

Buckhead Subdivision

Cumberland County

Project ID #100628

This property portfolio has been created for the NC DEQ Division of Mitigation Services. It includes real property documents related to compensatory mitigation. Typical documents include recorded conservation easements, warranty deeds, and plats. Other relevant legal documents and illustrations are incorporated when they provide insight to the intended audience of land stewards, landowners and program personnel.



STATE OF NORTH CAROLINA

CONSERVATION EASEMENT

Cumberland COUNTY

059931

THIS CONSERVATION EASEMENT DEED, made this 9th day of October, 1998, by and between Broadwell Land Company, whose mailing address is P.O. Box 53587, Fayetteville, NC, 28305, Grantor, and the State of North Carolina, whose mailing address is North Carolina State Property Office, 116 West Jones Street, Raleigh, NC 27603-8003, Grantee. 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, pursuant to the provisions of N.C. Gen. Stat. § 143-214.8 et seq., the State of North Carolina has established the Wetlands Restoration Program (as defined in N.C. Gen Stat. § 143-214.8) within the Department of Environment, Health and Natural Resources for the purposes of acquiring, maintaining, restoring, enhancing, and creating wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities; and

WHEREAS, pursuant to the provisions of N.C. Gen. Stat. § 143-214.8, two of the components of the Wetlands Restoration Program are (1) restoration and perpetual maintenance of wetlands, riparian areas, and surface waters and (2) land ownership and management; and

WHEREAS, Grantor owns in fee simple certain real property situate, lying, and being in Fayetteville, Cumberland County, North Carolina (the "Protected Property"), which is more particularly described on Exhibit "A" attached hereto and made a part hereof.

WHEREAS, Grantor and Grantee have agreed to create a conservation easement ("Conservation Easement") on the Protected Property for the purposes of creating, improving and preserving the stream and riparian area located thereon and preventing the use or development of the Protected Property for any purpose or in any manner which would conflict with the maintenance of the Protected Property in its natural condition.

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 the Protected Property for the benefit of the people of North Carolina, together with the right to preserve and protect the conservation values of the Protected Property.

mail
NC Dept. of Justice
PO B @ 29
Raleigh NC 27602

RECEIVED
12- 1-1998 PM 12:20
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GEORGE E. TATUM
REGISTER OF DEEDS
CUMBERLAND CO., N.C.

NLR
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The purposes of this Conservation Easement are to preserve and protect the conservation values of the Protected Property and to maintain permanently the Protected property, including the wetlands and riparian areas thereon, to protect any rare plants, animals, or plant communities on the Protected Property, and to prevent any use of the Protected Property that will significantly impair or interfere with the conservation values or interests of the Protected Property.

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, its personal representatives, heirs, successors, and assigns, lessees, agents, and licensees.

II. PROHIBITED AND RESTRICTED ACTIVITIES

Any activity on, or use of, the Protected Property inconsistent with the purposes of this Conservation Easement is prohibited. The Protected Property shall be maintained in its natural and open condition and restricted from any development that would impair or interfere with the conservation values of the Protected Property as set out in the Recitals.

In addition to the foregoing, the following specific activities are prohibited, restricted, or reserved, as the case may be:

- A. **Industrial Use.** Industrial activities are prohibited on the Protected Property.
- B. **Residential Use.** Residential use of the Protected Property is prohibited.
- C. **Commercial Use.** Commercial activities are prohibited on the Protected Property.
- D. **Agricultural Use.** Agricultural use of the Protected Property is prohibited.
- E. **New Construction.** There shall be no building, facility, mobile home, or other structure constructed or placed on the Protected Property.
- F. **Signs.** No signs shall be permitted on the Protected Property except interpretative signs identifying the conservation values of the Protected Property, signs identifying the owner of the Protected Property, and the holder of the Conservation Easement, and signs giving directions or prescribing rules and regulations for the use of the Protected Property.

- G. **Dumping.** Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliance or machinery, or other material on the Protected Property is prohibited.
- H. **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; and no change in the topography of the land in any manner except as reasonably necessary for the purpose of combating erosion to maintain the wetland values.
- I. **Water Quality and Drainage Patterns.** Diking, draining, filling, or removal of wetlands, pollution, or discharge into waters, springs, seeps, or wetlands, use of pesticides or biocides, and disruption of natural drainage patterns is prohibited without written approval from the North Carolina Wetlands Restoration Fund.
- J. **Subdivision.** Subdivision, partitioning, or dividing the Protected Property is prohibited.
- K. **Vegetative Cutting.** Cutting, removal, mowing, harming or destruction of any vegetation on the Protected Property is prohibited.

The Grantee shall have the right to enter the property at all reasonable times for the purpose of inspecting said property to determine if Grantor is complying with the terms, conditions, restrictions, and purposes of this conservation easement.

III. ENFORCEMENT AND REMEDIES

- A. In the event of a violation of these terms, conditions, or restrictions is found to exist, the Grantee may institute a suit to enjoin by exparte, temporary or permanent injunction such violation and to require the restoration of the property to its prior condition.
- 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 to Grantee to enforce the same in the event of a subsequent breach or default.

IV. MISCELLANEOUS

- A. This Conservation Easement shall be construed to promote the purposes of N.C. Gen Stat. § 143-214.8 et seq., the Wetlands Restorations Program.
- B. 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.

- C. 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.
- D. 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 all uses of the Protected Property that are not expressly prohibited or restricted herein and are not inconsistent with the purposes of this Conservation Easement. Without limiting the generality of the foregoing, Grantor expressly reserves to Grantor, and Grantor's invitees and licensees, the right of access to the Protected Property, and the right of quite enjoyment of the Protected Property.

