



Rowan County Planning and Development Department

402 North Main Street, Suite 204 • Salisbury, N.C. 28144-4341
Planning: 704-216-8588 Fax: 704-638-3130

MEMORANDUM

TO: Rowan County Zoning Board of Adjustment
FROM: Shane Stewart, Assistant Planning Director
DATE: November 3, 2016
RE: **ZBA 01-16**

SUGGESTED BOARD OF ADJUSTMENT ACTION

- Sworn oath for those testifying Receive staff report
- Petitioner comments Conduct quasi-judicial hearing
- Close hearing and discuss Separate motions to adopt 6 findings of fact Motion to Approve / Deny / Table **ZBA 01-16**

REQUEST

Jonathan Evans is requesting a variance from the Rowan County Subdivision Ordinance pertaining to access standards for family subdivisions referenced in section 22-80 (b) [Exhibit A]. If granted, the variance would allow creation of a residential lot not having a continuous twenty (20) foot right of way / easement connecting to an existing publically maintained road. The proposed property division is on Rowan County Tax Parcel 761-044 located at 11180 NC 801 Hwy. Mt. Ulla on property owned by his son and daughter-in-law Matthew and Jessica Evans. As evidenced by Exhibit B, the Norfolk-Southern Railroad right of way serves as a barrier to the referenced easement extending from NC 801 Hwy and the easement along the frontage of parcel 761-044.

VARIANCE CRITERIA

In accordance with section 21-332 of the Zoning Ordinance, “A variance may be granted by the ZBA if it concludes that strict enforcement of this chapter would result in unnecessary hardships for the applicant. The ZBA, in granting a variance, shall ensure that the spirit of this chapter is maintained, public welfare and safety ensured, and substantial justice done. The board may reach these conclusions if it makes the following findings:”

See Exhibit A for Mr. Evans' responses to the below criteria. Planning staff comments included after statements.

- 1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;**

Staff Comment: The subject tax parcel was established by Deed Book 904 Page 17 on April 4, 2001, which references a September 28, 1999 unrecorded survey depicting a new 10.03 acre parcel (Exhibit B). The North Carolina General Statute (NCGS) 153A-335 indicates a division into parcels of land larger than 10 acres is not considered a subdivision of land and would therefore not be subject to local ordinances. The survey references an existing 20' easement (DB 532 PG 639) extending from NC 801 Hwy to the railroad and the reservation of a 40' easement along the property frontage of the subject parcel by the grantors of DB 904 PG 17. A 45' +/- gap appears to remain between the north side of the railroad right of way and the 40' easement along the Evans property front but, more importantly, no documentation was presented indicating the railroad granted a right of way or easement across their 100' right of way. See Exhibit C for the chain of deeds from prior to the 10.03 acre lot creation to the Evans purchase and the referenced 20' easement noted in DB 532 PG 639.

According to records from the Tax Assessor's Office, the subject parcel contains a single-family dwelling constructed around 1924 and formerly contained a second dwelling constructed around 1920, which was demolished between 2002 and 2006. Historical aerial photography suggest these residences used the current rail crossing for access to NC 801.

- 2. The hardship results from conditions that are peculiar to the property such as location, size, or topography. Hardships resulting from personal circumstances and / or conditions common to the neighborhood or general public may not be the basis for granting a variance;**

Staff Comment: Railroads serve as physical barriers when attempting to connect properties on opposite sides of the rail line since new at-grade crossings occur at the discretion of the rail company and generally are not permitted due to safety concerns. However, many crossings along railroads have existed for many decades with or without formal crossing agreements the railroad company. In the limited instances of private crossings, property owners may have the ability to physically cross the rail line but may not necessarily have a recorded right of way or easement across the rail line, which is required by the Subdivision Ordinance to establish a new parcel of land. In speaking with Tristan Lynn, Real Estate Manager for Norfolk-Southern, the railroad does not grant new perpetual rights for private crossings.

Based on the county GIS, approximately 70.55 miles of rail line operated by

Norfolk-Southern and the North Carolina Railroad Company (not including the proposed the NCRR double track project) exist within the county containing numerous private and public at-grade crossings. A 6.08 mile section of Norfolk-Southern railroad extending from the Iredell County line to Bear Poplar Road appears to contain eighteen (18) private crossings (including the Evans) and six (6) crossings by NCDOT maintained roads.

Exhibit D illustrates the Evans property in relation to its surrounding impediments of the railroad, Withrow Creek and its associated floodplain, and adjacent properties providing separation from the nearest public roads, Hall and Bear Poplar. Based on recorded surveys of properties along Woodgrove Dr., a portion of the private road extends within the rail right of way. Staff research for this case did not determine whether the railroad granted right of way within this portion of the 30' easement.

- 3. The hardship is not the result of the property owner or applicant's own actions. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;**

Staff Comment: The subject parcel established over 15 years ago was not required to show evidence of a continuous right of way / easement based on the NCGS exception but must be addressed to comply with the Subdivision Ordinance.

- 4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved;**

Staff Comment: The Subdivision Ordinance provides multiple purpose statements regarding the topic of access:

- A. Sec. 22-6 – “The purpose of this ordinance is to establish procedures and standards for the development and subdivision of land...orderly growth and development...right of way or easements for street and utility purposes...facilitate further subdivision of larger tracts into smaller parcels.”
- B. Sec. 22-9 (a) – “Minimum access standards for new lots are one of several primary objectives of this ordinance. To achieve this, all lots subdivided after the effective date of this ordinance are required to have frontage on either an existing or proposed road meeting the right of way and construction standards established by NCDOT. However, Rowan County recognizes a residential lot created for conveyance to an immediate family member, where access is provided by a private

road, is a reasonable alternative to requiring the construction of a new public road.”

- C. Sec. 22-80 – “Every lot shall have access to it that is sufficient to provide a means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.” Lots created within a family subdivision “shall be provided ingress and egress via a twenty-foot easement or right-of-way (new or existing) in continuity to a publically maintained road.”

As evidenced by these statements, the Subdivision Ordinance is predicated on new parcels abutting an existing public road or having documented continuous right of way / easement to a public road for family subdivisions. Rowan County contains numerous properties which are “landlocked” having no documented right of way / easement or physical evidence of historically accessing the property through a specific portion of adjacent property. These situations may create a separate set of challenges between private parties and perhaps the court system to address their rights to “access”. As such, all references to access in the ordinance should be synonymous with a documented ingress / egress right of way / easement.

- 5. The variance will not result in a land use otherwise not permitted in the applicable zoning district nor authorize the extension of a nonconforming situation in violation of article VI, or other applicable provisions of this chapter; and**

Staff Comment: This request will not result in a use variance.

- 6. If applicable, the setback reduction is no more than fifty (50) percent of that required and the resulting setback is no less than five (5) feet from any property line or right-of-way.**

Staff Comment: This request does not involve a setback variance.

PROCESS & PROCEDURES

The variance process provides the ZBA authority to vary required standards from the Subdivision Ordinance for a specific request when an unnecessary hardship would result from carrying out the strict letter of the ordinance. Since ordinances are not able to foresee all possible implications related to its application, this option is provided to address unique situations without amending ordinances to address each circumstance. However, strict criteria are required to ensure the variance process is not abused.

