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FILED
CHATHAM COUNTY
REBA G. THOMAS
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FILED	Aug 18, 2006
AT	03:51:21 pm
BOOK	01279
START PAGE	0470
END PAGE	0488
INSTRUMENT #	11013

BOOK 1279 PAGE 470

STATE OF NORTH CAROLINA P.I.N. # _____

COUNTY OF Chatham

PREPARED BY: Lisa Glover
Assistant Attorney General
North Carolina Department of Justice

RETURN TO: North Carolina Department of Transportation
Office of Natural Environment
1548 Mail Service Center
Raleigh, NC 27699-1548

Revenue: $ Ø

CONSERVATION EASEMENT and
TEMPORARY CONSTRUCTION EASEMENT

This Conservation Easement and Easement of Ingress and Egress is granted on this 12 day of April, 2006, by GARY PHILLIPS and INA JANE PHILLIPS, having an address of 7796 Siler City Glendon Road, North Carolina, 27207 (hereinafter, "Grantor"), to THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, having an address of 1548 Mail Service Center, Raleigh, NC 27699-1548 (hereinafter, "NCDOT" or "Grantee").

The designation 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.

WHEREAS:

The Grantor is the sole owner in fee simple of certain real property more particularly described in Deed Book 418, Page 143, of the Chatham County Registry (hereinafter, the "Property"), which consists of approximately 129 acres, more or less, located in Bear Creek Township, Chatham County, North Carolina.

The Property provides natural wildlife habitat for a wide variety of land, air and aquatic species, because of the streams that run through the Property; many of these species, which rely on the streams, are of great importance to the Grantor and the people of North Carolina

The Grantor is willing to grant a perpetual Conservation Easement over 14.42 acres of the Property (hereinafter, the "Conservation Easement Area"), thereby restricting and limiting the use of land within the Conservation Easement Area to the terms and conditions and for the purposes hereinafter set forth, and to further grant a Temporary Construction Easement upon and along the Property as more particularly set forth hereinafter.

The NCDOT is an agency of the State of North Carolina whose purpose includes the construction of transportation projects for public use and who has the authority to acquire land for the purpose of mitigating environmental impacts of these transportation projects.

The NCDOT desires to restore, enhance or preserve stream and associated streamside wetlands in Chatham County on the Conservation Easement Area (hereinafter, the "Stream Mitigation Project"), and to hold a conservation easement over said length of stream and surrounding land and wetlands encompassing approximately 14.42 acres and referred to as the Conservation Easement Area;

The NCDOT, under a Section 404 permit granted by the United States Army Corps of Engineers (hereinafter, "USACE"), must conduct certain off-site stream and wetland mitigation work to compensate for impacts to streams and wetlands resulting from road construction;

The Stream Mitigation Project will be undertaken pursuant to a Stream Mitigation Plan developed by NCDOT, in coordination with the Grantor, for the restoration, enhancement and preservation of the streams and wetlands on the Conservation Easement Area, and kept on file with NCDOT;

The purposes of the Conservation Easement over the Conservation Easement Area are (1) to protect the mitigation activities performed by the NCDOT; (2) to preserve and protect the conservation values of the Conservation Easement Area,

which include natural resources; wildlife habitat for land, air and aquatic species; aquatic resources, including streams, rivers, ponds, and wetlands; and scenic resources of the Property; (3) to prevent any use of the Conservation Easement Area that will significantly impair or interfere with these purposes; and, (4) to maintain permanently the dominant woodland, scenic and natural character of the Conservation Easement Area.

The specific conservation values of the Conservation Easement Area and its current use and state of improvement are described in the Draft Stream Mitigation Study dated December 2002, prepared by HDR Engineering, Inc. and acknowledged by all parties to be accurate as of the date of this Conservation Easement. The Mitigation Study may be used by the Grantee to document any future changes in the use or character of the Conservation Easement Area in order to ensure the terms and conditions of this Conservation Easement are fulfilled. This Mitigation Study, however, is not intended to preclude the use of other evidence to establish the present condition of the Conservation Easement Area if there is a controversy over its use. The Grantor and Grantee have copies of the Mitigation Study, and said report will remain on file with the Office of Natural Environment of NCDOT.

The Grantor intends that the conservation values of the Conservation Easement Area be preserved and maintained, and further, the Grantor intends to convey to the Grantee the right to preserve and protect the conservation values of the Conservation Easement Area in perpetuity.

The conservation purposes of this Conservation Easement are recognized by the Uniform North Carolina Conservation and Historic Preservation Agreements Act, N.C.G.S. § 121-34 *et seq.*, which provides for the enforceability of restrictions, easements, covenants or conditions "appropriate to retaining land or water areas predominantly in their natural, scenic, or open condition or in agricultural, horticultural, farming or forest use," N.C.G.S. § 121-35(1); and which provides for tax assessment of lands subject to such agreements "on the basis of the true value of the land and improvement less any reduction in value caused by the agreement," N.C.G.S. § 121-40.

NOW, THEREFORE, in consideration of the sum of **Sixty-Seven Thousand Seven Hundred and Seventy-Seven Dollars ($67,777.00)** and for other valuable considerations to the Grantor, and in consideration of the mutual covenants, terms, conditions and restrictions contained herein, the Grantor hereby grants and conveys unto the Grantee and its successors or assigns forever and in perpetuity a Conservation Easement of the nature and character and to the extent hereinafter set forth, in respect to the Conservation Easement Area of the Property of the Grantor situated in Chatham County, North Carolina; together with a Temporary Construction Easement; both as more particularly described below and in the plat entitled "Conservation Project U-2524WM Phillips Tract," dated October 28, 2004, prepared by Level Cross Surveying, PLLC, and recorded in Plat Book 2004, Page 371, of the Chatham County Registry. A reduced-size copy of the plat is attached hereto as Exhibit A and incorporated by reference. All subsequent references to the Conservation Easement shall include, where appropriate, reference to the Temporary Construction Easement.

