



Introduction To Land Records

NC Department of the Secretary of State

Elaine F. Marshall, Secretary of State

Presented by: John B. Bridgers

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A black outline map of the United States, including Alaska and Hawaii, serves as a background for the text. The map is centered on the page and covers most of the width and height.

Land Records,

Are based on a long tradition of laws.

In the “Tax Office” world, not only do we have a “taxing job,”

We have a “document-driven system” dependent on Legal documents as a basis to be consistent and fair.

It’s important to make the distinction between a document and a legal document.

Documents vs Legal Documents in Land Records

Documents:

- ▶ Any paper or electronic document.
- ▶ It may or may not be signed.
- ▶ It may or may not be notarized.

Legal Documents:

- ▶ Any paper or electronic document that
- ▶ Has been signed and notarized
- ▶ **AND**
- ▶ Recorded in the County Cadastre.

What is “notarized?”

- ▶ According to Wikipedia. . .
 - ▶ Documents are notarized to screen out fraud and to ensure that they are properly executed.
 - ▶ An impartial witness (the notary) identifies the signers to screen out imposters and to make sure they have entered into agreements knowingly and willingly.

So, just what is the county cadastre



CADASTRE

- The word **CADASTRE** [kuh-**das**-tre]
- came to the English language from the French which borrowed it from the Latin and Greek words:
 - **Katastikhon** – meaning a list or register
 - Literally:
 - “kata” means register
 - “stikhon” means “down the line”
- In effect, “cadastre” refers to registering property lines.

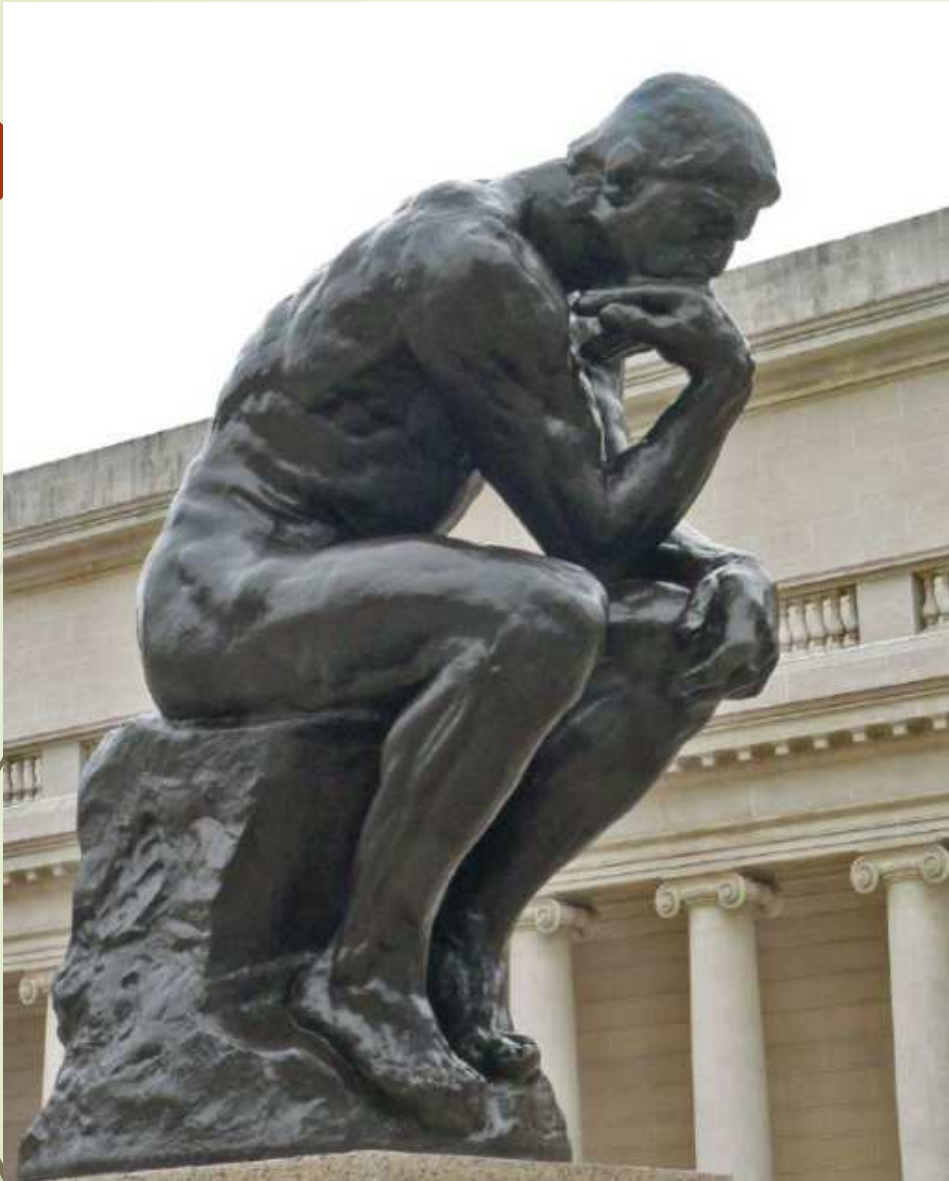
The County Cadastre is:

- ▶ Located in the
 - ▶ The Register of Deeds Office
 - ▶ and
 - ▶ The Clerk of Courts Office.

- ▶ The “muniments” or documents of title
 - ▶ The Official Records of Ownership

A Muniment is:

- ▶ Any document of title or evidence “of record” that passes title and allows a person to defend their claim of ownership or rights to the property.
 - ▶ This includes deeds, wills or estate files, and some court documents
 - ▶ Stored in the County Cadastre
- ▶ The word “muniment” comes from a Latin term meaning “fortification” or “defense”
- ▶ A muniment is a document that can be used to defend title or show evidence of land ownership.



So what do you think,

- The county cadastre actually looks like?

The county cadastre,



Is the collection of the official documents of title or muniments – i.e. the deed vault.

The County Cadastre is the fundamental source of data in disputes and lawsuits between landowners.

So what is a lawsuit?

Expensive!



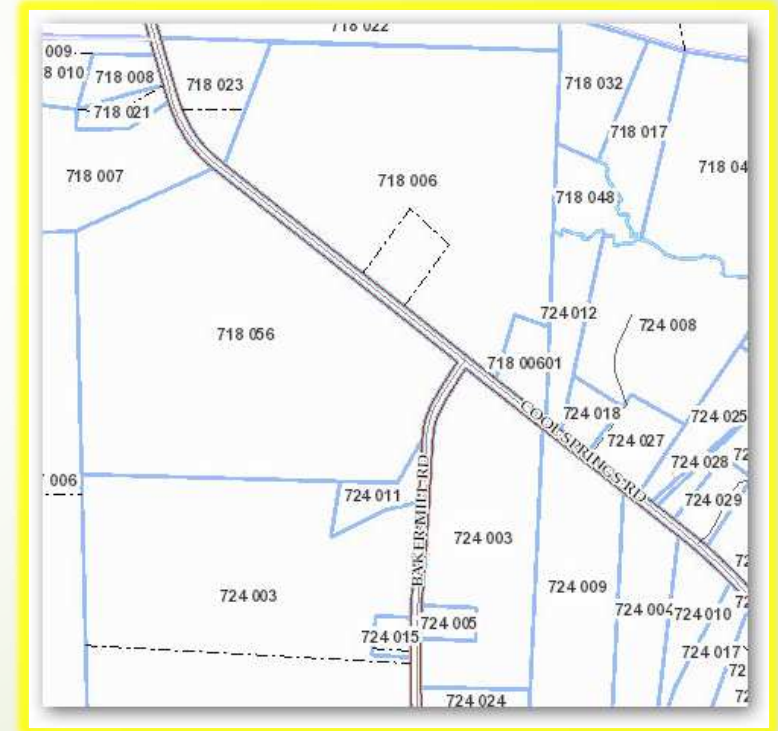
In pre-remote access deeds-online-availability days, this is what it looked like in the deed vault.



That woman, right there, would have the very book you needed and you best not touch one of them!

By extension,

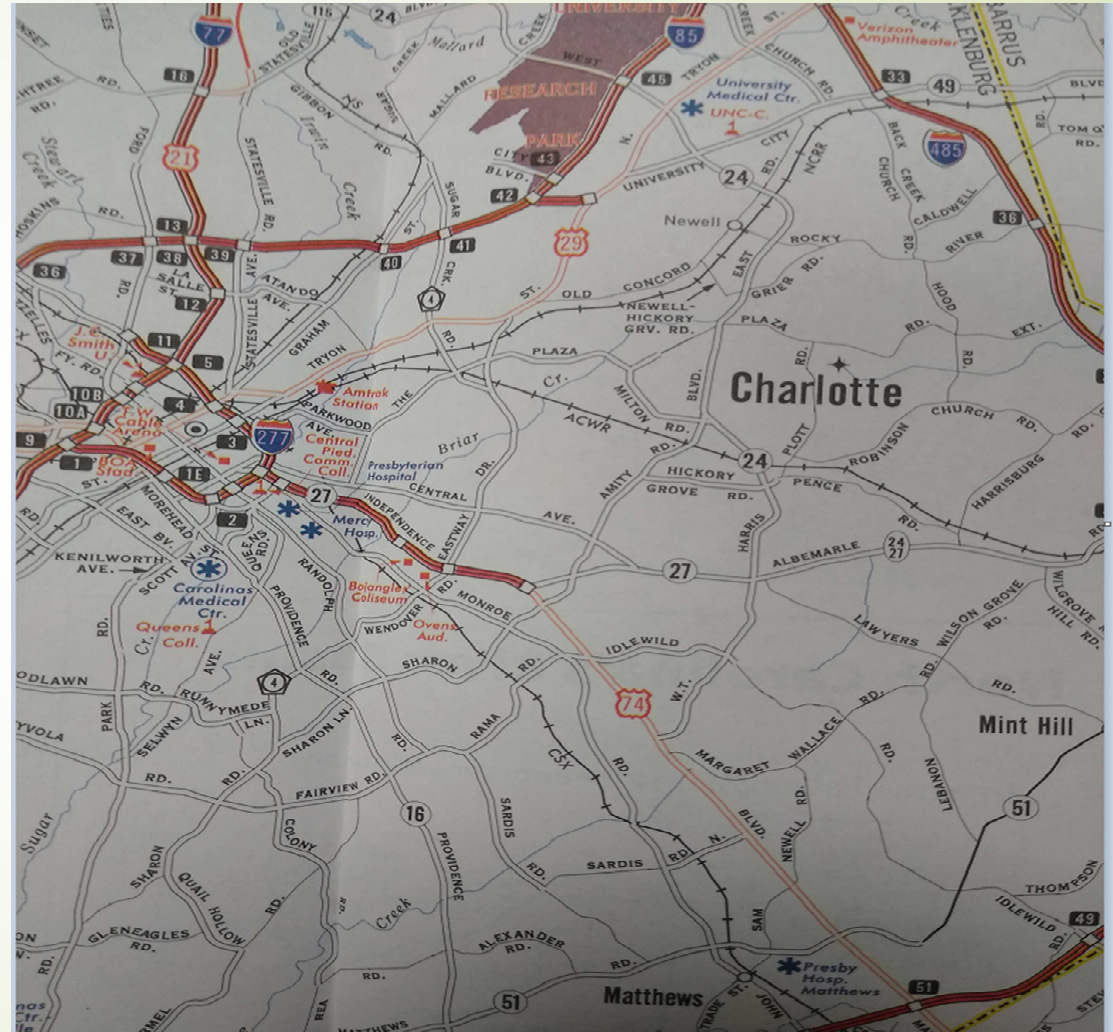
- ▶ If the County Cadastre is the official records of ownership across the county,
- ▶ Then the tax maps, more correctly called “Cadastral Maps,” are maps that reflect those official records of ownership.



What is a map?

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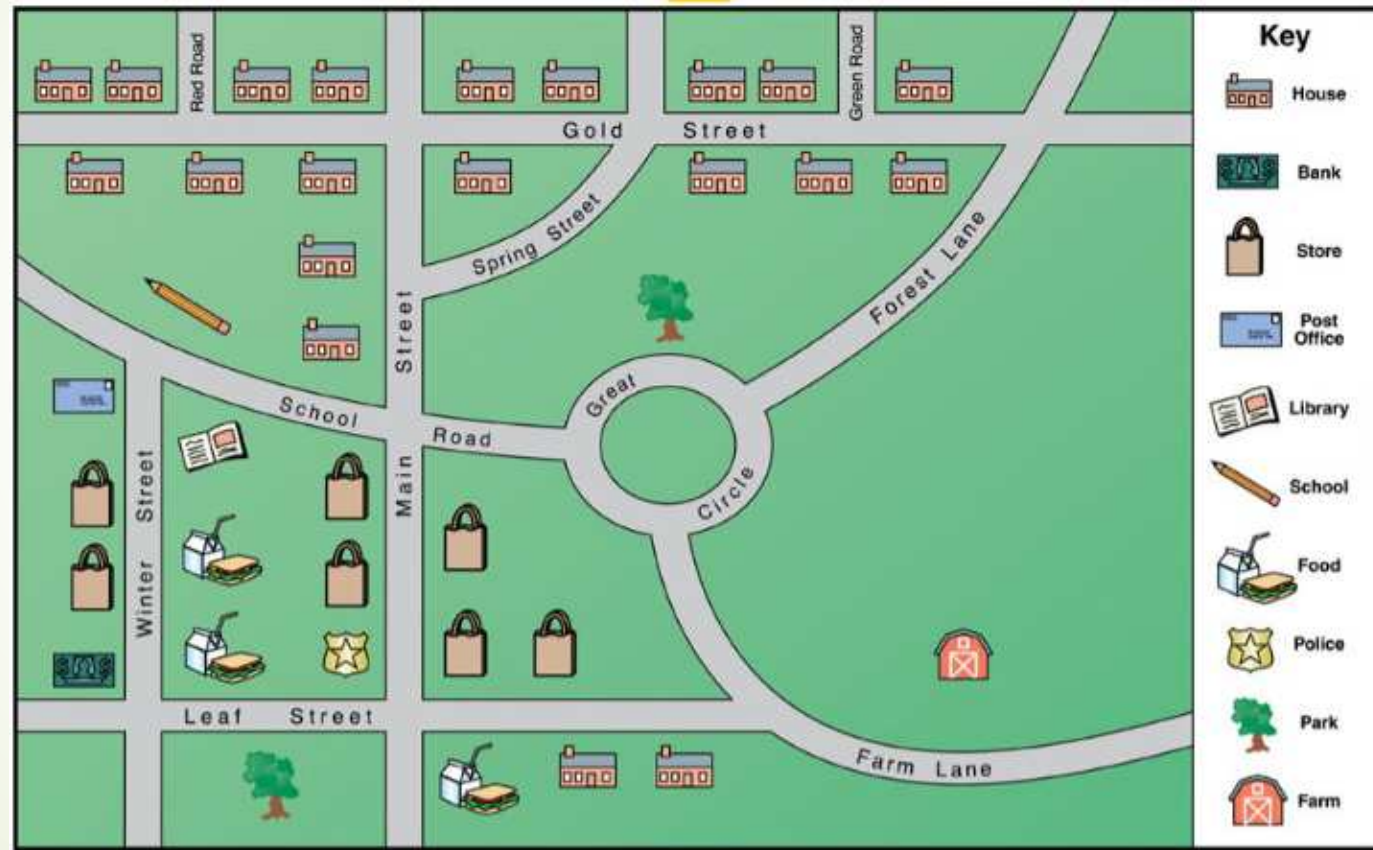
- ▶ A map is a graphic representation or illustration of an area on the surface of the earth.
- ▶ A road map illustrates the location of roads.
- ▶ It may also illustrate the condition of the road as in:
 - ▶ Dirt,
 - ▶ Paved,
 - ▶ Multiple lanes,
 - ▶ Controlled access,
 - ▶ Interchanges.



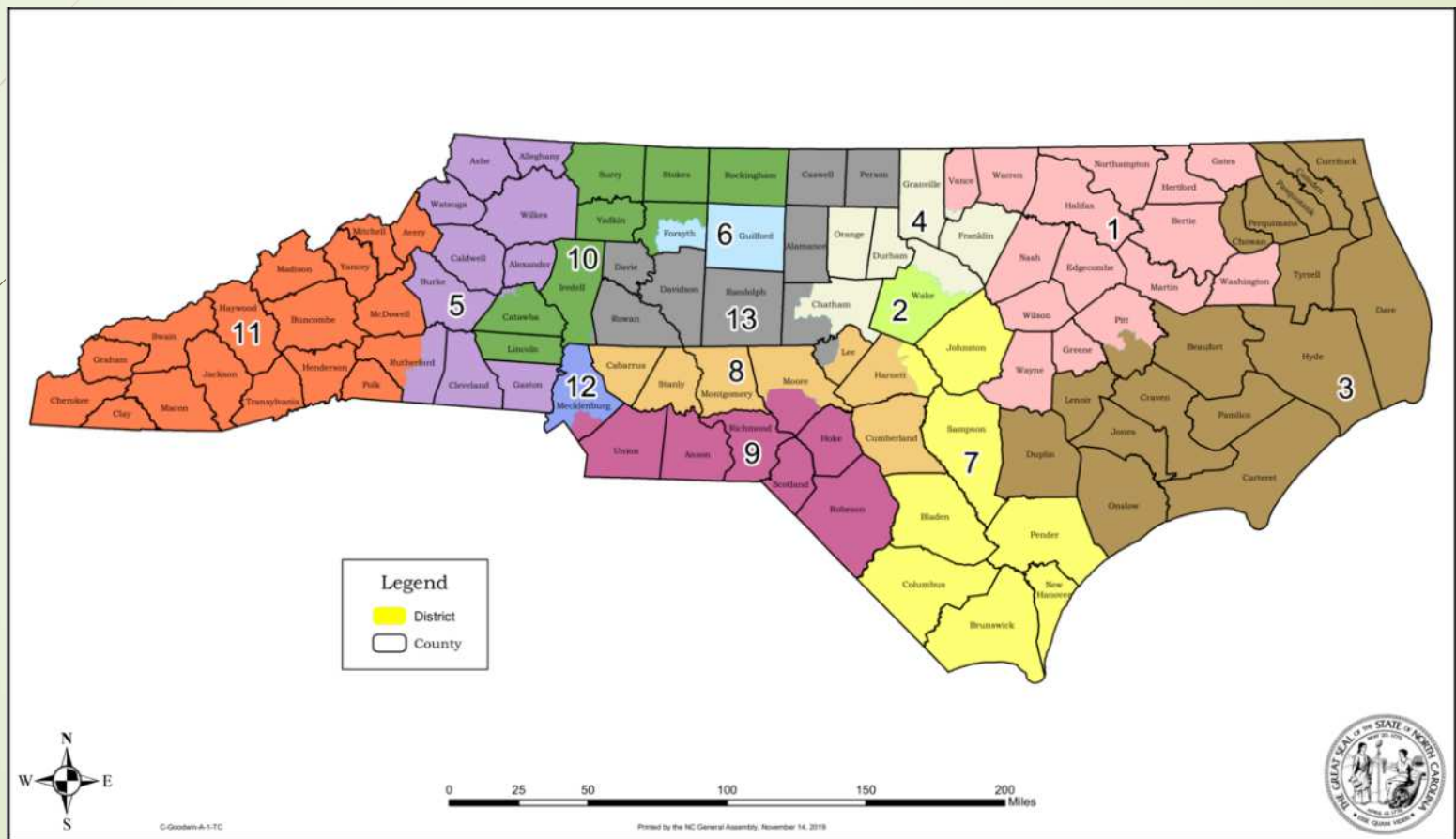
➔ A world map illustrates the world.



- ➔ A neighborhood map illustrates the neighborhood.

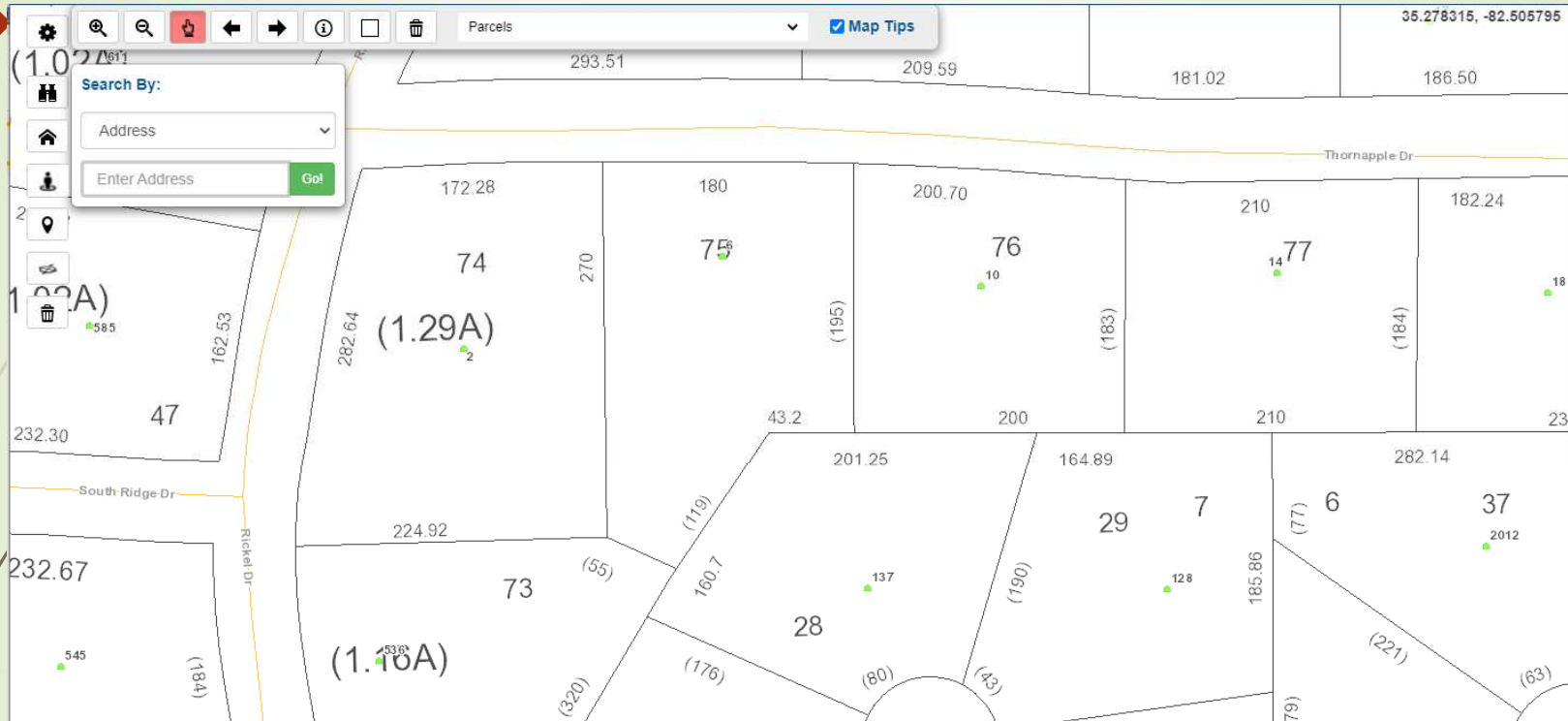


- A Congressional District map illustrates Congressional Districts.



Cadastral Maps illustrate the county cadastre.

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The cadastral maps should perfectly illustrate and reflect the muniments or documents of title housed in the county cadastre.

Document – Driven system

- Because the Cadastral Maps – are maps of the muniments located in the county cadastre,
- The parcels shown in the cadastral maps should each be directly correlated back to a single legal description in the muniments.
- While a single deed can convey ownership to multiple parcels, each parcel should trace back to a single legal description on only one deed.

In other words. . .

- ▶ I can sell you five parcels of land scattered across the county in a single deed.
- ▶ But, If I had a 100-acre parcel and I gave you a deed for 30 acres, yesterday, and a deed for the remaining 70 acres, today,
- ▶ You would not have a 100-acre parcel. You'd have a 30-acre parcel and a 70-acre parcel
- ▶ Each with a distinct chain of title.

The Cadastral Maps

- ▶ And the records in the CAMA system are not legal documents.
- ▶ The CAMA records have no bearing on the legal status of the property in the county.

CAMA – stands for. . .

- **C**omputer
 - **A**ssisted
 - **M**ass
 - **A**ppraisal
- CAMA is just the computer system used by the Tax Office.

The Cadastral Maps

- Your name could be on every parcel in the CAMA system, but that does not mean you own anything.
- It only means that you are the one that is going to get all the tax bills.



The tax maps themselves are not muniments

- The maps are not legal documents.
- The maps are an illustration or a graphic representation of the descriptions in the muniments.

Map Disclaimers

- ▶ Because tax maps are not legal documents, they carry a disclaimer.
- ▶ The disclaimer basically says that the maps are drawn using best available information
- ▶ And are believed to be accurate; but
- ▶ The maps are for tax inventory purposes only.
- ▶ Any other use without checking the actual legal documents is at the peril of the user.

- ▶ Not all records in the Register of Deeds Office and the Clerk of Courts Office are muniments or documents of title.
 - ▶ Birth and death certificates – (Register of Deeds)
 - ▶ Criminal records – (Clerk of Courts)
 - ▶ Deeds of Trust – (Register of Deeds)
 - ▶ Plats* – (Register of Deeds)
 - ▶ Power of attorney forms – (Register of Deeds)
 - ▶ Liens – (Clerk of Courts)

* See GS 47-30(g)

A Recorded Plat Is Not Automatically Part of the County Cadastre,

- ▶ Until it has been referenced or called for in a muniment or document of title.

This bears repeating!!!

A Recorded Plat Is Not Automatically Part of the County Cadastre,

- ▶ Until it has been referenced or called for in a muniment or document of title.

So why isn't a duly recorded plat automatically part of the county cadastre?

■ **§ 47-30. Plats and subdivisions;**

(g) Reference in any instrument hereafter executed to the record of any plat herein authorized shall have the same effect as if the description of the lands as indicated on the record of the plat were set out in the instrument.

What does that mean?

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§ 47-30(g) Plats and subdivisions;

“Reference in any instrument hereafter executed”

- *In any document recorded in the county ROD office*
- “to the record of any plat herein authorized”
- *Referencing a plat already recorded in the ROD office.*
- “shall have the same effect as if the description of the lands as indicated on the record of the plat were set out in the instrument.”
- *Will be the same as if the metes and bounds description of the land shown on that recorded plat were written out in this new document.*

► **§ 47-30. Plats and subdivisions;**

(g) Reference in any instrument hereafter executed to the record of any plat herein authorized shall have the same effect as if the description of the lands as indicated on the record of the plat were set out in the instrument.

The statute says. . .

Reference in any instrument.

It does not say. . .

A recorded plat is the same as any recorded muniment.

Because of this statute,

- A valid deed can use just a plat reference as the legal description without anything else.

Being known and designated as Lot(x) 81
 in Oak Valley, Section 4, (Aviara) as recorded
 in Plat Book 6, Page(x) 79, Davie County Registry,
 reference being thereto for a more particular description.

DEED BOOK 178 PAGE 320

Drafted by: James W. Armentrout
 Mail to: HUBBARD REALTY, 205 S. Stratford Road, Winston-Salem, NC 27103

DEED TRANSFER CHECKED
 DATE 1-23-95 BY [Signature]

Mail future tax bills to: Mr. Craig Carter, (Name) (Street and Number) (City) (State) (Zip)
 (Name) (Street and Number) (City) (State) (Zip)
 (Name) (Street and Number) (City) (State) (Zip)

THIS DEED, made this 16th day of January, 1995, by C.J. Ramey, Attorney-in-Fact for Oak Valley Associates Limited Partnership, a North Carolina Limited Partnership and Ridge Run Properties, LLC, all general partners of Oak Valley Properties, Inc., a North Carolina LLC, all are corporations or limited liability companies of Winston-Salem, Forsyth County, North Carolina, parties of the first part, and through their Attorney-in-Fact, in consideration of ten dollars (\$10.00 o.v.c.) and other valuable considerations have bargained and sold and by these presents do bargain, sell and convey to said party of the second part and its heirs and assigns, a certain tract or parcel of land in Farmington Township, Davie County, North Carolina, bounded as follows:

Being known and designated as Lot(x) 81 as recorded in Oak Valley, Section 4, (Aviara) as recorded in Plat Book 6, Page(x) 79, Davie County Registry, reference being thereto for a more particular description.

Subject to all easements of record and restrictive covenants recorded in Book 175, Page 153, Davie County Registry, are incorporated herein by reference as if set out verbatim herein. See also amended restrictions in Book 175, Page 200, Davie County Registry. Property Address: Aviara Drive, Block Map E-9, Lot 81.

TO HAVE AND TO HOLD the aforesaid tract, parcel or lot of land, all privileges and appurtenances thereto belonging to the said party of the second part and its heirs and assigns, to its only use and behoof forever;

AND THE SAID parties of the first part covenant to and with the said party of the second part and its heirs and assigns, that they are in fee, and have the right to convey and assign, that they are from all encumbrances, and that they will warrant in fee the same against the claims of all persons.

IN TESTIMONY WHEREOF
 C.J. Ramey, as

Partners in Oak Valley Associates
 Partnership

00293

DEED TRANSFER CHECKED

DATE 1-23-95 BY J. Bridges

320

W. Armentrout (Name) 1641 West Winston-Salem, NC 27103 (City) (State) (Zip)
REALTY, 285 S. Stratford (Street and Number) Advance, NC 27006 (City) (State) (Zip)
s to: Mr. Craig Carter, Route 0, Box 174AA, (City) (State) (Zip)
(Name) (Street and Number) (City) (State) (Zip)

is 16th day of January, 1995, by C.J. Ramey, Attorney-in-Fact for Oak Valley Associates Limited Partnership, a North Carolina Partnership, and Ridge Run Properties, Inc., HGH, LLC, and Oak Valley Properties, Inc., Attorneys-in-Fact for the first part, to Craig Carter, Builder, Inc., a North Carolina Partnership, and the second part, by and through their Attorney-in-Fact, parties of the first part, and other valuable considerations, receipt of which is hereby acknowledged, that said parties of the first part, by and through their Attorney-in-Fact, have bargained, sell and convey to said second part and by these presents do bargain, sell and assign, a certain tract or parcel of land and sold and its heirs and assigns, a certain tract or parcel of land, bounded as follows:

Being known and designated as Lot(s) 81 as recorded in Oak Valley, Section 4, (Aviara) as recorded in Plat Book 6, Page(s) 79, Davie County Registry, reference being thereto for a more particular description.

Subject to all easements of record and restrictive covenants recorded in Book 175, Page 143, Davie County Registry which are incorporated herein by reference as if set out verbatim herein. See also amended restrictions in Book 175, Page 200, Davie County Registry. Block Map E-9 Lot 81

Address: Aviara Drive

WARRANTY AND TO HOLD the aforesaid tract, parcel or lot of land, all privileges and franchises thereto belonging to the said party of the second part and its heirs, to its only use and behoof forever;

THE SAID parties of the first part covenant to and with the said party of the second part and its heirs and assigns, that they are seized of said premises, and have the right to convey the same in fee simple; that the same are free from all encumbrances, and that they will warrant and defend the same against all the claims of all persons whatsoever.

IN TESTIMONY WHEREOF the said parties of the first part, by and through C.J. Ramey, as Attorney-in-Fact for them as set out in a Power of Attorney recorded in Book 175, Page 236, Davie County, N.C. Registry, have authorized C.J. Ramey to sign this deed on their behalf, and he has signed and sealed same an act on behalf of those he represents as Attorney-in-Fact, all on the day of the year first above written.

C.J. Ramey, Attorney-in-Fact for

Oak Valley Associates Limited Partnership and

01-23-95

\$212.00
Real Estate
Excise Tax

STATE OF NORTH CAROLINA

212-00

Because the statute says

- Reference in any instrument has the same effect as if the description was written out. . .
- The reference to Plat Book 6 Page 79 brings that entire plat into the deed.

Being known and designated as Lot(s) 81 in Oak Valley, Section 4, (Aviara) as recorded in Plat Book 6, Page(s) 79, Davie County Registry, reference being thereto for a more particular description.

Plats, in their own right

- ▶ Do not convey title.
- ▶ It takes a muniment referencing a plat to bring that plat into the document of title,
- ▶ Then it's the muniment that brings the plat into the chain of title
- ▶ And into the county cadastre.

How often will some hire a surveyor to do a new survey,

- ▶ Record the survey,
- ▶ Then sell the property and the new deed uses the old description, ignoring the new plat?
- ▶ That happens because the new plat may be recorded but it is not in the chain of title
- ▶ and the attorney or paralegal did not find or failed to notice the new plat.

A Referenced Map becomes part of the Description

- ▶ When a deed refers to a map
- ▶ “for a more particular description,”
- ▶ the map becomes part of the instrument
- ▶ and will
- ▶ aid in the description therein

▶ *Jones v. Arehart, 125 N.C. App. 89, 92, 479 S.E.2d 254, 255, 1997 N.C. App.*

In North Carolina we have:

- ▶ Statute law – laws passed by the NC General Assembly
- ▶ Case law – past legal decisions written by courts
 - ▶ Often to resolve ambiguities in Statute Law
 - ▶ For instance, if the decision of a Board of Equalization and Review (Board of E&R) is appealed to the NC Property Tax Commission and that decision is appealed to the NC Court of Appeals,
 - ▶ The ruling by the Court of Appeals becomes “Case Law.”

Statutes of importance:

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- § 22-2 – Statute of Frauds
- § 47-18 – Connor Act (Race Statute)
- § 47-30(g) – Recording a plat
- § 105-296 – Powers and duties of assessor
- § 47-30(f)(11)c-1 – Definition of a parcel
- § 47-14 – Register of deeds to verify
- § 105-302 – In whose name property is to be listed
- § 55-D-26 – Corporations – Land Records
- § 41-56 – Creation of tenancy by entirety
- § 41-71 - Creation of joint tenancy with right of survivorship
- § 28A-2A-13 – Wills filed in the Clerk's Office
- § 31-39 – Probate necessary

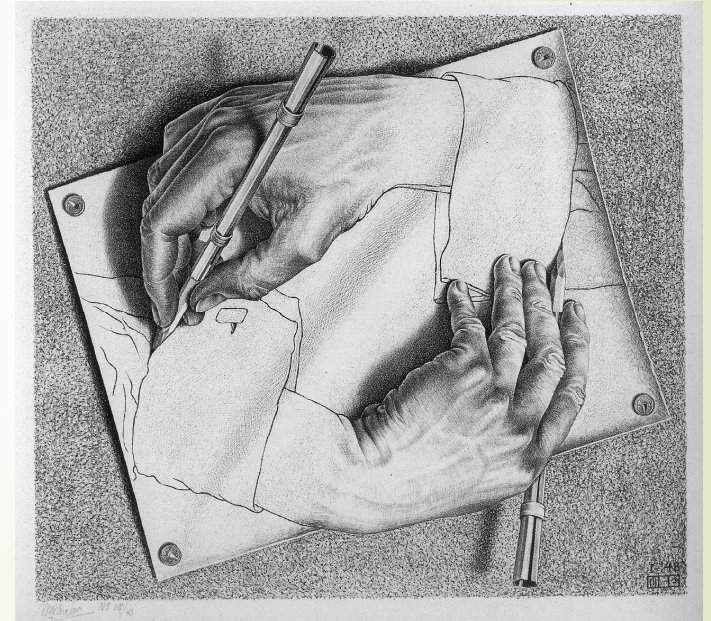
Mission of the Courts

- ▶ Is to enforce the contract embodied in the Instrument.
 - ▶ The first step in giving effect to the ambiguous agreement is to ascertain under established rules of evidence
 - ▶ 1. What the minds of the grantor and grantee assented to at the time.
 - ▶ 2. To identify in the sense in which the term has been used by the Court (*Safret v Hartman, supra*) is to show it to be the same subject-matter that was agreed by both parties.

- ▶ ***Higdon v. Rice, 119 N.C. 623, 625, 26, S.E. 256, 257, 1896***

Can a person transfer property to himself?

- No! Since the law requires a grantor and a grantee,
- A person cannot be a grantee from himself.
- A deed is a contract.
- A person cannot enter into a contract with themselves.



Case law: “Dupree v Dupree, 45 N.C. 164 (1853)

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➤ Axioms:

- 1. Property must at all times have an owner.
- 2. One person cannot part with ownership unless there is another person to take it from him.
- 3. There must be a grantor , a grantee and a thing granted.

Dupree v Dupree, 45 N.C. 164 (1853)

This is where we get the notion that someone cannot deed property from themselves to themselves.

If somebody does record a deed from themselves to themselves, they have not broken any laws, it's not illegal, the document just doesn't do anything.

Then there is common law. . .

- ▶ A Common Law is a law that is not really written down, anywhere;

but is recognized, by everyone,

as: "*This is the way it's done.*"

So, Why Are We Here?



Well, it has to do with working with this thing called the “Machinery Act.”

Safety Tip!

If you're going to work with
Machinery,

You best know what
you're doing.

If you don't, you could
get your hand caught
in a cog or run over
by a steam roller –

or feel like you were!



§ 105-271. Official Title

- This Subchapter may be cited as the Machinery Act.

§ 105-272. Purpose of Subchapter

- To provide the machinery for the listing, appraisal, and assessment of property and levy and collection of taxes on property by counties and municipalities.

The Machinery Act

- Gives the counties and municipalities
- the authority to go out and do
- whatever is necessary to collect taxes.

- (That's the machinery!)

Basically,

When it comes to taxes,
The General Public
Is just in a fog
About what we do,
And why.

Many folks assume that



the tax office is just out to get them.

We have to
understand

That the general
public

Does not
understand.

And be patient
with them.



In North Carolina Real Estate Law,

There is plenty of statutory law,
Plenty of case law

But the real basis of
our real estate law
comes from

Olde English

Common Law.



One of the most basic ideas in Old English common law was:

- All land is owned by somebody and subject to taxes unless it is owned by the King.
- Back in Merry Olde England,
- The King wasn't going to pay taxes to himself.
- Ownership of land was at the pleasure of the King.
- People had to pay a tax to the King for the privilege of living on or using a piece of land.
- The King was the "sovereign"

Sovereign

- One possessing or held to possess supreme political power
- It can be
 - A person, as in the King,
 - A body, as in the Politburo
 - The State, as in North Carolina
- In which independent and supreme authority is vested



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Think
about



They claim the state, federal and county governments have no authority over them, because they are sovereign.

