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ROSALYN MARSH
Book 2428 Page 265

STATE OF NORTH CAROLINA

CONSERVATION EASEMENT

FORSYTH COUNTY
SPO File Number 034-AAD
Prepared by and return to:
Marion Patrick, State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321

THIS CONSERVATION EASEMENT DEED, made this 17th day of November, 2003, by and between City of Winston-Salem, NC, Grantor, whose mailing address is P.O. Box 2511, Winston-Salem, NC 27102 and the State of North Carolina, Grantee, whose mailing address is State of North Carolina State Property Office, 1321 Mail Service Center, Raleigh, NC 27699-1321. The designations Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

WHEREAS, Grantor owns in fee simple certain real property situated, lying, and being in Winston Township, Forsyth County, North Carolina (the "Protected Property"), and being more particularly described as that certain parcel of land known as "Shaffner Park" and being conveyed to the Grantor by deed recorded in **Deed Book 1471 at Page 1528, Deed Book 2133 at Page 982, and Plat Book 18 at Page 185** of the Forsyth County Registry, North Carolina; and

WHEREAS, Grantor is willing to grant a Conservation Easement on the Protected Property, thereby restricting and limiting the use of the Protected Property to the terms and conditions and for the purposes hereinafter set forth, and Grantee is willing to accept such easement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, Grantor unconditionally and irrevocably hereby grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity, a Conservation Easement of the nature and

character and to the extent hereinafter set forth, over a portion of the Protected Property, referred to hereafter as the Easement Area, for the benefit of the people of North Carolina, and being all of the tract of land as identified as Conservation Easements Numbers 1, 2, and 3 as shown on a plat of survey entitled "Buffer/Conservation Easement Exhibit for Shaffner Park" dated December 3, 2002, certified by Watts Fearrington, Jr., PLS, L-3468, and **recorded in Map Book** 46, **Page** ~~70~~ 69, Forsyth County Registry. Being more particularly described as follows:

Conservation Easement No. 1 being an approximate 6.30 areas (see Exhibit A)
Conservation Easement No. 2 being an approximate 6.12 acres (see Exhibit B)
Conservation Easement No. 3 being an approximate 2.87 acres (see Exhibit C)

The purposes of this Conservation Easement are to maintain, restore, enhance, and create wetland and/or riparian resources in the Easement Area that contributes to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; to maintain permanently the Easement Area in its natural condition, consistent with these purposes; and to prevent any use of the Easement Area that will significantly impair or interfere with these purposes. To achieve these purposes, the following conditions and restrictions are set forth:

I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, their personal representatives, heirs, successors, and assigns, lessees, agents, and licensees.

II. RESERVED USES AND RESTRICTED ACTIVITES

The Easement Area shall be restricted from any development or usage that would impair or interfere with the purposes of this Conservation Easement. Unless expressly reserved as a compatible use herein, any activity in, or use of, the Easement Area by the Grantor is prohibited as inconsistent with the purposes of this Conservation Easement. Any rights not expressly reserved hereunder by the Grantor have been acquired by the Grantee. The following specific uses are prohibited, restricted, or reserved as indicated:

A. **Recreational Uses.** Grantor expressly reserves the right to undeveloped recreational uses, including hunting and fishing, and access to the Easement Area for the purposes thereof. Usage of motorized vehicles in the Easement Area is prohibited.
B. **Educational Uses.** The Grantor reserves the right to undeveloped educational uses and the right of access to the Easement Area for such purposes including organized educational activities such as site visits, studies, and observations.
C. **Vegetative Cutting.** Cutting, removal, mowing, harming, or destruction of any vegetation in the Easement Area is prohibited.
D. **Industrial Use.** Industrial activities in the Easement Area are prohibited.
E. **Residential Use.** Residential use of the Easement Area is prohibited.
F. **Commercial Use.** Commercial activities in the Easement Area are prohibited.
G. **Agricultural Use.** Agricultural use of the Easement Area including use for cropland, waste lagoons, or pastureland is prohibited.
H. **New Construction.** There shall be no building, facility, mobile home, or other structure constructed or placed in the Easement Area.

I. **Signs.** No signs shall be permitted in the Easement Area except interpretive signs describing restoration activities and the conservation values of the Easement Area, signs identifying the owner of the Protected Property and the holder of the Conservation Easement, and signs giving directions or proscribing rules and regulations for the use of the Easement Area.

J. **Dumping.** Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliance or machinery, or other material in the Easement Area is prohibited.

