-of-way to Duke Power Company recorded in Deed Book 2425, Page 680; thence South 85 deg. 09 min. 46 sec. East 1102.21 feet along the line of Andrew W. Idol and Lester Idol to an existing stone; thence South 60 deg. 39 min. 28 sec. East 280.75 feet to an existing iron pin; thence South 04 deg. 42 min. 14 sec. West 558.82 feet along the line of the Chester Idol heirs and crossing a creek to an existing stone; thence South 28 deg. 35 min. 10 sec. West 461.23 feet along the line of James E. Shields to an iron pin in the Southern right-of-way line of the right-of-way to Duke Power Company recorded in Deed Book 2425, Page 680; thence North 85 deg. 59 min. 42 sec. West 1179.29 feet along said Southern right-of-way line to Duke Power Company to an iron pin; thence North 05 deg. 08 min. 31 sec. East 1114.58 feet along the line of Frank P. Ring and crossing the creek to the point and place of beginning, containing 33.289 acres, more or less, and being the property conveyed to Rafe Royle and wife, Marianne P. Royle in Deed Book 2945, Page 10.

001088

EXHIBIT B

REPORT OF PRESENT CONDITIONS

This is to certify that Rafe Royle and wife, Marianne P. Royle, the Grantor, and the Piedmont Land Conservancy, representing the Grantee, do accept and acknowledge this report as an accurate description of the current land uses and physical features as of December, 2000 on the Royle easement property. This report, which is maintained at the offices of the Piedmont Land Conservancy, contains documentation data, photographs, and maps. The Grantor and Grantee further certify that to the best of their knowledge there have been and currently are no activities on the easement property, which are inconsistent with the terms and covenants contained in the Deed of Conservation Easement.

GRANTOR:

Rafe Royle

Marianne P. Royle

GRANTEE:

Bethany W. Olmstead

PIEDMONT LAND CONSERVANCY

001089

EXHIBIT C

PERMITTED EXCEPTIONS

(1) Equity Bankline Deed of Trust from Rafe Royle and wife, Marianne P. Royle to K. A. Lawder, Jr., Trustee and Wachovia Bank and Trust Company, N. A. dated May 25, 1988, recorded in Book 3625, Page 1095, in the Guilford County Registry.

(2) Permanent easement and right-of-way for ingress, egress and regress over roadway reserved by Grantor and described in deed dated July 1, 1968, recorded in Book 2394, Page 473 in the Guilford County Registry.

(3) Reservation by Grantor of full use and right into that right-of-way for purpose of ingress, egress and regress over, under and through roadway described in Deed recorded in Book 2738, Page 951, in the Guilford County Registry.

(4) Rights-of-way to Davidson Electric Membership Corporation recorded in Book 3658, Page 328, Book 2103, Page 195, and Book 2084, Page 572 in the Guilford County Registry.

(5) Rights-of-way to Duke Power Company recorded in Book 2306, Page 385, and in Book 2425, Page 680 in the Guilford County Registry.

001090

KATHERINE LEE PAYNE, REGISTER OF DEEDS
GUILFORD COUNTY
201 SOUTH EUGENE STREET
GREENSBORO, NC 27402

* *

State of North Carolina, County of Guilford

The foregoing certificate of Joyce F Hackney
Jean L Eldn

A Notary (Notaries) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time shown herein.

KATHERINE LEE PAYNE, REGISTER OF DEEDS

By: Meredith A Young
Deputy - ~~Assistant~~ Register of Deeds

* *

THIS CERTIFICATION SHEET MUST REMAIN WITH THE DOCUMENT

03/29/00

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