Craven NC - Document Stamp
Becky Thompson, Register of Deeds
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No: 2002-00049308
Book 1934 Page 123
Fee Amt : 32.00
Excise Tax: .00

NORTH CAROLINA

CRAVEN COUNTY

CONSERVATION EASEMENT

THIS DEED OF EASEMENT (the "Easement") is made this 11th day of August, 2000, by **THE NEW BERN HISTORICAL SOCIETY FOUNDATION, INC.**, a North Carolina non-profit corporation, herein called Grantor, and **NEW BERN PRESERVATION FOUNDATION, INC.**, a North Carolina non-profit corporation created pursuant to Chapter 55A of the General Statutes of North Carolina, herein called Grantee.

WHEREAS, the Uniform Conservation and Historic Preservation Agreement Act created pursuant to Article 4, Chapter 121 of the General Statutes of North Carolina authorizes the conveyance of conservation easements to maintain and preserve the natural, scenic or open condition of certain land and the historical significance of certain land in states of North Carolina; and

WHEREAS, Grantee is an exempt organization within the meaning of 26 U.S.C.A. § 501(c)(3) and is a qualified "holder" pursuant to Section 121-35 of the North Carolina General Statutes; and

WHEREAS, Grantor is the owner in fee simple of the historically significant real property hereinafter described which it desires to preserve in the public interest; and

NOW, THEREFORE, in recognition of the foregoing and in consideration of the mutual covenants herein and the acceptance by Grantee, Grantor does hereby grant and convey to Grantee a conservation easement in gross over, and the right in perpetuity to restrict the use of the real estate consisting of approximately 24.65 acres located in Craven County, North Carolina and being a portion of the same site of the Battle of New

Bern, as more fully described in Exhibit "A" attached hereto and incorporated by reference herein (the "Property").

The following restrictions are hereby imposed on uses of the Property pursuant to the public policies set forth above. The acts which Grantor, its successors and assigns, covenant to do and not to do upon the Property, and the restrictions which Grantee and its successors and assigns are hereby entitled to enforce, are and shall be as follows:

1. Accumulation of any toxic or hazardous substance, trash, refuse, junk or any other unsightly material is not permitted on the Property.

2. Display of billboards, signs or other advertisements is not permitted on or over the Property except (i) to state the name and/or address of the owners, (ii) to advertise the sale or lease of the Property, (iii) to advertise the sale of goods or services produced incidentally to a permitted use of the Property, or (iv) to provide notice necessary for the protection of the Property and for giving directions to visitors. No such sign shall exceed three by three feet in size. Grantor may install markers or monuments not exceeding four feet tall and three feet wide explaining the historical significance of the Property.

3. Subdivision of the Property in any manner is prohibited.

4. Management of forest resources shall be in accord with a forest stewardship plan approved by Grantee. All forestry activities shall be carried out so as to maintain biodiversity and preserve the environmental quality of the area. Best Management Practices, as defined by the North Carolina (Department of Forestry), shall be used to control erosion and protect water quality.

5. Grading, blasting or earth removal shall not alter the topography of the Property except for dam construction to create private conservation ponds or lakes, or as

required in construction of permitted buildings described in Paragraph 6 below and connecting private roads. Mining on the Property is prohibited.

6. No additional permanent or temporary building or structure shall be built on the Property after the date of this Easement unless prior written permission for said building or structure is obtained from Grantee.

7. Industrial or commercial activities other than farming or horticulture are prohibited except those which can be and in fact are conducted from buildings permitted under Paragraph 6 above, without alteration of the external appearance of same.

8. Representatives of Grantee (the "Trust") may enter the Property from time to time, after permission from or reasonable notice to the owner or the owner's representative, for the purpose of:

a. Inspection and enforcement of the terms of this Easement;

b. Installing markers or monuments not exceeding four feet tall and three feet wide explaining the historical significance of the Property;

c. Conducting tours of the Property; and

d. Conducting surveys of the Property, including the placement of appropriate physical monuments to mark the boundaries of the Property.