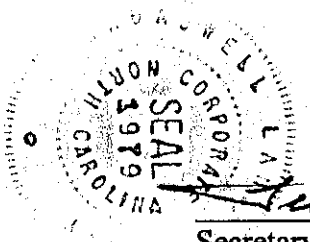
TO HAVE AND TO HOLD the said rights and easements perpetually unto Grantee for the aforesaid purposes.

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

IN TESTIMONY WHEREOF, the Grantor has caused this instrument to be executed in its name by its President and attested by its Secretary, and its Corporate Seal affixed thereto by authority duly given.

BROADWELL LAND COMPANY

Dohn Broadwell (SEAL)
Dohn Broadwell, President



Heather E. ...
Secretary

(CORPORATE SEAL)
STATE OF NORTH CAROLINA

COUNTY OF Cumberland

I, Harriet P. Harris, a Notary Public in and for the
County and State aforesaid, do hereby certify that Leon E. Brown
personally came before me this day and acknowledged that he is Secretary of
Broadwell Land Company, and that by authority duly given and
as an act of said Corporation, the foregoing instrument was signed by
Dohn Broadwell, its President, attested by himself as
Secretary, and sealed with the common seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial

Seal this the 9th day of October, 1998.



Harriet P. Harris
Notary Public

February 2, 2003.

The foregoing Certificate(s) of Harriet P. Harris

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By Stephanie K. Awea Deputy / Assistant - Register of Deeds
GEORGE E. TATUM REGISTER OF DEEDS FOR CUMBERLAND COUNTY,
NO REVENUE

MCCORMAN, KIZER & REITZEL, INC.

Engineers, Planners and Surveyors

115 BROADFOOT AVENUE • POST OFFICE BOX 53774

FAYETTEVILLE, NORTH CAROLINA 28305

TELEPHONE: (910) 484-5131

FAX: (910) 484-0388

May 19, 1995

"RECORD OF POOR QUALITY
DUE TO CONDITION OF
ORIGINAL DOCUMENT"

Description
Broadwell
To
City of Fayetteville
4.56 Acre Tract Between
Windtree Villas and Buckhead

BEGINNING at the northwest corner of Lot 174 of Buckhead, Section Four as recorded in Plat Book 37, Page 18 Cumberland County, North Carolina Registry and running with the rear lines of Lots 174-164, 159, 158 and beyond the following courses and distances:

Due South 113.33 feet to an iron pin;
South 07 degrees 30 minutes 00 seconds West, 179.75 feet to an iron pin;
South 20 degrees 00 minutes 00 seconds West, 296.35 feet to an iron pin;
South 23 degrees 43 minutes 00 seconds East, 149.62 feet to an iron pin;
South 37 degrees 16 minutes 34 seconds East, 183.05 feet to an iron pin;
South 39 degrees 23 minutes 43 seconds East, 384.99 feet to an iron pin;
South 40 degrees 50 minutes 00 seconds East, 355.00 feet to an angle point in the rear line of Lot 157;

thence South 81 degrees 07 minutes 05 seconds West, 23.24 feet to a point;

thence South 80 degrees 05 minutes 24 seconds West, 41.96 feet to a point;

thence South 46 degrees 26 minutes 34 seconds West, 53.13 feet to a point;

thence South 43 degrees 00 minutes 01 seconds West, 61.29 feet to a point in the northern right-of-way margin of the A & R Railroad (100 foot right-of-way);

thence with said right-of-way margin the following courses and distances:

Broadwell
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North 61 degrees 12 minutes 26 seconds West, 54.50 feet to a point;
North 59 degrees 00 minutes 52 seconds West, 98.12 feet to a point;
North 56 degrees 55 minutes 18 seconds West, 98.27 feet to a point;
North 55 degrees 04 minutes 35 seconds West, 100.78 feet to a point;

thence leaving the railroad and running North 66 degrees 17 minutes 00 seconds East, 63.39 feet to a point in the centerline of Buckhead Creek;

thence with the creek the following courses and distances:

North 23 degrees 43 minutes 00 seconds West, 356.37 feet to a point;
North 35 degrees 13 minutes 18 seconds East, 10.08 feet to a point;
North 72 degrees 44 minutes 33 seconds East, 43.01 feet to a point;
North 01 degrees 34 minutes 55 seconds East, 52.20 feet to a point;
North 12 degrees 34 minutes 12 seconds East, 50.25 feet to a point;
North 09 degrees 45 minutes 01 seconds East, 101.12 feet to a point;
North 18 degrees 16 minutes 49 seconds East, 75.00 feet to a point;
North 34 degrees 58 minutes 48 seconds East, 52.20 feet to a point;
North 09 degrees 11 minutes 37 seconds West, 28.18 feet to a point;
North 36 degrees 01 minutes 36 seconds East, 26.25 feet to a point;
North 16 degrees 14 minutes 38 seconds East, 57.22 feet to a point;
North 05 degrees 23 minutes 40 seconds West, 50.25 feet to a point;
North 16 degrees 49 minutes 01 seconds West, 26.37 feet to a point;

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To
City of Fayetteville
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thence leaving the creek and running Due East, 59.34 feet to the beginning.

Containing 4.56 acres, more or less.

The above described property is subject to one or more storm drainage and utility easements appearing of record.

Prepared by MCORMAN, KIZER & REITZEL, INC.; Fayetteville, NC