North Carolina's take on that Old English Common law is:

- ▶ All land is owned by somebody and subject to taxes unless it is owned by the State
(or it has been made exempt from taxes by the State.)

- ▶ What kind of property comes to mind as being exempt?

Churches -

But also schools, charities & organizations like the Red Cross or the American Legion.

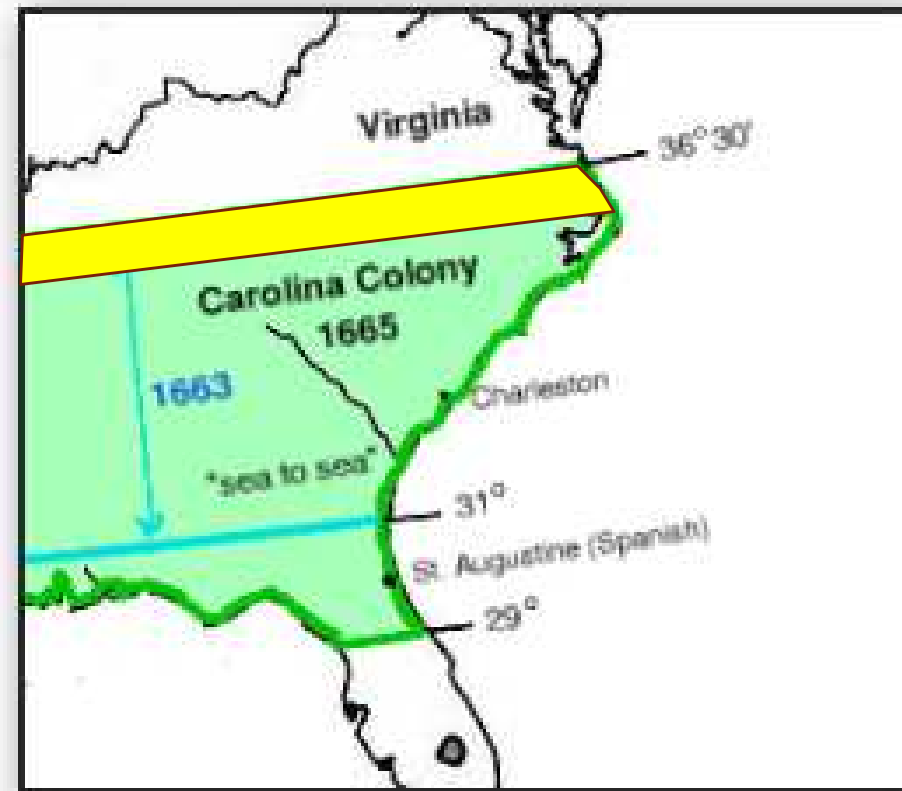
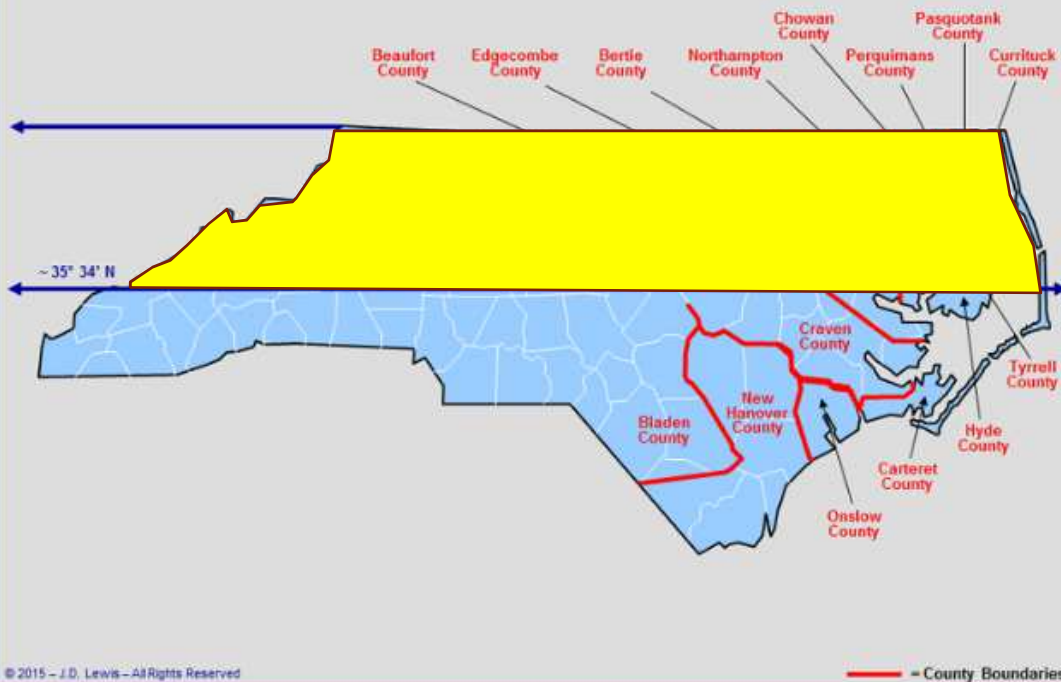


North Carolina's Sovereigns

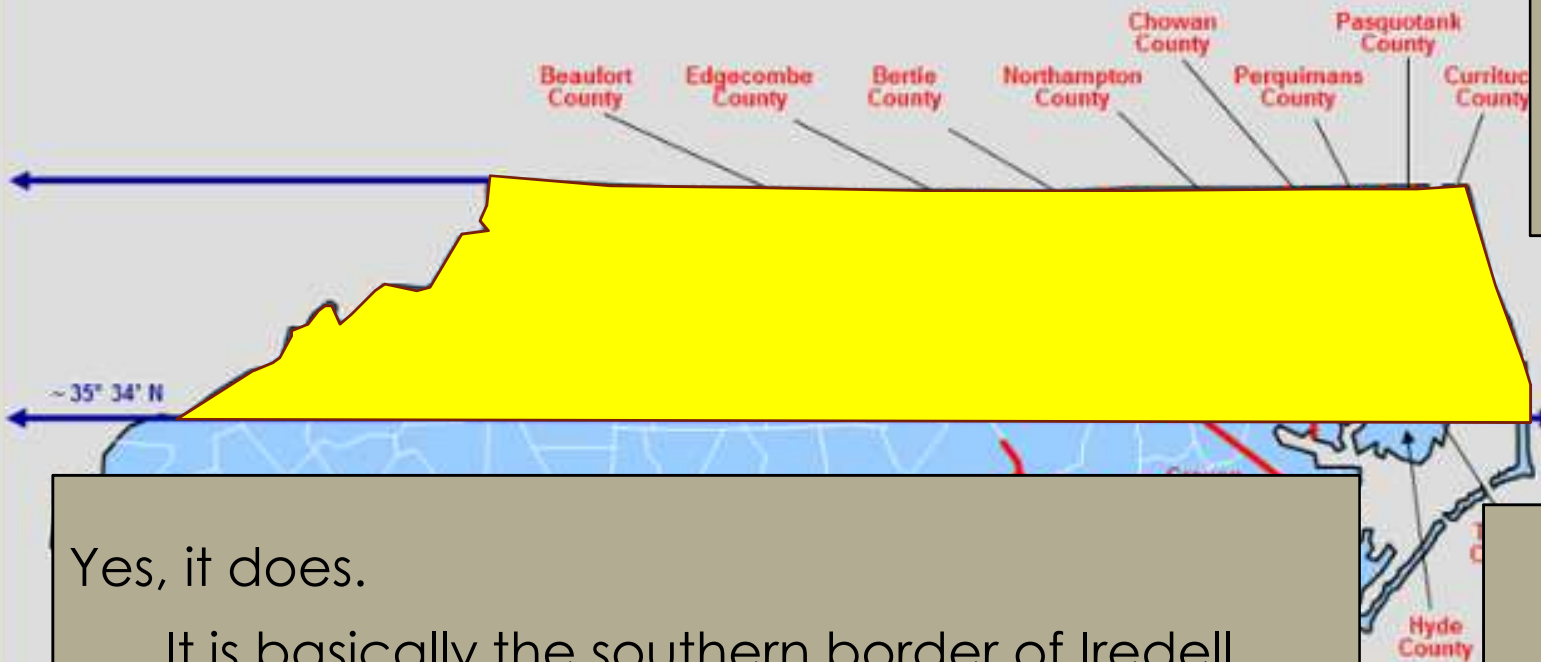
- ▶ 1663 – 1729 – The Lords Proprietors
 - ▶ King Charles II gave Carolina to the eight Lords Proprietors
 - ▶ 1729 – 1776 – The King of England – George II & George III
 - ▶ King George II paid seven of the Lords Proprietors cash (gold) to give up their rights to the colony.
 - ▶ 1776 – Present: The State of North Carolina
-

Lord Granville refused to sell his share to King George II. After 15 years of negotiations, the King finally gave him 1/8 of the land, now known as the Granville tract.

The Granville Tract as Defined in 1744



The Granville Tract as Defined in 1744



Does this boundary, from 1744, have any significance for us today?

Yes, it does.

It is basically the southern border of Iredell, Rowan, Davidson, Randolph, and Chatham Counties and the northern border for Mecklenburg, Cabarrus, Stanly, Montgomery, and Moore Counties.

As well as the northern border of North Carolina and Tennessee.

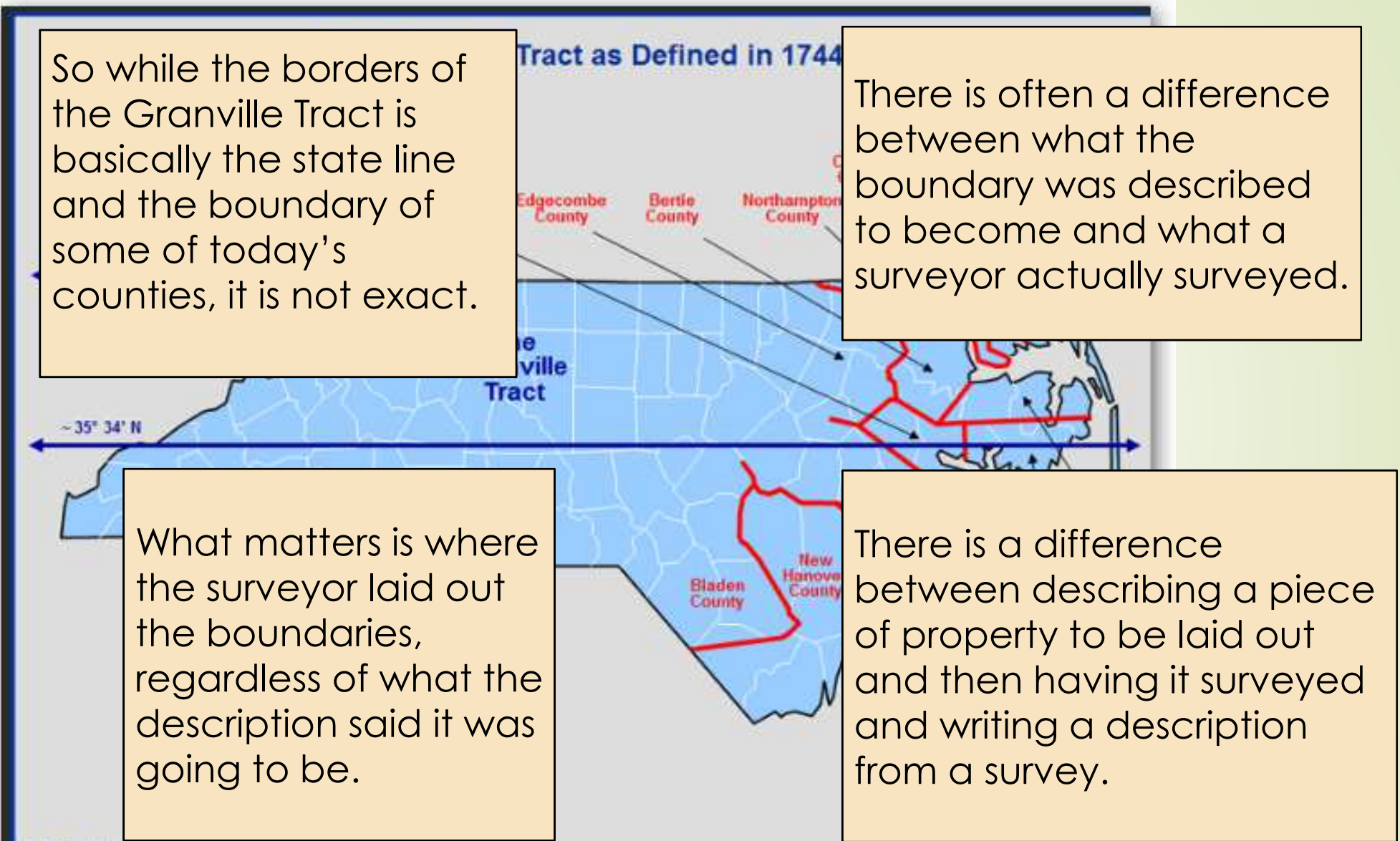
So while the borders of the Granville Tract is basically the state line and the boundary of some of today's counties, it is not exact.

Tract as Defined in 1744

There is often a difference between what the boundary was described to become and what a surveyor actually surveyed.

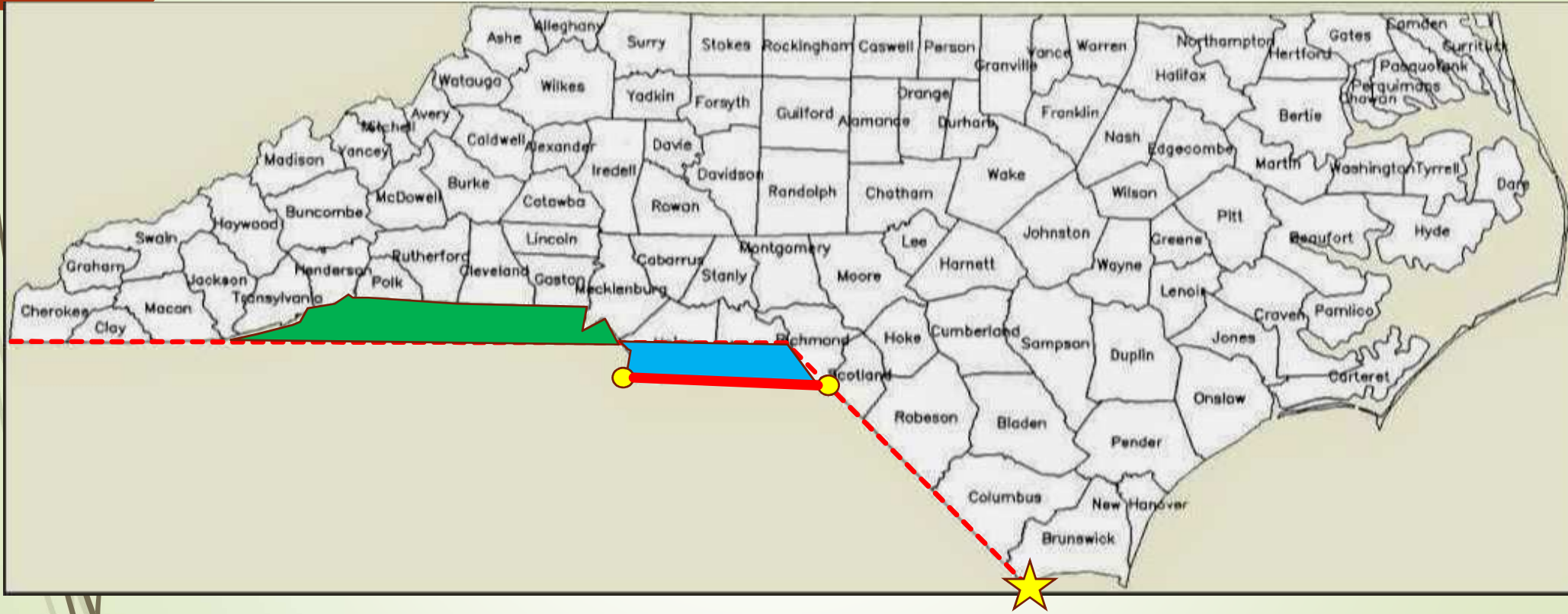
What matters is where the surveyor laid out the boundaries, regardless of what the description said it was going to be.

There is a difference between describing a piece of property to be laid out and then having it surveyed and writing a description from a survey.



- **North Carolina/South Carolina boundary**
 - **King George II issued a decree in 1735 that:**

"The line shall begin at the sea, thirty miles from the west side of the mouth of the Cape Fear River. From thence, it shall run on a northwest course to the thirty-fifth parallel of north latitude [35° North latitude], and from thence due west to the South Seas."



1764

1735

How did North Carolina get its shape?

Even though the state line was supposed to be straight, the surveyor's didn't survey a straight line.

The rule is that the boundary is where the surveyor marks the line as opposed to what the owner said was to be the line.

The line shall

1. Begin at the sea, 30 miles from the west side of the mouth of the Cape Fear River
2. From thence, it shall run on a northwest course to 35° 7' N latitude
3. From thence due west to the South Seas

CC YouTube

The Original Survey Controls

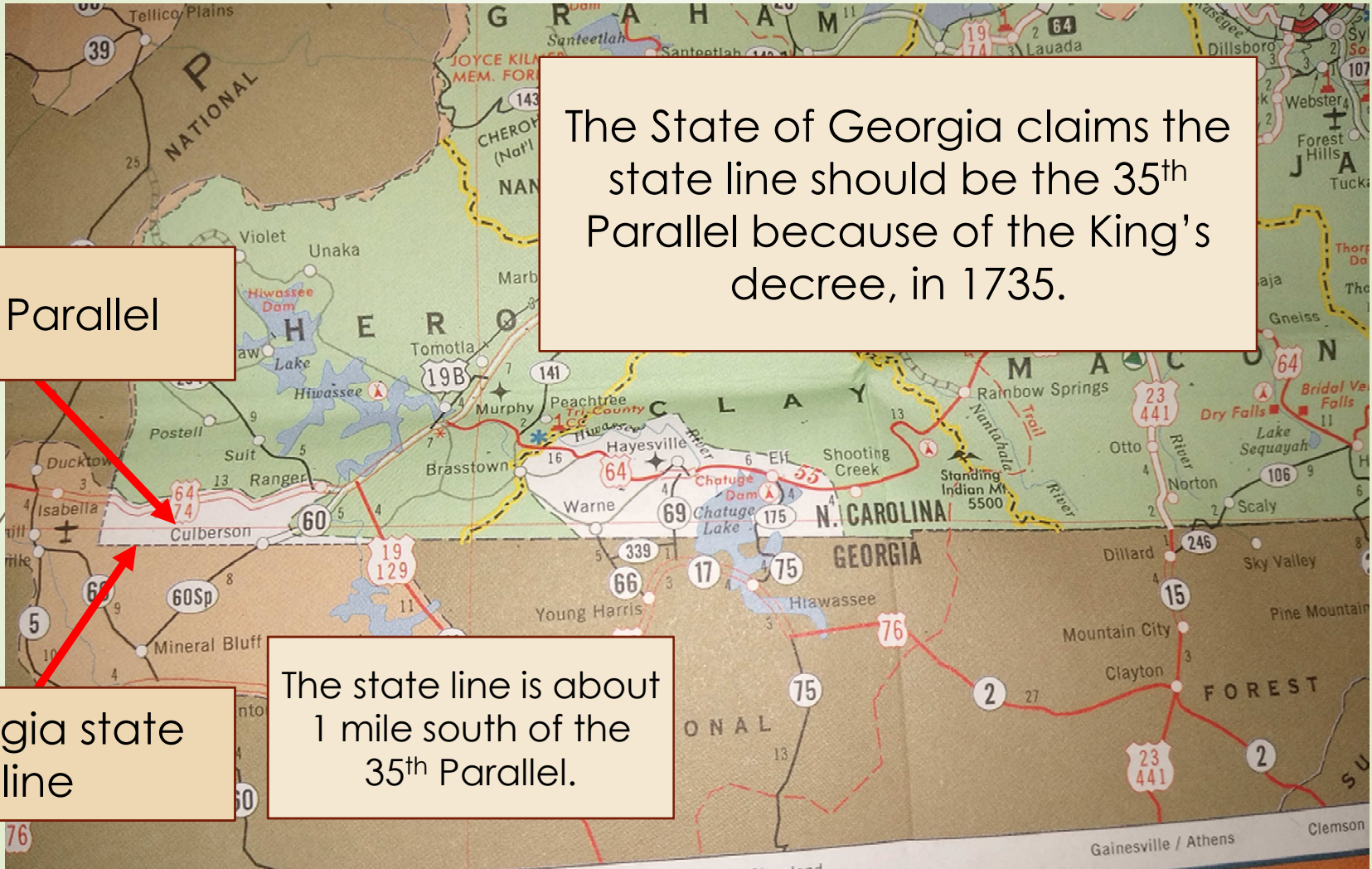
- Whenever it can be proved
 - that there was a line
 - actually run by the Surveyor,
 - was marked and a corner made,
 - the party claiming under the patent or deed,
 - shall hold accordingly,
 - notwithstanding a mistaken description of the land in the patent or deed.
-
- *Cherry v. Slade's Adm'r, 7 N.C. 82, 1819 N.C.*

35th Parallel

The State of Georgia claims the state line should be the 35th Parallel because of the King's decree, in 1735.

Georgia state line

The state line is about 1 mile south of the 35th Parallel.



Properties that have:

- ▶ Never been granted to an owner
 - ▶ or
- ▶ Have no-one to inherit (escheats)

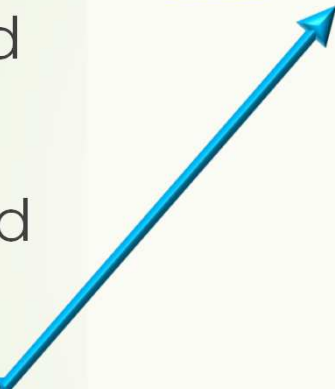
- ▶ Are owned by the Sovereign
 - ▶ i.e. The State of North Carolina

How can there still be any land left that was never granted to anyone?

► Think

Shelly Island
Off of
Hatteras Island

Cape
Hatteras
Light House





Began forming, April 2017.

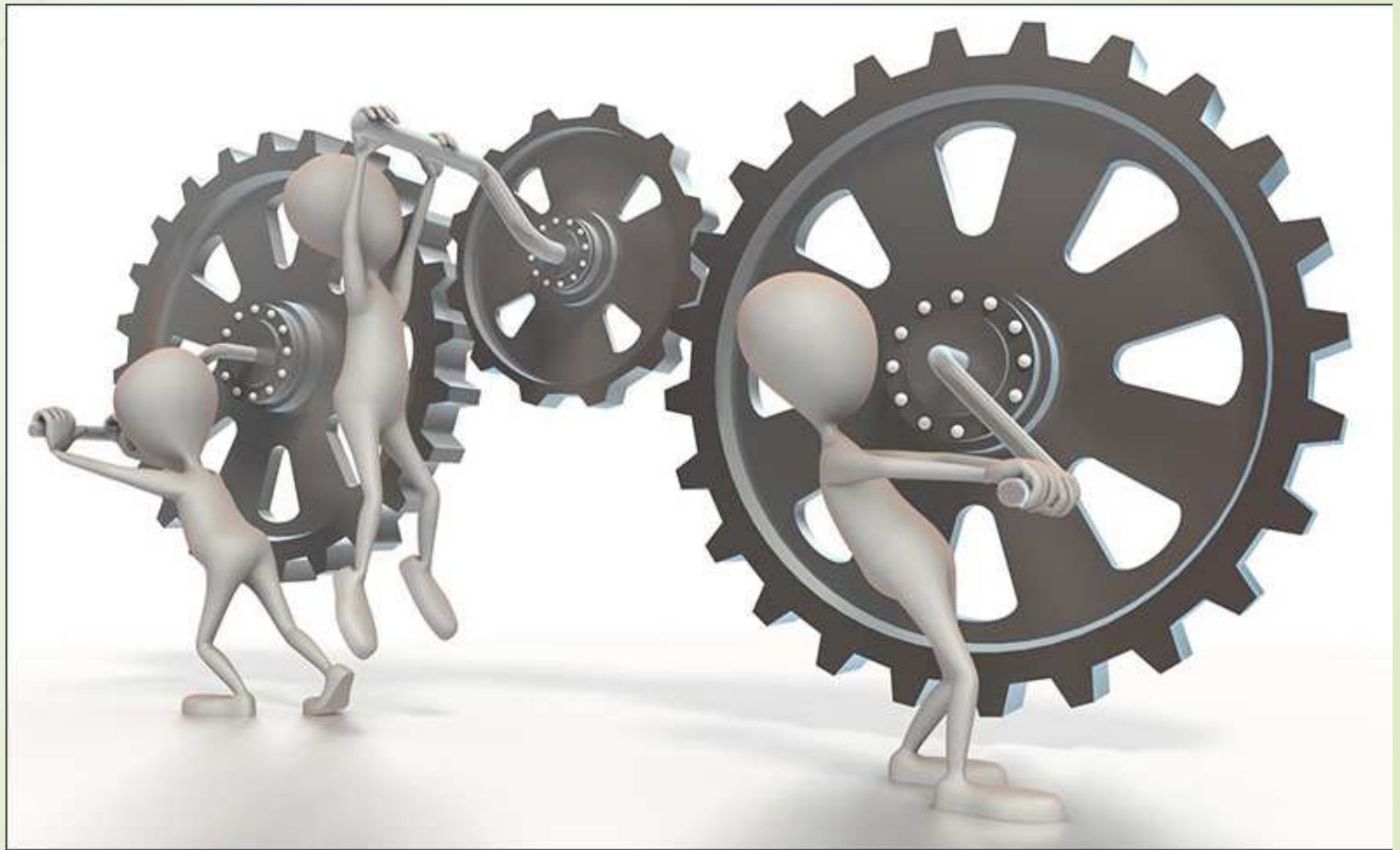
At its largest, it was about 500' wide and about 1 mile long.

Disappeared by early, 2018.

Any property (land or personal property)

- Owned by someone that dies intestate (without a will)
- And that person had no heirs,
- The property is then owned by the State of North Carolina.
 - It's not automatic, the State Treasurer has the right to start proceedings to take ownership.
- That property is said to escheat.

Switching Gears to some statutes. . .



§ 22-2 Statute of Frauds

All contracts to sell or convey any lands, tenements or hereditaments, or any interest in or concerning them; and all other leases and contracts for leasing lands exceeding in duration three years, shall be void unless said contract, or some memorandum or note thereof, be put in writing and signed by the party to be charged therewith, or by some other person by him thereto lawfully authorized.

- ▶ (29 Charles II, c. 3, ss. 1, 2, 3; 1819, c. 1016, P.R.; 1844, c. 44; R.C., c. 50, s. 11; 1868, c. 156, ss. 2, 33; Code, ss. 1554, 1743; Rev., s. 976; C.S., s. 988.)

Easements & other rights such as water rights or mineral rights.

The owner, the legal guardian, or a Power of Attorney

Basically, this statute is saying, "When you sell land, you have to put it in writing and sign it because, You can't sell something you don't own."

§ 22-2 Statute of Frauds

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All contracts to sell or convey any lands, tenements or hereditaments, or any interest in or concerning them; and all other leases and contracts for leasing lands exceeding in duration three years, shall be void unless said contract, or some memorandum or note thereof, be put in writing and signed by the party to be charged therewith, or by some other person by him thereto lawfully authorized.

(29 Charles II, c. 3, ss. 1, 2, 3, 1819, c. 1016, P.R.; 1844, c. 44; R.C., c. 50, s. 11; 1868, c. 156, ss. 2, 33; Code, ss. 1554, 1743; Rev., s. 976; C.S., s. 988.)

Called the
"citation"
and gives a
history of
the statute.

Attorneys set great store by how old a statute is.

The older it is, the greater chance that everybody will know about it.

This has been a law of North Carolina, since 1669.

Per the Statute of Frauds (GS 22-2)

- In order to buy or sell land,
- The contract (i.e. the deed) has to be in writing
- and it has to be signed.



BK017585PG01548

WAKE COUNTY, NC
CHARLES P. GILLIAM
REGISTER OF DEEDS
PRESENTED & RECORDED ON
09-24-2019 AT 09:59:20
STATE OF NC REAL ESTATE
EXCISE TAX: \$470.00
BOOK: 017585 PAGE: 01548 - 01549

NORTH CAROLINA GENERAL WARRANTY DEED

Mail to the preparer: McCullers, Whitaker and Hamer, PLLC, 216 Highway 70, Garner, NC 27529
Parcel # **0104071, Wake County** File# 19-0945
Brief Index description: **Lot 17 Map 1978-301** Excise Tax: \$ 970.00

THIS WARRANTY DEED is made on the 25 day of Sept, 2019 by
and between:

Darlene P Adams,
Also known as **Darlene T Adams**
An unmarried woman

(hereinafter referred to in the neuter singular as "the Grantor"); and,

John B Bridgers,
An unmarried man
1940 Hilltop Road
Raleigh, NC 27610

(hereinafter referred to in the neuter singular as "the Grantee"):

WITNESSETH, that the Grantor(s), for a valuable consideration paid by the Grantee(s), the receipt of which is hereby acknowledged, has and by these presents does hereby give, grant, bargain, sell and convey unto the Grantee(s), its heirs, successors, administrators and assigns, all of that certain piece, parcel or tract of land situated in **Wake County, North Carolina** acquired by the Grantor by deed recorded in **Book 2621, Page 160**, and more particularly described as follows:

Being all of Lot 17, containing 2.338 acres, more or less, on Hilltop Road, as shown on that plat entitled "Property of Graham L. Smith Heirs, Wake County, N.C.," dated April 25, 1978, prepared by Richard E Burnette, Registered Land Surveyor and recorded in Book of Maps 1978, page 301, Wake County Registry.
Property Address: 1940 Hilltop Road, Raleigh, NC 27610

Submitted electronically by "McCullers, Whitaker & Hamer, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

I've got my deed.

➤ I know I bought it.

➤ The seller knows I bought it.

➤ What about the rest of the world?

That's where the Register of Deeds comes in.

The Instrument of Title

- The holder of legal or equitable title can:
 - Transfer all or part of the property, (§ 22-2)
 - Transfer some rights, (§ 39-6.4)
 - Restrict or modify use. (§ 22-2)

An Instrument affecting real property must be in writing.

Verbal
agreements

just aren't
good enough.

§ 47-18 The Connor Act The Race Statute:

- ▶ North Carolina is a “Race State” or “Pure Race State”
- ▶ Whoever gets to the courthouse and records their deed first gets the property.
- ▶ There are only 3 pure race states: North Carolina, Delaware, Louisiana



It has nothing to do with auto racing or NASCAR. It's a race to the courthouse to record the deed.

§ 47-18 The Connor Act (paraphrased)

No conveyance of land, shall be valid to pass any property interest as against lien creditors or purchasers for a valuable consideration but from the time of registration in the County where the land lies, or if the land is located in more than one county, then in each county where any portion of the land lies

to be effective as to the land in that county.

Deed

Creditors
or other
buyers

Recorded
In the
county

Or
counties

§ 47-18 The Connor Act (paraphrased)

No conveyance of land, shall be valid to pass any property interest as against lien creditors or purchasers for a valuable consideration

but from the time of registration

in the County where the land lies,

or if the land is located in more than one county, then in each county where any portion of the land lies

to be effective as to the land in that county.

This the date you should enter into the CAMA system, as the date of transfer, regardless of when the deed was written, or signed, because this is when title transferred .

The Connor Act is saying,

- ▶ Title does not transfer until the deed is recorded in the county or counties where the land is located.

That means if you bought a house and you do not have title to the property because you have not recorded the deed,

And someone puts a lien against your property because of a debt owed by the prior owner,

You would be responsible to pay the debt in order to have a clear title.

§ 47-18 The Connor Act (continued) (paraphrased)

- Unless otherwise stated either on the registered instrument duly executed by the party whose priority interest is adversely affected, instruments registered in the office of the register of deeds shall have priority based on the order of registration as determined by the time of registration.
- This is where the “race” come into the statute.

If you purchased a property for \$10,000,000, but did not hurry down to the Register of Deeds office to get your deed recorded,

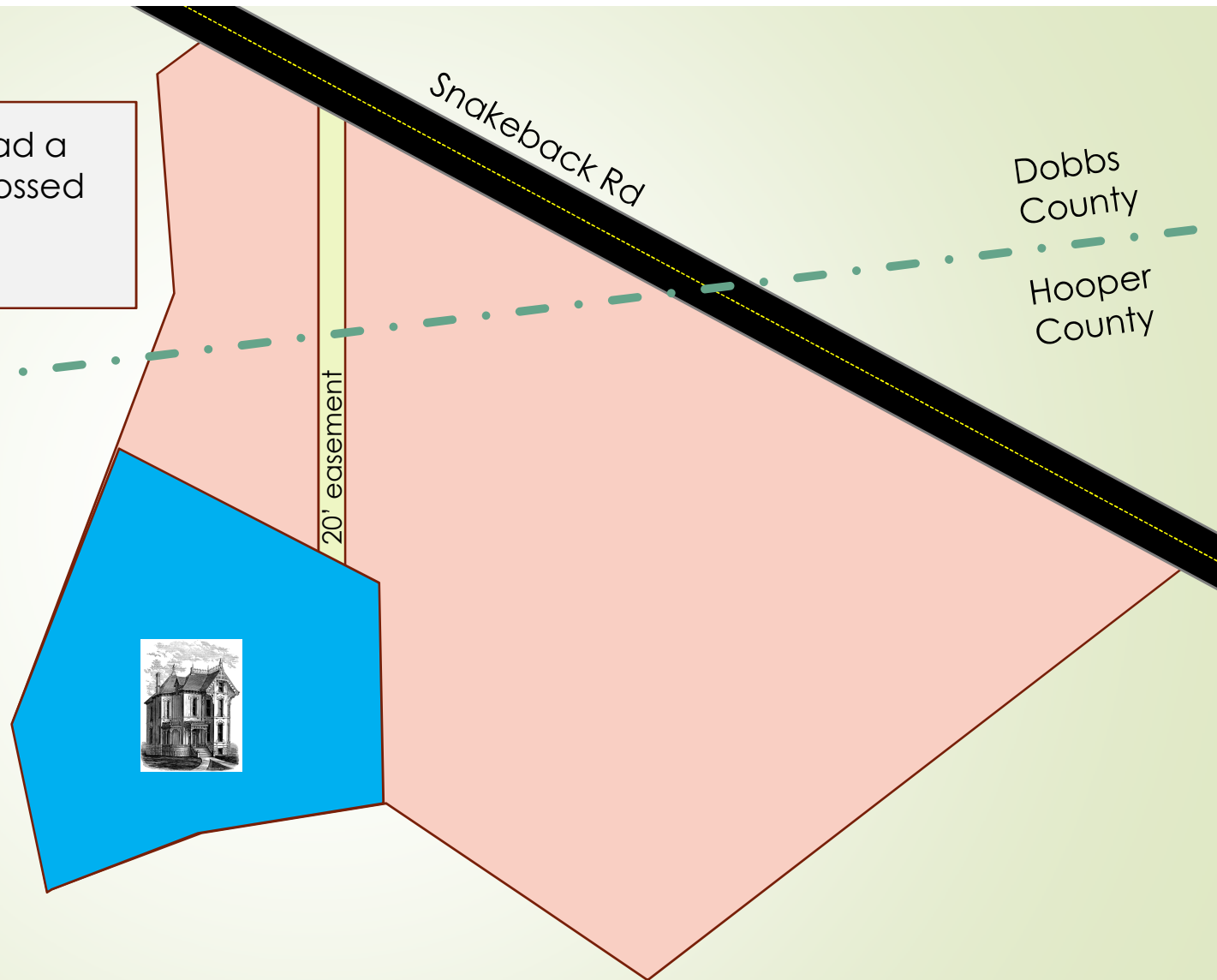
And the owner “forgot” he sold it to you,

And gives the property to his church, and the church records their deed, before you do record your deed, the church will have title to the property.

Cora Nona Cobb had a tract of land that crossed the Dobbs County / Hooper County line.

In 2010, she sold the house and a couple of acres around the house to Mark McKalender along with a 20' easement out to the Snakeback Rd.

Mark McKalender recorded the deed and easement in Hooper County where the house is located but not Dobbs County.



In 2018, Cora Nona Cobb sold the rest of the land to Ann Thrax who put a chain across the 20' roadway.

Mark McKalendar took Ann Thrax to court to reopen his driveway.



20' easement

Snakeback Rd

Dobbs County

Hooper County

The court ruled that because Mark McKalendar recorded the deed with the easement in Hooper County, he had an easement from his property to the county line.

But, because GS 47-18 states no interest is passed unless it is recorded in the county where the property is located, Mark did not have an easement from the county line to the paved road.

When it comes to land records,

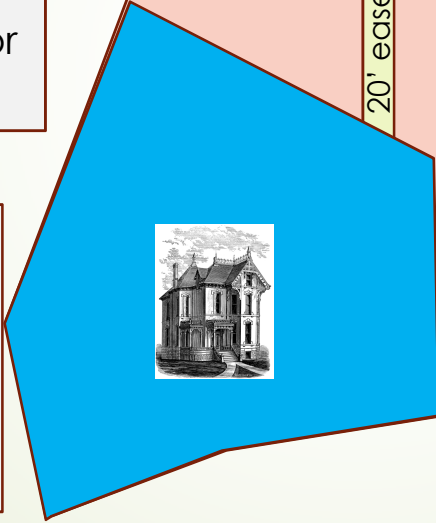
- Because GS 47-18 specifically states that the document has to be recorded in the county where the land is located,
- That means,
- If it didn't happen in your county, it didn't happen!!!
 - If a document is not recorded in your county cadastre,
 - You, as a tax official, have no power or authority to act on that document.
 - (This also applies to wills and corporation documents.)

Since Mark McKalendar has no interest in the road from the county line out to the Snakeback Rd, what recourse does he have?

1. He could try to purchase the right-of-way or easement from Ann Thrax.

Is Ann Thrax obligated to sell him the same right-of-way he had, or any right-of-way at all?

2. He could start a "Cartway Proceeding" at the county clerk of courts office to force Ann Thrax to give him a way into his property.