9. Grantor, its successors and assigns shall notify Grantee and the Trust in writing prior to closing on any proposed transfer or sale of any portion of the Property. In any deed conveying all or any part of the Property, this Easement shall be referenced by Deed Book and Page Number in the deed of conveyance.

Although this Easement in gross will benefit the public as described above, nothing herein shall be construed to convey to the public a right of access to or use of the

Property. Grantor, its successors and assigns, hereby retain exclusive right to such access and use, subject to the terms hereof.

It is the intention of Grantor that this Easement in gross granted herein shall be deemed to be a binding servitude that shall run with the land in perpetuity and shall bind the heirs, personal representatives, successors, devisees and assigns of Grantor.

If Grantor or any of its successors defaults in any of the obligations under this Easement, the Grantee may exercise any or all of the following remedies:

a. Institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction, either prohibitive or mandatory; and

b. Require that the Property be restored promptly to the condition required by this Easement.

These remedies shall be cumulative and shall be in addition to any other rights and remedies that are available to the Grantee at law or in equity. If the Grantor is found to have breached any of the obligations under this Easement, the Grantor shall reimburse the Grantee for any costs or expenses incurred by such organization in enforcing the Easement, including court costs and reasonable attorneys' fees.

No failure on the part of Grantee to enforce any covenant or provision hereof shall discharge or invalidate such covenant or any other covenant, condition or provision hereof or affect the right of Grantee to enforce the same in the event of a subsequent breach or default.

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Grantee agrees that it will not transfer its rights under the Easement except to another exempt organization within the meaning of 26 U.S.C.A. § 501(c)(3) and that such transferee shall agree to carry out the conservation purposes intended by this instrument.

IN TESTIMONY WHEREOF, the Grantor has caused this instrument to be signed in the name by its President, attested by its _____Secretary, with its corporate seal hereunto affixed, all by the authority duly given, this the day and year first above written.

THE NEW BERN HISTORICAL SOCIETY FOUNDATION, INC.

By: _____(SEAL)
Charles K. McCotter, President

ATTEST:

_____
4/25/02 Secretary

SEAL

Accepted:

NEW BERN PRESERVATION FOUNDATION, INC.

By: _____(SEAL)
Paul Stephens, President

NORTH CAROLINA
CRAVEN COUNTY

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I, Jan A. Haddock, a Notary Public of aforesaid County and State, do hereby certify that Nancy H. Chiles personally came before me this day and acknowledged that he/she is the _____ Secretary of **THE NEW BERN HISTORICAL SOCIETY FOUNDATION, INC.**, a 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 President, sealed with its corporate seal, and attested by himself/herself as its _____ Secretary.

WITNESS my hand and notarial seal, this 8th day of July, 2000.

Jan A. Haddock
NOTARY PUBLIC

My Commission Expires:

August 19, 2002

JAN A. HADDOCK NOTARY PUBLIC CRAVEN COUNTY, NC

State of North Carolina, Craven County
The foregoing certificate(s) of Jan A. Haddock
is (are) certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Craven County, NC in Book 1934 Page 123
This 6 day of Aug A.D. 20 02 at 15:49 o'clock
Register of Deeds
Asst./Deputy Register of Deeds

EXHIBIT "A"

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Lying and being in Number Seven (7) Township, Craven County, State of North Carolina, and being more particularly described as follows:

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That certain tract or parcel of land containing 24.65 acres as the same is shown on that map prepared by William E. Matthews, Registered Land Surveyor, dated January 17, 1996, and identified by the following legend: "SURVEY OF SITE OF THE BATTLE OF NEW BERN." This map is of record in Plat Cabinet G, Slide 4-H, Craven County Registry, and further reference is hereby made to said map for a more complete and accurate description of this property by metes and bounds.

This property is conveyed subject to the rights of others in and to that portion of the above described property located within the run of Boleyn Swamp as the same is shown on the map heretofore referred to, and subject to the terms and provisions contained in that certain Deed from Weyerhaeuser Company to The Civil War Trust, dated February 13, 1996, and of record in Deed Book 1506, Page 64, Craven County Registry.

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