The terms, conditions and restrictions of the Conservation Easement and Temporary Construction Easement are as hereinafter set forth:

1. Grant of Conservation Easement and Temporary Construction Easement

The Grantor hereby voluntarily grants and conveys to the Grantee, and the Grantee hereby voluntarily accepts, a perpetual Conservation Easement, which is an immediately vested interest in real property of the nature and character described herein. The Grantor agrees that it will not perform, nor knowingly allow others to perform, any act on or affecting the Conservation Easement Area that is inconsistent with the covenants herein. The Grantor authorizes the Grantee to enforce these covenants in the manner described below.

The Grantor hereby voluntarily grants and conveys to the Grantee all development rights for the Conservation Easement Area, except as otherwise reserved and provided by the terms of this Conservation Easement, that are now or hereafter inherent in the Conservation Easement Area. The parties agree that such rights are terminated and extinguished, and may not be used on or transmitted to any portion of the Property, as it now or hereafter may be bounded or described, or to any other property.

The Grantor hereby further grants and conveys to the Grantee a Temporary Construction Easement, in order that NCDOT, or its authorized representatives, including the Ecosystem Enhancement Program of the North Carolina Department of Environment and Natural Resources, may conduct the mitigation activities. NCDOT and its authorized representatives shall have the right to place equipment and materials on the Temporary Construction Easement as necessary. The Temporary Construction Easement will be valid until the completion of the construction and monitoring of the Stream Mitigation Project. Upon final approval by the USACE of the Stream Mitigation Project, the Temporary Construction Easement will dissolve and no longer be a part of this Conservation Easement. NCDOT will return any land in the Temporary Construction Easement that is disturbed as a result of the mitigation activities to its pre-disturbance state, if requested by the Grantor, after completion of the mitigation activities and final approval by the USACE.

2. Statement of Purpose, Duration

The primary purpose of the Conservation Easement is to protect the NCDOT's mitigation activities within the Conservation Easement Area, including the restored, enhanced, and preserved stream areas. Except as specifically permitted herein, no activity that shall significantly impair the condition of the restored, enhanced or preserved stream areas on the Conservation Easement Area shall be permitted.

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

3. Conservation Easement Area; Temporary Construction Easement

The Conservation Easement Area encompasses perennial streams, wetlands and surrounding land located on the Property, as more particularly depicted in Exhibit A, and is comprised of 14.42 total acres in two tracts labeled "Conservation Easement Area 1," consisting of 4.906 acres; and "Conservation Easement Area 2," consisting of 9.514 acres.

The Temporary Construction Easement consists of three areas, labeled on Exhibit A as "Staging Area 1," "Staging Area 2," and "Staging Area 3."

4. Access

The NCDOT and its authorized representatives, including the USACE and the Ecosystem Enhancement Program of the North Carolina Department of Environment and Natural Resources, at all reasonable times and continuing in perpetuity, shall have the right to access the Conservation Easement Area (1) in order to conduct and monitor the Stream Mitigation Project; and (2) for the purpose of inspecting the Conservation Easement Area to determine if the Grantor is complying with the terms, conditions, restrictions, and purposes of this Conservation Easement. This permanent access will be by way of State Road 1006 (Siler City Glendon Road), which is adjacent to the Conservation Easement Area. The NCDOT or its authorized representative will notify the Grantor by phone, email, or other correspondence before entering the Property for the purpose of determining compliance. However, if the NCDOT or its authorized representative in its sole discretion determines that circumstances require immediate entry, such party is not required to notify the Grantor prior to entry but will notify the Grantor within two business days of such entry.

5. Rights and Responsibilities Retained by the Grantor

Subject to the terms and restrictions contained herein, the Grantor reserves to and for itself and its successors all customary rights and privileges of ownership, including without limitation the right to quiet enjoyment of the Conservation Easement Area; the rights to sell, lease, encumber, impose restrictions on and devise the Conservation Easement Area, provided such transaction is subject to the terms of this Conservation Easement and written notice is provided to the Grantee; together with any rights not specifically prohibited by or limited by this Conservation Easement, and not inconsistent with the purposes of this Conservation Easement. Unless otherwise specified below, nothing in this Conservation Easement shall require the Grantor to take any action to restore the condition of the Conservation Easement Area after any Act of God or other event over which it had no control. The Grantor understands that nothing in this Conservation Easement relieves it of any obligation or restriction on the use of the Conservation Easement Area imposed by law.

6. Right to Privacy

The Grantor retains the right to privacy and the right to exclude any member of the public from trespassing on the Conservation Easement Area. This Conservation Easement does not create any rights of the public in, on or to the Conservation Easement Area, although the public

has the right to view the Conservation Easement Area from any adjacent publicly accessible areas.

7. Subdivision

The Conservation Easement Area may not be subdivided, partitioned nor conveyed from the Property, except in its current configuration as an entity or block of the Property.

8. Passive Recreational Use

The Grantor retains the right to engage in passive recreational uses of the Conservation Easement Area (requiring no surface alteration of the land and posing no threat to the conservation values set forth herein), including, without limitation, walking, fishing, hunting or animal and plant observation as long as such activity is consistent with the purposes of this Conservation Easement and is not prohibited by Paragraph 9 below.

9. Permitted and Restricted Activities

Any activity on, or use of, the designated Conservation Easement Area inconsistent with the purposes of this Conservation Easement is prohibited. Unless expressly reserved as a compatible use herein, any activity in, or use of, the Conservation Easement Area by the Grantor is prohibited as inconsistent with the purposes of the Conservation Easement. The Conservation Easement Area shall be maintained in its natural, scenic and open condition and restricted from any development that would significantly impair or interfere with the conservation values of this Conservation Easement Area, and any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or sub-surface waters is prohibited. Any rights not expressly reserved hereunder by the Grantor have been acquired by the Grantee.

Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, restricted or reserved as indicated hereunder:

A. *Disturbance of Natural Features*

Any changes, disturbance, alteration or impairment of the natural, scenic and aesthetic features of the Conservation Easement Area or any introduction of non-native plants and/or animal species is prohibited unless the NCDOT gives its prior written consent or unless otherwise expressly permitted herein.

B. *Agricultural, Grazing, and Horticultural Use and Fencing*

Agricultural, grazing and horticultural use, including landscaping, of the Conservation Easement Area is prohibited. No herbicides, insecticides, fungicides, fertilizers or other potentially harmful substances may be used in the Conservation Easement Area without advance written permission from the NCDOT. No agricultural products or by-products may be disposed

of in the Conservation Easement Area or within 100 feet of the streambank, whichever is greater, or result in or cause discharge or runoff directly into the Conservation Easement Area. Existing fences may be repaired and replaced. After completion of the Stream Mitigation Project, Grantor will be responsible for maintenance of all fences.

C. *Silvicultural Use and Land Clearing*

There may be no destruction or cutting of trees or plants in the Conservation Easement Area, except upon written approval of NCDOT. The gathering of firewood in the Conservation Easement Area shall be limited to dead trees, such that the gathering is consistent with the purposes of this Conservation Easement. Removal of large live trees, or thinning of the forest or removal of brush for fire management, may be allowed in some cases provided that any such request is consistent with the purposes of this Conservation Easement and the Grantor obtains prior written approval from the NCDOT.

D. *Dumping and Storage*

Dumping or storage of soil, trash, refuse, debris, ashes, garbage, waste, abandoned vehicles or parts, appliances, machinery, or hazardous substances, or toxic or hazardous waste, or any placement of underground or aboveground storage tanks or other materials on the Conservation Easement Area is prohibited. No agricultural products or by-products, or agricultural equipment, may be dumped or stored in the Conservation Easement Area.

E. *Mineral Use, Excavation, and Dredging*

There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals or other materials, and no change in the topography of the land in any manner on the Conservation Easement Area, or on adjacent property if owned by the Grantor or his successors, which would cause erosion or siltation on the Conservation Easement Area.

F. *Industrial Use*

Industrial activities on the Conservation Easement Area are prohibited.

G. *Residential Use*

Residential use of the Conservation Easement Area is prohibited.

H. *Commercial Use*

Commercial activities in the Conservation Easement Area are prohibited.

I. *Construction, Roads and Road Building, Motorized Vehicles*

There shall be no building, shed, facility, mobile home, or other structure constructed or placed in the Conservation Easement Area. No new roads, either paved or unpaved, may be constructed in the Conservation Easement Area except as allowed and described in the Stream Mitigation Plan. Motorized vehicles, including off-road vehicles, are prohibited in the Conservation Easement Area. However, the NCDOT expressly reserves the right to install, operate, and maintain structures or unpaved roads, and to use motorized vehicles in any manner necessary, for the purpose of reestablishing, protecting, and enhancing stream functional values, including those described in the Stream Mitigation Plan, for the Conservation Easement Area. All structures allowed under this paragraph, but not necessary for maintenance of the stream mitigation activities, will be removed once the USACE has given final approval of the Stream Mitigation Project. NCDOT, or its authorized representatives, will construct ford crossings or culverts at the four locations labeled "I/E Area" on Exhibit A. These crossings will not be removed after the Stream Mitigation Project is approved. Grantor is authorized to use these crossings, but may not improve or enlarge them without advance written consent from NCDOT. Grantor will be responsible for maintenance of the crossings after completion of the Stream Mitigation Project.

J. *Signs*

No signs shall be permitted in the Conservation Easement Area except interpretive signs describing activities and the conservation values of the Conservation Easement Area, signs identifying the owner of the Property and the holder of the Conservation Easement, and signs giving directions or prescribing rules and regulations for the use of the Conservation Easement Area, which shall specifically include "No Trespassing," "No Hunting," and "Posted" signs, if applicable.

K. *Utilities*

The installation of utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities, is prohibited. If there are existing utility easements located in the Conservation Easement Area or affecting the Conservation Easement Area, the Grantor shall notify the NCDOT if right-of-way clearing or other work in the Conservation Easement Area is scheduled by the utility. Any such clearing should be in keeping with the intent of the Conservation Easement.

L. *Water Quality and Drainage Patterns*

The Grantor shall conduct no activities in the Conservation Easement Area that would be detrimental to water quality or to any of the plants or habitats within the Conservation Easement Area, or that would alter natural water levels, drainage, sedimentation and/or flow in or over the Conservation Easement Area, or cause soil degradation or erosion. Diking, dredging, alteration, draining, filling or removal of wetlands or stream by the Grantor is prohibited. In addition, the Grantor is prohibited from diverting or causing or permitting the diversion of surface or

underground water into, within or out of the Conservation Easement Area by any means; polluting or discharging into waters, springs, seeps, or wetlands; or using pesticides or biocides in the Conservation Easement Area unless agreed to in writing by the NCDOT.

M. *NCDOT's Rights*

The NCDOT reserves the right to use the Conservation Easement Area in any way necessary, consistent with the terms herein, to undertake any activities to protect, restore, manage, maintain, or enhance stream or wetland functional values, and monitor the mitigation work, as described in the Stream Mitigation Plan, in order to mitigate for impacts to streams or wetlands resulting from road construction. These mitigation activities include, but are not limited to, construction of new stream channels; restoration/stabilization of existing stream channels; installation of natural and manmade materials as needed to direct in-stream, above ground, and subterraneous water flow; construction and maintenance of fences; planting of trees, shrubs and herbaceous vegetation; and utilization of heavy equipment to grade, fill, and prepare the soil. The NCDOT further reserves the right to monitor the results of the mitigation activities in perpetuity and to repair or restore any damage to the Conservation Easement Area occurring after initial completion of the construction associated with mitigation activities.