As indicated by Section 21-315 (2) (b), a ZBA member shall not participate or vote on any quasi-judicial matter when said member has a fixed opinion prior to hearing the matter and is not susceptible to change, has undisclosed ex parte communications, a close

familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

The ZBA shall determine the contested facts and make its decision based on competent, material, and substantial evidence. Prior to granting a variance, the ZBA must vote affirmatively on all six (6) above criteria with a four-fifths (4/5) vote providing specific reasons or findings supporting the motions. The ZBA may impose appropriate conditions reasonably related to the variance request. A motion to deny the variance request may be made on the basis that one (1) or more of the criteria are not satisfied and shall include specific reasons or findings supporting the denial.

Each decision of the ZBA is subject to review by the superior court filed within thirty (30) days the decision is filed in the office of the Clerk to the Board of Commissioners.

PUBLIC NOTICE

As required by Section 21-315, Planning Staff provided mailed notice to properties within 100 feet of the subject parcel and posted a public notice sign on November 2, 2016.

STAFF COMMENTS

Only a cursory review of development patterns adjacent to rail lines are necessary to understand the resultant "wall" established by their existence. Instances of private at-grade crossings are significant features based on the limited number present along rail corridors and their representation of a historical claim of "rights" over the rail line. Public safety is an obvious concern when considering new at-grade crossings regardless of public or private use. One would hope in these limited existing crossings, railroad companies would be more open to substantiate a right of way / easement to recognize the historical use and function which is somewhat similar to an exclusive right of way.

The charge before the ZBA is to determine if a hardship exists based on the above six (6) criteria.

ENCLOSURES

Exhibit A – Application and responses to variance criteria.

Exhibit B – Rufus Love survey, September 28, 1999.

Exhibit C – Property Deeds:

DB 1276 PG 139: James & Robin Tucker to Matthew & Jessica Evans

DB 1122 PG 351: Jimmy & Ann Ridenhour to James & Robin Tucker

DB 904 PG 17: Herbert & Debra Wettreich to Jimmy & Ann Ridenhour
(creation of 10.03 acre tract)

DB 815 PG 10: Foster, Hodge, & Gibson to Herbert & Debra Wettreich

DB 532 PG 639: referenced source of 20' easement to Hwy. 801

Exhibit D – GIS map.



Rowan County Department of
Planning & Development
402 N. Main Street Ste 204
Salisbury, NC 28144
Phone (704) 216-8588
Fax (704) 638-3130
www.rowancountync.gov

Case # ZBA 01-16
Date Filed 10/5/16
Received By SAS
Amount Paid \$200.00 ck#1005
Office Use Only

VARIANCE APPLICATION

OWNERSHIP INFORMATION:

Name: Matthew Evans
Signature: [Signature]
Phone: 760-855-1591 Email: evanselectric@hotmail.com
Address: 11180 N C Highway 801, Mount Ulla, NC 28125

APPLICANT / AGENT INFORMATION:

Name: Jonathan Evans
Signature: [Signature]
Phone: 909-747-7203 Email: snowlinecircleinn@verizon.net
Address: 11180 N C Highway 801, Mount Ulla

PROPERTY DETAILS:

Variance Requested on Property Located at: 11180 NC Highway 801, Mount Ulla, NC 28125
Tax Parcel: 761-044 Zoning District: Rural Aggricultrual

TO THE ROWAN COUNTY ZONING BOARD OF ADJUSTMENT:

I Jonathan Evans, hereby petition the Board of Adjustment for a **VARIANCE** from the provisions of the Rowan County family subdivision Ordinance because, under the interpretation given to me by the Administrator*, I am prohibited from using the parcel of land described above in a manner shown by the Plot Plan attached to this form. I request a variance from the following provisions of the ordinance (cite Section & Code req.):
Sec. 22.9 " A family subdivision is defined as a subdivision of not more than three(3) lots plus the residential lot conveyed by the property owner to members of his/her immediate family as defined in this chapter." As my

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment may grant a variance if it concludes that strict enforcement of this ordinance would result in unnecessary hardships for the applicant. The Zoning Board of Adjustment, in granting, shall ensure that the spirit of this ordinance is maintained, public welfare and safety ensured, and substantial justice done. In the following spaces, indicate the **facts** and **argument** you plan to render, in order to convince the Board, to properly determine that their conclusions or findings of fact are applicable.

- 1) Unncessary hardship would result from the strict application of the ordinance. (It shall not be necessary to demonstrate that, in the absense of a variance, no reasonable use can be made of the property);

~~Having moved from southern California to begin a small farm in North Carolina, our family will not be able to have grandparents involved in the lives of our granddaughters as we had planned. The previous history of the rail crossing indicted that we would not have this refusal.~~

- 2) The hardship results from conditions that are peculiar to the property such as location, size, or topography. (Hardships resulting from personal circumstances and / or conditions common to the neighborhood or general public may not be the basis for granting a variance);

~~Norfolk Southern is not going to grant us a permant private easement. We only have their word that we should go ahead with our project. Yet a building permit has not been granted.~~

- 3) The hardship is not the result of the property owner or applicant's own actions. (The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self created hardship);

~~We purchased the property with the expressed intent of building a second residence. All parties involved in the transaction saw no problem of any kind in this building project because of the history of crossing the tracks at this location having occured for over 100 years.~~

- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved;

~~There is no problem with compliance with all other parts of the building codes and standards of the state and county. The safety of the family is our prime concern. The family farm is our plan.~~

- 5) The variance will not result in a land use otherwise not permitted in the applicable zoning district nor authorize the extension of a nonconforming situation in violation of article VI, or other applicable provisions of this chapter;

Conforming to all standard zoning for farming is important to the project. Our goal is to build a single additional home on land wich used to have 2 homes.

- 6) If applicable, the setback reduction is no more than fifty (50) percent of that required and the resulting setback is no less than five (5) feet from any property line or right-of-way.

No setback reductions are required.

I certify that all the information presented by me in this application is accurate to the best of my knowledge information and belief.

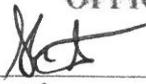

Signature

October 5, 2016

Date

* Includes administrators and enforcement officers with the Department of Planning and Development.

OFFICIAL USE ONLY

1. Signature of Coordinator:  2. ZBA Hearing: 11/16/16
3. Notifications Mailed: 11/2/16 4. Property Posted: 11/2/16 5. ZBA Action: Approved _____
Denied _____ 6. Date Applicant Notified: ____/____/____ 7. Date CMO Notified: ____/____/____

As my son and his wife are the owners of the lot in this discussion, we would like to subdivide one half or one acre from the lot of 10.03 acres and thus obtain the permit to build a second home on the property for my wife, his mother, and myself. At this time there is a question about the access to the property since it crosses a Norfolk Southern Railroad track. I have provided documentation to the Planning Department from deeds to the property that show a rite of easement that was granted from NC Highway 801 to the center of the rail road tracks on the south (book 302, page 113 year 12/21/1946), and an additional deed that shows an easement from the north to the center of the tracks (book 815, page 10, year 2/23/98).

I am also aware that the home and land purchased by my son and his wife, was the child hood home of the neighbor across the road, Mrs. Ruth Hodge. She has crossed the railroad since she was a child. Her grandchildren are very aware of the home were their grandmother grew up. County records show a granting of rights to cross the tracks for over 100 years.

We, my son and his wife and I, as well as the planning department, have also spoken to Trystan Lynn, a Property Specialist with Norfolk Southern Corporation. He is responsible for the rail crossing and the other real estate owned by the Norfolk Southern Corp in North Carolina. His recommendation is that we should go ahead with our plans to build a home. The crossing is signed (crossing L721588N) and maintained by the railroad.