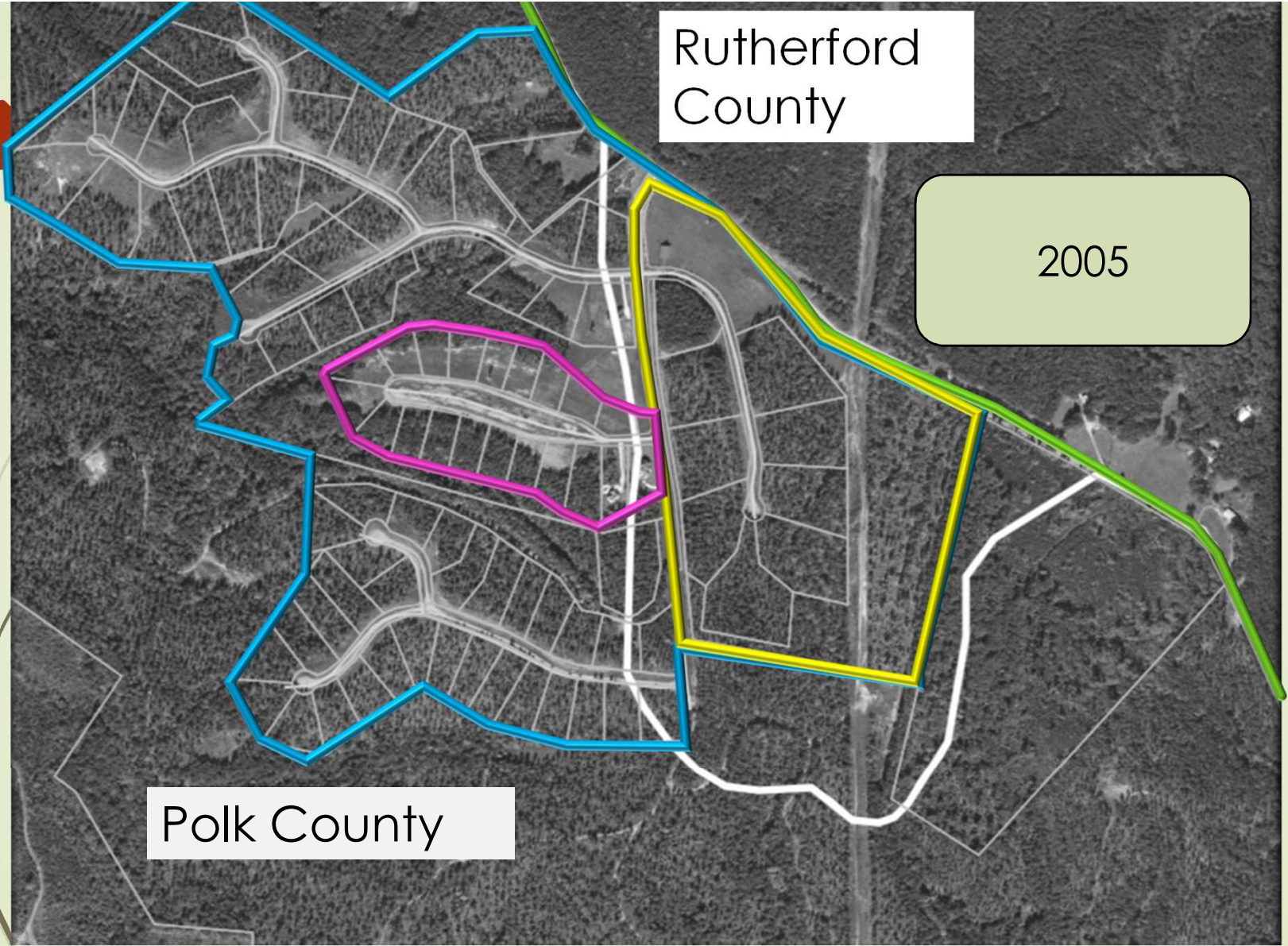
At which Clerk of Courts Office would he need to start this process, Dobbs County or Hooper County?

Even if the court agrees with Mark, the right-of-way granted by the court may not be the most direct, the shortest, or the most convenient route.

What could Mark McKalendar have done to have prevented the problem, would not have cost an arm and a leg, and would have saved a whole lot of headache?

Answer: Recorded the deed in Dobbs County, anytime, before Cora Nona Cobb sold the property.

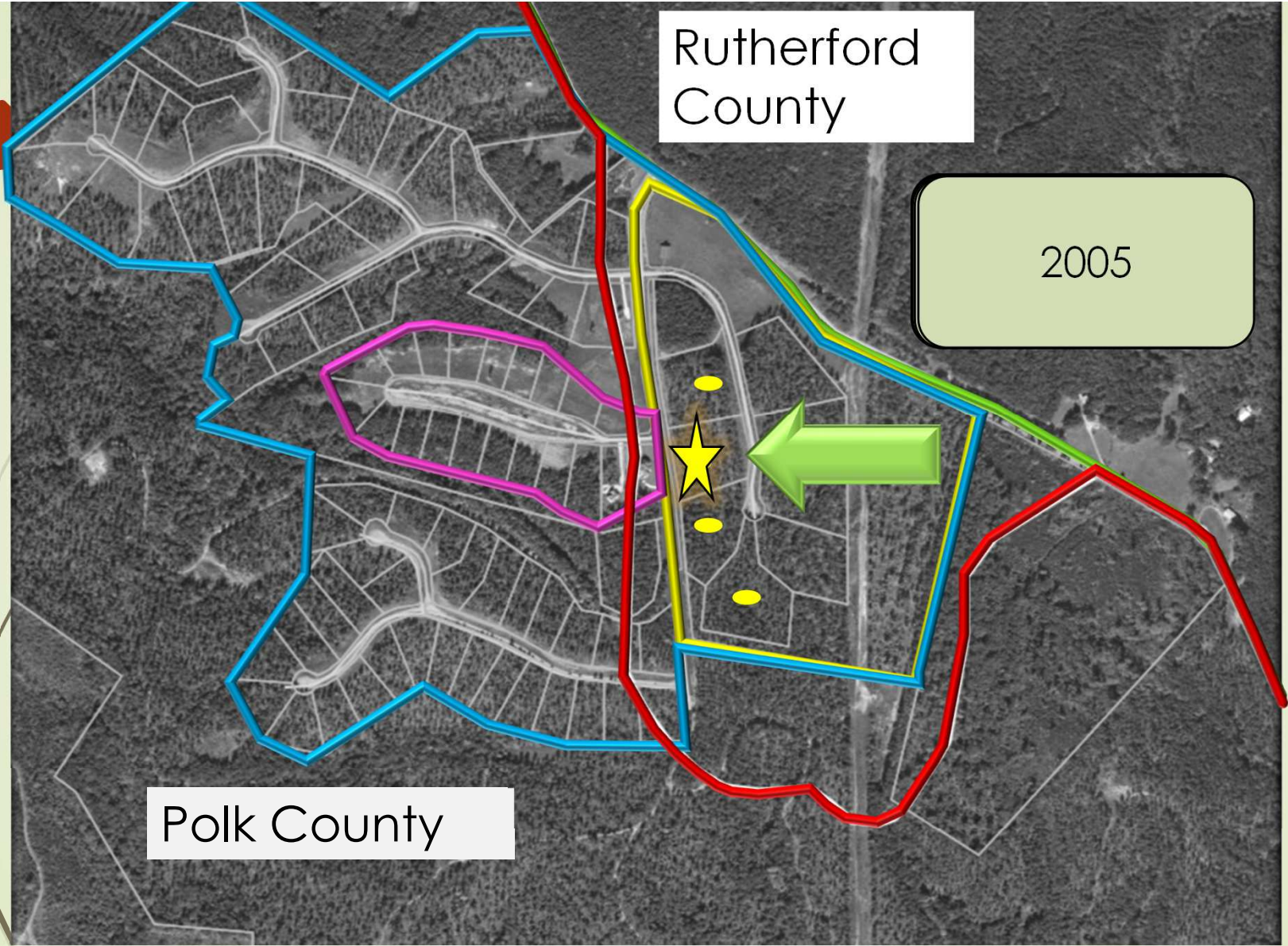
Dobbs County
Hooper County



Rutherford
County

2005

Polk County

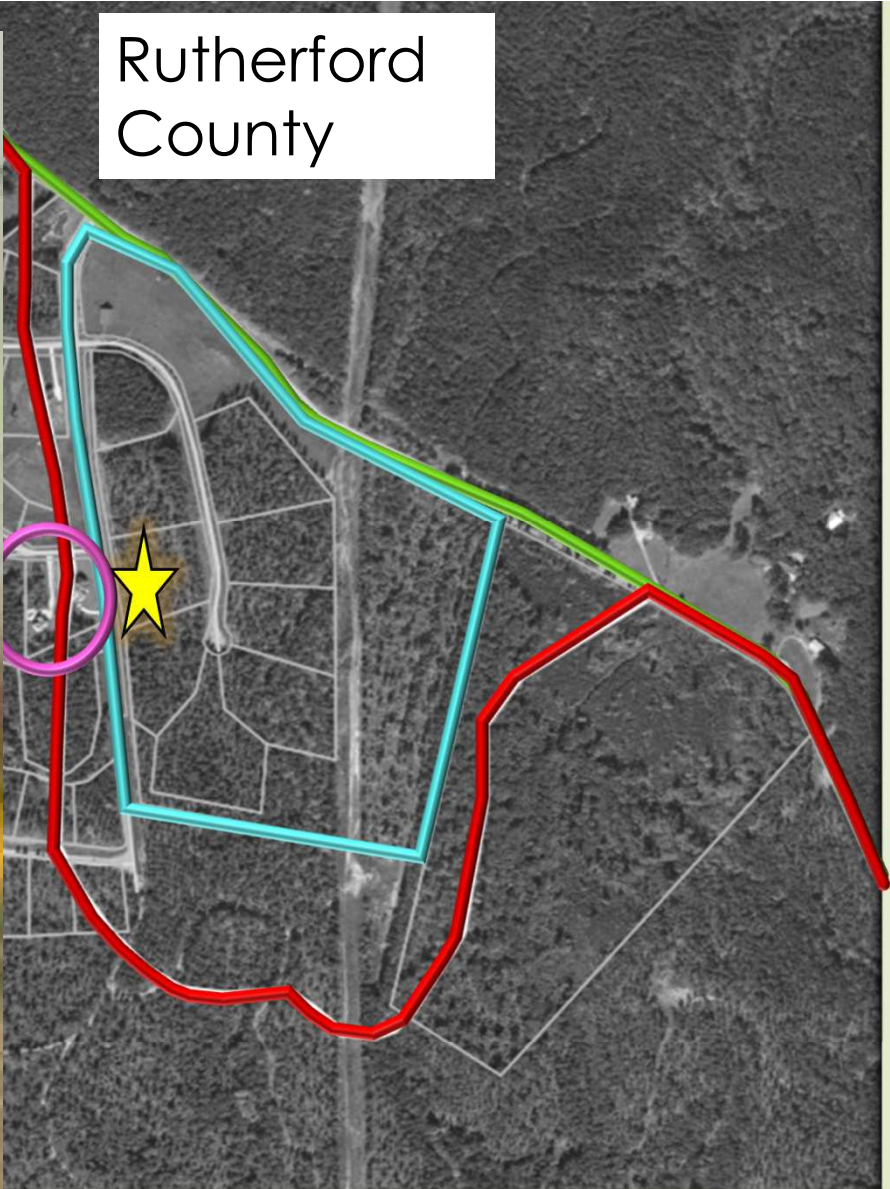


Rutherford County

2005

Polk County

Rutherford
County



Title to property is the “ownership” a person has in the property.

- There is not a “certificate of title” as with an automobile
- A deed is evidence of title*
- * Under the “Torrens Act” a person’s deed is their title.

In North Carolina

- Closing Costs – The costs associated with the buying or selling a piece of land
- is 47th in the entire country.
 - i.e. attorney's fees, title search, etc.

In North Carolina

- ▶ Title Insurance rates are significantly cheaper for homeowners than in the other states.
- ▶ Titles are relatively easy to search.
- ▶ Claims on title insurance policies are rare
 - ▶ When there is a claim on a title insurance policy it is even more rare that the claim is actually paid.

In North Carolina

- ▶ This significant savings in closing costs and title insurance is because of the accuracy and the integrity of the land records in county Land Records and Tax Offices across North Carolina.

In North Carolina,

- One can be pretty sure
 - That when they purchase a piece land
 - And they are given a deed to that property,
 - That the seller (grantor) does, in fact, own the property and has the right to sell it.
- Or when someone tries to get a loan using land they own as collateral, a bank will be willing to make the loan, because they can be sure of who the true owner is.
 - It's not like that in all countries.
 - It's not like that in all 50 states.

The accuracy and integrity of Land Records in North Carolina.

- ▶ In the 1970s, the NC General Assembly made a concerted effort to improve the land records across the state.
- ▶ The State provided grants to counties to have orthophotography flown and the parcels mapped out on Mylar sheets.

Before the Modernization of Land Records was begun,

- ▶ Most counties only had
 - ▶ Old ASCS (Farm Service) aerial photographs
 - and
 - ▶ A few plats for urban areas – if that.
- ▶ The tax office didn't have any way to verify what a person actually owned.

Today, In Some countries

- There are competing deeds for the same property

Or

- Multiple chains of title.

- Imagine going to a bank to get a 2nd mortgage on you home only to find out there are three or four other people that have deeds to your home.

Greece vs North Carolina

▶ Greece -

▶ Area – 50,949 square miles

▶ Population – 11,103,000

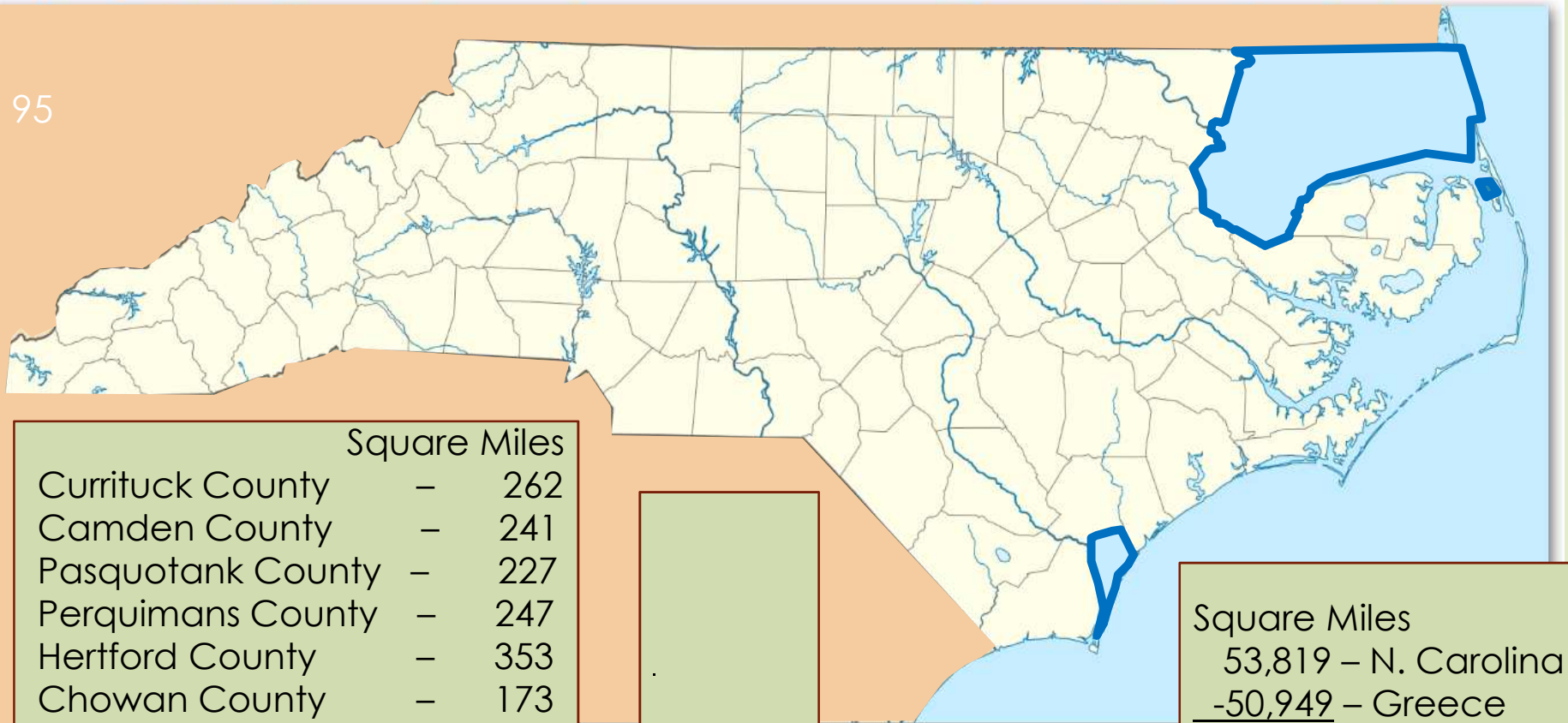
▶ North Carolina

▶ Area – 53,819 square miles

▶ Population – 10,454,000

Population difference of :
649,000 people – about the same as the City of Raleigh and Cary, together.

Divided between the 100 counties would amount to the adding the Town of Carolina Beach (pop 6,489) to each county



| | Square Miles |
|--------------------|--------------|
| Currituck County | – 262 |
| Camden County | – 241 |
| Pasquotank County | – 227 |
| Perquimans County | – 247 |
| Hertford County | – 353 |
| Chowan County | – 173 |
| Bertie County | – 699 |
| Martin County | – 461 |
| New Hanover County | – 199 |
| ½ Roanoke Island | – 8 |
| | <u>2,870</u> |

| |
|-------------------------|
| Square Miles |
| 53,819 – N. Carolina |
| <u>-50,949</u> – Greece |
| 2,870 |

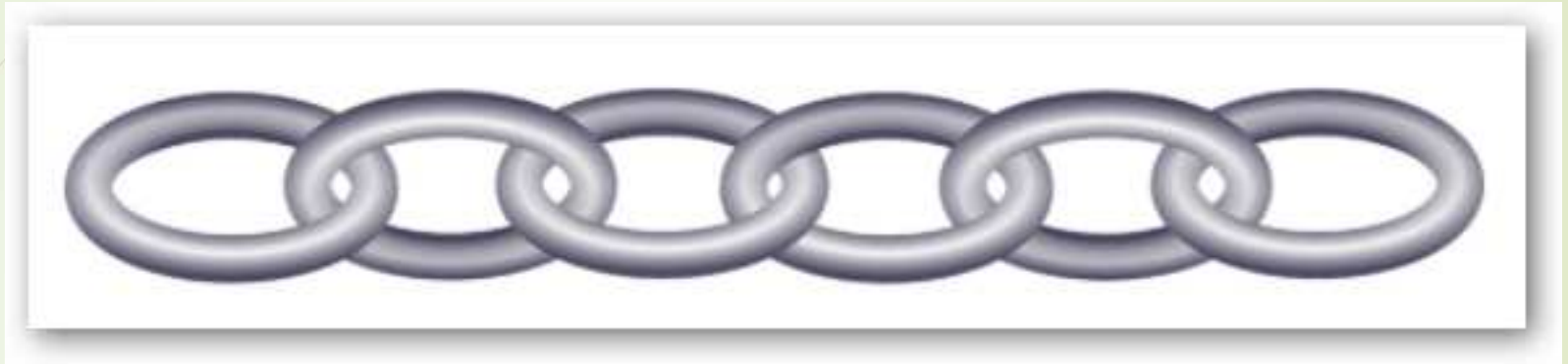
Estimates are, that it will cost in excess of \$40 Billion to sort out all the title problems in the country of Greece.

It's vital that land records are accurately maintained and that the available records are stored and used properly.



Anyone doing title research in the county cadastre needs to be able to find the documents of title describing what someone owns.

Chain of Title – List owners back through time



- Each owner's deed is a "link" in the chain of title.
- A deed should give information where or how the grantor (the seller) obtained ownership.
- By searching the individual deeds of ownership, back through time, one can "theoretically" follow that chain of title back to the sovereign.

Not all deeds will give that info.

So,
Why do the
counties need
to know where
somebody's
property line is
located?



In a word



Specifically - Ad Valorem taxes

"Ad Valorem" - Latin for "According to value"





Government agencies need to know who to see for unpaid taxes, things like sewer assessments, as well as who can sign for easement rights-of-way.



Besides taxes, why do we need to know what someone owns –
i.e. where their property lines and corners are located?



London, England – 1941

Hamburg , Germany – 1945



Hiroshima, Japan – 1945





New York City - 2001



Tornado damage in Oklahoma
2016

Bertie County, NC – 2020

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North Carolina after Hurricane Matthew





Hurricane
Florence
2018



Hurricane
Florence
2018

California wildfires – December 2017

110



Gatlinburg, Tennessee – 2016

111



What often happens after wildfires?

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North Carolina

Constitution:

- ▶ Article V – Finance
 - ▶ Section 2. State and local taxation.
 - ▶ (1) Power of taxation. The power of taxation shall be exercised in a just and equitable manner . . . “

The North Carolina Constitution says:

“the power of taxation shall be applied in a just and equitable manner.”

- ▶ That means that we have to be fair
- ▶ AND we need to be consistent
 - ▶ In figuring tax values,
 - ▶ Applying exemptions, exclusions, and deferments,
 - ▶ And with the mapping of parcels.

Just how does a county or municipality determine the property tax rate?

- ▶ The governing board determines how much money they want to spend to get:
Needed Expenses:
 - ▶ Schools,
 - ▶ Administration
 - ▶ Public works
 - ▶ Health Dep.
 - ▶ Law Enforcement
 - ▶ Parks, Roads, etc.
 - ▶ Rainy Day Fund
- ▶ The governing board looks at **Estimated Income** from all sources:
 - ▶ Sales Tax / Occupancy Tax
 - ▶ Reg of Deeds / Park Rentals
 - ▶ Fees / Permits / Water / Sewer / etc.
- ▶ Then they look at the **Sum Value** of all taxable property:
 - ▶ Land
 - ▶ Personal Property
 - ▶ Business Personal Property.

Needed Expenses – Estimated Income = Pot (needed to be filled by property taxes)

Pot / Sum Value = The Tax Rate.

If the governing board thinks **The Tax Rate** is too high, they will begin to scale back the **Needed Expenses**.

§ 105-296. Powers and duties of assessor

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The assessor shall have general charge of:

- the listing,
- appraisal,
- and assessment
- of all property in the county
- in accordance with the provisions of law.
- And he shall exercise all powers not inconsistent with the Constitution or the laws of this state.

§ 105-273. Definitions.

- (2) Appraisal. - The true value of property or the process by which true value is ascertained.
- (3) Assessment. - The tax value of property or the process by which the assessment is determined.
- (18) Valuation. - Appraisal and assessment.

In order for the Assessor to accurately list, appraise, and assess the land inside the county,



The Assessor needs to have accurate measurements of the parcels in county.

i.e. maps of the property

Getting accurate measurements for the Assessor is what brings us to the cadastral mappers.

If the maps aren't right,
Ain't nothing right!!!



If GS 105-296 says the Assessor has general charge of all property in the county,

- ▶ What does that mean concerning property outside or straddling the county boundary?
- ▶ That means that the Assessor in an adjoining county has no authority to list, appraise, or assess any property on your side of the county line.
- ▶ It also means the Assessor in your county has no authority to list, appraise, assess anything that is beyond the county line.

What about parcels that cross the county line into an adjoining county?

- Again, the tax assessor has no authority list, appraise, or assess property beyond the county line.



What about parcels that cross the county line into an adjoining county?

- While it is understandable why counties “swap” parcels,
- That practice is not authorized in the general statutes.
- If a case over taxes goes to court, how would the court view the situation?





So, what about a house that is split by the county line?

- Done correctly, the whole house would be appraised or valued by both counties according to its schedule of values,
- Then a proportional fraction of that whole-house value would be taxed by each county.



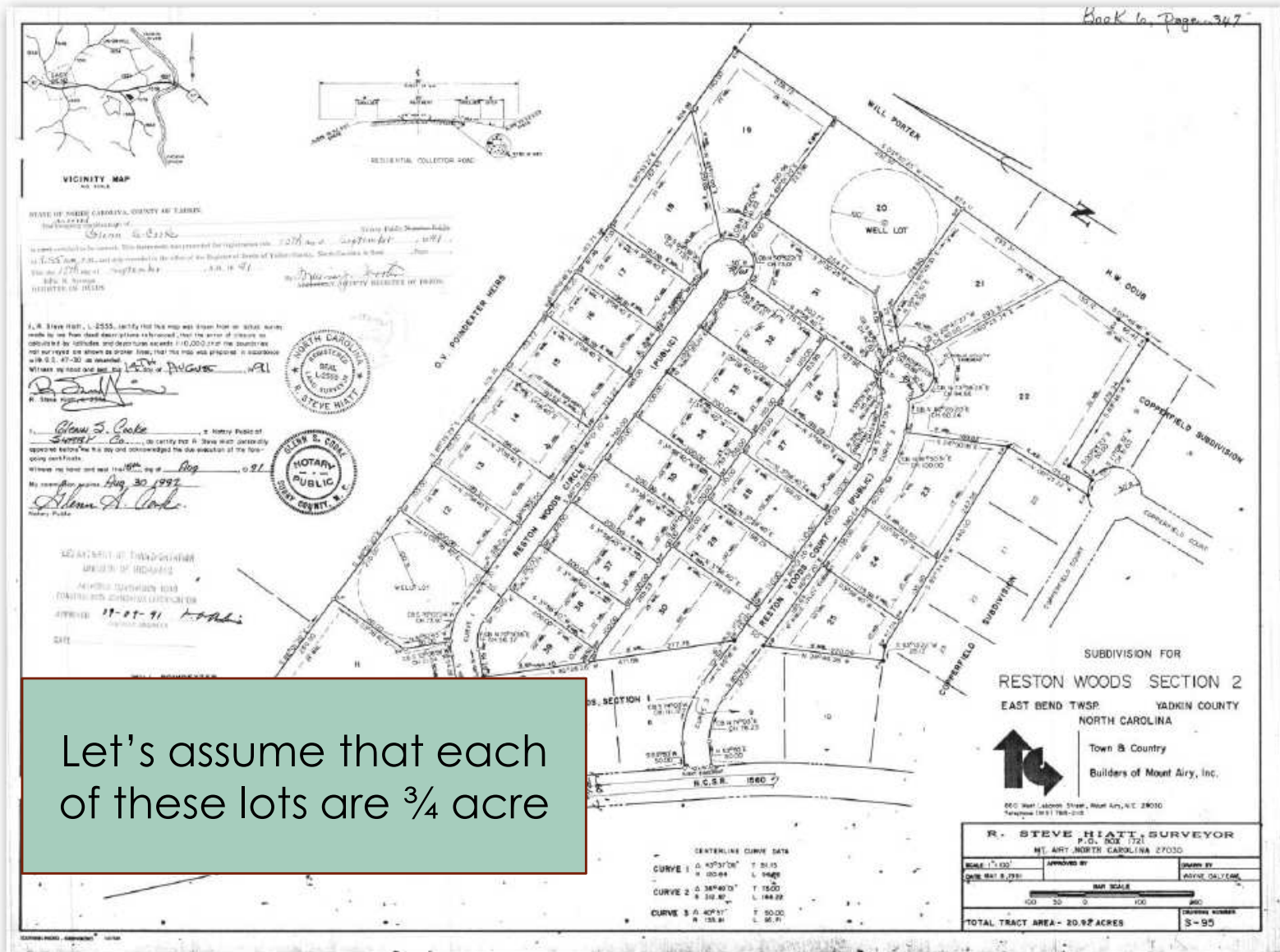
So, what about a house that is split by the county line?

- Because of the possible difference in the time of the countywide reappraisals or revaluations
- and the difference between the schedules of values of the two counties,
- the sum of those two values
- may be different than either of the individual counties would have been.

What is a Parcel?

- ▶ GS 47-30(f)(11)(c)(1) defines a parcel as:

“an area of land in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner in its existing configuration.”



Let's assume that each of these lots are 3/4 acre

In 2004, Jerry Mander purchased lot 16 for \$15,000

In 2005, he purchased lot 17 for \$18,000.

The 2012 countywide reappraisal valued all the lots in the subdivision at \$20,000.

What is the total value of Jerry Mander's lots?

\$40,000 ($\$20,000 \times 2$)

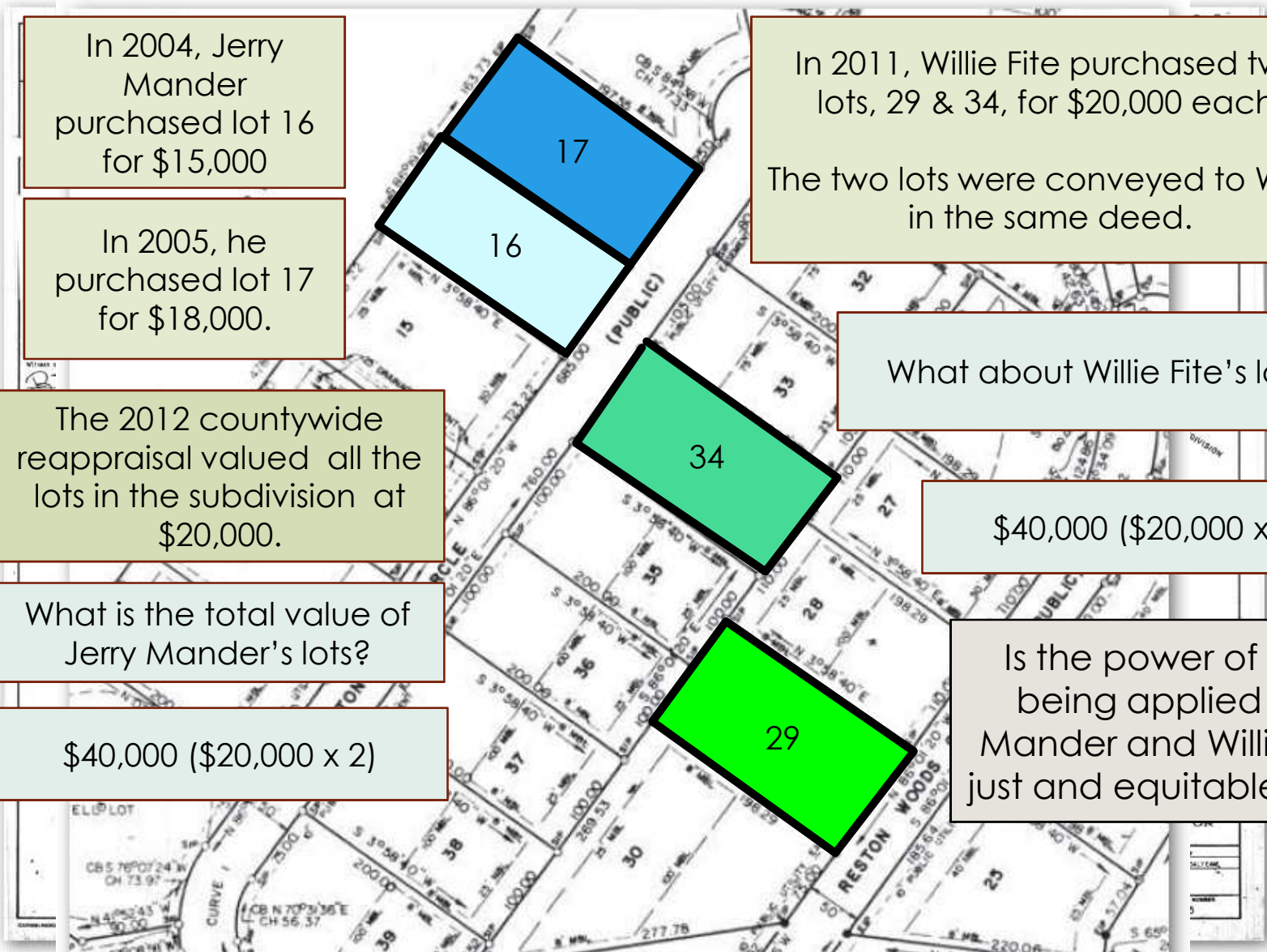
In 2011, Willie Fite purchased two lots, 29 & 34, for \$20,000 each.

The two lots were conveyed to Willie in the same deed.

What about Willie Fite's lots?

\$40,000 ($\$20,000 \times 2$)

Is the power of taxation being applied to Jerry Mander and Willie Fite in a just and equitable manner?



What is the total value on which Jerry Mander is being assessed taxes?

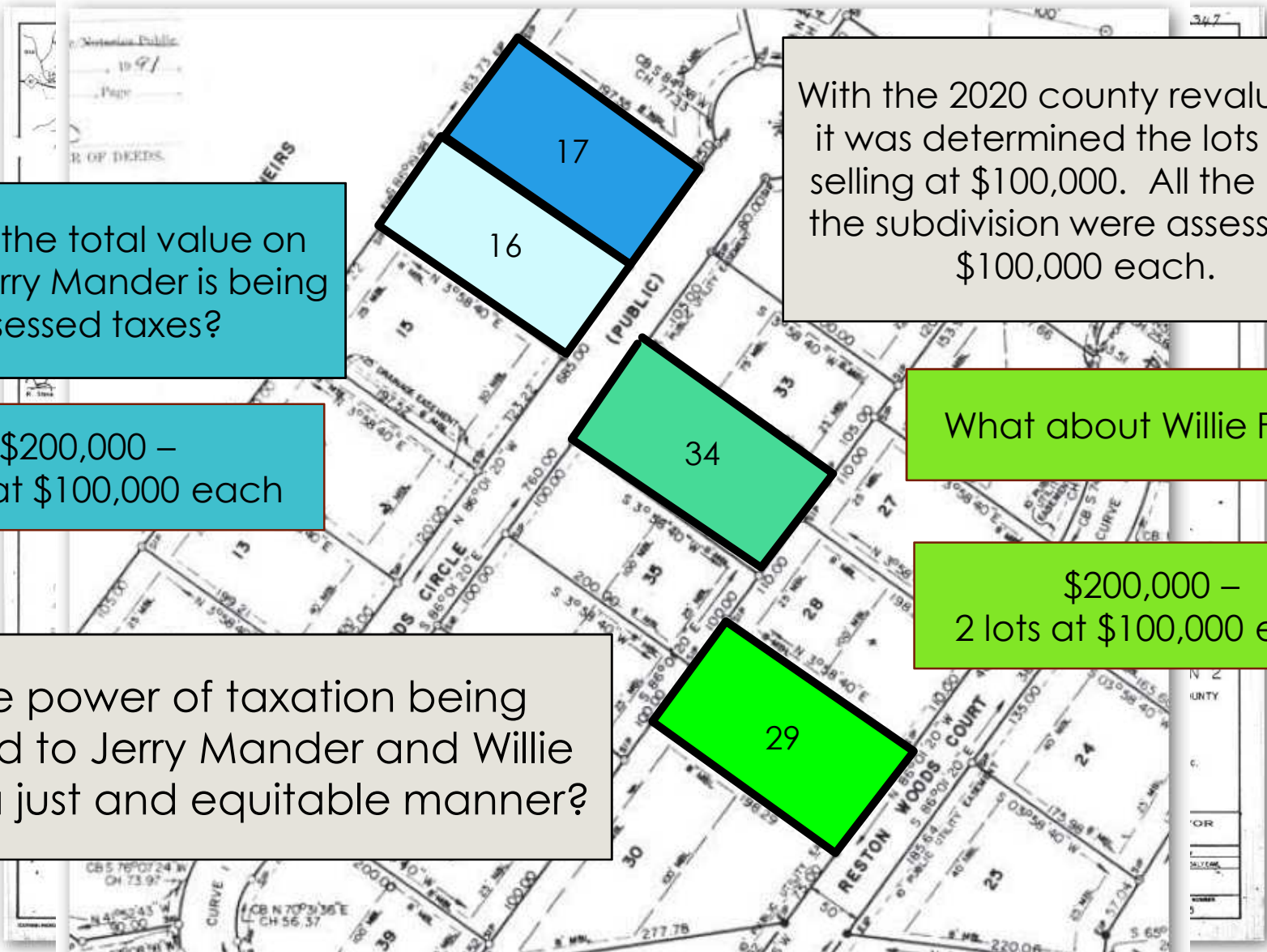
\$200,000 –
2 lots at \$100,000 each

Is the power of taxation being applied to Jerry Mander and Willie Fite in a just and equitable manner?

With the 2020 county revaluation, it was determined the lots were selling at \$100,000. All the lots in the subdivision were assessed at \$100,000 each.

What about Willie Fite?

\$200,000 –
2 lots at \$100,000 each



Suppose Jerry Mander comes into the tax office and says . . .

What does he really and truly mean?



When someone says
“I want to combine my parcels
for tax purposes”

- Generally, what they really mean is . . .
 - “I want to lower my tax bill, but I don’t want to take any legal steps to combine them just in case I get a chance to sell one of them; and I don’t want to have to go through the Planning and Zoning Office in order to do that.”

Does Jerry's tax parcel now match the definition of a parcel as given in GS 47-30(f)(11)(c)(1)?

No. There 2 deeds and 2 legal descriptions.

Do the cadastral maps now reflect the county cadastre?

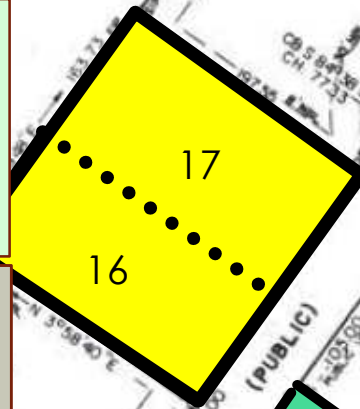
No. As soon as you deviate from the muniments, the maps no longer reflect the cadastre.

Do the tax maps or the CAMA records have any bearing on the legal status of real property?

No

How many lots does Jerry legally own?

2



Suppose the tax office merges the two lots into a single parcel without some muniment recorded in the register of deeds office.

Depending on the county's Schedule of Values, Jerry's tax value on the new combined lot may be \$110,000, or \$120,000 even \$150,000.

How much can he sell each lot?

\$100,000

Why is this?

What is the total tax value of Willie Fite's two lots?

Is Jerry's property being assessed "at value?"

NO

Are they being treated in a just and equitable manner as directed by the Constitution of North Carolina?

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Suppose Jerry got a chance to sell one of the lots but the minimum lot size in the county had changed to one acre.