N. *Authorized Representatives*

For purposes of this Conservation Easement, NCDOT's authorized representatives include, but are not limited to, the United States Army Corps of Engineers and the Ecosystem Enhancement Program of the North Carolina Department of Environment and Natural Resources.

10. Ongoing Responsibilities of the Grantor

Other than as specified herein, this Conservation Easement 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:

A. *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.

B. *Upkeep and Maintenance*

The Grantor retains all responsibilities and shall bear all costs and liabilities of any kinds related to the ownership, operation, upkeep and maintenance of the Property, including the maintenance of adequate comprehensive general liability insurance coverage. The Grantee shall have no obligation for the upkeep or maintenance of the Property.

C. *Liability and Indemnification*

The Grantor agrees to indemnify and hold the Grantee harmless from any and all costs, claims or liability, including but not limited to reasonable attorney's fees arising from any personal injury, accidents, negligence or damage relating to the Property, or any claim thereof, unless due to the intentional misconduct or negligence of the Grantee or their agents, in which case liability shall be apportioned accordingly.

11. Enforcement

The NCDOT shall have the right to prevent violations and remedy violations of the terms of this Conservation Easement through judicial action, which shall include, without limitation, the right to bring proceedings in law or in equity against any party or parties attempting to violate the terms of this Conservation Easement. Except when an ongoing or imminent violation could irreversibly diminish or impair the conservation values of the Conservation Easement Area, the NCDOT shall give the Grantor written notice of the violation and thirty (30) days to cure the violation, before commencing any legal proceedings. If a court with jurisdiction determines that a violation may exist or has occurred, the NCDOT may obtain an injunction to stop the violation, temporarily or permanently. The parties agree that a court may issue an injunction or order requiring the Grantor to restore the Conservation Easement Area to its condition prior to the violation as restoration of the Conservation Easement Area may be the only appropriate remedy. In any case where a court finds that a violation has occurred, the Grantor shall reimburse the NCDOT for all its expenses incurred in stopping and correcting the violation, including but not limited to court costs, attorneys' fees, and any other costs incurred with onsite remediation. If legal action is brought by the NCDOT and the court finds that no violation has occurred, each party shall bear its own costs. The failure of the NCDOT to discover a violation or to take immediate legal action shall not bar it from doing so at a later time for that violation or any subsequent violations.

12. Transfer of Easements

The Grantee shall have the right to transfer this Conservation Easement and Temporary Construction Easement to the Ecosystem Enhancement Program of the North Carolina Department of Environment and Natural Resources; or to any public agency or to a private nonprofit organization that, at the time of transfer, is a qualified organization under §170(h) of the U.S. Internal Revenue Code, as amended and under NCGS §121-34 *et seq.*, provided the agency or organization expressly agrees to assume the responsibility imposed on the transferring party or parties by this Conservation Easement. As a condition of such transfer, the Grantee shall require that the conservation purposes intended to be advanced hereunder shall be continued to be carried out.

13. Transfer of Property

The Grantor agrees to incorporate by reference the terms of this Conservation Easement and Temporary Construction Easement in any deed or other legal instrument by which it transfers or divests itself of any interests, including leasehold interests, in all or a portion of the Conservation Easement Area. Failure of the Grantor to comply with this section shall not impair the validity of this Conservation Easement and Temporary Construction Easement as to successor owners or limit their enforceability in any way, nor shall the Grantor's failure to comply with this section constitute a default under this Conservation Easement.

14. Amendment of Easements

This Conservation Easement and Temporary Construction Easement may be amended by a written instrument executed by the Grantee and the Grantor. Any such amendment shall be consistent with the purpose of this Conservation Easement and its terms, and shall comply with Section 170(h) of the Internal Revenue Code or any regulations promulgated in accordance with that section. Any such amendment shall be duly recorded.

15. Procedure in the Event of Changed Conditions

The grant or donation of this Conservation Easement gives rise to a property right immediately vested in the Grantee, with a fair market value equal to the proportionate value that the Conservation Easement bears to the value of the Property as a whole. That proportionate value of the Grantee's property rights shall remain constant. If a change in conditions occurs, which makes impossible or impractical any continued protection of the Conservation Easement Area for conservation purposes, the restrictions contained herein may only be extinguished by judicial proceeding. Any proceeds recovered in such actions shall be divided in accordance with the proportionate value of the Grantor's and Grantee's interests as specified herein; all expenses including attorneys' fees incurred by the Grantor and Grantee in such action shall be paid out of the recovered proceeds. The Grantee, its successors and assigns, shall be entitled to a portion of the proceeds of such sale, exchange, involuntary conversion of the Property, or any damage award with respect to any judicial proceeding. Upon such proceedings, such portion shall be equal to the proportionate value that the Grantee's, its successor's and assign's, interest in the Conservation Easement Area bears to the value of the Property as a whole as of the date of the recording of this Conservation Easement. "Proceeds of Sale" shall mean the cash value of all money and property paid, transferred or contributed in consideration for, or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Conservation Easement Area, or any damages otherwise awarded as a result of judicial proceeding, minus the Grantor's expenses from such transaction or proceeding.

16. Procedure in the Event of Condemnation or Eminent Domain

Whenever all or part of the Property is taken by exercise of eminent domain by public, corporate or other authority, or by negotiated sale in lieu of condemnation, so as to abrogate the restrictions imposed by this Conservation Easement, the Grantor shall immediately give notice to

the Grantee and shall take all appropriate actions at the time of such taking or sale to recover the full value of the taking and all incidental or direct damages resulting from the taking. Any proceeds recovered in such actions shall be divided in accordance with the proportionate value of the Grantor's and Grantee's interests as specified herein; all expenses including attorneys' fees incurred by the Grantor and Grantee in such action shall be paid out of the recovered proceeds to the extent not paid by the condemning authority. The Grantee, its successors and assigns, shall be entitled to a portion of the proceeds of such sale, exchange, involuntary conversion of the Property, or any damage award with respect to any judicial proceeding. Such portion shall be equal to the proportionate value that the Grantee's, its successor's and assign's interest in the Conservation Easement Area bears to the value of the Property as a whole as of the date of the recording of this Conservation Easement. "Proceeds of Sale" shall mean the cash value of all money and property paid, transferred or contributed in consideration for, or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Conservation Easement Area, or any damages otherwise awarded as a result of judicial proceeding, minus the Grantor's expenses from such transaction or proceeding.