I have spoken to the Doctor and his wife who own the 115.808 acres that surround our acreage, and his promise is that he would grant us the right to survey an easement to the 10.03 acres my son owns. It appears that it may cross over into a flood plane from the Withrows Creek and that may be a concern for the county. It is also off a road called Woodgrove Drive, which appears to have a very tentative easement for it is very close to the rail road tracks. The extensive length of this easement would generate a large cost and would possibly not be granted by the Planning and Development department because of the above circumstances.

I am in the process of speaking to the neighbors off Hall Road. Their properties may offer an easement to the Doctor's property and thus create a way to access our property. I have yet to hear a response to my request from any of them.

These ideas were offered to me by the personnel of the Planning and Building Department staff as I made inquiry as to what would allow us to build a home after the problem of the rail crossing was examined. I am very grateful for their suggestions and believe they are interested in helping our cause. But as of yet I have not been able to secure a building permit.

I have found a builder who is willing to begin our building project, but I cannot begin the process because of the lack of a permit. And for this reason, I would like to request a variance granted for our building permit.

Section 22-54 of the building code indicates that "the board of commissioners may authorize a waiver from the family subdivision requirements when, in its opinion, undue hardship may result from strict compliance. In granting any waiver, the board of commissioners, shall

consider the nature of the proposed subdivision, the existing use of the land in the vicinity, the number of person to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The waiver shall be granted only when it has been determined that such a waiver shall not be detrimental to the county and the area surrounding the subdivision." I will contact the commissioners to ask for assistance if I need to use this format for obtaining a building permit.

Our family purchased the property from a party that used the property for a good many activities that created far more traffic than a retired couple like my wife and I will generate. We purchased the land with the express purpose of building a second home on the land. This was known by the realtors and the lawyer who did the search of the public records which indicated that we all had the proper easements.

My request of records that were available from the time that the railroad built the tracks indicated that the Planning Department was not even formed at that time and that no records were available, but I am still convinced that the railroad would not be deterred from their necessary, valuable service to the North Carolina economy by the building of a home on this tract of land.

I have also seen in the neighborhood, less than one mile from our project, another rail crossing that has 2 homes located less than 100 feet from each structure and very close to the rail road tracks and entering NC Highway 801 over the same crossing. Crossing 721592D. The precedent seems to already have been set to allow this variance to be granted since it was given to these people.

1. The unlikely nature of the variance being granted by the neighbors seems to indicate that we can never be allowed to live close to our family. The generous offer by the Doctor is a costly one to survey and the likelihood of being given an easement because of the Creek Flood Plane and rail proximity is very slim.

It is not a possibility that the Norfolk Southern Corp. will grant us a permanent easement.

We are not able to utilize the property for its intended purchase purpose as a family farm without two family dwellings. The development of other structures on the property into a second home was rejected by the building department.

3. This property was the location of a second home in the past and the development of a second home on the property is consistent with the history of the property. This was verified by the man who did an appraisal of the property for my son earlier this year.

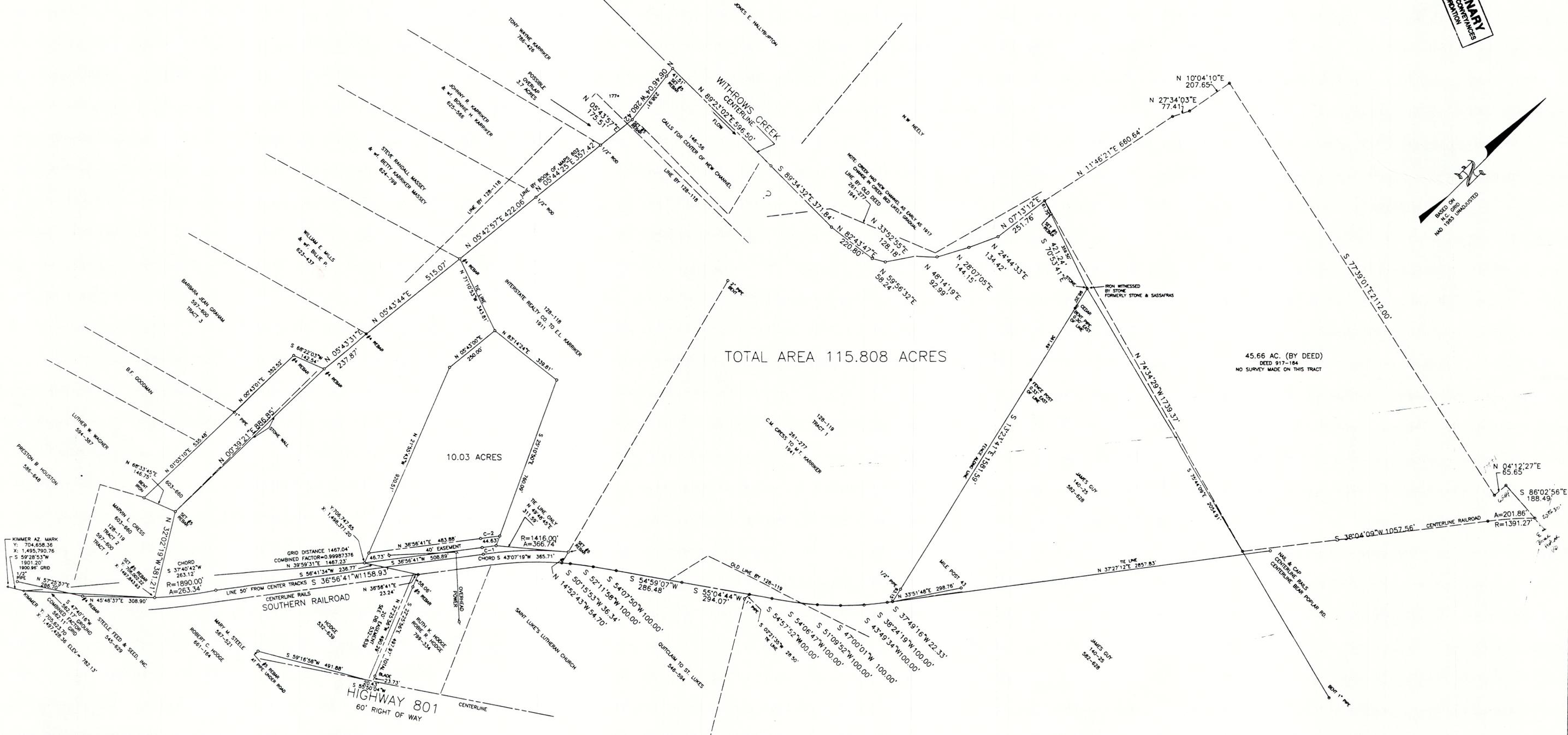
The variance to cross the tracks was not considered as a need, for the right-of-way was already a condition of this sale to my son, and the previous owners in 2001 and 2008. The deeds to the property already indicated that access was granted.

I, RUFUS JACKSON LOVE CERTIFY THAT THIS MAP WAS DRAWN FROM THE ORIGINAL SURVEY RECORDS THAT THE RATIO OF PRECISION IS 1:10,000+ BEFORE ADJUSTMENT AND THAT THE MEAN ERROR WAS < 7.5 SECONDS PER TURN. WITNESS MY HAND AND SEAL THIS 10th DAY OF NOVEMBER 2003.

EXHIBIT B

N.C.P.L.S. L-2844
LICENSE NO.