What is the first thing the Planning and Zoning Dept. most likely to do?
Look at the county GIS tax maps.

Then what are they going to tell Jerry?
He doesn't have enough for 2 lots.

Without requiring him to record an affidavit of combination, he could claim that he never intended for the tax office to combine the two lots.

If Jerry had been required to record an affidavit of combination then he cannot come back and claim that he never intended for the tax office to combine the parcels.

His intent is in the public record (the official documents) and there can be no argument of what his intent was.

Requiring an affidavit of combination is just a cleaner way to handle the combination in the tax records.

It also gives a single "deed" reference that allows the records in the cadastral maps and the CAMA system to follow the county cadastre as a document-driven system and matches the statutory definition of a parcel.

What about having Jerry sign a paper or letter of intent and keeping it on file the in the tax office, the land records office, or the planning office stating his desire to combine the two lots into a single parcel?

Is that document in the public record?

Is that a "legal document" in the realm of land records.

Is Joe Blow Citizen going to know to ask in those offices to see the intent to combine the lots?

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Documents not filed in the county cadastre are not in the chain of title.

A prudent searcher does not have to go outside the chain of title to search for documents pertaining to the parcel they're researching.

In a document-driven system, any document not on file in the Register of Deeds Office or the Clerk of Courts Office, i.e. the County Cadastre, should not be in the Cadastral (tax) maps.

What happens

- If a deed of trust gets recorded before the deed?
- Suppose Mary Christmas purchased a new house from Acme Development Company and borrowed \$300,000 to make the purchase.
- Mary couldn't buy the house until she borrowed the money from a bank.
- The bank wouldn't lend her the money unless she put the property up as collateral.

At the closing,

- Mary, the developer, the real estate agent all meet at the attorney's office.
- The developer signs the deed, and Mary signs the loan papers – i.e. the deed of trust.
- The attorney's paralegal takes the deed and the deed of trust to the Register of Deeds office.

At recording,

- The paralegal accidentally hands the deed of trust to the Register of Deeds clerk to record first.
- Then hands the deed to the clerk to record, second.

What just happened?

- ▶ Because of the paralegal's mistake,
- ▶ Mary would not be legally responsible for repaying the loan to the bank.
 - ▶ She might have a moral responsibility to repay the loan but not a legal responsibility.

Why would Mary not be legally responsible?

- ▶ Remember GS 47-18 (the Connor Act) says that priority is determined by the order in which the documents get recorded.
- ▶ And GS 22-2 (the Statute of Frauds) says that the document has to be signed by the owner or the person that has the legal authority to sign.

Why would Mary not be legally responsible?

- At the instance the deed of trust was recorded,
- Mary did not own the house because the deed transferring title to her
- had not been recorded.
- Because Mary did not hold title to the house,
- she was not the owner and had no legal authority
- to commit the house as collateral for the loan.

So, if something

- ▶ As important as a deed of trust that got recorded in the register of deeds office, has no legal bearing on a piece of property, simply because it got recorded out of sequence;
- ▶ How can letters of intent to combine parcels and kept on file somewhere else in the county offices besides the county cadastre have any impact on the parcels?
- ▶ The answer is – They don't!

In the situation of

- Mary Christmas having a house on which she was not legally obligated to make payments,
- Did the bank have any recourse or were they just out the amount of the loan?



By simply re-recording

- The deed of trust
- to get documents into the proper sequence
- would take care of the problem,
- as long as Mary had not transferred the property to someone else.
 - Why is that?

The grantor cannot dispute what he has granted.

- ▶ Where a declarant has parted with his interest,
 - ▶ what he has afterwards said
 - ▶ about lines and boundaries cannot be used against
 - ▶ those claiming under him to disparage their title.

▶ *W.M. Ritter Lumber Co. v. Montvale Lumber Co., 169, N.C. 80, 85 S.E. 438, 1915 N.C.*

Mary had signed the note on the house.

- She could not deny her signature, because of it had been notarized.
- By re-recording, after the deed was recorded, doesn't matter if it was re-recorded
 - the same day,
 - the next day,
 - two weeks or
 - a month, later,
- Once the deed transferring title to Mary was recorded, Mary was then responsible for anything dealing with the property, from that point forward.

What if Mary had transferred the property?

- ▶ If Mary had transferred the property before the deed of trust got recorded,
- ▶ The bank would have been out the amount of the loan.
 - ▶ It would be the same as if you purchased a house where the seller had not paid for the new roof.
 - ▶ The roofer tried to put a lien against the house but by the time he got to the lien recorded the seller no longer held title to the property
 - ▶ The lien could not be enforced against your property because you were not the one that contracted with the roofer.

In the real world,

- ▶ You think the bank will just take that laying down?
- ▶ Not likely.

They would have a civil case against Mary for breach of contract.



Deeds of Trust vs. Mortgages

Often used interchangeably, but they are different

➤ Deed of Trust:

- Third party, a trustee actually holds title to the property until the borrower has paid off the loan
- Allows the trustee to sell the property in case of default

➤ Mortgage:

- The borrower holds the title to the property, but pledges the property to the lender as security for the loan.
- The lender must go to court before foreclosing on the property.

North Carolina uses Deeds of Trust not Mortgages.

In a deed of trust,

- The Grantor (the borrower) actually deeds title to a trustee for the loan.
- If a deed of trust gets recorded before the deed, the trustee was not deeded anything because the grantor did not hold title to the property when the deed of trust was recorded.
- Because of the Race Statute, the bank cannot foreclose on the property.

If the trustee holds title

- To property described in a Deed of Trust,
- Why does the borrower get the tax bill instead of the trustee who actually holds title?
- Because GS 105-302(c)(1) says. . .
- *The owner of equity of redemption in real property subject to a deed of trust shall be considered the owner.*
 - *The “owner of equity of redemption” means the person that will own the property when the deed of trust or mortgage is paid.*

Case law: “Dupree v Dupree, 45 N.C. 164 (1853)

- Axioms:
 - 1. Property must at all times have an owner.
 - 2. One person cannot part with ownership unless there is another person to take it from him.
 - 3. There must be a grantor , a grantee and a thing granted.

This is where we get the idea that someone can't deed property from themselves to themselves.

Recording a deed from yourself to yourself

- ▶ Is not illegal. It just does not do anything.
- ▶ A deed is a contract.
- ▶ If you as, the grantor, were to violate the terms of the contract,
- ▶ Who would you, as the grantee, sue?

Conflicts of ownership

- ▶ In order to settle discrepancies of ownership between conflicting deeds, a hierarchy has been developed through the courts. These include:
 - ▶ 1. Right of possession – does the owner have a legitimate chain of title
 - ▶ 2. Senior Rights – whose deed (or chain) described the property first
 - ▶ 3. Written instructions

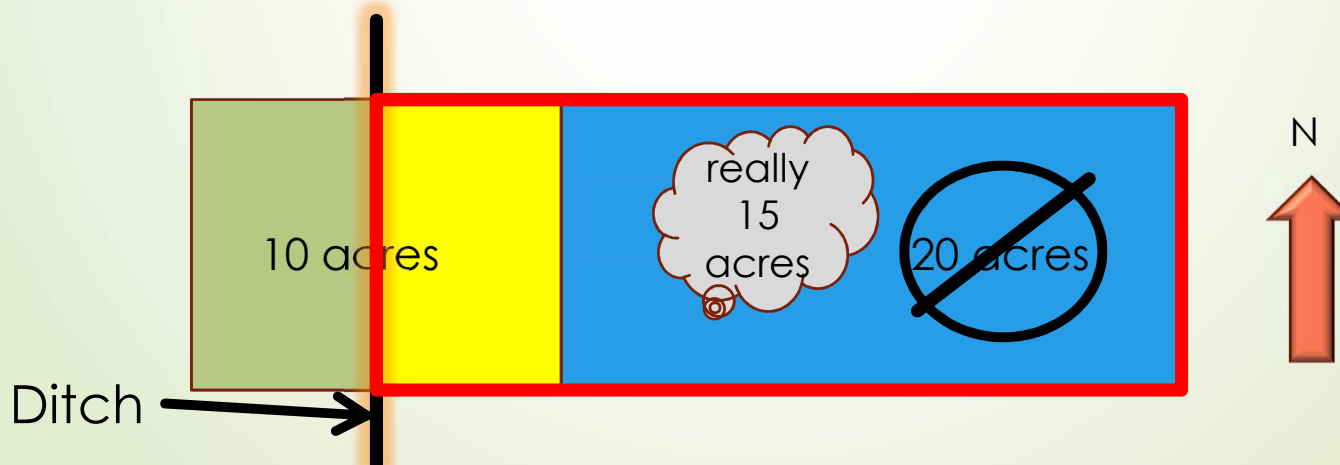
- 1948 – Shirley Knott purchased 30 acres. At that time, Shirley didn't have a survey done and didn't know there was really only 25 acres in the parcel.
- 1985 – Shirley sells western 10 acres to Terry Dactel based on a 1985 survey.
- How many acres does Terry Dactel actually own? 10
- How many acres does Shirley Knott actually own? 15
- In 1985, on how many acres would they most likely have been taxed? 10 & 20



In 1985, Why would the county

- Most likely have taxed on 10 acres and 20 acres rather than the actual acreage of 10 and 15 acres?
- In 1985, most counties did not have GIS capabilities to be able to calculate there was actually only 15 acres left in the parent parcel.

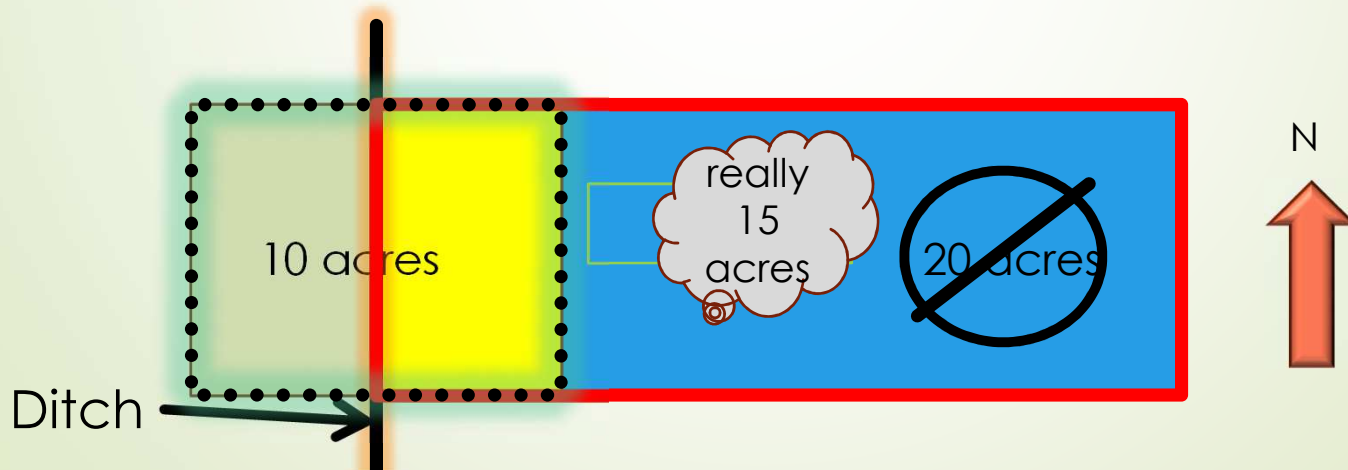
- ▶ 1990 – Shirley sells Teresa Greene the eastern 20 acres based on a survey done, in 1970, prior to selling Terry Dactel any land. The deed calls for a ditch as the western boundary of the 20 acres; but the ditch is located on Terry Dactel's land.
- ▶ Terry Dactel has senior rights for the overlapped area because the five acres was deeded to him first and Shirley cannot sell something she does not own.



➤ 1995 – Terry Dactel sells his 10 acres to Willie Gettit.

➤ In 1996: A. Who had the oldest deed Willie Gettit or Teresa Greene? Teresa Greene

B. Who had senior rights Willie Gettit or Teresa Greene? Willie Gettit

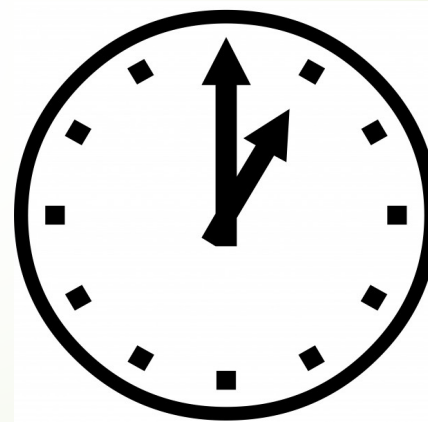


Senior Rights

- In dealing with Senior Rights, it's often tempting to explain them to property owners as:
 - "Who has the oldest deed."
 - That can be misleading to the public.
(Remember, they don't understand.)
- A better explanation is:
 - Who has the oldest chain of title.

NOTE

- ▶ When reading a metes and bounds description,
- ▶ the property description is generally written in a clockwise direction,



not always but usually.

Deed

Starting on a rock.

Thence in an easterly
direction to a stump.

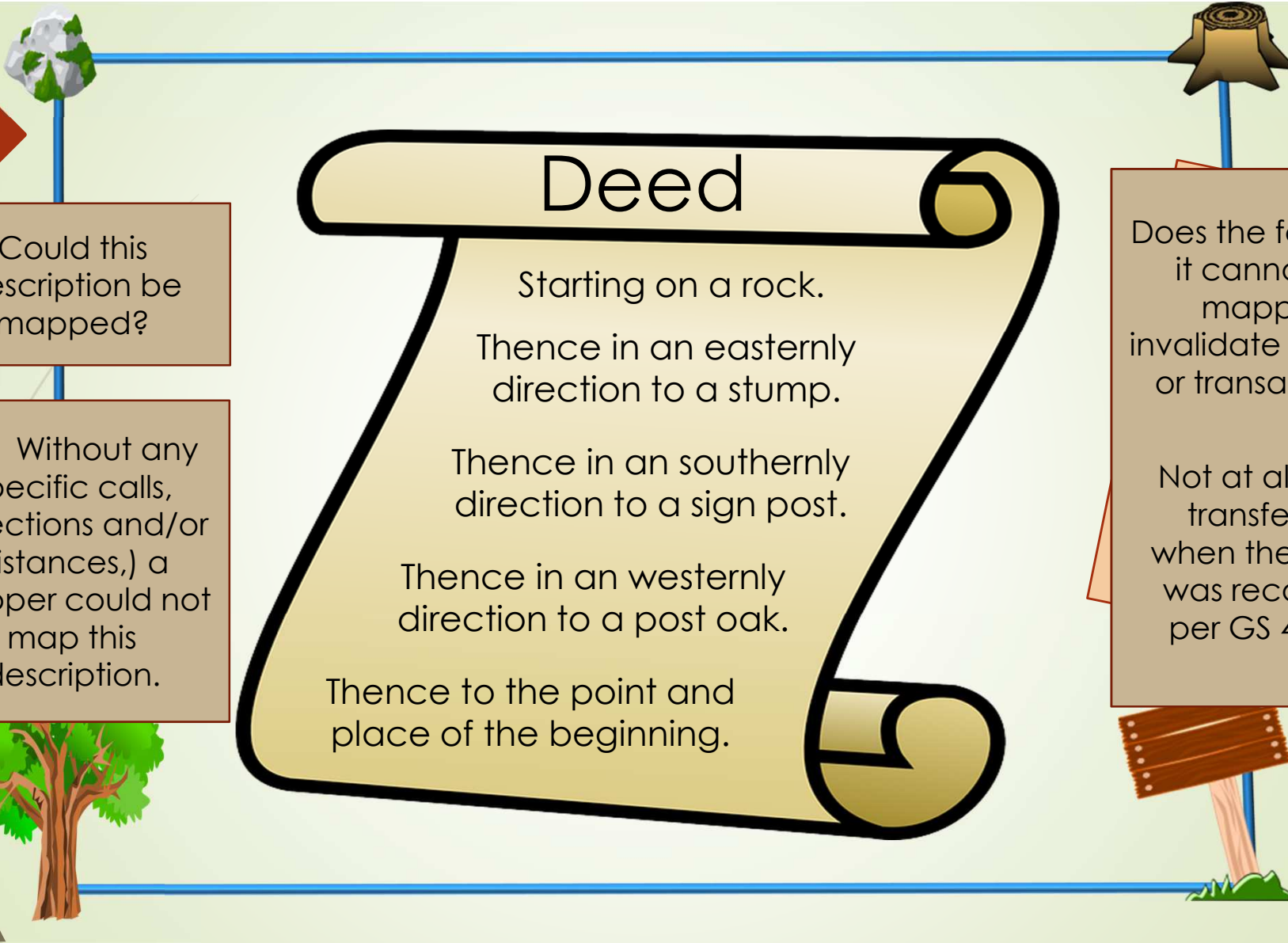
Thence in an southerly
direction to a sign post.

Thence in an westernly
direction to a post oak.

Thence to the point and
place of the beginning.

Would a deed
using this
description for
the property
being sold be
a valid deed?

Yes. Absolutely!



Could this description be mapped?

No. Without any specific calls, (directions and/or distances,) a mapper could not map this description.

Deed

Starting on a rock.

Thence in an easterly direction to a stump.

Thence in an southerly direction to a sign post.

Thence in an westernly direction to a post oak.

Thence to the point and place of the beginning.

Does the fact that it cannot be mapped invalidate the sale or transaction?

Not at all. Title transferred when the deed was recorded per GS 47-18.

Deed

Starting on a rock.

Thence in an easterly direction to a stump.

Thence in an southerly direction to a sign post.

Thence in an westernly direction to a post oak.

ence to the poi
ace of the begi

Could this description be mapped?

No. Without any specific directions or distances, a mapper could not map this description.

Let's look at another example

How would the county determine where the parcel boundary lines should be in the map and how many acres it's going to access for this description?

In an extreme case, the county could map the surrounding parcels and the "hole" that is left should be this parcel.

Deed

Starting on a rock.

Thence S 90°E 1,000 feet
to a stump.

Thence in an southerly
direction to a sign post.

Thence due west 1,000
feet to a post oak.

Thence N 0°E 800 feet to
the point and place of
the beginning.

Go back to the beginning
– i.e. the rock.

Then start at the bottom
of the description and
read the directions
backwards reversing the
calls as you go.

Go S0°W 800' to a post
oak.

Go due east 1000' to
where the sign post
should be.

Go north to the stump,
where you were before.

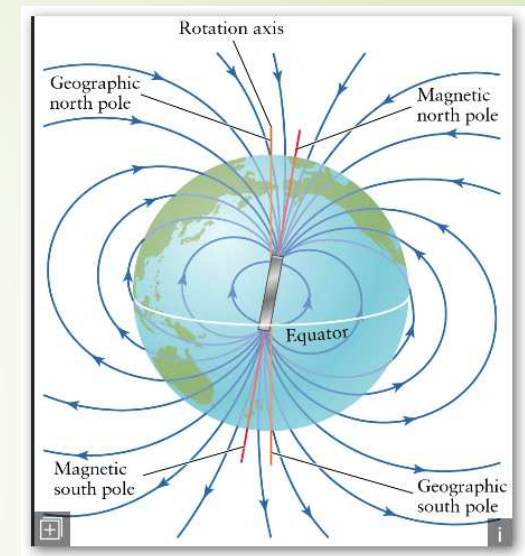


Making sense of old deeds

- ▶ In old deeds, the direction is generally measured from magnetic north.
- ▶ Magnetic North and the North Pole are not necessarily the same place. A surveyor's compass points to magnetic north which may or may not be due north.
- ▶ A true meridian runs due north and south from the north pole to the south pole. Because magnetic north and the north pole are usually different, a magnetic meridian is generally not the same thing as a true meridian. (It can be.)

Making sense of old deeds

- ▶ Because magnetic north moves, the call for a line surveyed in 1918 can differ from the same line surveyed in 1955 and that call can be different from the same line surveyed in 1992.
- ▶ This is why two adjoining parcels can have different calls for the same line - because they were surveyed at different times.



167

N90°W
S90°E



Parcel A

Parcel D

Survey
1992



Survey
1918

Parcel B

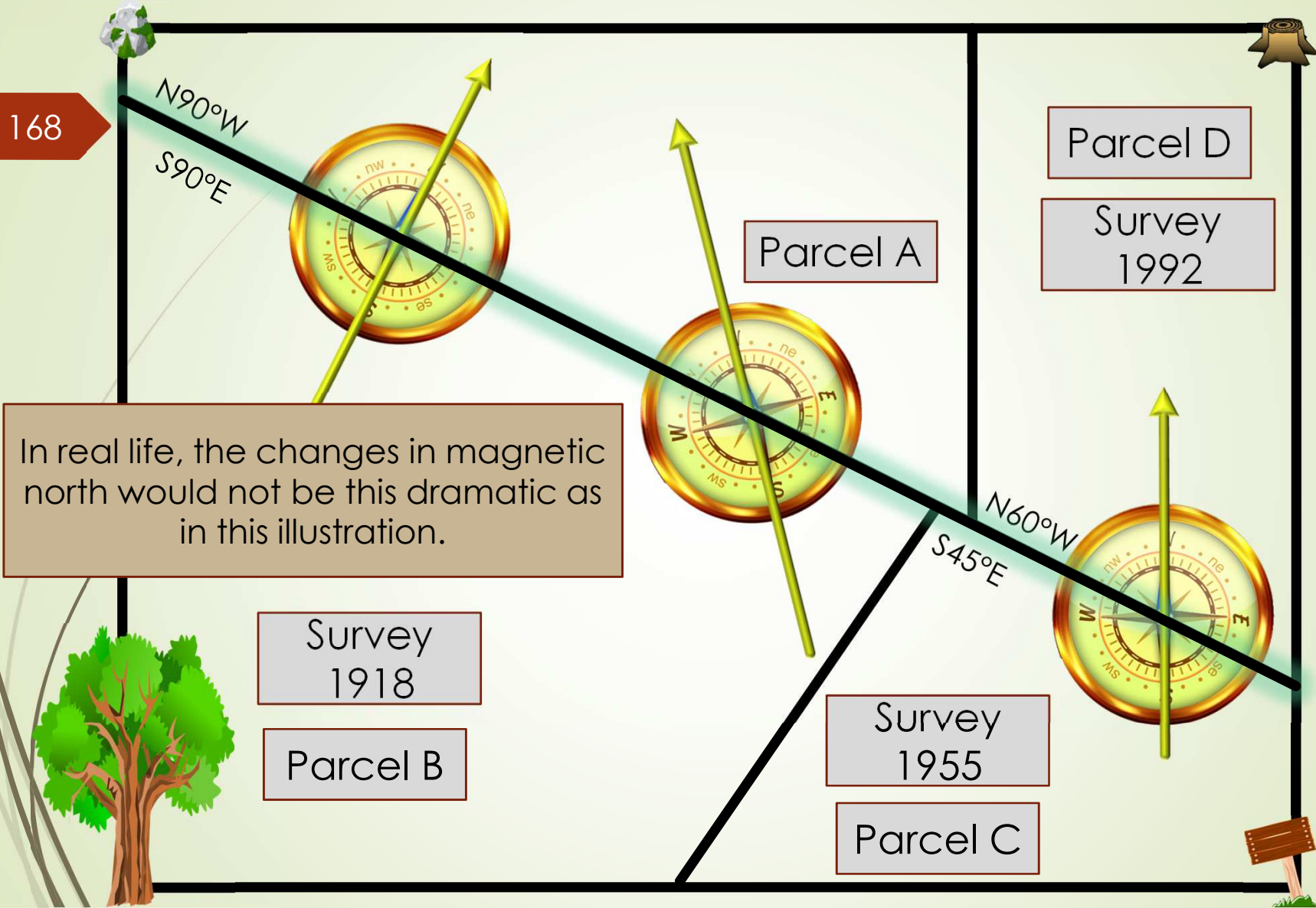
N60°W
S45°E

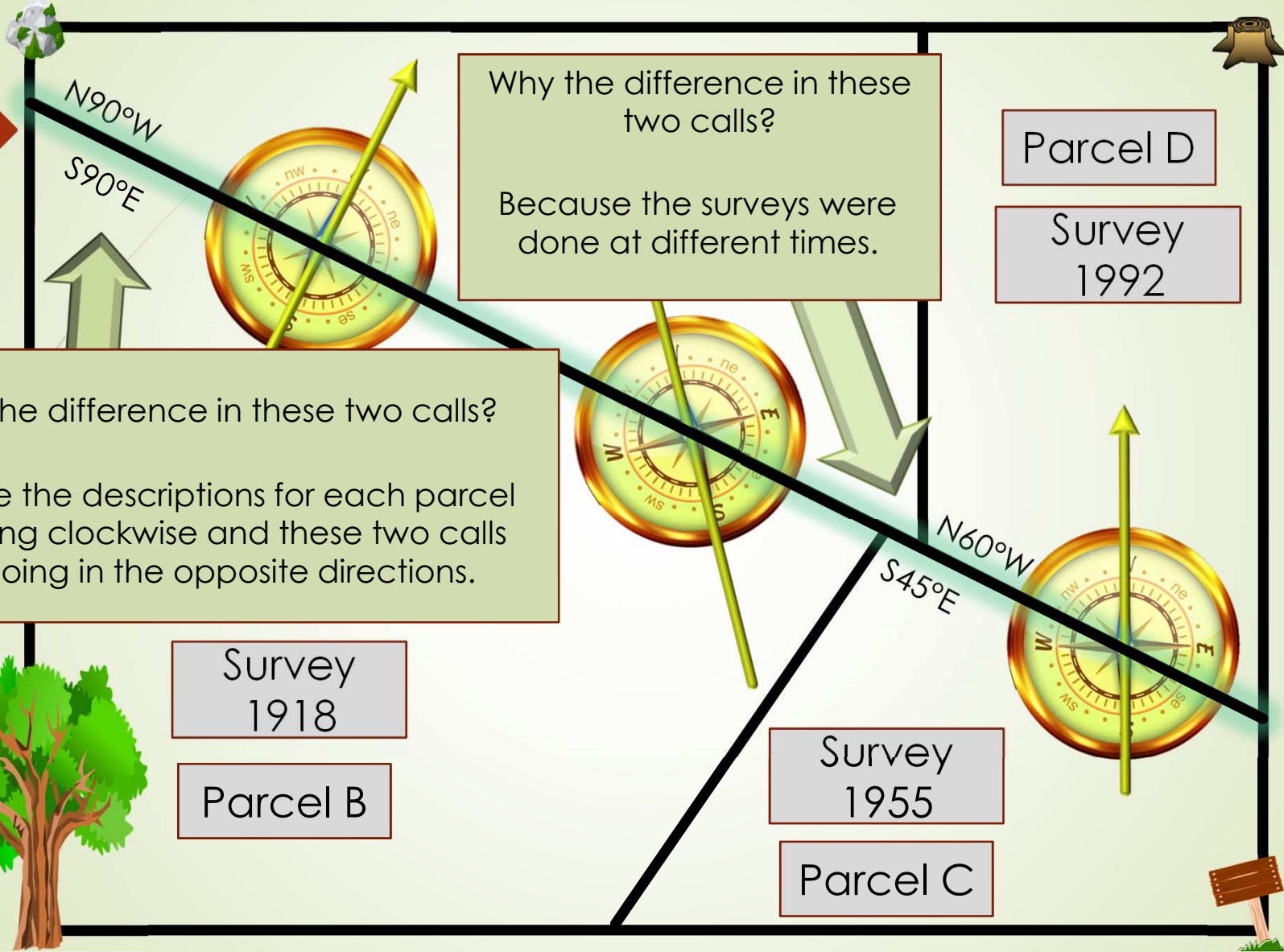


Survey
1955

Parcel C







Why the difference in these two calls?
Because the surveys were done at different times.

Why the difference in these two calls?
Because the descriptions for each parcel are going clockwise and these two calls are going in the opposite directions.

Survey 1918

Parcel B

Survey 1955

Parcel C

Parcel D

Survey 1992

Old Deeds have notoriously bad descriptions

- This can be for one of several reasons: With old surveys,
 - 1. In order to figure acreage of a tract of land, the land had to be some geometric figure,
 - a square, rectangle, triangle, or a circle that area could be figured.
 - Irregular shaped parcels had to be divided into measurable shapes and added together or the total acreage calculated on those shapes.
 - 2. The equipment they used was not as precise as today.
 - Old surveys didn't use degrees, seconds or minutes, just whole degrees and sometimes, maybe half degrees.
 - Metal chains used for measuring were affected by the temperature and how they were used.
 - 3. The surveyor may have just been a bad surveyor.

Area claimed must fit within area in the claimant's documents of title

- ▶ Where title to land is in dispute,
 - ▶ the “claimant must show
 - ▶ that the area claimed
 - ▶ lies within the area described
 - ▶ in each conveyance in his chain of title and
 - ▶ he must fit the description contained in his deed
 - ▶ to the land claimed.”
- ▶ *Hutchinson v Fender 2009 N.C. App*

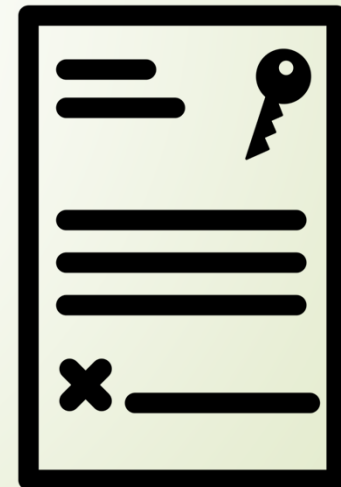
What this court case means is that you have to something in your chain of title to describe the land you claim to own.

Measurements in old deeds

- Old deeds are often written using chains or poles as measurements.
- One chain = 66 feet
- One chain = 100 links
- One chain = 4 poles
- One pole = 16.5 feet
- One link = 7.92 inches
- One acre = 43,560 square feet
- One square mile = 640 acres

One link = 7.92"

$66' \times 12'' = 792''$
 $792'' / 100 = 7.92''$



In North Carolina a valid deed must have:

1. A competent grantor
2. A grantee capable of holding title
3. A sufficient description of the property
4. Operative words of conveyance
5. Proper execution by the grantor
6. Proper delivery
7. Acceptance by the grantee that is adequate in law

Webster's Real Estate Law 4th ed.

➤ Without
all seven components
in place,
the deed is not valid
and
conveys absolutely nothing.

1. A competent grantor

Any natural person or persons can convey property (except those lacking mental capacity)

Corporations & partnerships also have the right to convey property.

Deeds by minors are not void, but are voidable.
A minor acquires the option to ratify or disaffirm the deed, but not until they reach the age of 21.

(A minor can void a “contract to purchase” at any time.)



2. A grantee Capable of holding title

- ▶ Inanimate objects and non-human animals are not capable of holding title



How silly would somebody be to deed their house to a 1958 Plymouth, . . . Unless the '58 Plymouth happened to be Christine and they were afraid not to deed it to her!

If Uncle Daniel was foolish enough to leave his entire estate to his trusted friend and companion, Rusty, you might come into some inheritance.

GS 105-302. In whose name real property is to be listed.

- (7) Real property, title to which is held by a trustee, guardian, or other fiduciary, shall be listed by the fiduciary in his fiduciary capacity except as otherwise stated in this section.

A fiduciary is someone that acts on behalf of another person, putting the client or the benefactor's interest before their own interests.

GS 105-302. In whose name real property is to be listed.

- (7) Real property, title to which is held by a trustee, guardian, or other fiduciary, shall be listed by the fiduciary in his fiduciary capacity except as otherwise stated in this section.

What this statute is saying is that when property is put into a trust, it should be listed in the name of the trustee in his fiduciary capacity.

i.e. – Duncan Booth, Trustee

If your county has a practice of listing in the name of a trust rather than the trustee,

- ▶ The “Title Police” are not coming to your county
- ▶ To beat anyone around their head or shoulders with a crooked stick,
- ▶ But; you’re not following the Machinery Act– (GS 105-302(7) – that states it is to be listed in the name of the trustee.)



3. Sufficient description

- ▶ To be effective, a deed must describe the property. Information or a description is necessary to clearly and precisely identify the parcel being identified as unique in entire world.



3. Sufficient description

- ▶ When a deed starts out with a description by stating the county name,
- ▶ It just eliminated the other 99 counties.
- ▶ By identifying the township it has narrowed it down further.
- ▶ Until the reader is at the point of beginning, “being the stump near the corner of the dry creek.”

3. Sufficient description? (continued)

- ▶ A valid and legal deed can say:
 - “all the remaining land from that parcel described in deed recorded in Deed Book 125 , Page 802.”
- ▶ Or
 - ▶ “all the land I own in Tryon County.”

In my opinion this is just plain lazy and I call it “sloppy legal work.”


 Doc ID: 00424300002 Type: CRP
 Recorded: 11/09/2012 at 12:18:56 PM
 Fee Amt: \$26.00 Page 1 of 2
 Revenue Tax: \$0.00
 Polk, NC
 Sheila Whitnire Register of Deeds
 BK 396 Pg 1357-1358

lot or parcel of land situated in the White Oak Township, Polk County, North Carolina and more particularly described as follows:

BEING ALL OF THAT PROPERTY MORE FULLY DESCRIBED AT DEED BOOK 359, PAGE 1418, POLK COUNTY REGISTRY, REFERENCE TO WHICH IS HEREBY MADE FOR A MORE COMPLETE AND ACCURATE DESCRIPTION.

The property hereinabove described was acquired by Grantor by instrument recorded in **Deed Book 359, Page 1418**

A Map showing the above described property is recorded in Plat Book _____ Page _____

If initialed, the premises include the primary residence of at least one of the Grantors (N.C.G.S. 105-317.2)

BEING ALL OF THAT PROPERTY MORE FULLY DESCRIBED AT DEED BOOK 359, PAGE 1418, POLK COUNTY REGISTRY, REFERENCE TO WHICH IS HEREBY MADE FOR A MORE COMPLETE AND ACCURATE DESCRIPTION.

The property hereinabove described was acquired by Grantor by instrument recorded in **Deed Book 359, Page 1418**

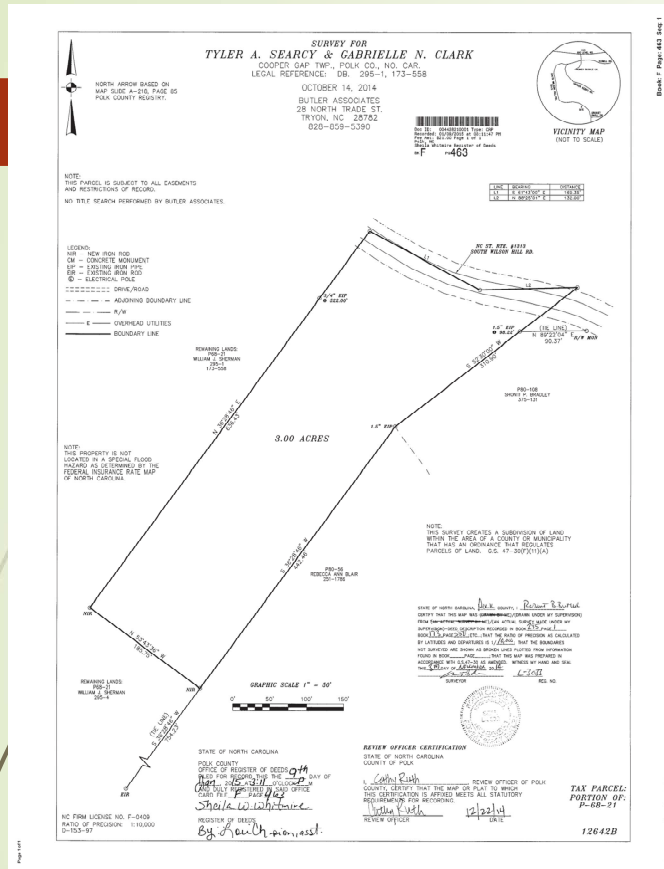
A Map showing the above described property is recorded in Plat Book _____ Page _____

_____ If initialed, the premises include the primary residence of at least one of the Grantors (N.C.G.S. 105-317.2)

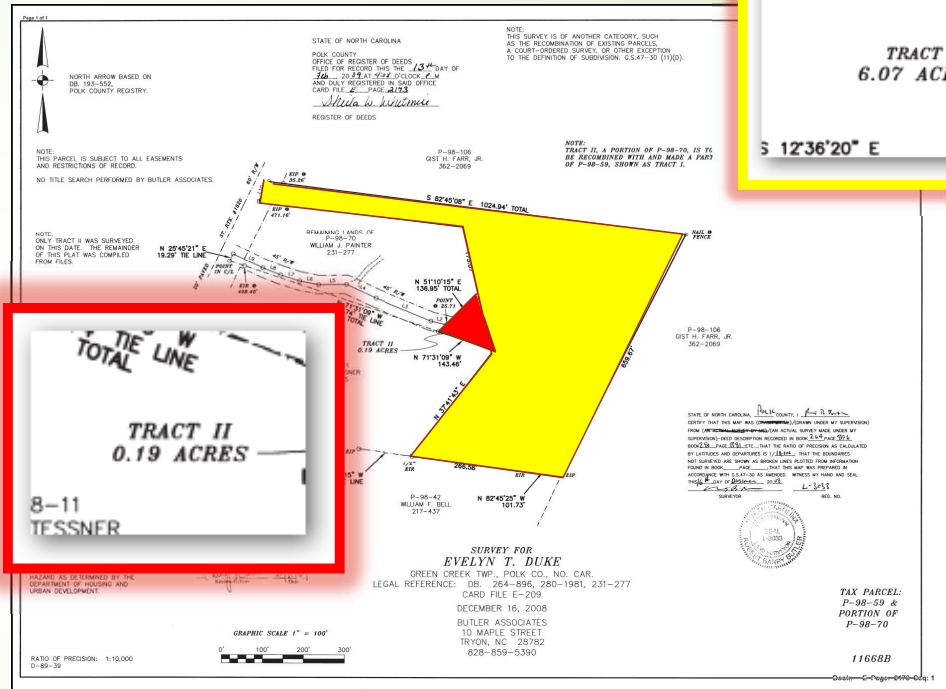
What about a description that says. . .

- ▶ “A lot described shown on plat recorded in Plat Book 32 , Page 65”
- ▶ Is this a valid and legal description?

It depends!



It would be valid if the plat only had one parcel.



TRACT I
6.07 ACRES
S 12°36'20" E

THE W TOTAL LINE
TRACT II
0.19 ACRES
8-11 TESSNER

It would not be valid if the plat had more than one lot. That description is not unique because there is more than one parcel that matches the description.