17. Interpretation

This Conservation Easement 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.

18. Perpetual Duration; Severability

This Conservation Easement shall be a servitude running with the land in perpetuity. Every provision of this Conservation Easement that applies to the Grantor or the Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear. Invalidity of any of the covenants, terms or conditions of this Conservation Easement, or any part thereof, by court order or judgment shall in no way affect the validity of any of the other provisions hereof, which shall remain in full force and effect.

19. Notices

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

To the Grantor:
Gary Phillips and Ina Jane Phillips
7796 Siler City Glendon Road
Siler City, NC 27207

To NCDOT:
Natural Environment Unit
1548 Mail Service Center
Raleigh, NC 27699-1548

In any provision of this Conservation Easement in which the Grantor is required to provide advance notice to the Grantee of any activity on the Property, such notice shall be given not less than thirty days prior to the planned commencement of the activity. If the Grantee's approval is required, such approval shall be deemed withheld unless the Grantee provides to the Grantor written notice of approval within 30 days of receipt of said request. If the Grantor has received no response after said 30 days, the Grantor may send a second written notice to the Grantee requesting a statement of the reasons for the disapproval and the Grantee shall respond within 30 days with an explanation for the specific reasons and basis for its decision to disapprove.

20. Grantor's Title Warranty

The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement and Temporary Construction Easement; that the Conservation Easement Area and Temporary Construction Easement are free and clear of any and all encumbrances, except easements and leases of record or in effect by prescriptive rights as of the date hereto; and that there is legal access to the Property; and the Grantor covenants that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of the aforesaid easements conveyed.

21. Subsequent Liens

No provisions of this Conservation Easement should be construed as impairing the ability of the Grantor to use the Conservation Easement Area as collateral for subsequent borrowing. Any such liens shall be subordinated to this Conservation Easement.

22. Subsequent Easements/Restrictions

The grant of any easements or use restrictions that might diminish or impair the conservation values of the Conservation Easement Area are prohibited. Any such easements or restrictions shall be subordinated to this Conservation Easement.

23. Grantor's Environmental Warranty

The Grantor warrants that it has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property, as such substances and wastes are defined by applicable federal and state law, and hereby promises to defend and indemnify the Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with any release of hazardous waste caused by the intentional or

negligent act of the Grantor or violation of federal, state or local environmental laws caused by the negligent or intentional act of the Grantor. Without limiting the generality of the foregoing, nothing in this Conservation Easement shall be construed as giving rise to any right or ability in the Grantee, nor shall the Grantee have any right or ability, to exercise physical or managerial control over the day-to-day operations of the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

24. Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and Temporary Construction Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the said easements.

25. Recording

The Grantee shall record this instrument and any amendment hereto in timely fashion with the Office of the Register of Deeds of Chatham County, North Carolina, and may re-record it at any time as may be required to preserve its rights under this Conservation Easement.

26. Merger

The Parties agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Property.

TO HAVE AND TO HOLD this 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 on the date first written above.

GRANTORS:

_____ (Seal)
Gary Phillips

_____ (Seal)
Ina Jane Phillips

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NORTH CAROLINA
Chatham COUNTY

I, William Blair Schell, a Notary Public of Richmond County, North Carolina do hereby certify that Gary Phillips and Ina Jane Phillips personally appeared before me this day and executed the foregoing instrument.

Witness my hand and official stamp or seal this the 12 day of April, 2006.

William Blair Schell
Notary Public (SEAL)
My commission expires: 3-29-11

WILLIAM BLAIR SCHELL
NOTARY PUBLIC
RICHMOND COUNTY, N.C.

Accepted:

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GRANTEE:

THE NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION

By: A.D. Allison, II
Assistant Manager, Right of Way Branch

NORTH CAROLINA
Wake COUNTY

I, Tracey C. Humphries a Notary Public of Johnston County, North Carolina do hereby certify that A.D. Allison, II personally came before me this day and acknowledged that he is the Assistant Manager of the Right of Way Branch of the North Carolina Department of Transportation, an agency of the State of North Carolina, and that by authority duly given he executed the foregoing instrument.

Witness my hand and official stamp or seal this the 29th day of June, 2009.

TRACEY C. HUMPHRIES NOTARY PUBLIC JOHNSTON COUNTY, N.C.

Notary Public (SEAL)
My commission expires: 08-14-2010

EXHIBIT A

REDUCED-SIZE PLAT OF CONSERVATION EASEMENT AREA

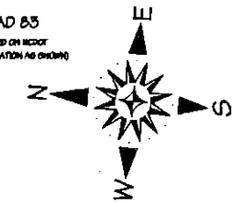
Road Center Line		
Course	Bearing	Distance
L1	N 19°59'47" E	115.75'
C1	Rad: 3549.78' Tan: 175.74' Chd: N 18°18'04" E	Arc: 351.20' CA: 5°40'07" 351.06'
C2	Rad: 1262.81' Tan: 64.52' Chd: N 12°03'19" E	Arc: 129.12' CA: 5°51'31" 129.07'
C3	Rad: 573.54' Tan: 26.24' Chd: N 08°30'08" E	Arc: 52.45' CA: 4°27'42" 52.44'
C4	Rad: 1320.52' Tan: 80.71' Chd: N 03°40'36" E	Arc: 161.23' CA: 6°59'43" 161.13'
L2	N 00°56'20" W	114.27'
L3	N 01°35'46" W	827.47
L4	N 01°26'03" W	200.26
L5	N 01°22'21" W	243.80'
L6	N 01°45'14" W	408.44'
L7	N 01°22'57" W	226.73'