PROFESSIONAL LAND SURVEYOR
RUFUS JACKSON LOVE
N.C.P.L.S. L-2844



TOTAL AREA 115.808 ACRES

10.03 ACRES

45.66 AC. (BY DEED)
DEED 917-164
NO SURVEY MADE ON THIS TRACT

CURVE TABLE FOR 10+- ACRE TRACT

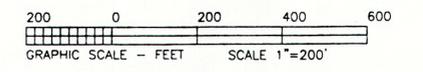
CURVE	RADIUS	LENGTH	CHORD	CH. BEARING
C-1	1446.00'	60.15'	60.14'	S 38°54'25\"W
C-2	1486.00'	61.88'	61.87'	N 37°18'01\"E

PYRAMID
LAND SURVEYING
RUFUS JACKSON LOVE
PROFESSIONAL LAND SURVEYOR L-2844
P.O. Box 11
Davidson, NC 28036
(704) 892-4249

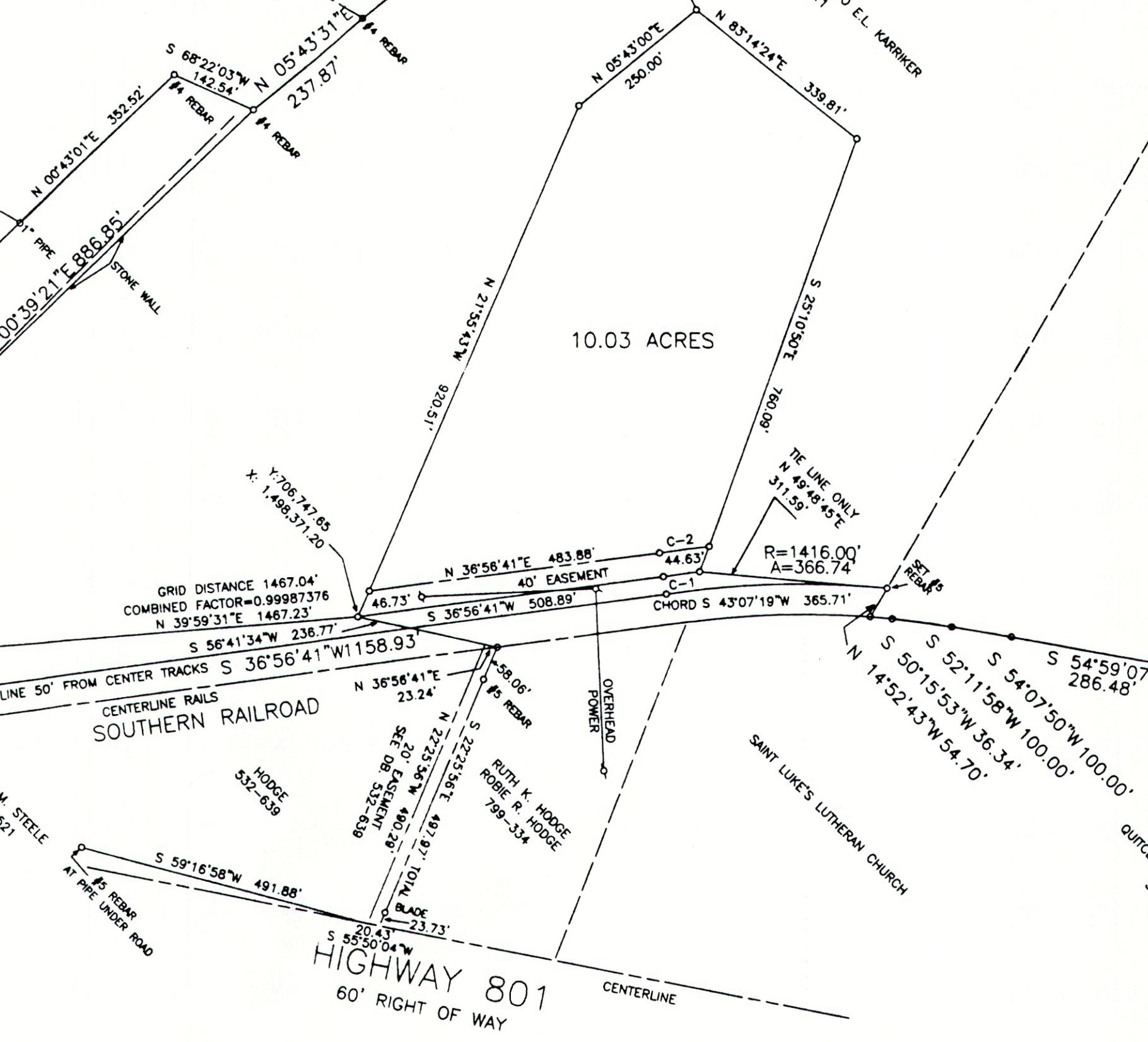
- LEGEND**
- PROPERTY LINE
 - TIE LINE
 - UNSURVEYED LINE
 - - - RIGHT-OF-WAY
 - SETBACK LINE
 - - - BACK OF CURB, PAVEMENT
 - COMPUTED POINT
 - ⊕ POWER POLE

- NOTES**
1. This property IS NOT located in a designated flood zone.
 2. Area determined by coordinate computation.
 3. CP denotes computed point, no monument found or set.
 4. All distances are horizontal ground distances.
 5. Property is subject to any right-of-ways and easements of record.
 6. Underground utilities not located as of this date.
 7. Property along Withrow Creek is subject to flooding.

BOUNDARY SURVEY
FOR
DR. HERB WETTREICH
PART OF THE
SADIE G. KARRIKER ESTATE
Pin.No. 761-15; DEED BOOKS 128-118, 146-56, 261-277
STEELE TOWNSHIP, ROWAN COUNTY, N.C.
NOVEMBER 10, 1997



1 10-13-97 REVISED R/L ADDED TIE TO IRON AT PIPE, CORRECTED CALL ALONG RAILROAD
2 09-28-99 R/L REVISED TO SHOW 10+- ACRE TRACT
3 04-30-2003 RTP REVISED TO SHOW 45.66 ACRE TRACT



Tract/Lot _____

Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
761		044						22

Rowan County Assessor's Office



Rowan, NC
J. E. Brindle Register of Deeds

BK 1276 PG 139

This instrument prepared by: Ross Ketner, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

After recording: GRANTEE: 11180 NC Hwy 801, Mt. Ulla, NC 28125

STAMPS \$760.00

STATE OF NORTH CAROLINA)
)
COUNTY OF ROWAN)

NORTH CAROLINA
GENERAL WARRANTY DEED

THIS DEED, made this 29th day of August, 2016, by and between **James Scott Tucker and wife, Robin Price Tucker**, 11180 NC Hwy 801, Mt. Ulla, NC 28125, (hereinafter called "Grantor") and **Matthew C. Evans and wife, Jessica A. Evans**, 640 Sandy Lane, San Marcos, CA 92078, (hereinafter called "Grantee"). The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context. *The property hereby conveyed includes the primary residence of the Grantor.*

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 and its successors and assigns, in fee simple all that certain tract or parcel of land situated in Rowan County, North Carolina, which is more particularly described as follows:

LYING and being located in Steele Township, Rowan County, North Carolina, Parcel 761044, and being described as follows:

BEGINNING at an existing iron pin, said pin being located at the following coordinates: Y:706,747.65 and X: 1,498,371.20, said iron pin also being located South 56-41 West 236.77 feet from an existing iron, the northwestern-most comer or Ruth K. Hodge and Robie R. Hodge

submitted electronically by "Law Office of Ross Ketner"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Rowan County Register of Deeds.