What about

- “Lot 15 on the unrecorded plat of survey drawn on July 17, 1952 titled Survey for Betty Bie.”
- A deed based on an unrecorded plat is a valid description.
- Even though it cannot be mapped without obtaining the map from someone – attorney, surveyor, landowner.

If you get a deed based on an unrecorded survey,

- What has to happen?
- The mapper has to try and get a copy of a plat, or a description from somebody –
 - the owner,
 - the developer,
 - the seller,
 - the attorney
 - Somebody – Anybody

Map or Plat as part of a deed

- ▶ A map or plat referred to in a deed
- ▶ becomes a part of the deed and need not be registered.
- ▶ *North Carolina State Hwy Commission v. Wortman, 4 N.C. 546, 167 S.E.2d 462 (1969)*

3. Sufficient description? (continued)

- There are various reasons to declare a deed void,
- Lack of a sufficient description is generally the main reason.
- The general rule is:
 - a legal description does not have to be perfect
 - Means it does not have to close
 - or even be accurate,
 - Means it can have missing calls or calls going in the wrong direction
 - but it must identify the property to a degree that the corners can be located on the ground.

This is why a deed can

- ▶ Say “following the meanders of the creek”
- ▶ Or “up the draw of the gully”
- ▶ Have missing calls
- ▶ Reversed calls
- ▶ And still be a valid transfer

A deed is void when the description cannot identify the property

- The description of land from a deed must identify the land,
 - or it must refer to something that will identify it with certainty.
- Otherwise the description is void for uncertainty.
- Parol evidence is admissible to fit the description to the land.
- NC GS § 8-39. such evidence cannot, however; be used to enlarge the scope of the descriptive words.
- The deed itself must point to the source from which evidence aliunde
 - to make the description complete is to be sought.
- *Baldwin v. Hinton, 243 N.C. 113, 117, 90 S.E.2d 316, 319, 1955 N.C.*

This basically means that outside evidence may be used fit the description of the land, but deed has to point to the source of the evidence – such as a plat.

Aliunde:
from a source
extrinsic to the
matter, document,
or instrument under
construction

3. Sufficient description? (continued)

- ▶ While, we in the GIS computerized world, like for all our deeds to close, perfectly.
- ▶ A description, from a rock, to a tree, to a post, to a stream, to stump, to a stake, and back to the rock is valid,
- ▶ If that rock, tree, post, etc. can be identified.
- Remember: The deed description is to uniquely identify the property on the ground, not make it easy for the county tax mapper to map.

Sufficient description

- If you think about how deed descriptions came about and how they were done. . .
- The owner would basically start at a known point
- then take a walk around the property he was selling or giving away and describe the lines around the property
 - in what direction was going,
 - how far he was going, and
 - what he would see when he got there.
- Every time he changed direction he would start over with the new direction
 - Until he got back around to the place he started.

Inconsistent Metes and Bounds Descriptions

- Deeds sometimes have inconsistent descriptions.
 - The courts have developed rules of precedence.
 - Rules that indicate which call in a deed supersedes or “controls” the other calls in the deed.
 - 1. Call to a natural monument – marked tree, rock, or river
 - 2. Call to an artificial monument – road, or property line
 - 3. Monuments control courses -
 - 4. Courses control distances (generally not 100% of the time)
 - 5. Stated acreage in a deed*
 - *- is least reliable evidence of what a deed conveys and should only be used as a general guide if any other evidence is available

The reason for this order or priority is. . .

- ▶ A natural monument is less likely to change or be more permanent than an artificial monuments and the others.
- ▶ Artificial monuments are more permanent or more certain than a description just using a course (direction.)
- ▶ The North Carolina courts have ruled that Courses control over Distances, but that is not absolute.
- ▶ Acreage is the last thing to go by and it is the least accurate.

1. Natural monuments
2. Artificial monuments
3. Courses (direction)
4. Distances
5. Acreage

Inconsistent Metes and Bounds Descriptions

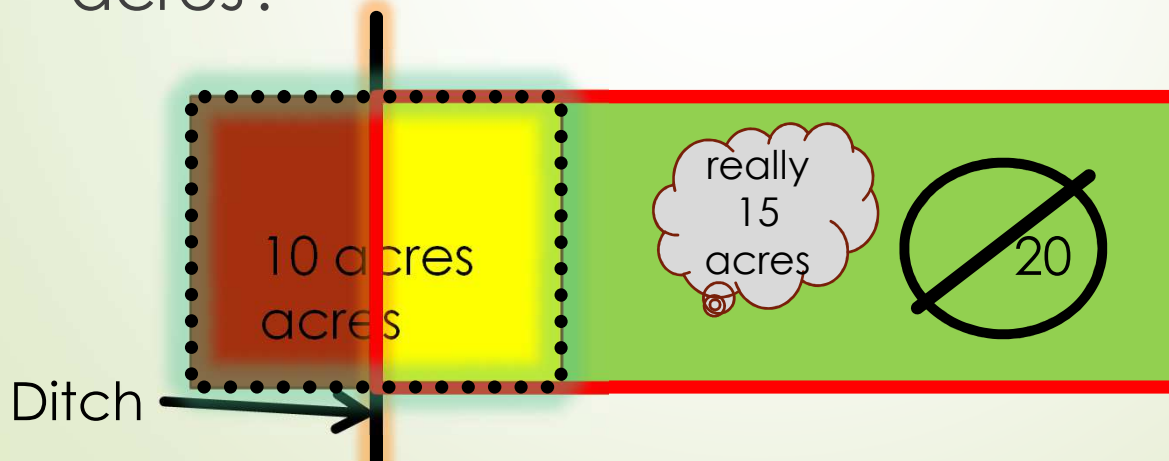
197

- What if a 1938 deed said,
 - “. . . 600 feet to the stream.”
- In 2020, the current owner had a new survey.
 - It was found that the distance to the stream was actually 1,600 feet.
- Would the property line need to stop at 600 feet or go all the way to the stream?
- Answer – it would go all the way to the stream.
- The stream is a natural monument and controls over distance, which is farther down on the list.

1. Natural monuments
2. Artificial monuments
3. Courses (direction)
4. Distances
5. Acreage

- Going back to the example of Terry Dactel and Teresa Green,
- If natural monuments control over acreages,
- Why didn't Teresa Green's deed saying her property went to the ditch control over Terry Dactel's deed of 10 acres?

1. Natural monuments
2. Artificial monuments
3. Courses (direction)
4. Distances
5. Acreage

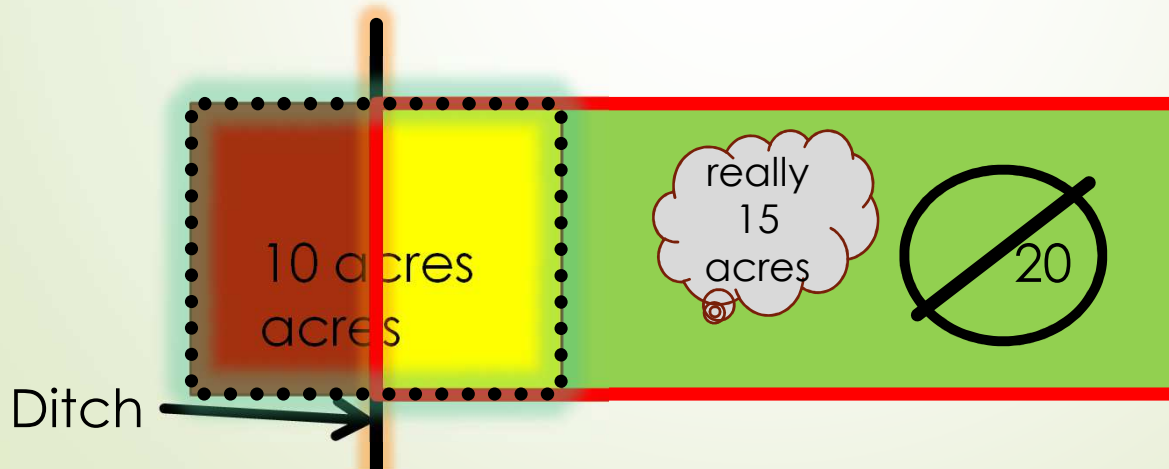


It goes back to the senior rights and the Statute of Frauds. Shirley Knott had already sold that land, and she couldn't sell something she did not own.

A Junior Conveyance does not Control a Senior Conveyance

- A description contained in a junior conveyance
 - cannot be used
 - to locate the lines called for in a prior conveyance.
 - The location of the lines
 - called for in the prior conveyance
 - is a question of fact
 - to be ascertained from the description there given.
- *Carney v. Edwards, 256 N.C. 20; 122 S.E.2d 786; 1961 N.C.*

- Teresa Green's deed was a Junior Conveyance to Terry Dactel's deed could not control



A Highway is a Natural Monument

- ▶ A highway, though artificial,
- ▶ is of such permanent character
- ▶ as to become a monument of boundary
- ▶ within the principle stated as to a natural boundary,
- ▶ by which course and distance
- ▶ called for in a deed are controlled.

▶ *Hough v. Horne, 20 N.C. 369*

A call to a Monument is a call to the center of the monument.

- ▶ The trial court's determination that the boundary line would extend to the center of the road was correct.
- ▶ It can be stated as a general rule
- ▶ that a call for a monument
- ▶ as a boundary line in a deed
- ▶ will convey the title of the land
- ▶ to the center of the monument
- ▶ if it has width.
- ▶ *Goss v. Stidhams, 68 N.C. App. 773, 776, 315 S.E.2d 777, 778, 1984 N.C. App.*

A call to a body of water (not navigable) is a call to the thread.

- ▶ A grant of land bounded in general
- ▶ by a creek or river not navigable
- ▶ carries the land to the grantee
 “usque ad filum aqua” of the stream
- ▶ Rowe v. Lumber Co., 128 N.C. 301, 38 S.E. 896, and 133 N.C. 433

Usque ad filum
aqua:
To the middle
or thread

A call to a Navigable Body of Water

- the general entry laws provided that if part of a survey
- of un-appropriated vacant lands of the state
- was made on any navigable water,
- the water was to form one boundary of the land surveyed,
- i.e., the area covered by navigable water was not to be part
- of the land claimed by the entry.
- Thus, a land grant conveying lands beneath navigable waters
- pursuant to the general entry laws is void.
- (as to the portion underlying the navigable waters)

- *Webster's Real Estate Law in North Carolina 5th edition § 16-5*



If a deed had a description of:

- ▶ Beginning at a iron stake and going 100 feet to a stake,
- ▶ Thence due south 100 feet to a stake,
- ▶ Thence due west 100 feet to a stake,
- ▶ Thence due north 100 feet to the point and place of the beginning and containing two acres more or less.
- ▶ What is this describing and how much land is getting sold?
 - ▶ It's a square 100' x 100'.

1. Natural monuments
2. Artificial monuments
3. Courses (direction)
4. Distances
5. Acreage

What kind of monument is a stake?

How much land was being sold?

Deed said:

➤ Two as more or less.

1. Natural monuments
2. Artificial monuments
3. Courses (direction)
4. Distances
5. Acreage

Deed Also Said:

➤ $100' \times 100' = 10,000$
square feet

➤ $10,000 \text{ sq ft} / 43,560 =$
.229 acre

The distance controls over the acreage which is farther down on the list.

Which figure is the average taxpayer going to pickup on?

The entire intention of a deed may control over a single call.

- ▶ Physical monuments are generally preferred
 - ▶ to other objects in the call,
 - ▶ because they are more durable,
 - ▶ and in some respects more reliable;
 - ▶ but even they will give way
 - ▶ to a more certain and definite call
 - ▶ in the grant or deed,
 - ▶ especially if the intention is clearly manifested
 - ▶ that they should not govern or control in ascertaining the location of the land.

- ▶ *W.M. Ritter Lumber Co. v. Montvale Lumber Co.*, 169, N.C. 80, 85 S.E. 438, 1915 N.C.

The entire intention of a deed may control over a single call.

- ▶ What this court case was saying is that
- ▶ Even though monuments are preferred
- ▶ They might even be superseded by
- ▶ A more certain grant or intention in the deed
- ▶ If it is clear that the monuments should not govern in the locating the boundaries of the property.

4. Operative words of conveyance

- ▶ Depending on
 - ▶ the jurisdiction,
 - ▶ the interest being conveyed,
 - ▶ and the warranties given by the grantor
 - ▶ these can include:
 - ▶ Grant and convey
 - ▶ Grant, bargain, and sell
 - ▶ Warrant and convey
 - ▶ Sell and convey
 - ▶ Grant, bargain, and sell, and convey

Granting Clause & Consideration

- ▶ Lists the grantor and the grantee
- ▶ Statement of consideration (i.e. money)

- ▶ Consideration is not necessary

- ▶ But is usually mentioned to allow the grantee to become a "bona-fide purchaser"

- ▶ That is important to protect the grantee against the repossession of the land by the grantor.

Doc ID: 004249550003 Type: CRP
 Recorded: 01/04/2013 at 04:51:57 PM
 Fee Amt: \$746.00 Page 1 of 3
 Revenue Tax: \$720.00
 Polk, NC
 Sheila Whitmire Register of Deeds
 BK 397 PG 1536-1538

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$720.00

Parcel Identifier No. P35-259 Verified by on the ____ day of January, 2013.

Mail/Box to: /

This instrument was prepared by: ^{*}John C. Hovendon, 455 South Trade Street, Trvon, NC 28782

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Columbus Township, Polk County, North Carolina and more particularly described as follows:

assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Town of n/a,
 ____ Township, Polk County, North Carolina, and more particularly described as follows:

Please see attached Exhibit A.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 380 at Page 917.
 A map showing the above described property is recorded in Card File

5. Proper Execution by the Grantor


Even if a deed lists a person as a grantor but that person:

- 1) does not sign the deed or
- 2) signs the deed but the signature is not notarized or
- 3) the signature is not properly notarized

The grantee receives no rights in, to, or from the property or from the grantor.

Bladen
County

Prepared by H. Clifton Hester, Attorney
STATE OF NORTH CAROLINA
COUNTY OF BLADEN

Book Page
0393 0153
FILED
BLADEN COUNTY NC
07/20/97 3:17 PM
AVA H. EDWARDS
Register of Deeds
By:  Deputy/Asst.

NON-WARRANTY DEED

THIS DEED, made this the 10th day of March, 1997, by and between MELTON P. BELLE and Wife, EMMER BELLE, CHARLES N. BELLE, Single, JOE W. BELLE and Wife, MARIE BELLE, SARAH V. FELIPIO, LEE A. LIVINGSTON, Single, FRANCES E. SEAWELL and Husband, WILLIAM SEAWELL, MELLER L. FREEMAN and Husband, JOHN FREEMAN, ELBERT LIVINGSTON, Single, PERRY LIVINGSTON, Single, MARY MONROE, Widow, LACY V. BROWN, and Wife BERTHA L. BROWN, ERVIN L. BROWN and Wife, MARY BROWN, HORACE L. BROWN, Widower, JAMES BROWN, and Wife, LESLIE BROWN, FLORA FREEMAN, Single, KARRY N. BROWN and Wife, BRENDA BROWN, CURRIE L. BROWN, and Wife, LIZZIE BROWN, RICHARD O. BROWN and Wife, GWENDOLYN BROWN Parties of the First Part, and MARY MONROE, Widow, LACY V. BROWN and Wife, BERTHA L. BROWN, ERVIN L. BROWN, and Wife, MARY BROWN, HORACE L. BROWN, Widower, JAMES BROWN and Wife, LESLIE BROWN, FLORA FREEMAN, Single, KARRY N. BROWN, and Wife BRENDA BROWN, CURRIE L. BROWN and Wife LIZZIE BROWN, RICHARD O. BROWN and GWENDOLYN BROWN, Parties of the Second Part;

THIS DEED, made this the 10th day of March, 1997, by and between MELTON P. BELLE and Wife, EMMER BELLE, CHARLES N. BELLE, Single, JOE W. BELLE and Wife, MARIE BELLE, SARAH V. FELIPIO, LEE A. LIVINGSTON, Single, FRANCES E. SEAWELL and Husband, WILLIAM SEAWELL, MELLER L. FREEMAN and Husband, JOHN FREEMAN, ELBERT LIVINGSTON, Single, PERRY LIVINGSTON, Single, MARY MONROE, Widow, LACY V. BROWN, and Wife BERTHA L. BROWN, ERVIN L. BROWN and Wife, MARY BROWN, HORACE L. BROWN, Widower, JAMES BROWN, and Wife, LESLIE BROWN, FLORA FREEMAN, Single, KARRY N. BROWN and Wife, BRENDA BROWN, CURRIE L. BROWN, and Wife, LIZZIE BROWN, RICHARD O. BROWN and wife, GWENDOLYN BROWN Parties of the First Part, and MARY MONROE, Widow, LACY V. BROWN and Wife, BERTHA L. BROWN, ERVIN L. BROWN, and Wife, MARY BROWN, HORACE L. BROWN, Widower, JAMES BROWN and Wife, LESLIE BROWN, FLORA FREEMAN, Single, KARRY N. BROWN, and Wife BRENDA BROWN, CURRIE L. BROWN and Wife LIZZIE BROWN, RICHARD O. BROWN and GWENDOLYN BROWN, Parties of the Second Part;

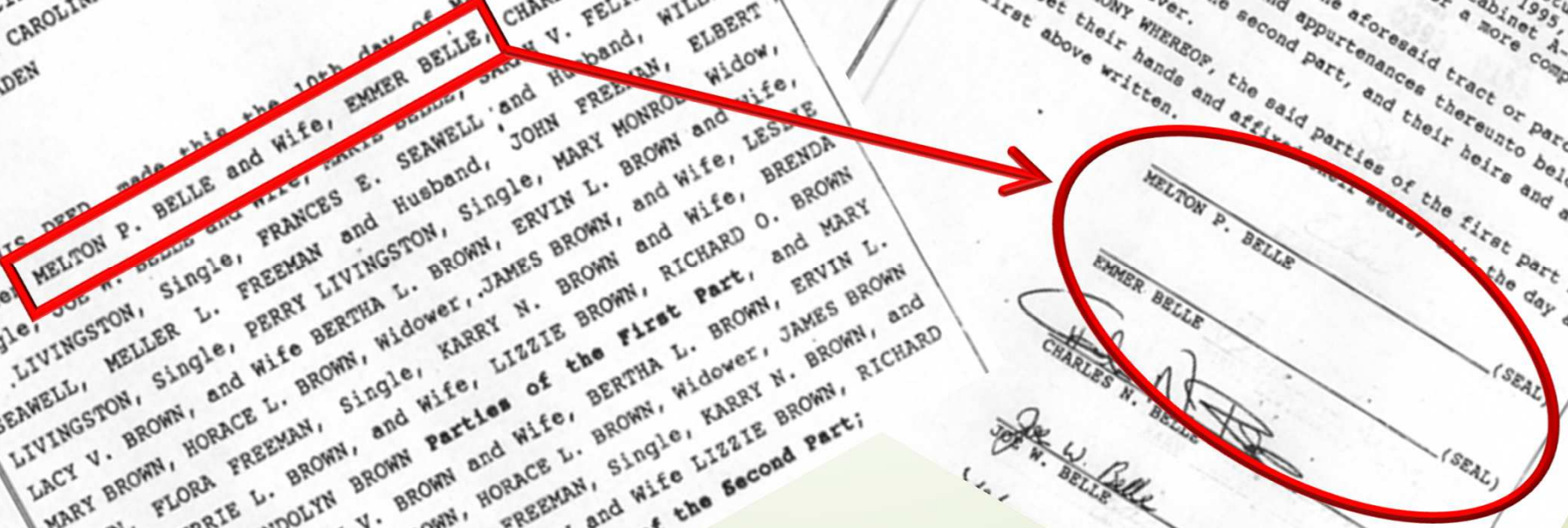
Book 0393 Page 0153

FILED
MAY 17 2000
BY: [Signature]
Register of Deeds

...ed by H. Clifton Hester, Attorney
... OF NORTH CAROLINA
...NTY OF BLADEN

NON-WARRANTY DEED

THIS DEED made this 10th day of March, 1997, by and between MELTON P. BELLE and Wife, EMMER BELLE, CHARLES N. BELLE, Single, JOE W. BELLE and Wife, LIZZIE BROWN, JOHN V. FELIPIO, LEE A. LIVINGSTON, Single, FRANCES E. SEAWELL and Husband, WILLIAM SEAWELL, MELLER L. FREEMAN and Husband, JOHN FREEMAN, ELBERT LIVINGSTON, Single, PERRY LIVINGSTON, Single, MARY MONROE, WIFE of LACY V. BROWN, HORACE L. BROWN, ERVIN L. BROWN and Wife, LESLIE MARY BROWN, HORACE L. BROWN, Widower, JAMES BROWN and Wife, BRENDA CURRIE L. BROWN, Single, KARRY N. BROWN, RICHARD O. BROWN, WENDOLYN BROWN Parties of the First Part, and MARY LACY V. BROWN and Wife, BERTHA L. BROWN, ERVIN L. BROWN, HORACE L. BROWN, Widower, JAMES BROWN, JOHN V. BROWN, Single, KARRY N. BROWN, and JOHN V. BROWN and Wife LIZZIE BROWN, RICHARD O. BROWN and Wife of the Second Part;



Book 0393 Page 0154

March 27, 1995, by Lloyd R. Walker, Registered Surveyor.

TRACT TWO:

All of 4.65 acres, designated as Tract C on a Plat of Survey of "The A. D. Gillespie Land", by Stuart Gooden, Registered Surveyor, dated January 30, 1995, and which Plat of Survey is recorded in Plat Cabinet A-126, Page 1264 to which reference is made for a more complete and accurate description.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges and appurtenances thereunto belonging to them, the parties of the second part, and their heirs and assigns, in fee simple forever.

IN TESTIMONY WHEREOF, the said parties of the first part have hereunto set their hands and affixed their seals, this 27th day of March 1995.

MELTON P. BELLE
EMMER BELLE
CHARLES N. BELLE
JOE W. BELLE

[Signatures of Melton P. Belle, Emmer Belle, Charles N. Belle, and Joe W. Belle]

(SEAL)

(SEAL)

What does the GS 22-2, The Statute of Frauds, say about signing deeds?

- It has to be signed by the owner or somebody with the authority to sign.
- Did Melton Belle and his wife sign the deed?
- Does that invalidate the entire deed?

No.

No.

§ 47-14 – Register of deeds to verify

- (d) Registration of an instrument is not effective with regard to parties who have not executed the instrument or whose execution thereof has not been duly proved or acknowledged.

That means anybody that did not sign a deed, does not give up ownership of the property described in the deed.

It also means that even if they did sign the deed, but their signature was not notarized, or improperly notarized, ownership does not transfer to the grantee.

§ 47-14 – Register of deeds to verify

- (d) Registration of an instrument is not effective with regard to parties who have not executed the instrument or whose execution thereof has not been duly proved or acknowledged.

Because the statute specifically states that the “instrument is not effective with regard to parties who have not executed . . . Or whose execution has not be duly proved or acknowledged,

It means that those persons that did “execute” (or sign) or their signature has been duly proved or acknowledged is effective.

BK 6715 PG 2143 - 2148 (6) DOC# 20044866
 This Document eRecorded: 04/08/2021 03:35:02 PM
 Fee: \$26.00 Tax: \$558.00
 Orange County, North Carolina
 MARK CHILTON, Register of Deeds by MOLLY KEMPA

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 24th day of March, 2021, by and between

| GRANTOR | GRANTEE |
|--|--|
| <p><u>DONALD RICHARD SCOTT, JR. and wife,</u> <u>ROBIN ELIZABETH DAVIS SCOTT,</u></p> | <p>REENTRY HOUSE PLUS, INC. A North Carolina Corporation</p> |
| <p><u>TODD GALMIN SCOTT and wife,</u> <u>ALISSA MARIE SCOTT,</u></p> | <p>Tax Mailing Address:</p> |
| <p><u>JAMES MARC SCOTT and wife,</u> <u>PATRICIA MOLLOY SCOTT</u></p> | <p>P.O. Box 361 Hillsborough, NC 27278</p> |
| <p><u>JAN RENEE SCOTT and husband,</u> <u>TRACY WHITED</u></p> | |

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns,

BK 6715 PG 2143 - 2148 (6) DOC# 30044866
This Document eRecorded: 04/08/2021 03:35:02 PM
Fee: \$26.00 Tax: \$556.00
Orange County, North Carolina
MARK CHILTON, Register of Deeds by MOLLY KEMPA

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 24th day of March, 2021, by and between

| GRANTOR | GRANTEE |
|--|---|
| <p>DONALD RICHARD SCOTT, JR. and wife, ROBIN ELIZABETH DAVIS SCOTT,</p> <p>TODD CALVIN SCOTT and wife, ALISSA MARIE SCOTT,</p> <p>JAMES MARC SCOTT and wife, PATRICIA MOLLOY SCOTT</p> <p>JAN RENEE SCOTT and husband, TRACY WHITTED</p> | <p>REENTRY HOUSE PLUS, INC. A North Carolina Corporation</p> <p>Tax Mailing Address:</p> <p>P.O. Box 361 Hillsborough, NC 27278</p> |

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns,

BK 6715 PG 2147

DOC# 30044866

A map showing the above described property is recorded in Plat Book 4, Page 64.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple:

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the rights to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Jan Renee Scott
JAN RENEE SCOTT
Tracy Whitted
TRACY WHITTED

State of North Carolina

County of Richmond

I, the undersigned Notary Public of the County and State aforesaid, certify that Jan Renee Scott and Tracy Whitted, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 27 day of March, 2021.

My Commission Expires: May 25, 2022

Alissa M. Scott
Notary Public



BK 6715 PG 2146

BK 6715 PG 2145

DOC# 30044866

is recorded in Plat Book 4, Page 64.

or parcel of land and all privileges and appurtenances thereto

that Grantor is seized of the premises in fee simple, has the rights to marketable and free and clear of all encumbrances, and that Grantor will claims of all persons whomsoever, other than the following

Grantor has duly executed the foregoing as of the day and year first above

Scott

In County and State aforesaid, certify that James Marc Scott and Tracy Whitted personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 30 day of March, 2021.

Alissa M. Scott
Notary Public



DOC# 30044866

4, Page 64.

privileges and appurtenances thereto

the premises in fee simple, has the rights to marketable and free and clear of all encumbrances, and that Grantor will claims of all persons whomsoever, other than the following

Grantor has duly executed the foregoing as of the day and year first above

In County and State aforesaid, certify that Todd Galmin Scott and Tracy Whitted personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 1st day of March, 2021.

Alissa M. Scott
Notary Public



BK 6715 PG 2144

DOC# 30044866

property is recorded in Plat Book 4, Page 64.

the said lot or parcel of land and all privileges and appurtenances thereto

Grantee, that Grantor is seized of the premises in fee simple, has the rights to marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following

the Grantor has duly executed the foregoing as of the day and year first above

F, J.

Tracy Whitted
Tracy Whitted

In County and State aforesaid, certify that Donald Richard Scott and Tracy Whitted personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 31 day of March, 2021.

Alissa M. Scott
Notary Public



223

written
IN WITNESS WHEREOF, th
James Marc Scott
JAMES MARC SCOTT
Patricia M
PATRICIA MOLLOY SCOTT

State of North Carolina
County of Richmond

I, the undersi
Patricia Molloy Scott
instrument for the pr
2021.

My Commissi

written.

Jan Renee Scott
JAN RENEE SCOTT

Tracy Whitted
TRACY WHITTED

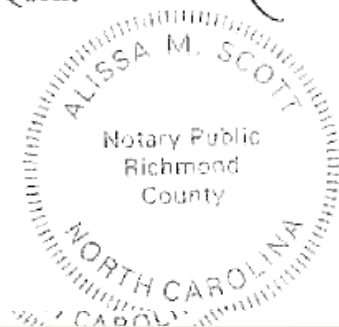
State of North Carolina

County of Richmond

I, the undersigned Notary Public of the County and State aforesaid, certify that Jan Renee Scott and Tracy Whitted, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 27 day of March, 2021.

My Commission Expires: May 25, 2022

Alissa M. Scott
Notary Public



BK 6715 PG 2144

DOC# 30044866



IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.
IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Todd Galmin Scott
TODD GALMIN SCOTT

Alissa Marie Scott
ALISSA MARIE SCOTT



State of North Carolina

County of Richmond

I, the undersigned Notary Public of the County and State aforesaid, certify that Todd Galmin Scott and Alissa Marie Scott, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purpose therein expressed. Witness my hand and Notarial stamp or seal this 1st day of ~~March~~ April 2021.

My Commission Expires: 7-16-25

Tina Marie Mills
Notary Public



Who owns what?

BK 6715 PG 2143 - 2148 (6) DOC# 30044866
This Document eRecorded: 04/08/2021 03:35:02 PM
Fee: \$26.00 Tax: \$556.00
Orange County, North Carolina
MARK CHILTON, Register of Deeds by MOLLY KEMPA

THIS DEED made by and between

| GRANTOR | GRANTEE |
|--|--|
| <u>DONALD RICHARD SCOTT, JR.</u> and wife, ROBIN ELIZABETH DAVIS SCOTT, | <u>REENTRY HOUSE PLUS, INC.</u> A North Carolina Corporation |
| TODD GALMIN SCOTT and wife, ALISSA MARIE SCOTT, | Tax Mailing Address: P.O. Box 361 Hillsborough, NC 27278 |
| <u>JAMES MARC SCOTT</u> and wife, PATRICIA MOLLOY SCOTT | |
| <u>JAN RENEE SCOTT</u> and husband, TRACY WHITTED | |

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns,

TRACY WHITTED
The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns.

BK 6715 PG 2143 - 2148 (6) DOC# 30044866
This Document eRecorded: 04/08/2021 03:35:02 PM
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Orange County, North Carolina
MARK CHILTON, Register of Deeds by MOLLY KEMPA

Even though Alissa did not notarize her signature or her husband's signature, as a party to the instrument, cannot notarize the signatures of the others.

Because their signatures were not properly acknowledged, those individuals did not give up any ownership.

6. Proper delivery

- ▶ Delivery of the deed from the Grantor to the Grantee is essential.
 - ▶ A statement must be made by the Grantor in the deed to indicate his or her intention to transfer the title.
- ▶ No particular prescribed act or ceremony is required for delivery.
- ▶ The deed can be handed, mailed, or shipped to the grantee.
- ▶ What would not be a proper delivery is to drop it off at the gym where the grantee was a member and expect him to pick up the deed the next time he came to work out.

7. Acceptance

- ▶ The deed must be accepted by the grantee for proper transfer of title to occur.
- ▶ Again, there is no fixed ceremony or principle to affect acceptance.
- ▶ Generally a deed is “accepted” when the grantee retains it or obtains a mortgage on the property.

In North Carolina a valid deed must have:

1. ~~A competent grantor~~
2. A grantee capable of holding title
3. A sufficient description of the property
4. Operative words of conveyance
5. Proper execution by the grantor
6. ~~Proper delivery~~
7. ~~Acceptance by the grantee that is adequate in law~~

Webster's Real Estate Law 4th ed.

In a practical sense,
all the land records
office is really
concerned with is:
2, 3, 4, & 5

You probably won't
know if the grantor is
competent or not.

You can assume that
if the deed got
recorded it had
property delivery and
has been accepted.

- A deed does not have to be dated
- Except for gift deeds, a properly executed deed may be perfectly valid, between the parties , even though the instrument is never recorded.
- But it does have to be in writing and has to be notarized. (The statement by the notary would be dated.)

If a deed is never recorded, who has title?

GS 47-18, The Conner Act says title does not change until the deed is recorded at the register of deeds office.

- ▶ Because of that, if the deed is not recorded,
 - ▶ the holder of the unrecorded deed
 - ▶ (assuming that everything else is legitimate)
 - ▶ has ownership, but they do not have title.
- ▶ The grantor would still hold title.

If a deed is never recorded, who has title?

GS 47-18, The Conner Act says title does not change until the deed is recorded at the register of deeds office.

- Occasionally we'll see a deed recorded, today, that was written and signed 20 or 30 years ago; but was never recorded,
- Is that deed still valid? Yes, but . . .
 - If the grantor on the deed died many years ago and their estate was settled, a long time ago, then probably it is too late for the grantee to claim title to the property.
 - That's a legal question best left for an attorney.

Folks working in Land Records Must

- Be cognizant of the legal concept of title,
- Transferring of ownership,
- And any conflict which may affect it.

While we're not the title police, and you can't fix stupid, we want the land records to be correct.

For any error in the county tax records in the ownership of property, who is the general public going to blame, regardless of who made the mistake?

Conflicts between: Metes & Bounds Descriptions and Plat References

- When an instrument describes a parcel using a metes and bounds description and a plat reference.
- AND there is a conflict or discrepancy between the two descriptions,
- The reference to the plat controls over the metes and bounds description.

Kelly v. King, 225 N.C. 709, 36 S.E.2d 220 (1945)
Nash v. Wilmington & Weldon R.R. Co., 67 N.C. 413 (1872)

YADKIN COUNTY
 11-29-00
 \$17.00
 RB508 P0244

FILED
 YADKIN COUNTY, NC
 NUMBER _____
 2000 NOV 29 P 2:40
 MARY J. MADISON
 REGISTER OF DEEDS

Yadkin
 County

THIS DEED made this 10th day of November, 2000, ~~1900~~, by and between

GRANTOR

Phyllis Ann Beshears and husband,
 Gary Beshears
 and
 Wanda C. Cockerham and husband,
 Johnny S. Cockerham
 and
 June Cheek Littlefield (By her attorney-in-fact
 and husband, Blanche A. Cheek)
 Billy R. Littlefield (By his attorney-in-fact
 Blanche A. Cheek)

GRANTEE

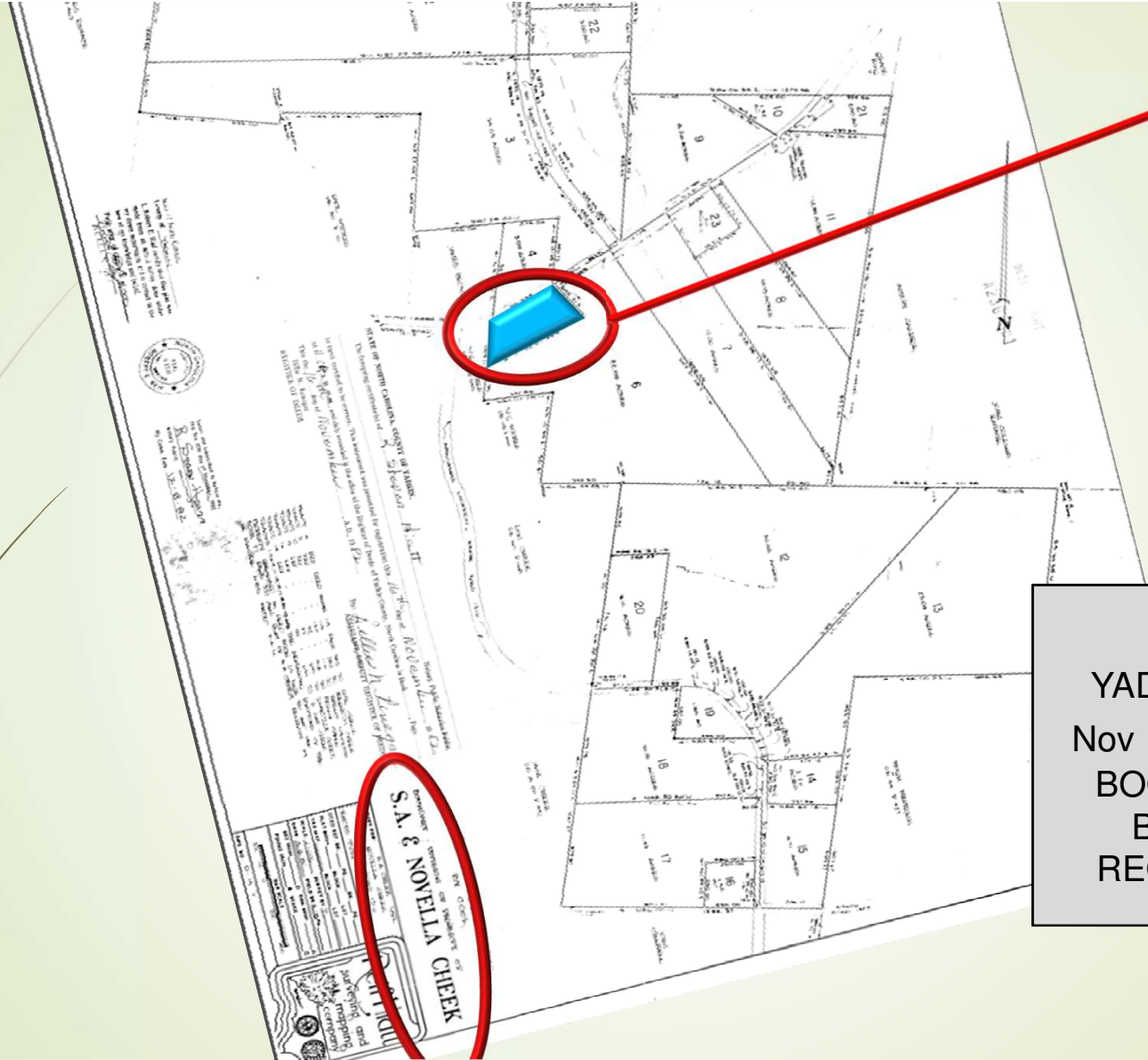
Leonard L. Caudill and wife
 Shirley A. Caudill
 200 Osborne St.
 Jonesville, NC 28642

and husband,
 Billy R. Littlefield (By his attorney-in-fact
 Blanche A. Cheek)

RB508 P0247

SCHEDULE "A"

Being Tract #5 of the Novella Cheek property as shown on that Plat recorded in Plat Bk 6, Pg 28, of the Plat Registry of Yadkin County and being more particularly described as follows: BEGINNING at a point in the centerline of SR #1316 (Rena Rd), said point being the Southeast corner for Doug Cheek; and running thence with the Cheek's line North 01 deg 43 min 21 sec East 836.80 feet to a gum tree stump, the Southwest corner for Lola W. Groce; thence with the Groce line North 86 deg 13 min 39 sec West 100.22 feet to an iron rod; thence with the West line of Tract #4 South 24 deg 19 min 40 sec East passing over an iron rod in the North margin of SR #1316 at a distance of 581.38 feet, for a total distance of 611.99 feet to a point in the centerline of SR #1316, the Southwest corner for Tract #4 of the Cheek property; thence with the centerline of SR #1316 South 54 deg 11 min 30 sec West 465.20 feet to the beginning iron rod, and containing 4.1645 acres, more or less, as surveyed by Mark K. Hollar, L-2840, on June 30, 2000.