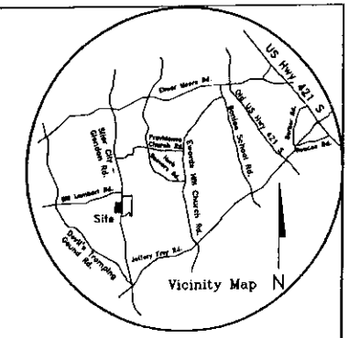
Road R/W West Side		
Course	Bearing	Distance
C5	Rad: 1202.82' Tan: 65.99' Chd: N 12°12'40" E	Arc: 131.85' CA: 6°16'50" 131.78'
C6	Rad: 1184.78' Tan: 104.43' Chd: N 12°12'40" E	Arc: 208.33' CA: 10°04'29" 131.78'
L8	N 00°56'17" W	113.83'
L9	N 01°35'46" W	809.90'
L10	N 01°27'27" W	187.01'
L11	N 01°26'22" W	31.51'
L40	S 85°43'31" E	30.61'
L41	N 89°42'19" E	29.92'

Conservation Easement West Side of Road		
Course	Bearing	Distance
L19	N 89°21'02" W	109.28'
L20	S 20°53'15" W	28.41'
L21	S 58°02'20" W	34.77'
L22	S 58°02'20" W	34.77'

NCDOT Monument
PHILLIPS 2 - NAD 83
N=677807.11
E=1660558.97
Elev=186.46' NGVD 88
Combined Scale Factor: 0.99987235

NAD 83
(BASED ON NCDOT MONUMENTATION AS SHOWN)



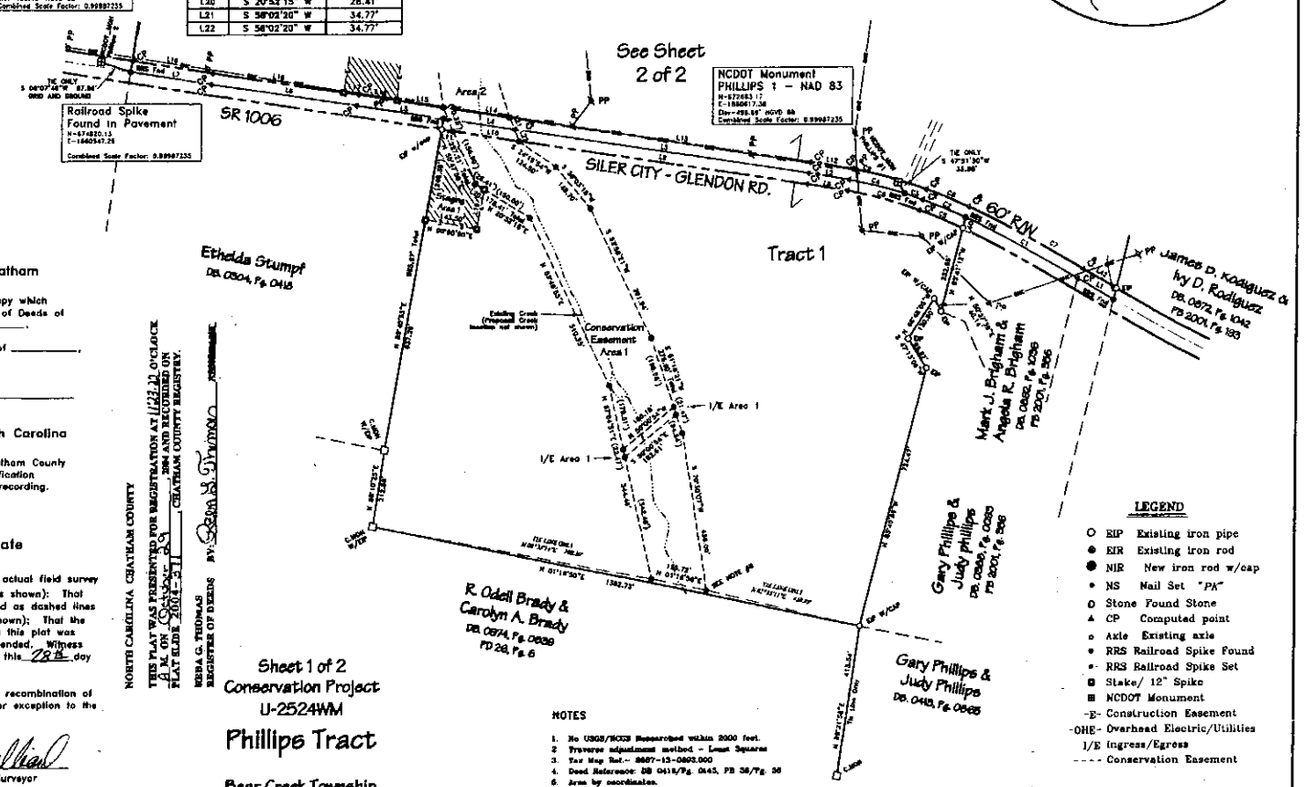


AREA SUMMARY

Conservation Easement
Area 1 - 4.906 Ac.
(NOT INCLUDING ROAD R/W)

Staging Area 1 - 0.617 Ac.
Ingress/Egress 1 - 0.083
Tract 1 Area - 38.002 Ac.
(INCLUDING ROAD R/W)

Area in Road R/W - 1.021 Ac.



State of North Carolina County of Chatham

I hereby certify that this a true and accurate copy which appears on record in the Office of the Register of Deeds of Chatham County, N.C. in Book _____, Page _____.

Witness my hand and seal this the _____ day of _____, 2004 at _____ O'clock __M.