(Deed Book 799 Page 334); thence from said point of BEGINNING the following new lines with Herbert L. Wettreich: (1) North 21-55-43 West 920.51 feet; (2) North 05-43-00 East 250.0 feet; (3) North 83-14-24 East 339.81 feet; (4) South 25-10-50 East 760.09 feet; and (5) South 36-56-41 West 508.89 to the point and place of BEGINNING, containing 10.03 acres, more or less, according to survey by Rufus Jackson Love, Registered Surveyor, dated September 28, 1999.

TOGETHER WITH a perpetual nonexclusive easement/right of way for ingress, egress and regress and the placement of public and private utilities over and upon that 20 foot wide right of way leading from the herein described real property to North Carolina Highway 801, said right of way being that same easement specifically reserved in Deed Book 532 at Page 639, Rowan County Registry, said easement being shown on Survey by Rufus Jackson Love recorded in Deed Book 904 at Page 17, Rowan County Registry, generally described as follows: BEGINNING at a point in the centerline of North Carolina Highway 801, common corner of Ruth K. Hodge (Deed Book 799 Page 334); thence with the line of Hodge, North 22-25-56 West 497.97 feet to a point in the centerline of the North Carolina Midland Railroad (now or formerly); thence with the centerline of said railroad, South 36-56-41 West 23.24 feet to a point; thence South 22-25-56 East 490.29 feet to a point in the centerline of North Carolina Highway No. 801; thence with the centerline of North Carolina Highway 801, South 55-50-04 East 20.43 feet to the point and place of BEGINNING.

TOGETHER WITH AND SUBJECT TO a 40 ft. wide nonexclusive easement retained by Herbert L. Wettreich and Debra M. Wettreich in Deed Book 904 at Page 17, Rowan County Registry, said 40 ft. easement being located along the southern portion of the herein described property, said easement also being shown on Survey by Rufus Jackson Love recorded in Deed Book 904 at Page 17, Rowan County Registry. The herein described real property and all rights of way described herein is the identical real property conveyed to Jimmy and Ann Ridenhour in Deed Book 904 at Page 17 in the Office of the Register of Deeds for Rowan County, North Carolina.

Having the address of 11180 NC Hwy 801, Mt. Ulla, NC 28125.

The property herein above described was acquired by Grantor by instrument recorded in Book 1122, Page 351.

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 the Grantor is seized of the premises in fee simple, that he has the right to convey the same in fee simple, that

title is marketable and free and clear from all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, except for the exceptions herein after stated.

Title on the property herein above described is subject to the following exceptions:

- a) ad valorem taxes for the current year, and subsequent years, not yet due and payable.
- b) This conveyance is made expressly subject to any and all rights-of-way, conditions, restrictions, reservations and easements, if any, duly of record, constituting constructive notice thereof.
- c) Applicable zoning and other land use regulations.

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

James Scott Tucker
James Scott Tucker

STATE OF NORTH CAROLINA

COUNTY OF *Fredell*

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **James Scott Tucker**.

Witness my hand and official stamp or seal, this *29* day of *August*, 2016.

Ross Ketner
Notary Public

My Commission Expires: *May 6, 2021*

ROSS KETNER
NOTARY PUBLIC
Fredell County, North Carolina
My Commission Expires May 6, 2021

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

Robin P. Tucker
Robin Price Tucker

STATE OF NORTH CAROLINA

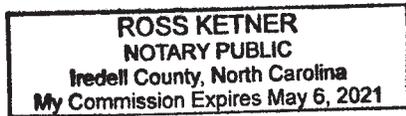
COUNTY OF Fredell

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **Robin Price Tucker**.

Witness my hand and official stamp or seal, this 29 day of August, 2016.

Ross Ketner
Notary Public

My Commission Expires: May 6, 2021



MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
761		044						48

Rowan County Assessor's Office

FILED in ROWAN County, NC
on May 23 2008 at 02:51:55 PM
by: Bobbie M. Earnhardt
Register of Deeds
BOOK 1122 PAGE 351

4/03
EX 490.00
see

Issued May 23 2008
\$ 490.00
State of ROWAN
North Carolina County
Real Estate Excise Tax

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$ 490.00

Parcel Identifier No. 761/44 Verified by _____ County on the _____ day of _____, 20____
By: _____

✓ Mail/Box to: Saunders & Goforth, Attorneys At Law, P.A., 417 North Main Street, A-6, Salisbury, NC 28144

This instrument was prepared by: Saunders & Goforth, Attorneys At Law, P.A., 417 North Main Street, A-6, Salisbury, NC

Brief description for the Index: _____

THIS DEED made this 22nd day of May, 2008, by and between

GRANTOR	GRANTEE
Jimmy D. Ridenhour and wife, Ann H. Ridenhour Of Rowan County, North Carolina	James Scott Tucker and wife, Robin Price Tucker 11180 NC Highway 801 Mt. Ulla, NC 28125

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 _____, Mt. Ulla Township, _____ Rowan County, North Carolina and more particularly described as follows:
See Attached Legal Description

The property hereinabove described was acquired by Grantor by instrument recorded in Book _____ page _____.

A map showing the above described property is recorded in Plat Book _____ page _____.

NC Bar Association Form No. L-3 © 1976, Revised © 1977, 2002

Printed by Agreement with the NC Bar Association – 1981 SoftPro Corporation, 333 E. Six Forks Rd., Raleigh, NC 27609

5/12

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10479

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 right 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: Restrictive covenants recorded in Book 815, Page 10, Rowan County Registry.

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

(Entity Name)

Jimmy D. Ridenhour (SEAL)
Jimmy D. Ridenhour

By: _____
Title: _____

Ann H. Ridenhour (SEAL)
Ann H. Ridenhour

By: _____
Title: _____

(SEAL)

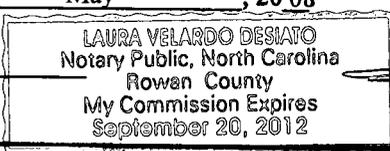
By: _____
Title: _____

(SEAL)

State of North Carolina - County of Rowan

I, the undersigned Notary Public of the County and State aforesaid, certify that Jimmy D. Ridenhour and wife, Ann H. Ridenhour personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 22nd day of May, 2008

My Commission Expires: _____



Laura Velardo Desiato
Notary Public

State of North Carolina - County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he is the _____ of _____, a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this _____ day of _____, 20 .

My Commission Expires: _____

Notary Public

State of North Carolina - County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____

Witness my hand and Notarial stamp or seal, this _____ day of _____, 20 .

My Commission Expires: _____

Notary Public

The foregoing Certificate(s) of _____ is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By: _____ Register of Deeds for _____ County
Deputy/Assistant - Register of Deeds

2

ATTACHED LEGAL DESCRIPTION

Lying in Steele Township, Rowan County, North Carolina, described as follows:

BEGINNING at an existing iron pin, said pin being located at the following coordinates: Y:706,747.65 and X: 1,498,371.20, said iron pin also being located South 56-41 West 236.77 feet from an existing iron, the northwesternmost corner of Ruth K. Hodge and Robie R. Hodge (Deed Book 799 Page 334); thence from said point of BEGINNING the following new lines with Herbert L. Wettreich: (1) North 21-55-43 West 920.51 feet; (2) North 05-43-00 East 250.0 feet; (3) North 83-14-24 East 339.81 feet; (4) South 25-10-50 East 760.09 feet; and (5) South 36-56-41 West 508.89 to the point and place of BEGINNING, containing 10.03 acres, more or less, according to survey by Rufus Jackson Love, Registered Surveyor, dated September 28, 1999.