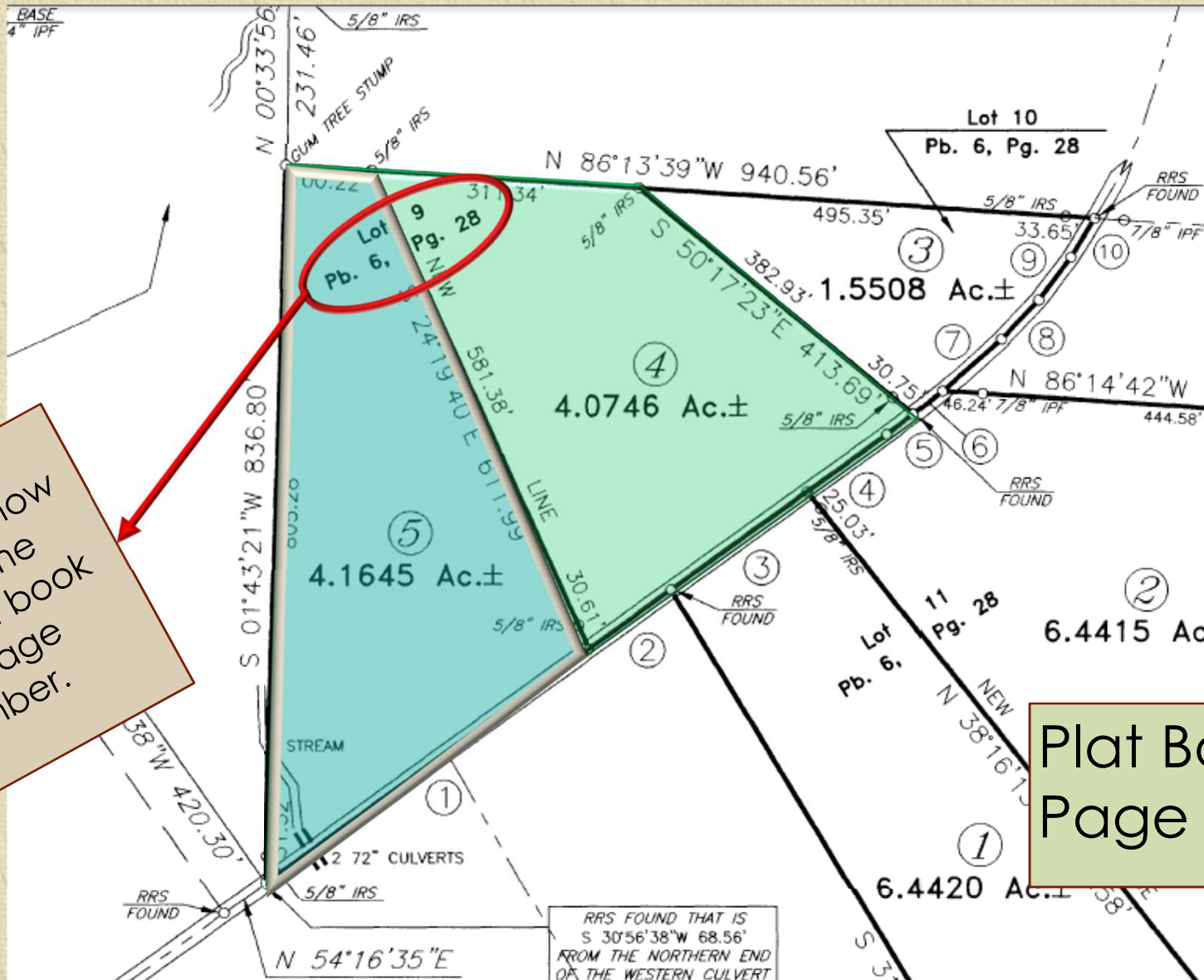


2.03 acres

FILED
YADKIN COUNTY, N.C.
Nov 16 11:04 AM '87
BOOK 6 PAGE 28
BILLIE RENEGAR
REGISTER OF DEEDS

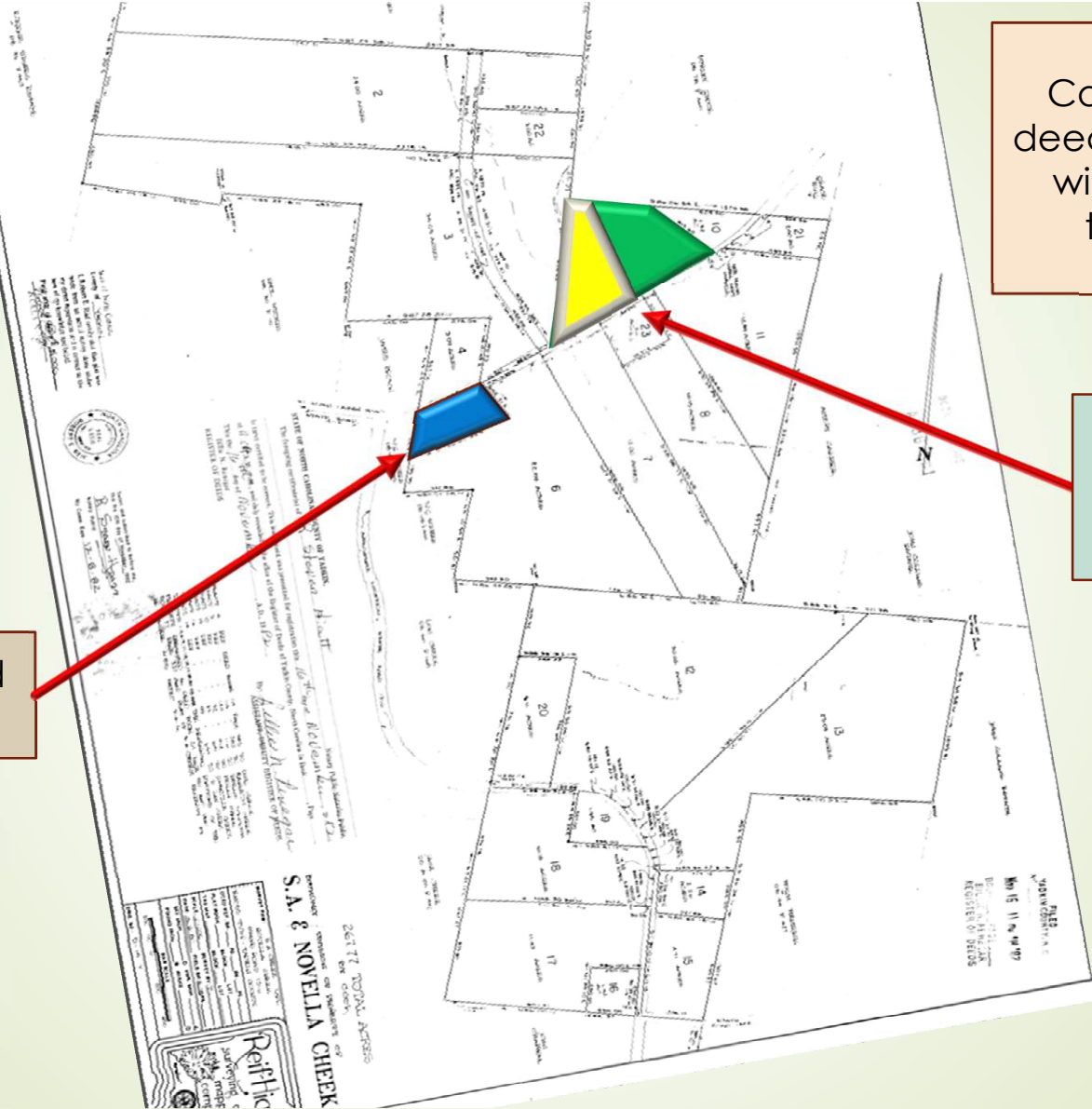
S.A. & NOVELLA CHEEK

You can see how they got the wrong plat book and page number.



Plat Book 8
Page 227

Lot 5 on the old plat.



Comparing what the deed actually described with what they were trying to convey.

Location of lots 4 and 5 on the new plat.

0512
0648

RB508 P0244

BK. 512. p0. 448

YADKIN COUNTY

11-29-00

\$17.00

FILED
YADKIN COUNTY, NC

NUMBER _____

2000 NOV 29 P 2:40

MARY J. MADISON
REGISTER OF DEEDS

Excise Tax \$ 17.00

Recording Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. _____

Verified by _____ County on the _____ day of _____, 19____

by _____

Mail after recording to ~~Darrell Lee Vernon 147 Laurel Hill Lane State Road NC 28676~~

Leonard Caudill 200 Osborne St. Jonesville NC 28642

This instrument was prepared by Finger, Parker, Avram, Martin & Roemer (00-misc)

Brief description for the Index

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 10th day of November, 2000, 2000, by and between

GRANTOR

Phyllis Ann Beshears and husband,
Gary Beshears
and
Wanda C. Cockerham and husband,
Johnny S. Cockerham
and
June Cheek Littlefield (By her attorney-in-fact
and husband, Blanche A. Cheek)
Billy R. Littlefield (By his attorney-in-fact
Blanche A. Cheek)

GRANTEE

Leonard L. Caudill and wife
Shirley A. Caudill
200 Osborne St.
Jonesville, NC 28642

0512
0652

240

RB512 P0652

Mat

SCHEDULE "A"

Being Tract #5 of the Novella Cheek property as shown on that Plat recorded in Plat Bk 8, Pg 227, of the Plat Registry of Yadkin County and being more particularly described as follows: BEGINNING at a point in the centerline of SR #1316 (Rena Rd), said point being the Southeast corner for Doug Cheek; and running thence with the Cheek's line North 01 deg 43 min 21 sec East 836.80 feet to a gum tree stump, the Southwest corner for Lola W. Groce; thence with the Groce line South 86 deg 13 min 39 sec East 100.22 feet to an iron rod; thence with the West line of Tract #4 South 24 deg 19 min 40 sec East passing over an iron rod in the North margin of SR #1316 at a distance of 581.38 feet, for a total distance of 611.99 feet to a point in the centerline of SR #1316, the Southwest corner for Tract #4 of the Cheek property; thence with the centerline of SR #1316 South 54 deg 11 min 30 sec West 465.20 feet to the beginning iron rod, and containing 4.1645 acres, more or less, as surveyed by Mark K. Hollar, L-2840, on June 30, 2000.

RB512 P0654

**EXPLANATION STATEMENT TO CORRECT OBVIOUS
MINOR ERROR(S) MADE IN AN INSTRUMENT
AS ORIGINALLY RECORDED**

RE: BOOK 508 PAGE 0244

I/We, the undersigned, hereby certify that the following corrections are made in the above

EXPLANATION OF CORRECTIONS(S):

Plat Bk 6, Pg 28 should have read Plat Bk 8, Pg 227.
the call of North 86 deg 13 min 39 sec West 100.22 feet to an iron rod should
have read South 86 deg 13 min 39 sec East 100.22 feet to an iron rod.

BY: [Signature]
ORIGINAL DRAFTING ATTORNEY

Cadastral mapper's duty

- To accurately
 - Identify
 - And graphically represent
 - Real Estate Boundaries,
 - Improvements
 - Restrictions / easements
- As defined in the recorded real property muniments.

Cadastral mapper's duty

- Mappers use the same criteria for mapping as the Tax Assessor uses for listing property

Six Basic Rights Associated with Ownership of Real Property - (Title)

- ▶ Known as the “bundle of rights”
- ▶ Right to:
 1. Use
 2. Sell
 3. Lease or rent
 4. Enter or leave
 5. Give away
 6. To refuse to do any of these



What's the difference between

Real Estate

- The land
- Appurtenances
 - The land and any man-made improvements like buildings, fences, driveways.
 - (Basically: The dirt and tangible objects attached to the dirt)

Real Property

- Real Estate
- +
- The Bundle of Rights
- Including:
 - Mineral rights
 - Timber Rights
 - Easements, etc.

Real property

- ▶ Real Property refers to the
 - ▶ Interest,
 - ▶ Benefits
 - ▶ And Rights inherent in the ownership of the physical real estate
 - ▶ The “bundle of rights” which the ownership of real estate is endowed.
- ** **NOTE:** Agricultural crops are considered to be personal property not real property.

“Real Estate “ and “Real Property”

The terms are often used interchangeably.

They have separate meanings and

Should not be used synonymously.

§ 105-302. In whose name real property is to be listed.

- (a) Taxable real property shall be listed in the name of the owner of record as of the day which property is to be listed under GS 105-285.

§ 105-285. Date as of which property is to be listed

- ▶ (d) Real Property. - ... The ownership of real property shall be determined annually as of January 1,
- ▶ except in the following situation:

§ 105-285. Date as of which property is to be listed

- ▶ When exempt property is deeded between January 1 and prior to July 1,
- ▶ it shall be listed for taxation by the transferee (that's the buyer) as of the date of acquisition
- ▶ and shall be appraised in accordance with its true value as of January 1 preceding the date of acquisition;

That means is someone buys tax exempt property, from say a church, between Jan 1 and July 1, they will have to pay taxes just as if they owned it the whole time.

Owner of record

- The term “**owner of record**” denotes ownership as reflected in a muniment or document of title in the public record.

Ownership versus Owner of Record

- ▶ Any entity (Human or Nonhuman) can have ownership
- ▶ Without being the owner of record
- ▶ By:
 - ▶ Adverse possession
 - ▶ Private agreement
 - ▶ Un-recorded instrument, etc

- Only a court of law can determine that the “right of possession” (unwritten conveyance – i.e. adverse possession) has ripened into title.
- The court records will then reflect this ripening of title.
- The court document becomes the muniment, documenting the “**Owner of Record.**”

Forms of Ownership in Real property

- To determine ownership of real property, one must understand the types of ownership.
- Does the person have absolute ownership, or
- Just the right to possess the property or some portion of the property?

Estates in land

- ▶ The estate a person has is the bundle of rights he or she owns regarding that land.
- ▶ Estates include:
 - ▶ Fee Simple
 - ▶ Fee Determinable
 - ▶ Fee subject to condition subsequent
 - ▶ Life Estate
 - ▶ Use rights – use and disposal of Mineral, Timber, or Game on or from the property.

Fee simple

- Gives the owner the largest group of rights.
- Sometimes called “fee simple absolute.”
- Is able to use the land for any purpose they choose, within zoning and other restrictions.
- Can transfer it to any person or entity
 - by deed during their life or
 - By will, at death.

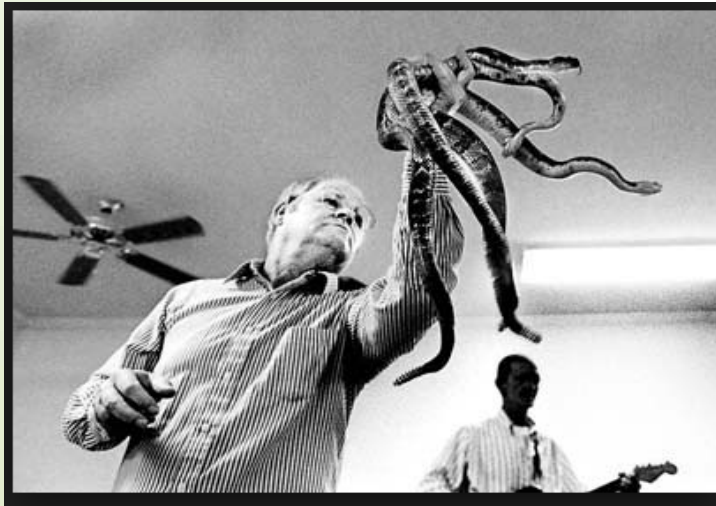
Fee simple determinable

- ▶ Language contained in the deed or will creating the estate stipulates that the estate is automatically terminated if a certain event occurs.
- ▶ That “certain” event may never happen.

Fee simple determinable

(example)

- ▶ “To the trustees of the Church of the Poisoned Mind so long as the congregation continues to handle snakes in church services, but when it is no longer so used, it shall revert to the grantor and his heirs.”



Fee simple determinable

(example)

- ▶ If a deed for the church property is recorded indicating the sale of the property to Wall-Market, the property would automatically revert to the grantor or his heirs.
- ▶ The significant element is the language that stipulates the estate automatically terminates upon the happening of the event.

Fee simple determinable

- ▶ Because this is relatively rare,
 - ▶ It should be noted on the property record card or in the records of the particular property to alert staff of the condition placed on the property should the “determinable” event ever happen.

Fee simple subject to a condition subsequent

- ▶ Very similar to fee simple determinable
- ▶ Language in the granting document states that grantee or the devisee will be divested of the property if a certain event occurs.
- ▶ The divestment is not automatic, the grantor or heirs must act to displace the holder of the estate.

Fee simple subject to a condition subsequent

(example)

- ▶ Language in a deed, **“To the trustees of the Lumberton Fire Department so long as the land is used for purposes of the fire department. If this property is no longer used for housing the fire department, this deed shall be void.”**
- ▶ The fire department does not automatically forfeit its title if they move the fire department to a new location; the grantor or his heirs must take legal action to enforce the condition in the deed.

Fee simple subject to a condition subsequent

- ▶ Because the heirs would have to bring a legal suit to effect the title there is no reason to make a note of this in the land records of this estate.
- ▶ The court documents would become the documents of title if a suit were filed through the court system.

The Difference between:

Fee Simple Determinable

- ▶ “but when it is no longer so used, it shall revert to the grantor and his heirs.”
- ▶ The transfer back to the grantor or heirs is automatic.
 - ▶ No one has to take further action.

Fee Simple Subject to a Condition Subsequent

- ▶ “If the property is no used by the fire department, this deed is void.”
- ▶ The fire department does not automatically forfeit its title when the property is sold.
 - ▶ Legal action must be taken to regain the property.

The Difference between:

Fee Simple Determinable

- The person(s) that may receive title in this situation has what is known as:

- “Possibility of Reverter”

Fee Simple Subject to a Condition Subsequent

- The person(s) that may attempt to recover title in this situation has what is known as:

- “Right of Entry”

§ 41-32 Possibilities of reverter, etc

- (a) (3) The estates of
 - fee simple determinable and
 - fee simple subject to a condition subsequent
- Will become fee simple absolute
- if the triggering event does not happen within 60 years after its creation of the estate.

That means if whatever the trigger for the property to go back to the grantor or the heirs of the grantor does not happen within 60 years of the date of the deed, then the possibility of it every going back ceases to exist.

§ 41-32 Possibilities of reverter, etc

- (b) This section does not apply
 - to a possibility of reverter,
 - right of entry, or executory interest held by
 - a charity,
 - a government or governmental agency or
 - subdivision excluded from the Uniform Statutory Rule Against Perpetuities by G.S. 41-18(5)
 - or to an arrangement relating solely to an interest in oil, gas, or minerals (1995, c. 525, s. 1.)

**Note this law took effect in 1995.

While this is not real common, they do exist and many of them are before, 1995.

Life estate

- ▶ Is very much like fee simple except the estate terminates at the death of life tenant or of another named person.
- ▶ Can be created by a will or by a deed.
- ▶ “Remainderman” or “Remaindermen” – the person or persons that receive the property at the death of the life tenant.
- ▶ Can be for the life of a third person.

Life estate

- ▶ Can be for the life of a third person.

We usually think about someone having a life estate for their own life.

I could deed you a life estate to some property for the life of Queen Elizabeth.

You'd have full use of the property as long as Queen Elizabeth is alive.

Once she passes, you're out.



Life estate

- ▶ If the document does not name a person to whom the property is to go at the death of the life tenant, a “reversion” is created.
- ▶ The property would automatically revert to the grantor or heirs of the grantor at the death of the life tenant.
- ▶ The Life Tenant can deed their life estate to anyone else without the Remaindermen joining in on the deed.
 - ▶ But the property would still go to the remaindermen at the death of the named life tenant.

All the life tenant owns is rights for their lifetime and that is all they can sell or give away, rights to the property for their lifetime.

Life estate

- **§ 105-302. In whose name real property is to be listed.**
- C. (8) A life tenant or tenant for the life of another shall be considered the owner of real property, and it shall be his duty to list the property for taxation, indicating on the abstract that he is a life tenant or tenant for the life of another named individual.

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 27th day of November, 2012, by and between

GRANTOR

REVONDA M. SIEGFRIED and husband
FRED A. SIEGFRIED

(Reserving a Joint Life Estate)

GRANTEE

VICKI D. GREEN

...grant, bargain, sell and convey unto the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple remainder, subject to the life estate reserved unto Grantors as hereinafter set forth, all their right, title and interest in and to that certain lot or parcel of land situated in Cooper Gap Township, Polk County, North Carolina and more particularly described as follows:

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple remainder, subject to the life estate reserved unto Grantors as hereinafter set forth, all their right, title and interest in and to that certain lot or parcel of land situated in Cooper Gap Township, Polk County, North Carolina and more particularly described as follows:

Name 1: Siegfried, Revonda M. – Life estate

Name 2: Siegfried, Fred A. – (LE)

entitled
, North
, North
for Polk
bounds

Life estate

- **§ 105-302. In whose name real property is to be listed.**
- C. (8) A life tenant or tenant for the life of another shall be considered the owner of real property, and it shall be his duty to list the property for taxation, indicating on the abstract that he is a life tenant or tenant for the life of another named individual.

In the event that the life estate was for the life of another person, the listing should show that.
i.e. deeded to Duncan Booth for the life of Queen Elizabeth

List it something like:
Booth, Duncan – LE for life of Queen Elizabeth

§ 105-384. Duties and liabilities of life tenant.

- (a) If real or personal property is held by a tenant for life or by a tenant for the life of another, it shall be the duty of the life tenant to pay the taxes imposed on the property.

Use rights

- ▶ Individual rights can be severed from the full bundle of property rights.
- ▶ Commonly seen as:
 - ▶ Mineral rights
 - ▶ Timber rights
 - ▶ Hunting / fishing rights
 - ▶ Development rights

- ▶ Held by an entity other than the owner of record.

A person could deed away all their rights, and still have the “right” to pay taxes, an example might be a “conservation easement.”

Characteristics of ownership

- ▶ Real property must, at all times, have an owner.
- ▶ The ownership entity may be human or non-human.
- ▶ An entity may have ownership solely or jointly with another entity.

§ 36C-1-103. Definitions

- (12) Person. – An:
 - Individual,
 - Corporation,
 - Estate,
 - Partnership, Limited liability company,
 - Association, Joint Venture,
 - Government, Governmental Subdivision
 - Agency, or Instrumentality;
 - Public Corporation,
 - Or any other Legal or Commercial Entity.

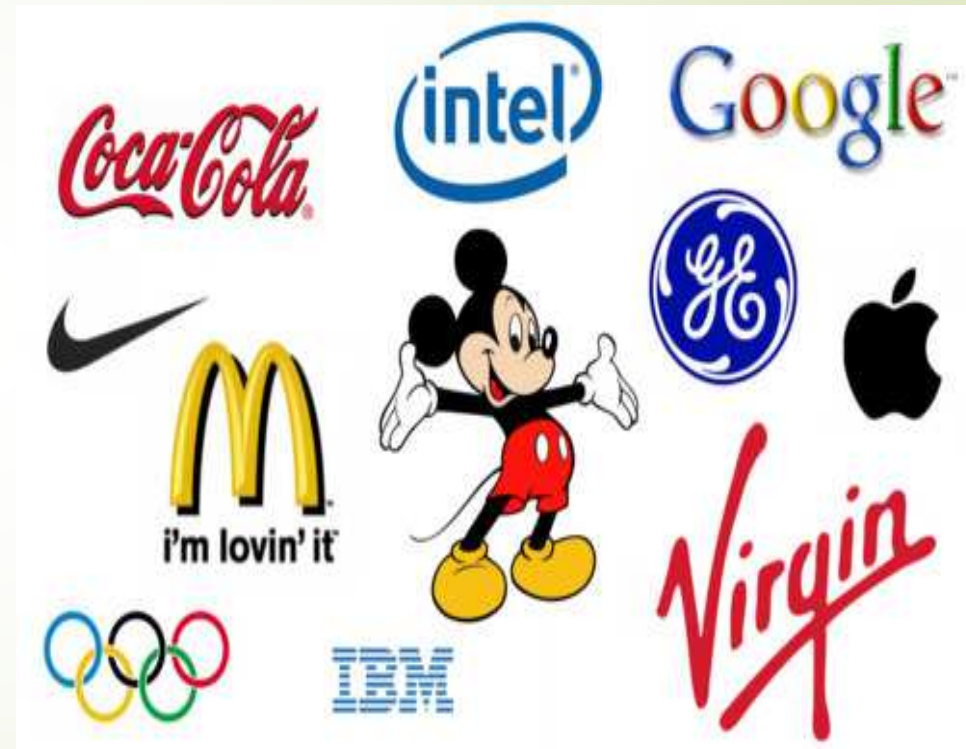
This means according to the statute, all these entities are considered as a “person” under the law.

Corporations

- ▶ § 105-302. In whose name real property is to be listed.
- ▶ (c) (2) Real property owned by a corporation shall be listed in the name of the corporation.

Corporations (continued)

- Ordinarily, a corporate deed must be
- Signed by the:
 - President,
 - Vice-president, or
 - Assistant Vice-president
- Attested by the:
 - Secretary or
 - Assistant Secretary
- Sealed with the corporate seal



§ 55D-26. Corporation property records

§ 55D-26. Real property records.

(a) A certificate issued by the Secretary of State as described in subsection (b) of this section must be recorded when:

- (1) The name of any domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership or foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership that holds title to real property in this State is changed upon amendment to its articles of incorporation or organization, its certificate of limited partnership, or its registration as a limited liability partnership or foreign limited liability partnership; or
- (2) Title to real property in this State held by any entity listed in subdivision (1) of this subsection is vested by operation of law in another entity upon merger, consolidation, or conversion of the entity.

The certificate must recite the name change, merger, consolidation, or conversion and must be recorded in the office of the register of deeds of the county where the property lies or, if the property is located in more than one county in each county where any portion of the property lies.

§ 55D-26. Corporation property records

- Basically what this says is that anytime there is a corporate merger or a name change by the corporation,
- That corporation has to file a certificate issued by the Secretary of State in each county where they have property.

If a corporation approaches the county to change their property listing because of a merger or name change, tell them they need to file the certificate they can get from the Secretary of State in your county register of deeds office.

Partnerships

- § 105-302. In whose name real property is to be listed.
- (4) Real property owned by a partnership shall be listed in the name of the partnership.

Unincorporated associations

- ▶ § 105-302. In whose name real property is to be listed.
- ▶ (c) (3) Real property owned by an unincorporated association shall be listed in the name of the association.

Unincorporated associations

- ▶ Conveyances must be signed by the
 - ▶ Association's
 - ▶ President, or
 - ▶ Chairperson
 - ▶ And
 - ▶ Secretary, or
 - ▶ Treasurer
 - ▶ Or
 - ▶ Trustee

Unincorporated associations

- ▶ Can be for
 - ▶ Charitable
 - ▶ Fraternal
 - ▶ Religious
 - ▶ Social
 - ▶ Patriotic



American Red Cross



Trusts

- § 105-302. In whose name real property is to be listed.
- (c) (7) Real property, the title to which is held by a trustee, guardian, or other fiduciary, shall be listed by the fiduciary in his fiduciary capacity except as otherwise provided in this section.

Trusts

- ▶ An entity that has the ability to function in the same capacity as a human under the direction of its designated trustee, if not limited by the documents creating the trust.

Trusts

- ▶ For Real Property Transactions
 - ▶ The trustee holds title to the property
 - ▶ Not the Trust itself
 - ▶ The trustee can sell or encumber the property without consultation with the beneficiary



Doc ID: 004249530004 Type: CRP
Recorded: 01/04/2013 at 02:27:24 PM

This should be indexed in the CAMA system as:
name 1: Henson, Mack – Trustee

Ex
Pa
By

Mail/Box to: MACK HENSON, 428 Smith Road, Columbus, NC 28722

This instrument was prepared by: *Collins & Collins, PA. Attorneys at Law, PO Box 25726, Greenville SC 29616

Brief description for the Index: _____

THIS DEED made this 20th day of December, 2012, by and between

GRANTOR

V. M. HENSON
428 Smith Road
Columbus, NC 28722

GRANTEE

MACK HENSON, Trustee, or his successors in
trust, under the MACK HENSON LIVING TRUST
dated December 20, 2012, and any amendments
thereto

428 Smith Road
Columbus, NC 28722



Forms of concurrent ownership

- ▶ Three types of concurrent ownership
- ▶ Tenancy by Entireties
- ▶ Tenancy in Common
- ▶ Joint Tenancy

* Note – each is different with different requirements for acquiring ownership

§ 41-56 Tenants by the entirety

- 1. A named man “and wife” or
- 2. A named woman “and husband”
- 3. A named individual “and wife”
- 4. A named individual “and husband”
- 5. A named individual “and spouse”
- 6. Two named individuals, married to each other at the time of the conveyance, whether or not identified in the conveyance as being
 - (i) husband and wife,
 - (ii) spouses, or
 - (iii) married to each other.



Tenants by the entirety (continued)

- ▶ Both spouses have an equal right to the income from and control of the property.
- ▶ The husband and wife are considered as a “unit”
 - ▶ If there were 2 couples owning property as tenants by the entirety with an unmarried individual, the couples would each own a $\frac{1}{3}$ interest and the individual would own a $\frac{1}{3}$ interest.
 - ▶ Together as a unit, each couple would be tenants in common with the other couple and the individual.

Tenants by the entirety (continued)

- Each is regarded as owning the entire property as opposed to each owning a one-half undivided portion of the property.
- Both parties must join in on a conveyance of the property to transfer ownership.



It's like owning a dog with your brother when you were kids.

You both owned the whole dog.

One of you did not own the head and the other the tail.

Tenants by the entirety (continued)

- ▶ At the death of either spouse,
- ▶ the surviving spouse automatically becomes sole owner of the property.
 - ▶ That happens automatically as a matter of law because it's in the statute that the surviving spouse becomes the sole owner.
 - ▶ Because it happens as a matter of law, then there is nothing formal that has to happen in order for the county to edit the listing.
- ▶ To remove the name of the deceased spouse, a death certificate or an obituary is all that is needed just as long as the county is sure that the person is actually deceased before removing the name.

Tenants by the entirety

- § 105-302. In whose name real property is to be listed.
- (c). (10) Real property owned by husband and wife as tenants by the entirety shall be
 - listed on a single abstract in the names of both tenants
 - and the nature of their ownership shall be indicated thereon.

Tenants by the entirety

- ▶ How do you indicate the nature of a married couple?
- ▶ You could write out “married,” “married couple,” or “husband and wife”
- ▶ It’s much easier and simpler to use the Latin terms –
 - ▶ **“Et ux”** – term meaning “and wife.”
 - ▶ **“Et vir”** – term meaning “and husband”

Name 1: Denison, Aubrey Adam et ux

Name 2: Denison, Michelle McGee

Parcel County 12-20-2010
 NORTH CAROLINA
 Real Estate
 Excise Tax \$149.00

END PAGE 0000
 INSTRUMENT # 05097

NORTH CAROLINA SPECIAL WARRANTY DEED

Excise Tax:

Parcel Identifier No. 489900964187 Verified By 12/20/10 County on the ___ day of ___, 20__
 By: _____

Mail/Box to: Grantee at 1732 N. Oak Ridge Church Road, Yadkinville, NC 27055

This instrument was prepared by: Philip E Searcy

Brief description for the Index:

THIS DEED made this 22nd day of December, 2010, by and between

GRANTOR

VANDERBILT MORTGAGE AND FINANCE, INC.
 500 ALCOA TRAIL
 MARYVILLE, TN 37804

GRANTEE

AUBREY ADAM DENISON AND WIFE,
 MICHELLE MCGEE DENISON

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

If the county simply lists the property in the two names without indicating the nature of their ownership,

i.e. –

Owner 1: Smith, Bill
Owner 2: Betty Smith

- There would be no way to know if they were married, brother and sister, cousins, or just two persons with the same last name.
- That would mean having to look up the deed when a new deed was recorded from just one of them.

Name 1: Denison, Michelle McGee et vir

Name 2: Denison, Aubrey Adam

Yadkin County 12-28-2010
 NORTH CAROLINA
 Real Estate
 Excise Tax \$149.00

RECORDED
 12-28-2010
 12:40:32

END PAGE 0060
 INSTRUMENT # 05097

NORTH CAROLINA SPECIAL WARRANTY DEED

Excise Tax:

Parcel Identifier No. 489900964187 Verified By 12/28/2010 County on the ___ day of ___, 20__
 By: _____

Mail/Box to: Grantee at 1732 N. Oak Ridge Church Road, Yadkinville, NC 27055

This instrument was prepared by: Philip E Searcy

Brief description for the Index: _____

THIS DEED made this 22nd day of December, 2010, by and between

GRANTOR

GRANTEE

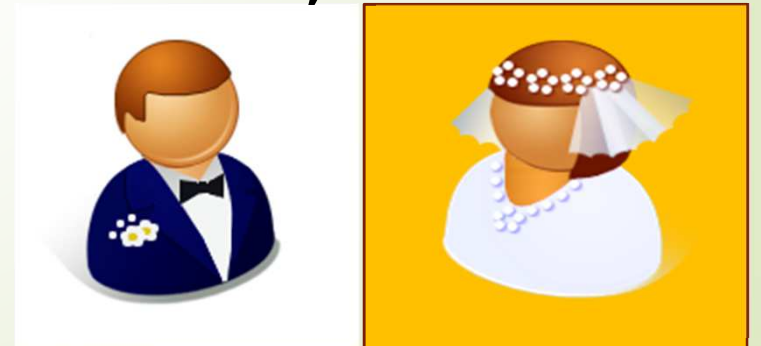
VANDERBILT MORTGAGE AND FINANCE, INC.
 500 ALCOA TRAIL
 MARYVILLE, TN 37804

MICHELLE MCGEE DENISON AND HUSBAND
 AUBREY ADAM DENISON

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

Tenants by the entirety

- When a married couple obtains a divorce,
- They automatically become Tenants in Common.



Tenants in common

- ▶ A form of concurrent ownership in which two or more persons own undivided interest in the same parcel of land.
- ▶ No rights of survivorship.
- ▶ No requirement:
 - ▶ that each owner acquire their share at the same time, or
 - ▶ Or by the same instrument,
 - ▶ Or that each tenant have an equal share

Tenants in common (continued)

- Each tenant is free to convey his or her interest at anytime.

- At the death of any individual tenant,
 - his or her interest in the property
 - is controlled either by their last will and testament
 - or by the laws of intestate succession.

Tenants in common

- ▶ § 105-302. In whose name real property is to be listed.
- ▶ (c) (9) Upon request to and with the approval of the assessor,
 - ▶ undivided interests in real property owned by tenants in common who are not copartners
 - ▶ may be listed by the respective owners in accordance with their respective undivided interests.
- ▶ Otherwise, real property held by tenants in common shall be listed in the names of all the owners.

RB1000 P0306

FILED
YADKIN COUNTY, NC
KAREN H. WAGONER
REGISTER OF DEEDS

Name 1: Logan, Brian M

Name 2: Logan, Paul Alan

Dec 30, 2010

03:45:11 pm

01000

PAGE 0306

PAGE 0309


MENT # 05147

STATE OF NORTH CAROLINA
COUNTY OF YADKIN

THIS DEED, made this 30th day of December, 2010, by and between **WILLIAM G. ADAMS, JR. AND WIFE, NORA LOU ADAMS** of 113 Grady Cave Lane, State Road, NC, **ALFORD ADAMS AND WIFE, LINDA ADAMS** of 502 Foster Dairy Road, Mocksville, NC 27028, **BARBARA FRENCH AND HUSBAND DANIEL ALLEN FRENCH** of 6200 Old 421 E, East Bend, NC 27018 and **OLA VICTORIA ADAMS, UNMARRIED** of 412 Poplar Circle, Yadkinville, NC 27055 hereinafter called "GRANTOR", and

BRIAN M LOGAN and PAUL ALAN LOGAN, siblings to hold title as Tenants in Common of State of North Carolina hereinafter called "GRANTEE", whose permanent mailing address is: 6140 Old US 421 E, East Bend, NC 27018.

Prepared by H. Clifton Hester, Attorney
STATE OF NORTH CAROLINA
COUNTY OF BLADEN

Book
0393
BLADEN COUNTY
07/20/97 3:17
AVS. S. EDWARDS
Register 00-20
By: 

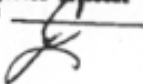
Owner 1: Brown, Mary – et al.

NON-WARRANTY DEED

THIS DEED, made this the 10th day of March, 1997, by and between MELTON P. BELLE and Wife, EMMER BELLE, CHARLES N. BELLE, Single, JOE W. BELLE and Wife, MARIE BELLE, SARAH V. FELIPIO, LEE A. LIVINGSTON, Single, FRANCES E. SEAWELL and Husband, WILLIAM SEAWELL, MELLER L. FREEMAN and Husband, JOHN FREEMAN, ELBERT LIVINGSTON, Single, PERRY LIVINGSTON, Single, MARY MONROE, Widow, LACY V. BROWN, and Wife BERTHA L. BROWN, ERVIN L. BROWN and Wife, MARY BROWN, HORACE L. BROWN, Widower, JAMES BROWN, and Wife, LESLIE BROWN, FLORA FREEMAN, Single, KARRY N. BROWN and Wife, BRENDA BROWN, CURRIE L. BROWN, and Wife, LIZZIE BROWN, RICHARD O. BROWN and Wife, GWENDOLYN BROWN Parties of the First Part, and MARY MONROE, Widow, LACY V. BROWN and Wife, BERTHA L. BROWN, ERVIN L. BROWN, and Wife, MARY BROWN, HORACE L. BROWN, Widower, JAMES BROWN and Wife, LESLIE BROWN, FLORA FREEMAN, Single, KARRY N. BROWN, and Wife BRENDA BROWN, CURRIE L. BROWN and Wife LIZZIE BROWN, RICHARD O. BROWN and GWENDOLYN BROWN, Parties of the Second Part;

In the notes in the CAMA system, that the public cannot see, you might list all the other owners.