By _____
Register of Deeds

Review Officer Chatham County, North Carolina

I, Kim Horton, Review Officer of Chatham County certify that the plat or map to which this certification is affixed meets all statutory requirements for recording.

Kim Horton by Lynda Hall 10-29-04
Review Officer (Mapper) Date

North Carolina Surveyors Certificate

I, Sherie M. Willard, certify that this plat is of actual field survey made under my direct supervision (Deed Ref. as shown): That the boundaries not surveyed are clearly indicated as dashed lines drawn from information found (Deed Ref. as shown); That the ratio of precision calculated 1:100,000 ±; That this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, License number and seal this 28th day of October, 2004.

This survey is of another category, such as the recombination of existing parcels, a court ordered survey, or other exception to the definition of subdivision.

Stamp or Seal

Sherie M. Willard
Professional Land Surveyor
L-3385

NORTH CAROLINA CHATHAM COUNTY
THIS PLAT WAS PRESENTED FOR REGISTRATION AT 11:22:20 O'CLOCK A.M. ON October 29, 2004 AND RECORDED ON THE 29 DAY OF October, 2004 IN PLAT BOOK 2004-371 CHATHAM COUNTY REGISTRY.
BEBA G. THOMAS
REGISTER OF DEEDS BY: Lynda Hall DEPUTY

Sheet 1 of 2
Conservation Project
U-2524WM

Phillips Tract

Bear Creek Township
Chatham County, North Carolina

200 0 200 400 600
GRAPHIC SCALE - FEET 1"=200'(ft)

Job No. 9041001PP

NOTES

1. No USGS/NCGS Bmsarched within 2000 feet.
2. Traverse adjustment method - Least Squares
3. Tax Map Ref.- 8687-13-0802.000
4. Deed Reference: DB 0418/Pg 0445, PB 38/Pg. 38
5. Area by coordinates.
6. Zoning- AG.
7. Match area for Temporary Staging Areas to last through construction ONLY.
8. Witness stakes placed at all Conservation Easement Points. Conservation Easements located 10' from and parallel to property lines (as shown), except where they are in conjunction with the Road R/W.
9. All distances are horizontal ground distances unless shown otherwise.
10. 8" Water line crossing property North-South (location unknown).

LEGEND

- IRP Existing iron pipe
- EIR Existing iron rod
- NIR New iron rod w/cap
- NS Nail Set "PA"
- Stone Found Stone
- CP Computed point
- Axle Existing axle
- RRS Railroad Spike Found
- RRS Railroad Spike Set
- Stake/ 12" Spike
- NCDOT Monument
- -E- Construction Easement
- -OHE- Overhead Electric/Utilities
- I/E Ingress/Egress
- - - - Conservation Easement

Owner: Ina Jane Phillips &
Gary Phillips
7796 Siler City Glendon Rd.
Siler City, NC

LEVEL CROSS SURVEYING, PLLC
668 Marsh Country Lane
Randleman, N.C. 27317
Ph. (336) 495-1713
Fax (336) 495-1745

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.

BOOK 1279 PAGE 487

2004-371

2004-371

(Box)

1279
0488

BOOK 1279 PAGE 488

NORTH CAROLINA CHATHAM COUNTY

THIS PLAT WAS PRESENTED FOR REGISTRATION AT 11:25 O'CLOCK A.M. ON October 21, 2004 AND RECORDED ON PLAT SLIDE 2004-372 CHATHAM COUNTY REGISTRY.