K. **Grading, Mineral Use, Excavation, Dredging.** There shall be no grading, filling, excavation, dredging, mining, or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals, or other materials.

L. **Water Quality and Drainage Patterns.** There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited.

M. **Subdivision.** Subdivision, partitioning, or dividing the Easement Area is prohibited.

N. **Development Rights.** No development rights which have been encumbered or extinguished by this Conservation Easement shall be transferred pursuant to a transferable development rights scheme or cluster development arrangement or otherwise.

O. **Utilities.** Through, over, under and across the Easement Area, the following numbered conditions shall apply:

1) All existing utility easements and facilities are exempt from the requirements described below.
2) Pipeline and utility line construction will be minimized to the greatest extent reasonably practicable.
3) All disturbed facilities; features and vegetation will be restored to their original condition to the greatest extent reasonably practicable. Due to the environmental sensitivity of the Easement Area, disturbed and removed vegetation in access areas, staging areas, constructed areas, excluding the permanent utility easement, will be replaced with herbaceous species such that the Protected Property achieves a rapid recovery from the disturbance. The permanent utility easement will be vegetated with suitable grass vegetation.
4) Corridor and clearing width for both crossings and parallel construction will be limited to the minimum necessary to construct the needed facilities, subject to line size, equipment size and work zone. The temporary construction easements will be vegetated with native herbaceous species at the completion of construction.
5) Utility construction will minimize the disturbance of structures used for grade control, habitat and bank stabilization. If disturbance occurs in order to provide service, the structure will be restored to its original condition to the greatest extent reasonably practicable.
6) Permanent utility easement corridors will be minimized to the greatest extent reasonably practicable and are limited to fifteen (15) to thirty (30) feet in width depending upon pipeline size and depth.
7) Vegetative clearing and general construction disturbance will be minimized to the greatest extent reasonably practicable.
8) Crossings will be perpendicular to the greatest extent reasonably practicable.

9) Crossings will be accomplished by drilling, boring and jacking methods to the greatest extent reasonably practicable. When crossings must be constructed using open trench excavation, temporary discharge of excavated or fill material will be minimized in both quantity and duration to the greatest extent reasonably practicable.

10) Erosion control devices shall be utilized to contain all disturbed materials and will conform to State requirements. Crossing of the waterway, wetland or other water feature will be accomplished in a timely manner such that environmental and flooding impact is minimized to the greatest extent reasonably practicable.

11) Depth of underground construction shall be to a sufficient depth to avoid future exposure due to scouring to the greatest extent reasonably practicable.

12) Utilities constructed parallel to stream corridors will be a minimum of twenty (20) feet from the top of stream bank unless explicit exception is granted. The area between the utility and the top of stream bank shall remain undisturbed except at crossings.

The Grantee, and authorized representatives of the Grantee, shall have the right to enter the Easement Area and shall have the right of reasonable ingress and egress to the Easement Area over the Protected Property, at all reasonable times to undertake any activities to restore, manage, maintain, enhance, and monitor the wetland and riparian resources of the Easement Area. These activities include planting of trees, shrubs and herbaceous vegetation, installation of monitoring wells, utilization of heavy equipment to grade, fill, and prepare the soil, modification of the hydrology of the site, and installation of natural and manmade materials as needed to direct in-stream, above ground, and subterraneous water flow. In addition, the Grantee, and authorized representatives of the Grantee, shall have the right to enter the Easement Area and shall have the right of reasonable ingress and egress to the Easement Area over the Protected Property, at all reasonable times for the purpose of inspecting said property to determine if the Grantor is complying with the terms, conditions, restrictions, and purposes of this Conservation Easement. The easement rights granted herein do not include public access rights.

The Grantor may request permission to vary from the above restrictions for good cause shown, provided that any such request is consistent with the purposes of this Conservation Easement. The Grantor shall not vary from the above restrictions without first obtaining written approval from the NC State Property Office, whose mailing address is 1321 Mail Services Center, Raleigh, NC 27699-1321.

III. ENFORCEMENT AND REMEDIES

A. In the event that the Grantee determines that the Grantor has violated or is threatening to violate any of these terms, conditions, or restrictions, the Grantee may institute a suit to enjoin such violation and if necessary, to require the restoration of the Easement Area to its prior condition at the expense of the Grantor.