Prepared by H. Clifton Hester, Attorney
STATE OF NORTH CAROLINA
COUNTY OF BLADEN

Book 0393 Page 0153
FILED
BLADEN COUNTY NC
07/20/97 3:17 PM
AVO. S. EDWARDS
Register of Deeds
By:  Deputy/Asst.

NON-WARRANTY DEED

THIS DEED, made this the 10th day of March, 1997, by and between MELTON P. BELLE and Wife, EMMER BELLE, CHARLES N. BELLE, Single, JOE W. BELLE and Wife, MARIE BELLE, SARAH V. FELIPIO, LEE A. LIVINGSTON, Single, FRANCES E. SEAWELL and Husband, WILLIAM SEAWELL, MELLER L. FREEMAN and Husband, JOHN FREEMAN, ELBERT LIVINGSTON, Single, PERRY LIVINGSTON, Single, MARY MONROE, Widow, LACY V. BROWN, and Wife BERTHA L. BROWN, ERVIN L. BROWN and Wife, MARY BROWN, HORACE L. BROWN, Widower, JAMES BROWN, and Wife, LESLIE BROWN, FLORA FREEMAN, Single, KARRY N. BROWN and Wife, BRENDA BROWN, CURRIE L. BROWN, and Wife, LIZZIE BROWN, RICHARD O. BROWN and Wife, GWENDOLYN BROWN Parties of the First Part, and MARY MONROE, Widow, LACY V. BROWN and Wife, BERTHA L. BROWN, ERVIN L. BROWN, and Wife, MARY BROWN, HORACE L. BROWN, Widower, JAMES BROWN and Wife, LESLIE BROWN, FLORA FREEMAN, Single, KARRY N. BROWN, and Wife BRENDA BROWN, CURRIE L. BROWN and Wife LIZZIE BROWN, RICHARD O. BROWN and GWENDOLYN BROWN, Parties of the Second Part;

If you want to do yourself and the Tax Collector a favor, list the percentage of ownership for each person.

At some point in time, one of them is going to come into the tax office to pay their share of the taxes.

The collector is probably going to call you or send them to your office to see what percentage they own.

$$1 / 18 = .0556$$

| | | | |
|---|------------------------------------|--------|--------|
| 1 | Melton Belle et ux Emmer | 0.0556 | |
| 2 | Charles Belle | | |
| 3 | Joe Belle et ux Marie | 0.0556 | |
| 4 | Sarah Felipio | 0.0556 | |
| 5 | Lee Livingston | 0.0556 | |
| 6 | Frances Seawell et vir William | 0.0556 | |
| 7 | Meller Freeman et vir John Freeman | 0.0556 | |
| 8 | Elbert Livingston | 0.0556 | |
| 9 | Perry Livingston | 0.0556 | |
| 1 | Mary Monroe | 0.0556 | 0.0062 |
| 2 | Lacy Brown et ux Bertha | 0.0556 | 0.0062 |
| 3 | Ervin Brown et ux Mary | 0.0556 | 0.0062 |
| 4 | Horace Brown | 0.0556 | 0.0062 |
| 5 | James Brown et ux Leslie | 0.0556 | 0.0062 |
| 6 | Flora Freeman | 0.0556 | 0.0062 |
| 7 | Karry Brown et ux Brenda | 0.0556 | 0.0062 |
| 8 | Currie Brown et ux Lizzie | 0.0556 | 0.0062 |
| 9 | Richard Brown et ux Gwendolyn | 0.0556 | 0.0062 |
| | | 1.0000 | |

$$.0556 / 9 = .0062$$

You could figure it by fractions:

311

| | | | | | | |
|---|------------------------------------|------|---|--|------|--|
| 1 | Melton Belle et ux Emmer | 1/18 | } | | | |
| 2 | Charles Belle | 1/18 | | | | |
| 3 | Joe Belle et ux Marie | 1/18 | | | | |
| 4 | Sarah Felipio | 1/18 | | | | |
| 5 | Lee Livingston | 1/18 | | | 8/18 | |
| 6 | Frances Seawell et vir William | 1/18 | | | | |
| 7 | Meller Freeman et vir John Freeman | 1/18 | | | | |
| 8 | Elbert Livingston | 1/18 | | | | |
| 9 | Perry Livingston | 1/18 | | | | |
| 1 | Mary Monroe | 1/18 | | | | |
| 2 | Lacy Brown et ux Bertha | 1/18 | | | | |
| 3 | Ervin Brown et ux Mary | 1/18 | | | | |
| 4 | Horace Brown | 1/18 | | | | |
| 5 | James Brown et ux Leslie | 1/18 | | | | |
| 6 | Flora Freeman | 1/18 | | | | |
| 7 | Karry Brown et ux Brenda | 1/18 | | | | |
| 8 | Currie Brown et ux Lizzie | 1/18 | | | | |
| 9 | Richard Brown et ux Gwendolyn | 1/18 | | | | |

8/18 reduces
down to 4/9

$$4/9 \div 9 = ?$$

Invert and multiply
 $4/9 \times 1/9 = 4/81$

You could figure it by fractions:

312

| | | | | | |
|---|------------------------------------|------|------|--|------|
| 1 | Melton Belle et ux Emmer | 1/18 | | | |
| 2 | Charles Belle | 1/18 | } | | |
| 3 | Joe Belle et ux Marie | 1/18 | | | |
| 4 | Sarah Felipio | 1/18 | | | |
| 5 | Lee Livingston | 1/18 | | | 8/18 |
| 6 | Frances Seawell et vir William | 1/18 | | | |
| 7 | Meller Freeman et vir John Freeman | 1/18 | | | |
| 8 | Elbert Livingston | 1/18 | | | |
| 9 | Perry Livingston | 1/18 | | | |
| 1 | Mary Monroe | 1/18 | 4/81 | | |
| 2 | Lacy Brown et ux Bertha | 1/18 | 4/81 | | |
| 3 | Ervin Brown et ux Mary | 1/18 | 4/81 | | |
| 4 | Horace Brown | 1/18 | 4/81 | | |
| 5 | James Brown et ux Leslie | 1/18 | 4/81 | | |
| 6 | Flora Freeman | 1/18 | 4/81 | | |
| 7 | Karry Brown et ux Brenda | 1/18 | 4/81 | | |
| 8 | Currie Brown et ux Lizzie | 1/18 | 4/81 | | |
| 9 | Richard Brown et ux Gwendolyn | 1/18 | 4/81 | | |

8/18 reduces
down to 4/9

$$4/9 \div 9 = ?$$

Invert and multiply
 $4/9 \times 1/9 = 4/81$

$$1/18 + 4/81 = ?$$

You could figure it by fractions:

312

| | | | | |
|---|------------------------------------|------|------|--------|
| 1 | Melton Belle et ux Emmer | 1/18 | | 9/162 |
| 2 | Charles Belle | 1/18 | | |
| 3 | Joe Belle et ux Marie | 1/18 | | |
| 4 | Sarah Felipio | 1/18 | | |
| 5 | Lee Livingston | 1/18 | | |
| 6 | Frances Seawell et vir William | 1/18 | | |
| 7 | Meller Freeman et vir John Freeman | 1/18 | | |
| 8 | Elbert Livingston | 1/18 | | |
| 9 | Perry Livingston | 1/18 | | |
| 1 | Mary Monroe | 1/18 | 4/81 | 17/162 |
| 2 | Lacy Brown et ux Bertha | 1/18 | 4/81 | 17/162 |
| 3 | Ervin Brown et ux Mary | 1/18 | 4/81 | 17/162 |
| 4 | Horace Brown | 1/18 | 4/81 | 17/162 |
| 5 | James Brown et ux Leslie | 1/18 | 4/81 | 17/162 |
| 6 | Flora Freeman | 1/18 | 4/81 | 17/162 |
| 7 | Karry Brown et ux Brenda | 1/18 | 4/81 | 17/162 |
| 8 | Currie Brown et ux Lizzie | 1/18 | 4/81 | 17/162 |
| 9 | Richard Brown et ux Gwendolyn | 1/18 | 4/81 | 17/162 |

$$1/18 + 4/81 = ?$$

Lowest common denominator is 162

$$1/18 = 9/162$$

$$4/81 = 8/162$$

$$9/162 + 8/162 = 17/162$$

$$17/162 \times 9 = 153/162$$

$$153/162 + 9/162 = 162/162$$

Joint tenancy

314

- ▶ Co-ownership by two or more persons
 - ▶ Each owns equal shares with all others of undivided interest – unless otherwise specified in the conveyance.
 - ▶ Property must have been obtained by all the joint tenants at the same time with the same document creating the joint tenancy.

Joint tenancy

315

- ▶ Co-ownership by two or more persons
 - ▶ A person could own a piece of property for years, then deed it from himself to himself and another person to create the joint tenancy.
 - ▶ What he cannot do is simply deed a portion of the property to the other person as a joint tenant.

If you can't deed property from yourself to yourself,

316

- ▶ How can someone deed property from themselves to themselves and someone else to create the joint tenancy?
- ▶ The courts look at the Joint Tenancy (as well as Estate by the Entirety) as a single entity or unit, not as two individuals.
- ▶ The individual as an entity can deed property from themselves to some other entity.
- ▶ The fact that they are also part of that other entity is irrelevant.

§ 41-71 Joint tenancy with right of survivorship

317

- Joint tenancy with right of survivorship is deemed to be created if the conveyance uses:
 - *“Joint tenants with right of survivorship”*
 - *“Joint tenants”*
 - *“Joint tenancy”*
 - *“tenants in common with right of survivorship”*
 - *“joint with right of survivorship”*
 - *“with right of survivorship”*

This law
changed, just
this year.

Note – Even if the deed says “Tenants in Common” if it includes the statement “right of survivorship” it is a “Joint Tenancy”

Joint tenancy

318

- ▶ If two persons hold joint tenancy and
 - ▶ one of the tenants conveys their interest to a third person,
 - ▶ a tenancy in common is created with the remaining joint tenant and that new person.

Joint tenancy

- ▶ If three or more persons hold joint tenancy
 - ▶ and any one of them conveys their interest to an outside party,
 - ▶ the new party is a tenant in common with the everybody else
 - ▶ and others remain joint tenants with each other.

0000 0121

FILED
YADKIN COUNTY, NC

Name 1: Brandon, Christopher – JTROS
 Name 2: Simmons, Bailey - JTROS

Yadkin County 02-01-2013
 NORTH CAROLINA
 Real Estate
 Excise Tax: \$180.00

END PAGE 0124
 INSTRUMENT # 00461

WARRANTY DEED


Prepared By: J. Gregory Matthews, Attorney at Law, P.A.

STATE OF NORTH CAROLINA

COUNTY OF YADKIN

THIS DEED, made this 1st day of February, 2013, by and between **JEFFERY D. WALLACE** and wife, **KELLI BROWN WALLACE**, hereinafter called "GRANTOR, of 343 Ivy Road, Mocksville, NC 27028,"; and

CHRISTOPHER BRANDON, Unmarried, and BAILEY SIMMONS, Unmarried, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP, of the State of North Carolina, hereinafter called "GRANTEE", whose permanent mailing address is: 3377 Farm Lane Yadkinville, NC 27055.

| | | |
|---------------|---|--------------|
| B27414 - P469 | <p>FOR REGISTRATION J. David Granberry REGISTER OF DEEDS Mecklenburg County, NC 2012 JUN 13 10:01:15 AM BK-27414 PG-469-471 FEE \$26.00 EXCISE TAX \$1.00 INSTRUMENT # 201200066 PHETSJ</p>  <p>201200066</p> | 27414 - P470 |
|---------------|---|--------------|

NORTH CAROLINA GENERAL WARRANTY DEED
No Title Examination Requested or Performed

THIS DEED made this 5th day of June, 2012 by and between _____

| GRANTOR | GRANTEE |
|---|--|
| <p>EDITH E. STILWELL and KENNETH A. STILWELL (As Tenants-in-Common)</p> <p><u>Mailing Address:</u> 13808 Shopton Road West Charlotte, NC 28278</p> | <p>EDITH E. STILWELL (49 ½%); ←</p> <p>KENNETH A. STILWELL (49 ½%); ←</p> <p>JOYCE S. GIBSON and husband, DAVID L. GIBSON (1%) ←</p> |
| | <p>Joint Tenants with Right of Survivorship in the Percentages Indicated</p> |
| | <p><u>Property Address:</u> 13808 Shopton Road West Charlotte, NC 28278</p> |
| | <p><u>Mailing Address:</u> 13808 Shopton Road West Charlotte, NC 28278</p> |
| | <p>_____ address, and, if appropriate, character of entity.</p> |

Notary Public

Instrument and this certificate are duly registered at
_____ on the first page hereof.
REGISTER OF DEEDS FOR _____ COUNTY

**** Note: Joyce & David Gibson, as a unit, are tenants by the entirety, and as a unit, they are joint tenants with Edith Stillwell and Kenneth Stillwell**

Interests in land

- ▶ May be created and transferred several ways
 - ▶ Most common are:
 - ▶ Deed
 - ▶ Will
- ▶ Also unwritten conveyance – adverse possession

Wills

- ▶ A document by which a landowner, at death, may direct disposition of his or her property
 - ▶ Is revocable - can be changed at any time during the makers life.
 - ▶ Applies only to property owned at the time of death.
 - ▶ Property not mentioned in the will is disposed as if there was no will at all under the laws of intestate succession.
 - ▶ “And any other property I might own.”

It would be sort of difficult to change the will after they died, but “miracles” have happened.

Property left to someone in a will, but sold before the person died is simply gone.

Wills

- The will has to be “probated” or go through “probate” after the death of the person making the will.
 - Probate – to be “proved” genuine by the Clerk of Court before the estate can be administered under the terms of the will.
 - Probate is a minimum of six months time.
 - Executor – the person, usually named in the will, to administer the estate.
 - Administrator – the person appointed by the Court to administer the estate in the absence of a will.

Wills

325

- At the moment of death of the testator, title to real property vests in the heirs, those persons who would inherit the property if there is no will
- Once the will is probated,
 - Title vests in with the devisees – persons named in the will to inherit the land.
 - But the vesting dates back to the moment of death.

Descriptions in the Will

- ▶ Many wills do not contain a “legal description” of land being devised or willed
- ▶ Example:
 - ▶ To my son, Charles, I leave the Fulmore Farm.

Descriptions in the Will

- ▶ If this happens, the property mapper must find the description to the “Fulmore Place” to get that description.
- ▶ It may be in a deed into the testator (person that died.)
 - ▶ if you're lucky.

Descriptions in the Will (continued)

- ▶ If the property was inherited by the testator, there may not be a description.
- ▶ Particularly if it has been handed down in a family for several generations.
- ▶ Sometimes the best you can hope for is that those in your job before you have done a good job of documenting the extent of ownership.

Descriptions in the Will

- Another example:
- To my granddaughter, Drada, I leave my house and two acres surrounding the house. The remaining land I leave to my grandson, George.

All the property mapper can do is wait until the family decides to get a survey done to delineate those two acres.

Descriptions in the Will

- However; title to the two acres transferred to Drada at the time of her grandfather's death.
- If he had more than two acres, we might not know exactly where the two acres are,
 - We just know that they are somewhere inside the parent parcel.
- The county might consider creating the parcel in the CAMA with a nominal value
- based on the schedule of values as applied to the parent parcel
- for the two acres as a "place holder" until a survey is provided to precisely describe for Drada's portion.

Estate files

- ▶ Estates are filed and indexed in the Clerk of Superior Court's Office
- ▶ The files are numbered as "16 – E – 569"
 - ▶ The "16" is the last numbers of the year in which the estate file was created
 - ▶ It is a good indicator of the year the person died, but that is not absolute

Estate files

- ▶ The “E” denotes that this file is an estate file.
- ▶ The remaining numbers are the file number and are numbered consecutively from “1” each year.
- ▶ There may or may not be a will in the file.

§ 28A-2A-13. Wills filed in clerk's office.

- ▶ If a will contains real estate in another county
- ▶ A copy of the will
 - ▶ Certified by the clerk court
 - ▶ May be filed in clerk of courts
 - ▶ in any county where the land is situated.
 - ▶ With the same effect
 - ▶ As if the will had originally
 - ▶ Been probated and filed
 - ▶ In the county where the land is located

§ 31-39. Probate necessary to pass title; rights of lien creditors and purchasers; recordation in county where real property lies.

§ 31-39. Probate (continued)

- (a) A duly probated will is effective to pass title to real and personal property.

- (b) A will is not effective to pass title to real or personal property as against lien creditors or purchasers for valuable consideration from the intestate heirs at law of a decedent, unless the will is probated. . .

§ 31-39. Probate

- (c) A will probated in one county
- Is not effective to pass title
- In any other county
- Unless a certified copy of the will
- Is filed in the Clerk of Courts office where the land lies.

Changing a listing by will

- ▶ In order to change the listing from an estate to an individual, named in the will, the will must be probated and the probate documents on file in the clerk of court's office in the county where the land lies.

Property mappers duty is to list property by the recorded document of title.

Until the will is probated in your county or a certified copy is filed in the clerk's office in your county, the will is not in your cadastre and is not a document of title.

Intestate Succession

- ▶ When a person dies without a will or a valid will, they are said to have died “intestate.”
- ▶ Real property owned by an intestate, is divided among the heirs by the laws of intestate succession.

Intestate succession

- Real property would be divided by all the heirs eligible to inherit under Chapter 29 of the General Statutes.
- Basically:
 - If there is one child, the surviving spouse gets half and the child gets half
 - If there are two or more children, the spouse gets one third and the children split the remaining two thirds

Intestate succession

- ▶ If there are no children, but if either or both of the parents of the deceased person is still living, the spouse gets half and the parent or parents get half.
- ▶ Only if there are no children and no parents does the spouse get the entire property.

Types of Deeds

- ▶ (1) Warranty Deeds or General Warranty Deeds
 - ▶ The grantor warrants or guarantees:
 - ▶ To be the lawful owner of the property
 - ▶ No-one else is needed to participate in the execution of the deed to transfer the rights to the property
 - ▶ There are no liens or mortgages on the property except as stated within the deed
 - ▶ “The grantor, in effect, stands behind the title and will make good to the grantee any loss incurred from a defect in or encumbrance on the title, regardless of when the defect or encumbrance occurred.”
 - ▶ *Guidebook for North Carolina Property Mappers - Campbell 3rd Edition 2001*)

types of deeds

- ▶ (2) Special Warranty Deeds
 - ▶ Limited “guarantee” against
 - ▶ Any liens or mortgages
 - ▶ Prior transfers or conveyances
 - ▶ Right in or to the land – including easements
 - ▶ BUT
 - ▶ Only during the time owned by the grantor

types of deeds

- ▶ 3. Non-warranty Deeds
- ▶ 4. Quit Claim Deeds
 - ▶ The grantor is giving up all rights to the land, if he has any rights.
 - ▶ Usually used in circumstances when the title is unclear. Often used to clear up any defects in the title.
 - ▶ The grantee assumes any burden of proof of ownership.
 - ▶ If the mapper or the Assessor feels that a quit claim deed has no basis in the title of a parcel, there is no requirement that the parcel be listed in the name of the grantee on the quit claim.

types of deeds

- ▶ 5. Commissioners Deed
 - ▶ Often used to settle a land dispute between family members ,
 - ▶ To settle an estate
 - ▶ Following divorce proceeding.
 - ▶ Commissioners are appointed by the court to make an equitable partition of a parcel or parcels and the commissioners then execute a deed or deeds.
 - ▶ Sometimes commissioners are appointed to sell the property and to divide the proceeds .

types of deeds

➤ 6. Trustees Deed

- A trustee is a person that has a legal duty to manage the assets in the best interests of the beneficiary.
- Most often used in North Carolina in the case of a foreclosure.
 - Following a default on a mortgage a substitute trustee is recorded in the register of deeds office.
 - That substitute trustee then sells the property acting in the best interests of the beneficiary (the bank) and records the trustee deed transferring title.

types of deeds

- ▶ 6. Trustees Deed –
 - ▶ Not to be confused with property placed into a trust (A Revocable Trust or A Non-revocable Trust) which also has a trustee.
 - ▶ The Trustee has the legal title to the property not the Trust itself.

types of deeds

➤ 7. Sheriff's Deed

- Following a sale by the sheriff upon a court order for the failure to pay a judgment or for a tax foreclosure.
- The sheriff conducts a sale and the deed is recorded in the register of deeds office.

Indexing Sheriff's, Commissioner's and Trustee's Deeds

- ▶ The Register of Deeds is required to index
 - ▶ Sheriff's Deeds
 - ▶ Commissioner's Deeds
 - ▶ Trustee's Deeds
- ▶ In the names of the:
 - ▶ Sheriff
 - ▶ Commissioner(s)
 - ▶ Trustee(s)
 - ▶ **As well as** the name of the owner of "giving up" the property as Grantor.

Other types of “deeds”

- Deeds of Trust
- Deeds of Easement
- Deeds of Recombination

- Not true “deeds” in that they do not transfer any title to the property but are known as “subsequent instruments” applying a condition to the property.

§ 47-26. Deeds of gift.

- ▶ All deeds of gift of any estate of any nature shall within two years after the making thereof be proved in due form and registered, or otherwise shall be void, and shall be good against creditors and purchasers for value only from the time of registration. (1789, c. 315, s. 2; R.C., c. 37, s. 18; Code, s. 1252; 1885, c. 147; Rev., s. 986; C.S., s. 3315.)

What this is saying is that a gift deed must be recorded within two years or it is void and that the property is not protected from any liens against the grantor until it has been recorded at the register of deeds office.

Deed registration

- Besides giving government entities notice of who owns a piece of property,
- One purpose of recording or registering a deed
- is to protect the grantee
- against subsequent purchases and creditors of the grantor.

Torrens Deeds

- ▶ Under the Torrens Act, there is a single certificate kept on file for each parcel of land in the Register of Deeds Office.
- ▶ Changes in ownership are kept on the certificate and guaranteed by the State.
- ▶ A duplicate certificate is given to the owner as proof of ownership.
- ▶ Without the certificate, the owner cannot prove he owns the property.

In North Carolina

- ▶ Torrens Deeds are generally only found in a few of the eastern counties
- ▶ And only used by the timber companies that own huge timber tracts of hundreds of acres
- ▶ It is a way to protect their ownership from squatters claiming ownership by adverse possession.

Torrens Deeds

- ▶ The paper document received, at the time of purchase, by the new owner is the “title” to the property.
- ▶ Without the document to prove ownership, the owner has no way to sell the property.
- ▶ Replacing “lost” Torrens documents is a difficult process through the court system.

§ 105-302. In whose name real property is to be listed.

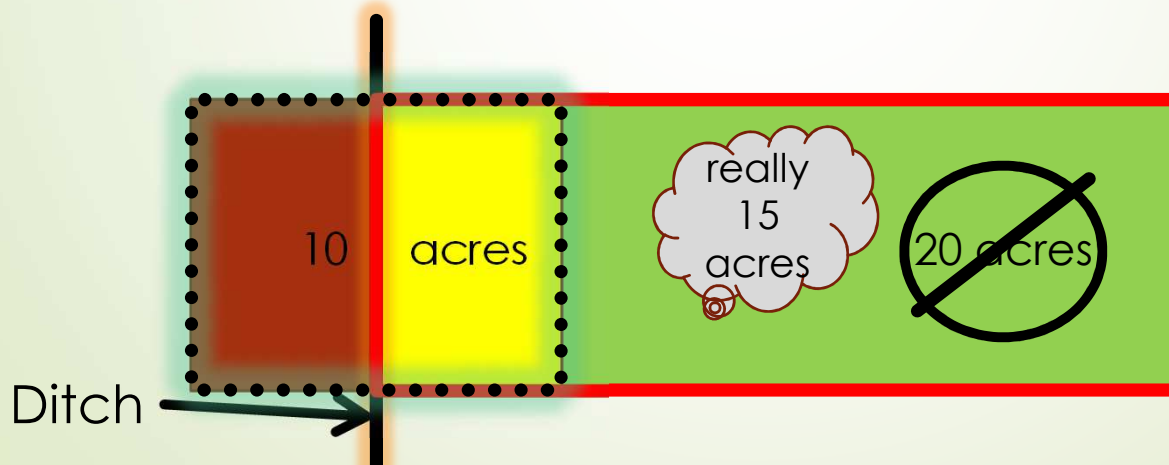
- ▶ C (12) . . . If title to real property is in dispute, the property shall be listed in the name of the occupant.
- ▶ if there is no occupant, in the name of “unknown owner.”

§ 105-302. In whose name real property is to be listed.

- ▶ C (12) . . . Such a listing shall not affect the validity of the lien for taxes created by G.S. 105-355. When the name of the owner is later ascertained, the provisions of subsection (b), above, shall apply.

What this is saying is that if the county has a parcel listed as “Unknown Owner” if and when the true owner is found, any unpaid or delinquent taxes are owed by that owner.

- Going back to the example of Terry Dactel and Teresa Green,
- Should the five acres in yellow that are described in both deeds be listed as “Unknown Owner?”



No. Because we have a clear chain of title.

§ 105-302. In whose name real property is to be listed.

- ▶ (b) If property is listed in the wrong name and the correct name is discovered
- ▶ The records shall be corrected
- ▶ Corrected listings have the same force and effect as if it had been listed correctly all along.

This means that the correct owner is now responsible for any unpaid or delinquent taxes.

Property listed in the wrong name.

- ▶ If the person that was erroneously listed as the owner of the property paid the taxes, actually paid the tax bill.
- ▶ They might ask the county for a refund.
- ▶ Just remember, the county always has its hand out for the taxes and does not care who pays them.
- ▶ They will need to go see the person that should have paid the taxes.
- ▶ The county is not going to refund any taxes, if it can help it.



Restrictions

- ▶ In this country, individuals may own land subject to certain limitations on the use of land.

- ▶ The can be:
 - ▶ Public or
 - ▶ Private

Restrictions

- ▶ All privately owned land in the United States is subject to four public limitations:
 1. Taxation
 2. Eminent Domain
 3. Police Power
 4. Escheat

Taxation

- ▶ The right of a government agency to levy a property tax.

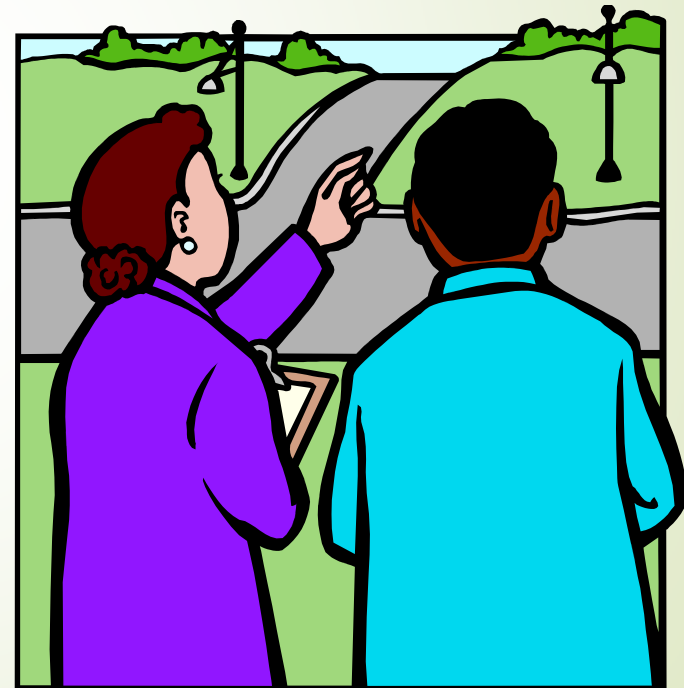


Eminent domain

- ▶ The right of government, both state, federal, local, and even some private condemnors to take private property for a necessary public use,
 - ▶ If just compensation is paid the owner.
 - ▶ No private property is exempt.

Police power

- The right of government to adopt and enforce laws and regulations to promote and support the public health, safety, and general welfare.
- These include:
 - Planning and Zoning
 - Environmental Control



Condemnation

365

- ▶ The taking of private land for public use through the exercise of Eminent domain. Agencies of state, local, and the federal government may exercise condemnation procedures.
- ▶ Some private entities that exercise certain “quasi-public” functions (Public Utilities) may use condemnation procedures.



Escheat

- When an owner of property dies intestate and there are not heirs to inherit the property, ownership reverts to the State.
- Can also occur when property is abandoned.



Adverse possession

- ▶ Acquiring title to property by meeting certain statutory requirements, even though the claimant has no document of title, or has a document that is defective.



Adverse possession

- Requirements:
 - 21 years of actual possession (Statutory Period)
 - Under Known and Visible Lines and Boundaries
 - Hostile to the true owner
 - Open and Notorious
 - Possession must be continuous and uninterrupted for the statutory period

Adverse possession

369

- (Color of Title)
 - Statutory period is 7 years (the minimum period of time).
 - The title document under which the claimant is claiming property is somehow defective.
 - The possession must be under “Known and Visible Lines and Boundaries.”

- Note: A deed known by the grantee to be fraudulent, does not constitute Color of Title.



Mapping Adverse possession claims

- ▶ Claims of ownership by **Adverse Possession** do not constitute “owner of record.”
- ▶ Simply listing property in one’s name and paying tax on the property does not give ownership.



Mapping Adverse possession claims

- ▶ Claims of ownership by Adverse Possession should not be mapped or listed in the CAMA system until a court ruling is recorded in the Clerk of Court's Office.
- ▶ Until there is a judgment by court action called "Action of Quiet Title," there is no document of title.
- ▶ The court ruling becomes the muniment.



Judgment in a quiet title action

- ▶ Action to Quiet Title is a court proceeding to establish a plaintiff's title to land by compelling the adverse claimant to establish their claim or be forever stopped from asserting it.
- ▶ The judgment may transfer ownership
- ▶ The judgment will be indexed in the Clerk's office index to Liens, Judgments and Lis Pendens and a certified copy will be recorded in the Register of Deeds office.

Easements

- ▶ The right to use or restrict the use of another person's land
- ▶ An easement is not an estate in land,
 - ▶ It is a limited interest in the property
- ▶ Easements are usually classified as:
 - ▶ Appurtenant,
 - ▶ In gross,
 - ▶ Affirmative, or
 - ▶ Negative

Easement Appurtenant

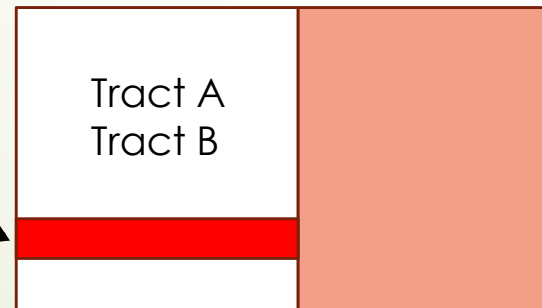
- 1. Easement on one parcel of land that benefits another parcel.
- 2. The parcel benefited by the easement is the dominate tract.
- 3. The parcel subject to the easement is the servient tract.
- 4. An easement recorded in the register of deeds attaches to and passes with the dominate tract as an interest in the real property – even if not mentioned in a subsequent deed.

Easement Appurtenant (example)

- ▶ If "A" and "B" are adjoining parcels of land and the owner of "A" grants the owner of "B" a road easement across "A," the easement is Appurtenant.

"A" is the Servient Tract

20' Ingress & egress easement



"B" is the Dominate Tract

If "B" is sold the easement transfers with "B," even if the deed conveying "Tract B" does not mention the easement.

Easement in Gross

1. The right to use land belonging to another.
2. Is not for the benefit of another tract of land.
3. Terminates with the death of the individual possessing the right.
4. Is not assignable.

Easement in Gross (examples)



Electric power lines are an example of Easement in Gross.

- A power line easement
- 1. gives the power company the right to use somebody's land.
- 2. across your land does not benefit the adjoining tract.
- 3. Would terminate if the power company ceased to exist.
- 4. is not assignable.

Easement in Gross (examples)



Example: Stanton Brown had the right to use the Boat Ramp In Doe Creek Plantation.

When Stanton died his use right terminated and did not transfer to his heirs.

Stanton could not sell or deed his right to anyone else.

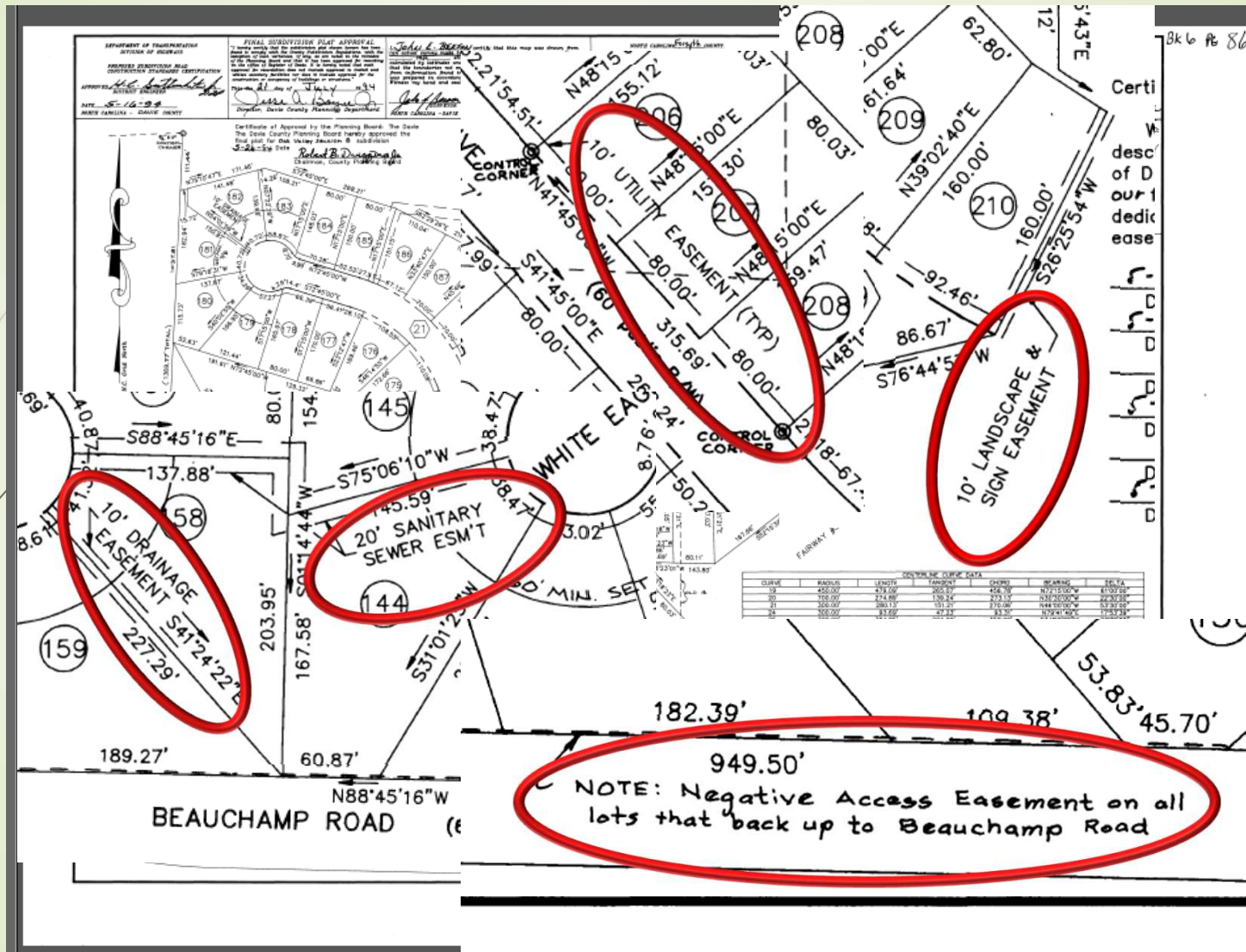
Easements

Affirmative

- ▶ Empowers the holder to go on the land subject to the easement with for the purpose of doing something.
- ▶ Allows the holder to do something
- ▶ Examples:
 - ▶ Right of way or Road Easements
 - ▶ Drainage Easements
 - ▶ Sign Easements
 - ▶ Sidewalk Easements
 - ▶ Utility Easements

Negative

- ▶ Empowers the holder to prevent the owner of the land subject to the easement from doing something.
- ▶ Allows the holder to restrict activity
- ▶ Examples:
 - ▶ Conservation Easements
 - ▶ Sight Easements
 - ▶ Restrictive Covenants



Creation of an easement

- ▶ Can be created by a number of ways.
- ▶ Most easements are created by:
 - ▶ Grant,
 - ▶ Reservation,
 - ▶ Dedication, or
 - ▶ Prescription

William A. Campbell, Guidebook for North Carolina Property Mappers,
Third Edition, 2001. Page 6.

Easement by grant

- The owner of the servient parcel executes a document much like a deed and gives the easement rights to another person or entity.
- Usually called a “deed of easement”

FILED in Polk County,
on Oct 02 2001 at 12:57:44 PM
by Sheila H. Whitmore
Register of Deeds
BOOK 237 PAGE 1273

THIS WELL EASEMENT AGREEMENT, made this 28 day of September, 2001, by and between MARY McDANIEL and husband, DOUG McDANIEL, of the County of Pulaski, State of Virginia, hereinafter referred to as First Party, and EDITH ELLIOT, widow, of the County of Polk, State of North Carolina, hereinafter referred to as Second Party.

WITNESSETH:

THAT WHEREAS, First Party owns a certain parcel of real property containing 15.77 acres, in White Oak Township, Polk County, North Carolina, and being the land described in a Deed to them from Second Party, dated November 26, 1996 and recorded in Book 237, at Page 1273, of the Polk County Registry; and

WHEREAS, Second Party owns a parcel of property conveyed by Book 144, at Page 126, contiguous to the land owned by First Party, upon which is located the residence of Second Party; and

WHEREAS, there is located upon the property of First Party a well which is currently in use producing water for domestic purposes to the residence of Second Party; and

WHEREAS, First Party desires to grant to the Second Party, her heirs and assigns, the perpetual right and easement to take and use water from the well located on their subject property.

receiving water therefrom.

Easement by reservation

- ▶ When a landowner selling a tract of land and keeps another tract behind the tract getting sold and puts language in the deed to “reserve” an easement across the land he has sold.
- ▶ The landowner is selling everything except the easement he has reserved.