TOGETHER WITH a perpetual nonexclusive easement/right of way for ingress, egress and regress and the placement of public and private utilities over and upon that 20 foot wide right of way leading from the herein described real property to North Carolina Highway 801, said right of way being that same easement specifically reserved in Deed Book 532 at Page 639, Rowan County Registry, said easement being shown on Survey by Rufus Jackson Love recorded in Deed Book 904 at Page 17, Rowan County Registry, generally described as follows:

BEGINNING at a point in the centerline of North Carolina Highway 801, common corner of Ruth K. Hodge (Deed Book 799 Page 334); thence with the line of Hodge, North 22-25-56 West 497.97 feet to a point in the centerline of the North Carolina Midland Railroad (now or formerly); thence with the centerline of said railroad, South 36-56-41 West 23.24 feet to a point; thence South 22-25-56 East 490.29 feet to a point in the centerline of North Carolina Highway No. 801; thence with the centerline of North Carolina Highway 801, South 55-50-04 East 20.43 feet to the point and place of BEGINNING.

TOGETHER WITH AND SUBJECT TO a forty foot wide nonexclusive easement retained by Herbert L. Wettreich and Debra M. Wettreich in Deed Book 904 at Page 17, Rowan County Registry, said forty foot easement being located along the southern portion of the herein described property, said easement also being shown on Survey by Rufus Jackson Love recorded in Deed Book 904 at Page 17, Rowan County Registry

Grantors herein hereby remise and quitclaim any and all interest of Grantors in and to the portion of the property located within the right of way of the North Carolina Midland Railroad, as well as any easement or prescriptive easement rights in and to any portion of any easement crossing the railroad right of way.

Grantors herein also convey to Grantees herein any and all right and interest that Grantors have in and to the right to permit paving of the forty foot retained easement across the real property described herein retained by the Grantors in Deed Book 904 at Page 17, Rowan County Registry, it being the intention of the parties this transaction that any right of the Grantors herein to restrict or permit the pavement of the said forty foot easement

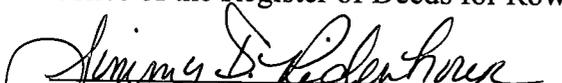
described in Deed Book 904 at Page 17, Rowan County Registry, shall be transferred to Grantee herein by this conveyance.

The Grantees herein understand that the access to the herein described real property across the twenty foot wide easement described herein crosses lands owned by the Southern Railroad (or its successors) as depicted on survey by Rufus Jackson Love recorded in Deed Book 904 at Page 17, Rowan County Registry. The parties acknowledge that the land owned by the Southern Railroad is not subject to the twenty foot wide easement. However, it is believed that the portion of the twenty foot easement crossing the railroad property has been in use in an open, hostile and notorious fashion under a claim of right for a period of more than twenty one years. The Grantors herein are not certifying that access will always be available across the lands of the railroad by the said twenty foot easement.

The parties herein acknowledge that this conveyance is also subject to the pro rata share of road maintenance and upkeep of any and all private roadways and rights of ways described in this conveyance as is further reserved and described in Deed Book 904 at Page 17 in the Office of the Rowan County Register of Deeds.

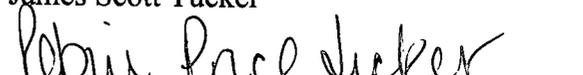
The parties further acknowledge that this conveyance is subject to those restrictions and reservations contained in Deed from Evelyn Foster, et. al. to Herbert and Debra Wettreich recorded February 23, 1998, in Deed Book 815 at Page 10 in the Rowan County Register of Deeds Office.

The herein described real property and all rights of way contained herein is the identical real property conveyed to Jimmy and Ann Ridenhour in Deed Book 904 at Page 17 in the Office of the Register of Deeds for Rowan County, North Carolina.


Jimmy D. Ridenhour


James Scott Tucker


Ann H. Ridenhour


Robin Price Tucker

FILED
ROWAN COUNTY NC
04/04/2001 11:00 AM
BOBBIE M. EARNHARDT
Register Of Deeds

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
761		043					P	51

Rowan County Assessor's Office

ROWAN COUNTY NC 04/04/2001
\$220.00

11:20

Sales Price: \$ 110,000.00

Revenue Stamps: \$ 220.00



Real Estate
Excise Tax

Excise Tax \$

Recording Time, Book and Page

Tax Lot No. 761 Parcel Identifier No. 043 (part of)
Verified by _____ County on the _____ day of _____, 20____
by _____

Mail after recording to Grantee
This instrument was prepared by Clifton W. Homesley, Attorney at Law, Homesley, Jones, Gaines, Homesley & Dudley, 330 South Main Street, Mooresville, NC 28115

Brief Description for the index 10.03 ac ± R/W

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 2nd day of April, 2001, by and between

GRANTOR	GRANTEE
HERBERT L. WETTREICH and wife, DEBRA M. WETTREICH	JIMMY RIDENHOUR and wife, ANN RIDENHOUR
	Whose Address Is: <input checked="" type="checkbox"/> <u>11180 N.C. Highway 801</u> <u>Mount Ulla, N.C. 28125</u>

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 _____, Steele Township, Rowan County, North Carolina and more particularly described as follows:

BEGINNING at an existing iron pin (said iron pin being located at coordinates Y:706,747.65 and X:1,498,371.20 and also being located South 56-41 West 236.77 feet from an existing iron pin, the northwesternmost corner of Ruth K. Hodge and Robie R. Hodge (see deed book 799 at page 334)); thence from said point of beginning the following new lines with Herbert L. Wettreich: 1) North 21-55-43 West 920.51 feet; 2) North 05-43-00 East 250.00 feet; 3) North 83-14-24 East 339.81 feet; 4) South 25-10-50 East 760.09 feet; and 5) South 36-56-41 West 508.89 feet to the point and place of beginning and containing 10.03 acres, more or less, according to a survey by Rufus Jackson Love, Registered Surveyor, dated September 28, 1999.

Conveyed with said tract shall also be a perpetual non-exclusive easement for the purposes of ingress, egress and regress and for the installation of public and private utilities. This easement shall be along that certain 20-foot wide easement as is depicted on the Rufus Jackson Love survey, a portion of which is attached hereto and incorporated by reference herein.

This conveyance is subject to a forty foot wide non-exclusive easement retained by the grantor herein for the purposes of ingress, egress and regress and the installation of public and private utilities. This easement shall remain as is with no paved public roadway to ever be established without written permission of the Buyer. This easement is also depicted on the map attached hereto and is shown along the southern boundary line of the subject property.

The grantees herein understand that the access to the subject property by the twenty-foot easement crosses land owned by the Southern Railroad, as is depicted on the survey. The land owned by the Southern Railroad is not subject to the twenty-foot easement. However, it is believed that the portion of the twenty-foot easement crossing the railroad land has been in use for more than twenty-one years. The grantors are not certifying that access will always be available by said twenty-foot easement.

By accepting conveyance of this property, the grantees (on behalf of themselves, their heirs, successors and assigns) agree to share in pro rata fashion with the grantors and their heirs, successors and assigns in the upkeep and maintenance of any roadways referred to herein.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 815, Page 010.