B. 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.

IV. MISCELLANEOUS

A. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any provision is found to be invalid, the remainder of the provisions of the Conservation Easement, and the

application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

B. Any notices shall be sent by registered or certified mail, return receipt requested to the parties at their addresses shown above or to other address(es) as either party establishes in writing upon notification to the other.

C. Grantor shall notify Grantee in writing of the name and address and any party to whom the Protected Property or any part thereof is to be transferred at or prior to the time said transfer is made. Grantor further agrees to make any subsequent lease, deed, or other legal instrument by which any interest in the Protected Property is conveyed subject to the Conservation Easement herein created.

V. QUIET ENJOYMENT

Grantor reserves all rights accruing from ownership of the Protected Property, including the right to engage in or permit or invite others to engage in only those uses of the Easement Area that are expressly reserved herein, not prohibited or restricted herein, and are not inconsistent with the purposes of this Conservation Easement. Without limiting the generality of the foregoing, the Grantor expressly reserves to the Grantor, and the Grantor's invitees and licensees, the right of access to the Easement Area, and the right of quiet enjoyment of the Easement Area.

TO HAVE AND TO HOLD the said rights and easements perpetually unto Grantee for the aforesaid purposes.

AND Grantor covenants that Grantor is seized of said premises in fee and has the right to convey the permanent easement herein granted; that the same are free from encumbrances and that Grantor will warrant and defend title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written,

_____ **(SEAL)**
Bryce A. Stuart, City Manager
City of Winston-Salem, NC

CITY COUNCIL OF THE CITY OF WINSTON-SALEM
NORTH ★ CAROLINA

ATTEST:

_____
Renee P. Rice, City Secretary

NORTH CAROLINA)
)
FORSYTH COUNTY)

I, Paige L Deal, a notary public, certify that Reneé P. Rice, personally came before me this day and acknowledged that she is the City Secretary of the City of Winston-Salem, a municipal corporation, and that by authority duly given and as the act of the municipal corporation, the foregoing instrument was signed in its name by its ~~Mayor~~ City Manager, sealed with its corporate seal, and attested by her as its City Secretary.

Witness my hand and notarial seal, this the 17th day of November, A.D., 2003.

Paige L Deal
Notary Public

OFFICIAL SEAL
PAIGE L. DEAL
Notary Public-North Carolina
COUNTY OF FORSYTH
My Commission Expires 10-02-06

My commission expires: October 2, 2006

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NORTH CAROLINA)
)
FORSYTH COUNTY)

The foregoing certificate of Paige L. Deal is certified to be correct. This the 3 day of December, 2003

STAMPS $_____

DICKIE C. WOOD, REGISTER OF DEEDS

Probate and Filing

Fee $_____ paid.

By_____
~~Deputy/Assistant~~

Exhibit A
Legal Description

Conservation Easement No. 1
Shaffner Park Property
City of Winston-Salem, North Carolina

A conservation easement over a portion of land in Winston Township, Forsyth County, North Carolina; as per map recorded in Plat Book 18, Page 185 of the Forsyth County Registry and being more particularily described as follows:

Commencing at an iron bar with NC Grid coordinates (NAD83) of X=1,613,124.75, Y=858,481.26 and identified as "Control Point #12" on a map titled "Buffer/Conservation Easement Exhibit For: Shaffner Park Property", dated September 24, 2002 and prepared by Arcadis, Inc., and recorded in Plat Book xxxx, Page xxxx of the Forsyth County Registry.

Thence N04°50'06"E, 90.06' to an iron bar and the Point of Beginning; thence
S63°45'55"W, 255.13', thence
S06°48'06"E, 43.75', thence
S63°03'36"W, 184.83', thence
S60°40'20"W, 129.54', thence
S65°46'14"W, 96.44', thence
S62°26'41"W, 221.08', thence
S61°10'15"W, 204.51', thence
S59°41'31"W, 99.11', thence
S64°57'34"W, 163.58', thence
S59°42'51"W, 122.74', thence
S65°00'03"W, 172.97', thence
N35°29'01"W, 157.11', thence
N63°29'41"E, 236.66', thence
N57°39'14"E, 175.29', thence
N67°58'28"E, 115.29', thence
N60°59'25"E, 268.57', thence
N64°45'49"E, 163.77', thence
N60°38'22'E, 146.99', thence
N62°26'21"E, 236.42', thence
N63°10'38"E, 392.08', thence
N63°10'38"E, 99.53' to a point on the westerly right-of way of Silas Creek Parkway(100' Public); thence along said right-of way S03°30'06"W, 193.97'; thence leaving said right-of way N73°59'59"W, 64.62' to the Point of Beginning.