REBA G. THOMAS
REGISTER OF DEEDS BY: Reba G. Thomas ASSISTANT

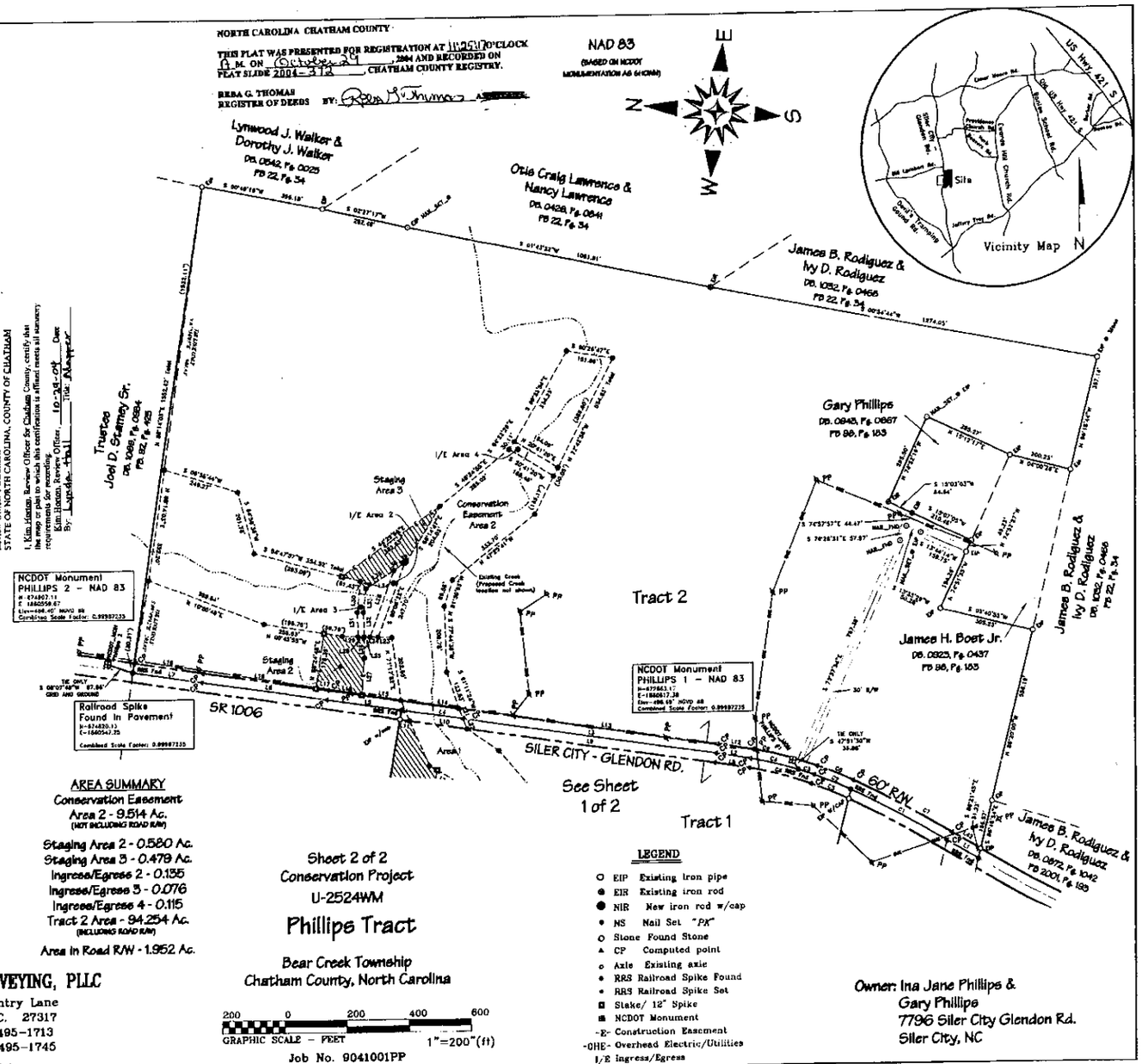
Road Center Line		
Course	Bearing	Distance
L1	N 19°59'47" E	115.75'
C1	Rad: 3549.78' Tan: 175.74' Chd: N 18°18'04" E	Arc: 351.20' CA: 5°40'07" 351.06'
C2	Rad: 1262.81' Tan: 64.62' Chd: N 12°03'19" E	Arc: 129.12' CA: 5°51'51" 129.07'
C3	Rad: 873.54' Tan: 26.24' Chd: N 08°30'08" E	Arc: 52.45' CA: 4°27'42" 52.44'
C4	Rad: 1320.52' Tan: 80.71' Chd: N 03°40'38" E	Arc: 161.23' CA: 6°59'43" 161.13'
L2	N 00°56'20" W	114.27'
L3	N 01°35'46" W	827.47'
L4	N 01°28'03" W	200.26
L5	N 01°22'21" W	243.80'
L6	N 01°45'14" W	408.44'
L7	N 01°22'57" W	226.73'

Conservation Easements East Side of Road		
Course	Bearing	Distance
L21	S 58°02'20" W	34.77'
L22	S 58°02'20" W	34.77'
L23	N 07°52'05" W	43.81'
L24	N 07°52'05" W	26.25'
L25	N 07°52'05" W	18.64'
L26	S 78°32'49" W	66.56'
L27	S 83°57'17" W	118.08'
L28	N 07°52'03" W	20.06'
L29	N 07°52'08" W	50.96'
L30	S 85°55'01" W	98.40'
L31	S 77°48'28" W	78.01'
L32	N 77°48'28" E	78.10'
L33	N 85°55'01" E	75.76'
L34	N 42°36'51" E	29.16'
L35	S 42°05'52" E	106.02'
L36	N 80°08'22" W	233.74'
L37	Not Used	
L38	S 42°05'52" E	40.57'
L39	S 42°05'54" E	7.89'

Road R/W East Side		
Course	Bearing	Distance
L42	N 20°00'52" E	108.41'
C7	Rad: 3555.03' Tan: 180.18' Chd: N 18°14'52" E	Arc: 360.05' CA: 5°48'10" 359.90'
C8	Rad: 1289.38' Tan: 83.26' Chd: N 11°55'15" E	Arc: 126.41' CA: 5°37'02" 126.36'
C9	Rad: 1244.76' Tan: 107.66' Chd: N 04°58'37" E	Arc: 214.79' CA: 9°53'11" 214.52'
L12	N 00°54'38" W	118.55'
L13	N 01°35'46" W	845.39'
L14	N 01°24'02" W	188.23'
L15	N 01°24'49" W	128.34'
L16	N 01°24'49" W	109.99'
L17	N 01°45'14" W	39.81'
L18	N 01°45'14" W	388.63'
L19	N 01°18'16" W	226.74'

NOTES: SEE SHEET 1 OF 2

Review Officer's Certificate
STATE OF NORTH CAROLINA, COUNTY OF CHATHAM
I, Kim Horton, Review Officer for Chatham County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.
Kim Horton, Review Officer Date: 10-26-04
By: Kim Horton Title: Assessor



AREA SUMMARY
Conservation Easement
Area 2 - 9.514 Ac.
(NOT INCLUDING ROAD R/W)

Staging Area 2 - 0.580 Ac.
Staging Area 3 - 0.479 Ac.
Ingress/Egress 2 - 0.135
Ingress/Egress 3 - 0.076
Ingress/Egress 4 - 0.115
Tract 2 Area - 94.254 Ac.
(INCLUDING ROAD R/W)

Area in Road R/W - 1.952 Ac.

Sheet 2 of 2
Conservation Project
U-2524WM
Phillips Tract

Bear Creek Township
Chatham County, North Carolina

200 0 200 400 600
GRAPHIC SCALE - FEET 1"=200'(ft)

Job No. 9041001PP

LEGEND
- EIP Existing iron pipe
- EIR Existing iron rod
- NIR New iron rod w/cap
- NS Nail Set "PK"
- Stone Found Stone
- CP Computed point
- Axle Existing axle
- RRS Railroad Spike Found
- RRS Railroad Spike Set
- Stake/ 12" Spike
- NCDOT Monument
- -E- Construction Easement
- -OHE- Overhead Electric/Utilities
- I/E Ingress/Egress

Owner: Ina Jane Phillips &
Gary Phillips
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2004-372

(Box)