Easement by dedication

- ▶ A landowner grants certain rights in the land to the public. Typically these are in the form of street rights-of-way.
- ▶ Before an easement by dedication is created,
 - ▶ the land owner must make an offer of dedication
 - ▶ **AND** a public agency
 - ▶ (the state or a municipality)
 - ▶ must accept the offer.

Easement by dedication

- ▶ Today, most offers of dedication are expressly made by showing the dedicated streets on a subdivision plat that is submitted for approval, but the offer can be made presumptively.
- ▶ For example the sale of lots by plat reference to a subdivision plat showing streets and roads.

Easement by dedication

- Presumptive dedication
- The presumption was that if a developer was showing streets on a subdivision plat
- And was selling lots in that subdivision
- He was also dedicating the land shown as streets on the plat to be used as streets.

Easement by dedication

- ▶ Acceptance of the offer of dedication can be made
 - ▶ Formally by adoption of a resolution by the governing body, or
 - ▶ Informally by exercising control over the streets offered for dedication and maintaining the streets.

Easement by prescription

- ▶ A right to use another's property
 - ▶ Which is not inconsistent with the owner's rights, and
 - ▶ Which is acquired by use
 - ▶ Open,
 - ▶ Notorious,
 - ▶ Adverse, and
 - ▶ Continuous for the statutory period (21 years in North Carolina)

When Ann Thrax purchased the rest of the property in 2018 and put the chain up across Mark McKalendar's driveway,

- Would it have made any difference if Mark McKalendar had bought the property in 1975, instead of 2010?



20' easement

Yes. Mark McKalendar would have had an "Easement by Prescription" even though the deed was never recorded in Dobbs County.

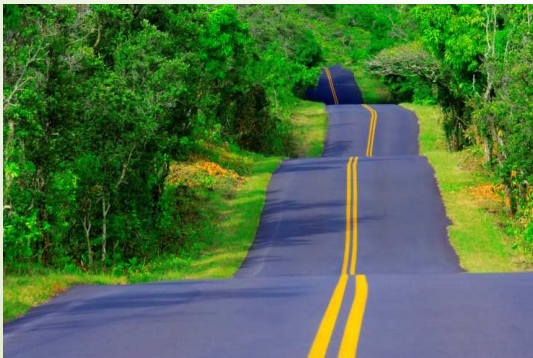
Dobbs County
Hooper County

Basically an Easement by Prescription is the same as "Adverse Possession" If someone has been using a road or even a path across your land, after so long of a period, the you cannot stop them from using the road or path.

The time period is 21 years.

Easement by prescription (examples)

- ▶ NC DOT maintained roads which do not have formal easement documents
 - ▶ i.e. Most secondary roads – “SR” # roads.
- ▶ North Carolina ocean front beaches



Easement by prescription

- ▶ The easement area is only that which is used or maintained.
- ▶ There is not standard dimension or width to an area of an easement by prescription.

This why we talk about the State's right-of-way being from the back of the ditch bank to the back of the ditch bank.

NC GS § 39-1.1. In construing conveyances court shall give effect to intent of the parties.

- ▶ (a) In construing a conveyance executed after January 1, 1968, in which there are inconsistent clauses,
 - ▶ the courts shall determine the effect of the instrument
 - ▶ on the basis of the intent
 - ▶ of the parties as it appears
 - ▶ from all the provisions of the instrument.

The intent of a deed is to be gathered from the whole deed

➤ **Known as the Four Corners Rule**

- A deed must be interpreted as a whole,
- with the view of ascertaining
- the true intent of the parties,
- regarding the circumstances attending the transaction,
- the situation of the parties,
- and the status of the thing granted,
- when such are necessary and relevant

- *Carolina & N.W.R. Co v. Carpenter, 165 N.C. 465, 81 S.E. 682, 1914 N.C. (N.C. 1914)*

NC GS § 39-1.1.

What this means is. . .

- ▶ If there is a inconsistency in a deed with what the seems to be saying,
- ▶ The entire document should be examined to ascertain what the intent of the deed truly is.
 - ▶ It's this statute where we get the notion of using the entire deed or "From the four corners of the deed. . . "

NC GS § 39-1.1.

- ▶ If you get into a dispute with an attorney over what a deed says,
- ▶ If you use the term, “From the Four Corners of the Deed. . . .”
 - ▶ The attorney may think you know what you’re talking about and back down.

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FILED
YADKIN COUNTY, N.C.
NO. _____

APR 6 3 34 PM '99

BOOK AND PAGE
TED C. WILLIAMS
REGISTERED

RB466 P0819

degrees 02 minutes 03 seconds west 45.00 feet to an iron
pipe; thence South 68 degrees 02 minutes 03 seconds West
217.40 feet to an existing iron pipe; thence South 67
degrees 35 minutes 28 seconds West 50 feet to an iron pipe;
thence South 66 degrees 39 minutes 47 seconds West 238.69
feet to an existing iron pipe; thence South 66 degrees 37
minutes 05 seconds West passing over an iron pipe in the
east right of way line of U.S. Highway 21 at a distance of
210.66 feet, for a total distance of 240.69 feet to the
beginning point in the centerline of U.S. Highway 21 and
containing 36.160 acres, more or less. This being a portion
of that property described in Deed Book 444, page 343.

ELECTRONIC

31*

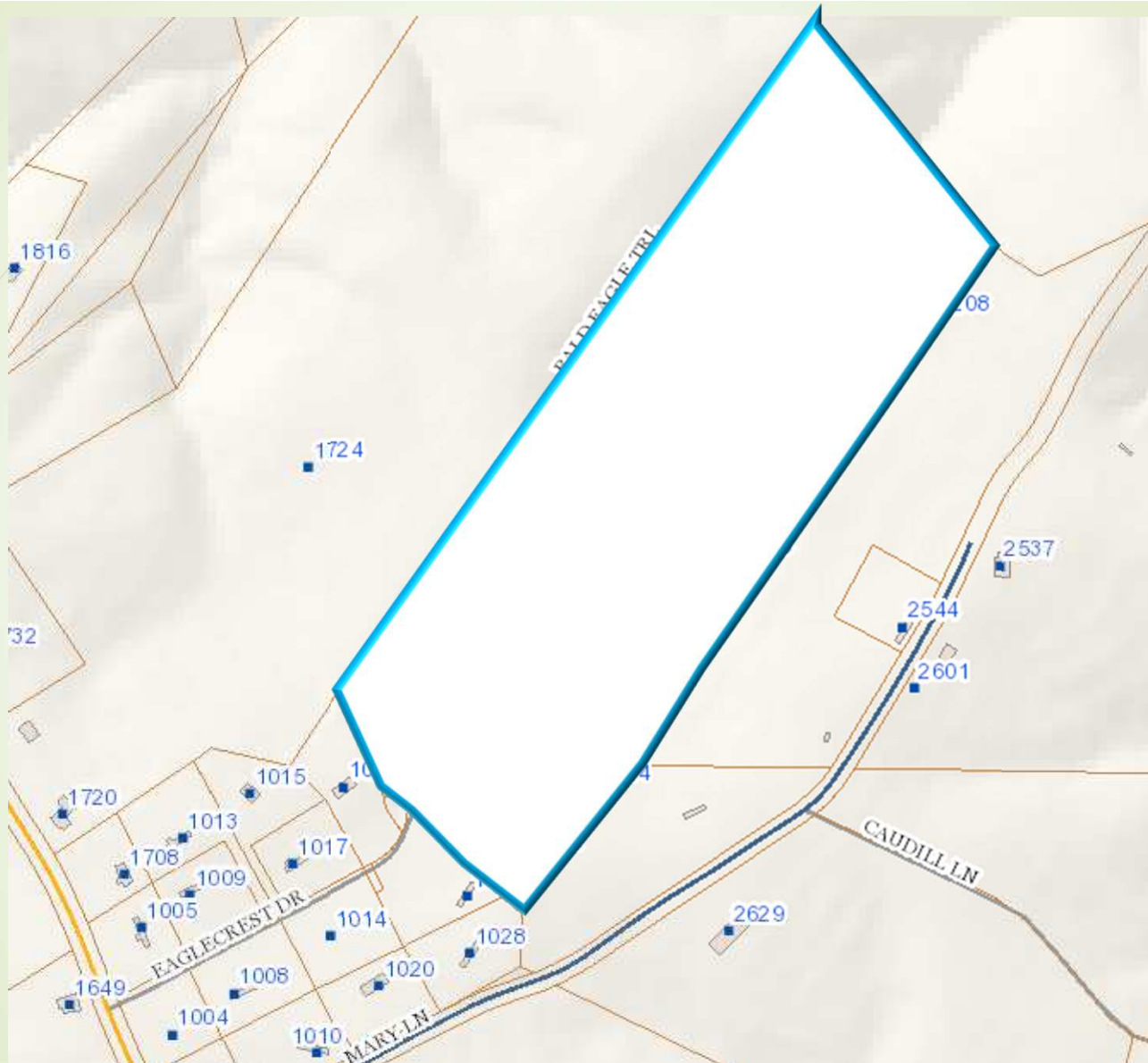
0466
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RB466 P0821

"EXHIBIT A"

BEGINNING at a point in the centerline of U.S. Highway 21,
said point being located North 21 degrees 57 minutes 01
seconds West 202.40 feet from a centerline intersection of
U.S. Highway 21 and S.R. 1131 (Mary Lane) and running thence
with the centerline of U.S. Highway 21 a length of 50.04
feet, a bearing of North 21 degrees 06 minutes 10
seconds West, and a delta of 01 degrees 06 minutes 42
seconds to a point; thence still with the curve of
centerline of the highway on a radius of 2579.07 feet, a
North 18 degrees 41 minutes 51 seconds West, a bearing of
03 degrees 29 minutes 58 seconds to a point in the
centerline of a private street known as Eaglecrest Drive;
thence with the centerline of Eaglecrest Drive, a bearing of
street, North 66 degrees 18 minutes 35 seconds East 735.98
feet to a point; thence with the centerline of Eaglecrest
Drive as it curves on a radius of 150.00 feet, a length of
100.00 feet, a chord of 98.16 feet, a bearing of North
degrees 12 minutes 38 seconds East, and a bearing of North
degrees 11 minutes 52 seconds East, and a bearing of North
thence North 04 degrees 39 seconds East, a bearing of North
feet to an existing iron pipe; thence North
minutes 13 seconds West 48 minutes 73.7
the line of an existing iron pipe; thence North
2049.37 feet to a point in the centerline of U.S. Highway 21.



RB466 P0826

FILED RB466 P0823
 YADKIN COUNTY, N.C.
 NO. _____
 APR 6 3 35 PM '99
 BOOK AND PAGE
 TED C. WILLIAMS
 REGISTER OF DEEDS

Recording Time, Book and Page

THIS DEED made this 30th day of March

GRANTOR

EZ SUPPLY, LLC

ALSO conveyed herewith is an easement for ingress, egress and regress street as described in a Deed of Easement recorded in Book 466, Pa

South 42 degrees 40 minutes 12 seconds East 307.14 feet to an existing iron pipe; thence South 65 degrees 38 minutes 26 seconds West 222.52 feet to an iron pipe; thence South 68 degrees 02 minutes 03 seconds West 45.00 feet to an iron pipe; thence South 68 degrees 02 minutes 03 seconds West 217.40 feet to an existing iron pipe; thence South 67 degrees 35 minutes 28 seconds West 50 feet to an iron pipe; thence South 66 degrees 39 minutes 47 seconds West 238.69 feet to an existing iron pipe; thence South 66 degrees 37 minutes 05 seconds West passing over an iron pipe in the east right of way line of U.S. Highway 21 at a distance of 210.66 feet, for a total distance of 240.69 feet to the beginning of the centerline of U.S. Highway 21 and containing 36.160 acres, more or less. This being a portion of that property described in Deed Book 444, page 343.

LESS AND EXCEPTED: Well Lot

BEGINNING at a point in the centerline of Eaglecrest Drive, said point being located North 66 degrees 18 minutes 35 seconds East 735.98 feet from a point in the centerline intersection of Eaglecrest Drive (a private street 50 ft. in width) and U.S. Highway 21, the southwest corner for Clyde Sizemore (DB 402/118); and running thence North 66 degrees 18 minutes 33 seconds East 20.01 feet; thence South 22 degrees 15 minutes 55 seconds East 70.73 feet; thence South 66 degrees 18 minutes 41 seconds West 20.00 feet; thence North 22 degrees 16 minutes 25 seconds West 70.73 feet to the point of beginning and containing 1,394 sq.ft. more or less. This lot is known as the well lot.

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FILED RB466 P0
YADKIN COUNTY, N.C.

APR 6 3 37 PM '99

BOOK AND PAGE

NORTH CAROLINA GENER

THIS DEED made this 30th day of March

GRANTOR

ABC SERVICE, LLC

002271

210.66 feet for a total distance of 240.69 feet to the beginning point in the centerline of U.S. Highway 21 and containing 36.160 acres, more or less. This being a portion of that property described in Deed Book 444, page 343.

LESS AND EXCEPTED: Well Lot

BEGINNING at a point in the centerline of Eaglecrest Drive, said point being located North 66 degrees 18 minutes 35 seconds East 735.98 feet from a point in the centerline intersection of Eaglecrest Drive (a private street 50 ft. in width) and U.S. Highway 21, the southwest corner for Clyde Sizemore (DB 402/118); and running thence North 66 degrees 18 minutes 33 seconds East 20.01 feet; thence South 22 degrees 15 minutes 55 seconds East 70.73 feet; thence South 66 degrees 18 minutes 41 seconds West 20.00 feet; thence North 22 degrees 16 minutes 25 seconds West 70.73 feet to the point of beginning and containing 1,394 sq.ft. more or less. This lot is known as the well lot.

LESS AND EXCEPTED: Tract A

BEGINNING at a point in the centerline of U.S. Highway 21, said point being located 21 degrees 57 minutes 01 seconds West 202.40 feet from a PK nail in the centerline intersection of U.S. Highway 21 and S.R. 1131 and running thence with the centerline of U.S. Highway 21 as it curves on a radius of 2,579.07 feet, a length of 50.04 feet, a chord of 50.04 feet, a bearing of North 21 degrees 00 minutes 10 seconds West and a delta of 01 degree 06 minutes 42 seconds to a point; thence running North 66 degrees 37 minutes 15 seconds East 239.90 feet to an iron pin; thence South 21 degrees 53 minutes 55 seconds East 50.00 feet to an existing iron pipe, Clyde S. Edwards' northeast corner; thence with the Edwards line South 66 degrees 37 minutes 05 seconds West passing over an iron pipe in the east right of way line of U.S. Highway 21 at a distance of 210.66 feet for a total distance of 240.69 feet to the point of beginning and containing 0.276 acres, more or less.

RB466 P0831

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210.66 feet, for a total distance of 240.69 feet to the beginning point in the centerline of U.S. Highway 21 and containing 36.160 acres, more or less. This being a portion of that property described in Deed Book 444, page 343.

LESS AND EXCEPTED: Well Lot

BEGINNING at a point in the centerline of Eaglecrest Drive, said point being located North 66 degrees 18 minutes 35 seconds East 735.98 feet from a point in the centerline intersection of Eaglecrest Drive (a private street 50 ft. in width) and U.S. Highway 21, the southwest corner for Clyde

THIS DEED made this 30th

LESS AND EXCEPTED: Tract B

GR

LULA WOOTEN and husband
BRADY WOOTEN

BEGINNING at an existing iron pin, the northeast corner for Clyde S. Edwards, said point being located North 66 degrees 37 minutes 05 seconds East 240.69 feet from a point in the centerline of U.S. Highway 21, which point is located North 21 degrees 57 minutes 01 seconds West 202.40 feet from a PK nail in the centerline intersection of U.S. Highway 21 and S.R. 1131 and running thence from the beginning point North 21 degrees 53 minutes 55 seconds West 50.00 feet to a new iron pin; thence North 66 degrees 44 minutes 52 seconds East 262.68 feet to a new iron pin; thence South 23 degrees 03 minutes 21 seconds East 50.00 feet to an iron pipe; thence South 67 degrees 35 minutes 28 seconds West 25.00 feet to an existing iron pipe; thence South 66 degrees 39 minutes 47 seconds West 238.69 feet to the beginning iron pipe and containing 0.301 acres, more or less.

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Highway 21,
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and running
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degrees 00
06 minutes
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minutes 05
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f beginning

SEE EXHIBIT "A"
SET FORTH.

ALSO conveyed
street as desc

FILED
YADKIN COUNTY, N.C.

RB466 P0836

APR 6 3 40 PM '99

NORTH CAROLINA GENI

THIS DEED made this 30th day of March

GRANTOR

EZ SUPPLY, LLC

certain lot or parcel of land situated in the City of Deep Creek
Yadkin County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS IF FULLY SET FORTH.

ALSO conveyed herewith is an easement for ingress, egress and regress for a private street as described in a Deed of Easement recorded in Book 466, Page 815.

K0400 P0040

LESS AND EXCEPTED: Tract B

BEGINNING at an existing iron pin, the northeast corner for Clyde S. Edwards, said point being located North 66 degrees 37 minutes 05 seconds East 240.69 feet from a point in the centerline of U.S. Highway 21, which point is located North 21 degrees 57 minutes 01 seconds West 202.40 feet from a PK nail in the centerline intersection of U.S. Highway 21 and S.R. 1131 and running thence from the beginning point North 21 degrees 53 minutes 55 seconds West 50.00 feet to a new iron pin; thence North 66 degrees 44 minutes 52 seconds East 262.68 feet to a new iron pin; thence South 23 degrees 03 minutes 21 seconds East 50.00 feet to an iron pipe; thence South 67 degrees 35 minutes 28 seconds West 25.00 feet to an existing iron pipe; thence South 66 degrees 39 minutes 47 seconds West 238.69 feet to the beginning iron pipe and containing 0.301 acres, more or less.

LESS AND EXCEPTED: Tract C

BEGINNING at an existing iron pipe, Charles Johnson's northwest corner (DB 416/024), said beginning iron pipe being located North 66 degrees 37 minutes 05 seconds East 240.69 feet, North 66 degrees 39 minutes 47 seconds East 238.69 feet and North 67 degrees 35 minutes 28 seconds East 25.00 feet from a point in the centerline of U.S. Highway 21 and running thence from the beginning iron pipe North 23 degrees 03 minutes 21 seconds West 50.00 feet to a new iron pin; thence North 67 degrees 07 minutes 15 seconds East 243.09 feet to a new iron pin; thence South 22 degrees 16 minutes 25 seconds East 53.67 feet to an existing iron pipe, Charles Johnson's northeast corner; thence with the Johnson line South 68 degrees 02 minutes 03 seconds West 217.40 feet and South 67 degrees 35 minutes 28 seconds West 25.00 feet to the point of beginning and containing 0.288 acres, more or less.

FILED
YADKIN COUNTY, N.C.

RB467 P0696

APR 13 9 48 AM '99

THIS DEED made this 6th day of April

GRANTOR

ABC SERVICE, LLC

Enter 1

The d
shall

WITNESSETH, that the Grantor, by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Deep Creek Township, Yadkin County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS IF FULLY SET FORTH.

ALSO conveyed herewith is an easement for ingress, egress and regress for a private street as described in a Deed of Easement recorded in Book 466, Page 812.

RB467 P0700

LESS AND EXCEPTED: Tract B

BEGINNING at an existing iron pin at the northeast corner for Clyde S. Edwards, said point being located North 66 degrees 37 minutes 05 seconds East 240.69 feet from a point in the centerline of U.S. Highway 21, which point is located North 21 degrees 57 minutes 01 seconds West 202.40 feet from a PK nail in the centerline intersection of U.S. Highway 21 and S.R. 1131 and running thence from the beginning point North 21 degrees 53 minutes 55 seconds West 50.00 feet to a new iron pin; thence North 66 degrees 44 minutes 52 seconds East 262.68 feet to a new iron pin; thence South 23 degrees 03 minutes 21 seconds East 50.00 feet to an iron pipe; thence South 67 degrees 35 minutes 28 seconds West 25.00 feet to an existing iron pipe; thence South 66 degrees 39 minutes 47 seconds West 238.69 feet to the beginning iron pipe and containing 0.301 acres, more or less.

LESS AND EXCEPTED: Tract C

BEGINNING at an existing iron pipe, Charles Johnson's northwest corner (DB 416/024), said beginning iron pipe being located North 66 degrees 37 minutes 05 seconds East 240.69 feet, North 66 degrees 39 minutes 47 seconds East 238.69 feet and North 67 degrees 35 minutes 28 seconds East 25.00 feet from a point in the centerline of U.S. Highway 21 and running thence from the beginning iron pipe North 23 degrees 03 minutes 21 seconds West 50.00 feet to a new iron pin; thence North 67 degrees 07 minutes 15 seconds East 243.09 feet to a new iron pin; thence South 22 degrees 16 minutes 25 seconds East 53.67 feet to an existing iron pipe, Charles Johnson's northeast corner; thence with the Johnson line South 68 degrees 02 minutes 03 seconds West 217.40 feet and South 67 degrees 35 minutes 28 seconds West 25.00 feet to the point of beginning and containing 0.288 acres, more or less.

LESS AND EXCEPTED: Tract D

BEGINNING at an existing iron pipe, Charles Johnson's northeast corner (DB 416/024) and Patrick Eddes' northwest corner (DB 446/276) and running thence North 22 degrees 16 minutes 25 seconds West 53.67 feet to a new iron pin; thence North 66 degrees 49 minutes 43 seconds East 248.91 feet to a new iron pin; thence South 42 degrees 40 minutes 12 seconds East 53.04 feet to an iron pipe, which iron pipe is located North 42 degrees 39 minutes 42 seconds West 60.35 feet from an iron pipe, a corner for Robert Kyle Caudill (DB 122/925); and running thence with the Eddes line South 65 degrees 38

FILED
YADKIN COUNTY, N.C.

RB467 P0696

APR 13 9 48 AM '99

THIS DEED made this 6th day of April

GRANTOR

ABC SERVICE, LLC

Enter 1

The d
shall

WITNESSETH, that the GRANTOR, ABC SERVICE, LLC, a limited liability company, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Deep Creek Township, Yadkin County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS IF FULLY SET FORTH.

ALSO conveyed herewith is an easement for ingress, egress and regress for a private street as described in a Deed of Easement recorded in Book 466, Page 812.

RB467 P0708

LESS AND EXCEPTED: Tract U

BEGINNING at a new iron pin in the east right of way line of a private street 50 ft. in width leading northwardly off of Eaglecrest Drive, which iron pin is located North 15 degrees 36 minutes 14 seconds West 203.08 feet from an iron at the right of way intersection of Eaglecrest Drive and the 50 ft. private street; running thence with the east right of way line of the private street North 15 degrees 36 minutes 14 seconds West 52.08 feet; thence with the right of way line as it curves on a radius of 100.00 feet, a length of 95.62 feet, a chord of 92.02 feet, a bearing of North 11 degrees 47 minutes 25 seconds East and a delta of 54 degrees 47 minutes 20 seconds to an iron; thence South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 15 degrees 36 minutes 14 seconds 52.08 feet to an iron pin; thence South 74 degrees 23 minutes 46 seconds West 100.00 feet to the beginning iron pin and containing 0.229 of an acre, more or less.

LESS AND EXCEPTED: Tract V

BEGINNING at a new iron pin in the east right of way line of a 50 ft. private street, said iron pin being located South 39 degrees 11 minutes 05 seconds West 1323.23 feet from a new iron pin in the line of Dale Wooten, which iron pin is located South 34 degrees 04 minutes 30 seconds East 52.21 feet from an iron pipe, Dale Wooten's northwest corner in the line of Harold D. Mabe (DB 107/385) and running thence from the beginning iron South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 39 degrees 11 minutes 05 seconds West 100.00 feet to a new iron pin; thence North 50 degrees 48 minutes 55 seconds West 100.00 feet to an iron pin in the east right of way line of a private street; thence with the right of way line of the private street North 39 degrees 11 minutes 05 seconds East 100.00 feet to a new iron pin and containing 0.230 acres, more or less.

LESS AND EXCEPTED: Tract W

BEGINNING at a new iron pin in the east right of way line of a 50 ft. private street, said iron pin being located South 39 degrees 11 minutes 05 seconds West 1223.23 feet from a new iron pin in the line of Dale Wooten, which iron pin is located South 34 degrees 04 minutes 30 seconds East 52.21 feet from an iron pipe, Dale Wooten's northwest corner in the line of Harold D. Mabe (DB 107/385) and running thence from the beginning iron South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 39

FILED
YADKIN COUNTY, N.C.

RB467 P0696

APR 13 9 48 AM '99

THIS DEED made this 6th day of April

GRANTOR

ABC SERVICE, LLC

Enter 1

The d
shall

WITNESSETH, that the GRANTOR, ABC SERVICE, LLC, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Deep Creek Township, Yadkin County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS IF FULLY SET FORTH.

ALSO conveyed herewith is an easement for ingress, egress and regress for a private street as described in a Deed of Easement recorded in Book 466, Page 812.

RB467 P0708

LESS AND EXCEPTED: Tract U

BEGINNING at a new iron pin in the east right of way line of a private street 50 ft. in width leading northwardly off of Eaglecrest Drive, which iron pin is located North 15 degrees 36 minutes 14 seconds West 203.08 feet from an iron at the right of way intersection of Eaglecrest Drive and the 50 ft. private street; running thence with the east right of way line of the private street North 15 degrees 36 minutes 14 seconds West 52.08 feet; thence with the right of way line as it curves on a radius of 100.00 feet, a length of 95.62 feet, a chord of 92.02 feet, a bearing of North 11 degrees 47 minutes 25 seconds East and a delta of 54 degrees 47 minutes 20 seconds to an iron; thence South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 15 degrees 36 minutes 14 seconds 52.08 feet to an iron pin; thence South 74 degrees 23 minutes 46 seconds West 100.00 feet to the beginning iron pin and containing 0.229 of an acre, more or less.

LESS AND EXCEPTED: Tract V

BEGINNING at a new iron pin in the east right of way line of a 50 ft. private street, said iron pin being located South 39 degrees 11 minutes 05 seconds West 1323.23 feet from a new iron pin in the line of Dale Wooten, which iron pin is located South 34 degrees 04 minutes 30 seconds East 52.21 feet from an iron pipe, Dale Wooten's northwest corner in the line of Harold D. Mabe (DB 107/385) and running thence from the beginning iron South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 39 degrees 11 minutes 05 seconds West 100.00 feet to a new iron pin; thence North 50 degrees 48 minutes 55 seconds West 100.00 feet to an iron pin in the east right of way line of a private street; thence with the right of way line of the private street North 39 degrees 11 minutes 05 seconds East 100.00 feet to a new iron pin and containing 0.230 acres, more or less.

LESS AND EXCEPTED: Tract W

BEGINNING at a new iron pin in the east right of way line of a 50 ft. private street, said iron pin being located South 39 degrees 11 minutes 05 seconds West 1223.23 feet from a new iron pin in the line of Dale Wooten, which iron pin is located South 34 degrees 04 minutes 30 seconds East 52.21 feet from an iron pipe, Dale Wooten's northwest corner in the line of Harold D. Mabe (DB 107/385) and running thence from the beginning iron South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 39

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YADKIN COUNTY N.C.

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NO.
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THIS DEED made this 6th day of April

GRANTOR

ABC SERVICE, LLC

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is he acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all certain lot or parcel of land situated in the City of _____ Deep Creek _____ Town _____
Yadkin _____ County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS IF FULLY SET FORTH.

ALSO conveyed herewith is an easement for ingress, egress and regress for a private street as described in a Deed of Easement recorded in Book 466, Page 815.

RB467 P0710

LESS AND EXCEPTED: Tract Z

BEGINNING at a new iron pin in the east right of way line of a 50 ft. private street, said iron pin being located South 39 degrees 11 minutes 05 seconds West 512.67 feet from a new iron pin in the line of Dale Wooten, which iron pin is located South 34 degrees 04 minutes 30 seconds East 52.21 feet from an iron pipe, Dale Wooten's northwest corner in the line of Harold E. Mabe (DB 107/385) and running thence from the beginning iron South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 39 degrees 11 minutes 05 seconds West 100.00 feet to a new iron pin; thence North 50 degrees 48 minutes 55 seconds West 100.00 feet to an iron pin in the east right of way line of a private street; thence with the right of way line of the private street North 39 degrees 11 minutes 05 seconds East 100.00 feet to a new iron pin and containing 0.230 acres, more or less.

LESS AND EXCEPTED: Tract AA

BEGINNING at a new iron pin in the east right of way line of a 50 ft. private street, said iron pin being located South 39 degrees 11 minutes 05 seconds West 412.67 feet from a new iron pin in the line of Dale Wooten, which iron pin is located South 34 degrees 04 minutes 30 seconds East 52.21 feet from an iron pipe, Dale Wooten's northwest corner in the line of Harold D. Mabe (DB 107/385) and running thence from the beginning iron South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 39 degrees 11 minutes 05 seconds West 100.00 feet to a new iron pin; thence North 50 degrees 48 minutes 55 seconds West 100.00 feet to an iron pin in the east right of way line of a private street; thence with the right of way line of the private street North 39 degrees 11 minutes 05 seconds East 100.00 feet to a new iron pin and containing 0.230 acres, more or less.

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THIS DEED made this

**LULA WOOTEN and
BRADY WOOTEN**

Yadkin County, North Ca

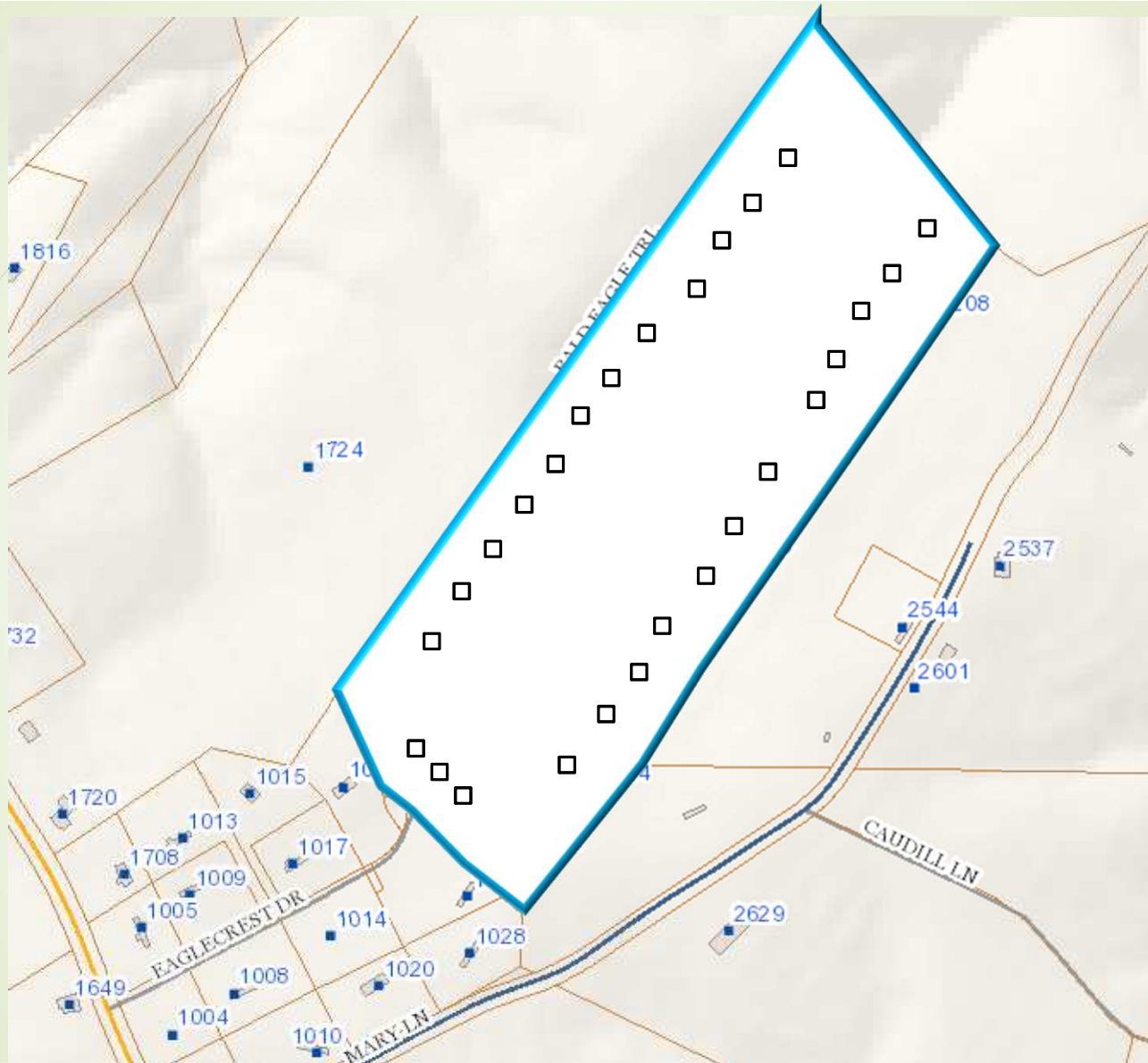
SEE EXHIBIT "A" ATTACHED HERETO /
SET FORTH.

ALSO conveyed herewith is an eas
private street as described in a
Page 812.

pin; thence North 50 degrees 48 minutes 55 seconds West
100.00 feet to an iron pin in the east right of way line of
a private street; thence with the right of way line of the
private street North 39 degrees 11 minutes 05 seconds East
100.00 feet to a new iron pin and containing 0.230 acres,
more or less.

LESS AND EXCEPTED: **Tract CC**

BEGINNING at a new iron pin in the line of Dale Wooten,
which iron is located South 34 degrees 04 minutes 30 seconds
East 52.21 feet from an existing iron pipe, the northwest
corner for Dale Wooten in the line of Harold D. Mabe (DB
107/385) and running thence with the Dale Wooten line South
34 degrees 04 minutes 30 seconds East 104.43 feet to a new
iron pin; thence South 39 degrees 11 minutes 05 seconds West
100.00 feet to a new iron pin; thence North 34 degrees 04
minutes 30 seconds West 104.43 feet to an iron pin in the
east right of way line of a 50 ft. private street; thence
with the right of way line of said street North 39 degrees
11 minutes 05 seconds East 100.00 feet to the point of
beginning and containing 0.230 acres, more or less.



553

40 THIS DEED made this 28th day of October, 1999, by and between

GRANTOR

GRANTEE

ABC SERVICE, LLC; EZ SUPPLY, LLC;
LULA WOOTEN and husband, BRADY WOOTEN

ELECTRONIC SERVICE CENTER OF
WILKES, INC.

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

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.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of _____, Deep Creek Township, Yadkin County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS IF FULLY SET FORTH.

ALSO conveyed herewith is an easement for ingress, egress and regress for a private street as described in a Deed of Easement recorded in Book 466, Page 815.

The property hereinabove described was acquired by Grantor by instrument recorded in

The property hereinabove described was acquired by Grantor by instrument recorded in

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

ABC SERVICE, LLC

(Corporate Name)

By:

Brady Wooten
Manager

XXXXXXXXXX

ATTEST:

Secretary (Corporate Seal)

EZ SUPPLY, LLC

(Corporate Name)

By:

Brady Wooten
Manager

XXXXXXXXXX

ATTEST:

Secretary (Corporate Seal)

USE BLACK INK ONLY

USE BLACK INK ONLY

Lula Wooten

LULA WOOTEN

(SEAL)

Brady Wooten

BRADY WOOTEN

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

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TRAC

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REFERENCE: Book
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REFERENCE: Book 4

TRACT AA

BEGINNING at a new iron pin in the east right of way line of a 50 ft. private street, said iron pin being located South 39 degrees 11 minutes 05 seconds West 412.67 feet from a new iron pin in the line of Dale Wooten, which iron pin is located South 34 degrees 04 minutes 30 seconds East 52.21 feet from an iron pipe, Dale Wooten's northwest corner in the line of Harold D. Mabe (DB 107/385) and running thence from the beginning iron South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 39 degrees 11 minutes 05 seconds West 100.00 feet to a new iron pin; thence North 50 degrees 48 minutes 55 seconds West 100.00 feet to an iron pin in the east right of way line of a private street; thence with the right of way line of the private street North 39 degrees 11 minutes 05 seconds East 100.00 feet to a new iron pin and containing 0.230 acres, more or less.

REFERENCE: Book 467, Page 681

TRACT BB

BEGINNING at a new iron pin in the east right of way line of a 50 ft. private street, said iron pin being located South 39 degrees 11 minutes 05 seconds West 219.85 feet from a new iron pin in the line of Dale Wooten, which iron pin is located South 34 degrees 04 minutes 30 seconds East 52.21 feet from an iron pipe, Dale Wooten's northwest corner in the line of Harold D. Mabe (DB 107/385) and running thence from the beginning iron South 50 degrees 48 minutes 55 seconds East 100.00 feet to a new iron pin; thence South 39 degrees 11 minutes 05 seconds West 100.00 feet to a new iron pin; thence North 50 degrees 48 minutes 55 seconds West 100.00 feet to an iron pin in the east right of way line of a private street; thence with the right of way line of the private street North 39 degrees 11 minutes 05 seconds East 100.00 feet to a new iron pin and containing 0.230 acres, more or less.

REFERENCE: Book 467, Page 696

TRACT CC

BEGINNING at a new iron pin in the line of Dale Wooten, which iron pin is located South 34 degrees 04 minutes 30 seconds East 52.21 feet from an existing iron pipe, the northwest corner for Dale Wooten in the line of Harold D. Mabe (DB 107/385) and running thence with the Dale Wooten line South 34 degrees 04 minutes 30 seconds East 104.43 feet to a new iron pin; thence South 39 degrees 11 minutes 05 seconds West

TRACT Z

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Because there was no language

- ▶ In the deed to indicate the intent was to combine the parcels,
- ▶ The county did not combine all the parcels.
- ▶ In doing an examination of the four corners of the document, there was nothing to indicate the owner's intent to combine the separate parcels into a single parcel.

- By not taking care of problems as they come up in the mapping and land records,
- or by just doing “a quick fix” them to make them go away,
- only prolongs the problem and makes it more difficult to solve when the problem cycles around again,
- which it most definitely will.

- Just a good fences make for good neighbors,
- good maps and good land records
- make for good taxes with an equitable tax burden
- fairly distributed across the county,
- leading to peace and harmony with the taxpayers
- and the county commissioners!



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Any Questions

Just 221 days until Christmas!