Conservation Easement No. 1 contains 6.30 Acres.

Exhibit B

Legal Description

Conservation Easement No. 2
Shaffner Park Property
City of Winston-Salem, North Carolina

A conservation easement over a portion of land in Winston Township, Forsyth County, North Carolina; as per map recorded in Plat Book 18, Page 185 of the Forsyth County Registry and being more particularly described as follows:

Commencing at an iron bar with NC Grid coordinates (NAD83) of X=1,613,978.18, Y=859,121.21 and identified as "Control Point #7 " on a map titled "Buffer/Conservation Easement Exhibit For: Shaffner Park Property", dated September 24, 2002 and prepared by Arcadis, Inc., and recorded in Plat Book xxxx, Page xxxx of the Forsyth County Registry.

Thence S15°31'07"E, 158.83' to an iron bar and the Point of Beginning; thence
S89°51'19"E, 643.89', thence
S00°21'05"W, 116.06', thence
N85°30'54"W, 196.94', thence
S82°25'11"W, 339.17', thence
S63°24'04"W, 319.47', thence
S54°17'14"W, 75.95', thence
N83°23'24"W, 195.54' to a point on the easterly right-of-way of Silas Creek Parkway(100' Public); thence continuing along said right-of-way N03°30'06"E, 120.86'; thence along a curve to the right having a radius of 489.56', a chord bearing of N03°48'32"E, and a chord length of 33.98'; thence leaving said right-of-way and continuing the following courses and distances:
N64°33'17"E, 93.02'; thence
N32°03'55"E, 136.92'; thence
N51°50'47"E, 36.74'; thence
N08°19'57"E, 39.06'; thence
N25°56'56"E, 202.23'; thence
N40°43'17"E, 39.80'; thence
N27°22'59"E, 79.61'; thence
N00°51'21"W, 131.50'; thence
N00°51'21"W, 41.68' to a point on the southerly right-of way of Yorkshire Road(50' Public); thence continuing with said right-of way along a curve to the left having a radius of 830.00'; a chord bearing of S84°31'39"E; and a chord length of 146.54'; thence leaving said right-of way and continuing the following courses and distances:
S07°18'18"W, 233.72'; thence
S29°55'38'W, 81.37'; thence
S23°14'58"W, 175.22'; thence
S62°52'15"E, 84.47' to the Point of Beginning.

Conservation Easement No. 2 contains 6.12 Acres.

Exhibit C
Legal Description

Conservation Easement No. 3
Shaffner Park Property
City of Winston-Salem, North Carolina

A conservation easement over a portion of land in Winston Township, Forsyth County, North Carolina; as described in Deed Book 2133, Page 982 of the Forsyth County Registry and being more particularily described as follows:

Commencing at an iron bar with NC Grid coordinates (NAD83) of X=1,613,827.26, Y=860,085.57 and identified as "Control Point #11 " on a map titled "Buffer/Conservation Easement Exhibit For: Shaffner Park Property", dated September 24, 2002 and prepared by Arcadis, Inc., and recorded in Plat Book xxxx, Page xxxx of the Forsyth County Registry.

Thence N86°39'00"E, 242.08'to an iron bar and the Point of Beginning; thence
N28°46'09"E, 91.99'; thence
N20°04'33"E, 149.56'; thence
N13°16'15"E, 94.16'; thence
N21°35'45"E, 60.75'; thence
S68°24'15"E, 108.21'; thence
S18°55'58"W, 12.17'; thence
S18°55'58"W, 133.49'; thence
S18°05'35"W, 139.55'; thence
S13°55'49"W, 116.63'; thence
S23°12'18"W, 90.21'; thence
S13°54'25"W, 151.71'; thence
S17°32'33"W, 151.84'; thence
S17°27'11"W, 117.43'; thence
S17°27'11"W, 40.12' to a point on the northerly right-of way of Yorkshire Road(50' Public); thence continuing along said right-of way along a curve to the right having a radius of 780.00'; a chord bearing of N86°33'23"W; and a chord length of 132.80'; thence leaving said right-of-way and continuing the following courses and distances:
N16°38'18"E, 36.24'; thence
N16°38'18"E, 200.25'; thence
N01°29'56"E, 134.59'; thence
N26°29'20"E, 235.02' to the Point of Beginning.

Conservation Easement No. 3 contains 2.87 Acres.