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

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 right 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 except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

- 1. ANY AND ALL EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD.
- 2. ANY AND ALL ZONING AND PLANNING ORDINANCES.
- 3. ANY DISCREPANCIES AS AN ACCURATE SURVEY OF THE PREMISES MIGHT REVEAL.

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.

(Corporate Name)

Herbert L. Wettreich (SEAL)
Herbert L. Wettreich

By: _____
President

Debra M. Wettreich (SEAL)
Debra M. Wettreich

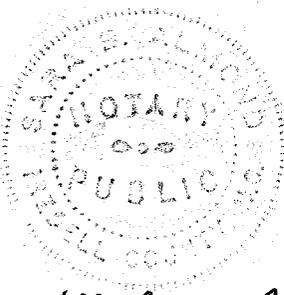
ATTEST:

Secretary (Corporate Seal)

SEAL-STAMP

NORTH CAROLINA, Iredell County.
I, a Notary Public of the County and State aforesaid, certify that HERBERT L. WETTREICH and wife, DEBRA M. WETTREICH, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 2nd day of April, 2001.

My commission expires: 10-07-2004
Sara B. Almond Notary Public



NC-Rowan Co
The foregoing Certificate(s) of Sara B. Almond N.P. of Iredell
Co

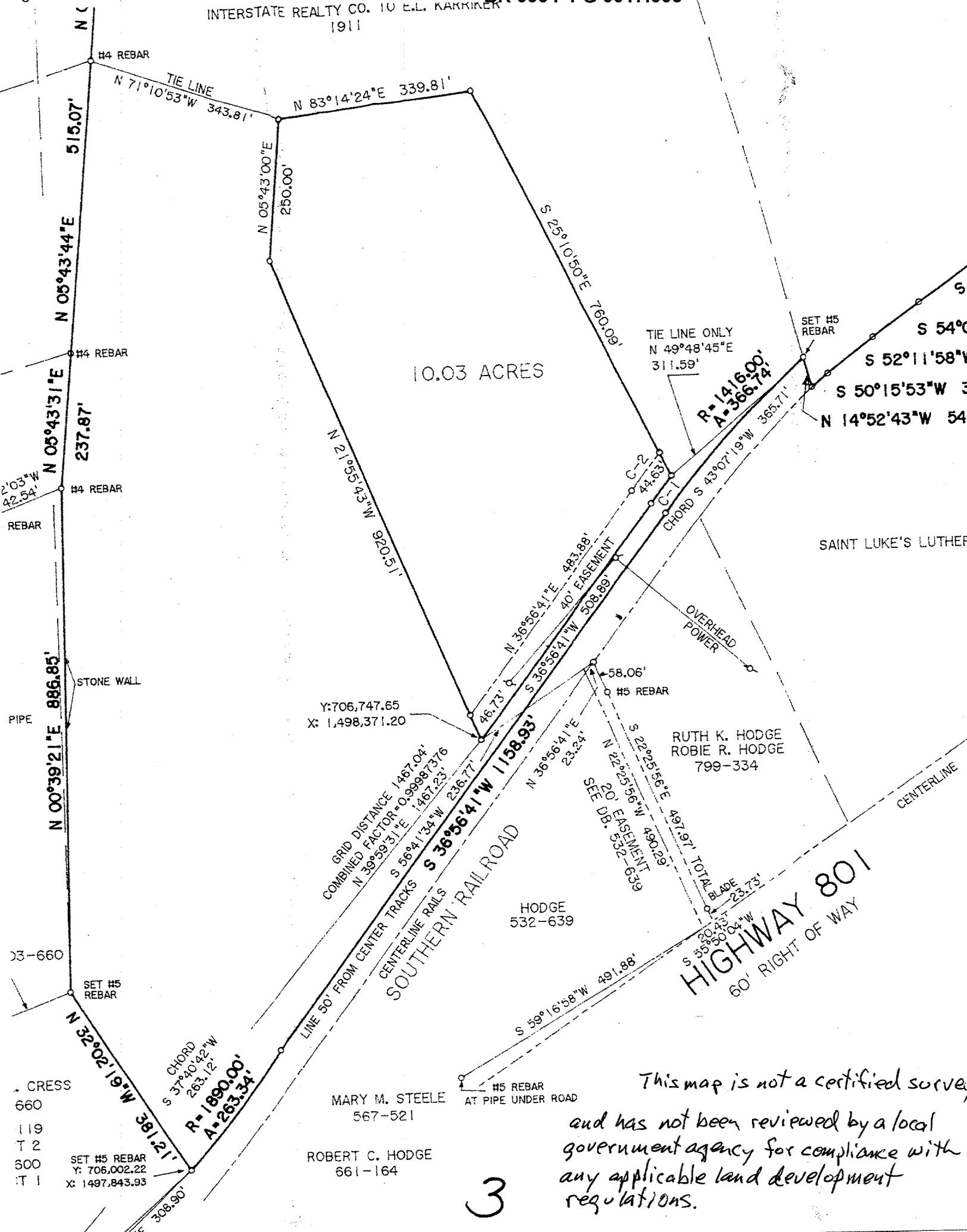
is/are certified to be correct. This instrument and this certificate are duly registered at the date and in the Book and Page shown on the first page hereof.

By Bobbie M. Earhardt REGISTER OF DEEDS FOR Rowan COUNTY
Shirley M. Stalla Deputy/Assistant-Register of Deeds. NC

4-4-2001

2

INTERSTATE REALTY CO. 10 E.L. KARRIKER 1911



This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

3

815/010

11:20

MAP	LN	PAR	SP	U/IN	L/IN	CG	PART	INT
761		015					7	74

Rowan County Assessor's Office

Book 0815 Page 0010

ROWAN COUNTY NC 02/23/98
 Sales Price: \$316,032.07 \$633.00
 Revenue Stamps: \$633.00
 Real Estate Excise Tax

FILED
 ROWAN COUNTY NC
 02/23/98 11:20 AM
 BOBBIE M. EARRHARDT
 Register of Deeds
 By: JAS Deputy/Asst.



Recording Time, Book and Page

Excise Tax \$

Tax Lot No. 761 Parcel Identifier No. 15 P/of
 Verified by _____ County on the _____ day of _____, 19____
 by _____

Mail after recording to Grantee
 This instrument was prepared by Clifton W. Homesley, Attorney at Law, Homesley, Jones, Gaines & Homesley, 383-387 N. Main Street, Mooresville, NC 28115

Brief Description for the index

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this February 20, 1998, by and between

GRANTOR

GRANTEE

EVELYN K. FOSTER and husband, HOYLE FOSTER; RUTH K. HODGE and husband, ROBIE HODGE; NINA K. GIBSON (also known as NENA K. GIBSON) and husband, JOHN GIBSON

HERBERT L. WETTREICH and wife, DEBRA M. WETTREICH

Whose Address Is:
331 Steele Road, Mooresville, NC 28115

Recorded in the Office of the Register of Deeds of Rowan County, North Carolina on 02/23/98 at 11:20 AM

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 _____, Steele Township, Rowan County, North Carolina and more particularly described as follows:

BEGINNING at a point in the centerline of the North Carolina Midland Railroad (now or formerly) (said point of Beginning being located South 33-51-48 West 298.76 feet from mile post 43 of said railroad and said point also being located South 37-27-12 West 2857.83 feet from a nail and cap in the centerline of the railroad and the centerline of Bear Poplar Road); thence with the centerline of the railroad the following courses and distances: (1) South 37-49-16 West 22.33 feet; (2) South 38-24-19 West 100.00 feet; to a point; (3) South 43-49-34 West 100.00 feet to a point; (4) South 47-00-01 West 100.00 feet to a point; (5) South 51-09-52 West 100.00 feet to a point; (6) South 54-06-47 West 100.00 feet to a point; (7) South 54-57-52 West 100.00 feet to a point, a common corner with Saint Luke's Lutheran Church; thence continuing with the center line of the railroad and the line of Saint Luke's Lutheran Church as follows: (1) South 55-04-44 West 294.07 feet to a point; (2) South 54-59-07 West 286.48 feet to a point; (3) South 54-07-50 West 100.00 feet to a point; (4) South 52-11-58 West 100.00 feet to a point; (5) South 50-15-53 West 36.34 feet to a point; thence North 14-52-43 West 54.70 feet to a set #5 rebar; thence along a line located approximately 50 feet North of the centerline of the railroad tracks the following courses and distances: (1) on a curve to the left heading in a southwesterly direction with said curve having a radius of 1416.00 feet for an arc distance of 365.74 feet and a chord bearing of South 43-07-19 West 365.71 feet to a point; (2) South 36-56-41 West 1158.93 feet to a point; (3) on a curve to the right heading in a generally southwesterly direction with said curve having a radius of 1890.00 feet for an arc distance of 263.14 feet with a chord bearing of South 37-40-42 West 263.12 feet to a set #5 rebar, a common corner with Marvin L. Cress (see Book 603, page 660); thence with the line of Cress as follows: (1) North 32-02-19 West 361.21 feet to a set #5 rebar; (2) North 00-39-21 East 826.85 feet to a #4 rebar, a common corner with Cress and Barbara Jean Graham (see Book 597, page 600); thence with the line of Graham North 05-43-31 East 237.87 feet to a #4 rebar, a common corner of Graham and William E. Mills (see Book 623, page 437); thence with the line of Mills North 05-43-44 East 515.07 feet to a #1 rebar, a common corner of Mills and Steve Massey (see Book 624, Page 799); thence with the line of Steve Massey North 05-42-57 East 422.06 feet to a 1/2" rod, a common corner with Massey and Johnny R. Karriker; thence with the line of Johnny R. Karriker North 05-44-25 East 357.42 feet to a 1/2" rod, a common corner of Karriker and Tony Wayne Karriker (see Book 786, Page 426); thence with the line of Tony Wayne Karriker as follows: (1) North 05-43-57 East 175.51 feet to a set #5 rebar; (2) North 06-46-04 West 269.42 feet to a set #5 rebar, a common

corner with Tony Wayne Karriker in the centerline of Withrows Creek; thence with the centerline of said creek the following courses and distances: (1) North 89-23-02 East 596.50 feet to a point; (2) South 89-34-32 East 371.84 feet to a point; (3) North 82-43-47 East 220.80 feet to a point; (4) North 59-56-32 East 58.24 feet to a point; (5) North 33-52-55 East 128.18 feet to a point; (6) North 48-14-19 East 92.99 feet to a point; (7) North 28-07-05 East 144.15 feet to a point; (8) North 24-44-33 East 134.42 feet to a point; (9) and North 07-13-12 East 251.76 feet to a point, a common corner with Melvin C. Shook (see Book 592, Page 581) in the centerline of the creek; thence with Shook South 70-53-41 East 421.24 feet (passing a set #5 rebar at 61.75 feet) to an iron near a stone, a common corner with James Guy (see Book 140, page 25 and Book 582, page 628); thence with the line of Guy South 13-23-41 East 1581.59 feet (passing a 1/2" pipe at 1518.44 feet) to the point and place of Beginning, the same containing 115.808 acres, more or less, all in accordance with that certain survey dated November 10, 1997, prepared by Rufus Jackson Love, Registered Surveyor.

The grantors do further give, grant and convey unto the Grantee, their heirs, successors and assigns a perpetual easement for the purposes of ingress, egress and regress to the subject property as well as for the placement of public and private utilities to and from the subject property. Said easement is that same easement which was specifically reserved by Marvin T. Karriker in a deed recorded in Deed Book 532, at Page 639 of the Rowan County Public Registry. The easement is twenty feet in width and directly adjoins the westernmost boundary line of a tract conveyed to Ruth K. Hodge and husband, Robie R. Hodge in a deed recorded in Deed Book 799, at Page 334. The easement conveyed hereby can generally be described as follows:

BEGINNING at a point in the centerline of North Carolina Highway 801, a common corner of Ruth K. Hodge (see Deed Book 799, at Page 334); thence with the line of Hodge North 22-25-56 West 497.97 feet to a point in the centerline of the North Carolina Midland Railroad (now or formerly); thence with the centerline of said railroad, South 36-56-41 West 23.24 feet to a point; thence South 22-25-56 East 490.29 feet to a point in the centerline of North Carolina Highway 801; thence with the centerline of North Carolina Highway 801 South 55-50-04 East 20.43 feet to the point and place of beginning.

The Grantors do further quitclaim, remise and release unto the grantee any and all right, title and interest which the grantors may have in any land lying to the north of the North Carolina Midland Railroad (now or formerly) and to the south of Withrows Creek. The Grantors further do specifically quitclaim, remise and release unto the grantee all right, title and interest they may have in any easement running north from the centerline of the railroad to the above-described base tract. The Grantors, by execution of this deed do certify that said twenty foot wide road has been used openly, notoriously, hostilely and under claim of right for many years in excess of twenty-one years. This road has been used in open derogation of any rights which the railroad company or any others may claim in said property.

The above-described property is conveyed subject to the right of way of the North Carolina Midland Railroad and its successors and assigns. The property is also conveyed subject to general utility easements for the Southern Public Utility Company which are recorded in Deed Book 51 at Page 134 and Deed Book 215 at Page 66 of the Rowan County Public Registry.

The above-described property is conveyed subject to the following restrictive covenants which shall run with and be appurtenant to the real estate:

- a. The property shall be used for residential and/or agricultural purposes.
- b. No public recreational facilities of any kind shall be erected on the subject property. However, nothing herein shall be interpreted to prevent the Grantee and/or their heirs, successors and assigns from operating a horse stable/farm facility which offers horse-related services and facilities to the general public. Such services and facilities would include, but not be limited to, stabling of horses, training of and with horses, use of horse trails, pasturing of horses and any other uses associated with a horse stable/farm facility available for use by the general public. Notwithstanding the preceding language, the land shall not be used for rodeo performances open to the paying general public.
- c. No trailers or single-wide or double-wide mobile homes shall be erected on the subject property, nor shall any be used at any time as a temporary or permanent residence.
- d. Modular or prefabricated homes shall be allowed on the subject property.
- e. No residence constructed upon the subject property shall have less than 1600 square feet of total space.
- f. No noxious or offensive trade or activity shall be carried on upon this property nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or community.
- g. These restrictions shall automatically expire thirty (30) years from the date of this document.

The grantors are the heirs of Sadie G. Karriker. Her estate information can be found in Rowan County estate file 96 E 489. For back title to the western portion of the above-described property, see Deed Book 378 at Page 239, Deed Book 146 at Page 56 and Deed Book 128 at Page 118. For back title to the eastern portion of the above-described property see Deed Book 261 at Page 277, Deed Book 256 at Page 274 and Deed Book 128 at Page 119. For further informational purposes, Edward L. Karriker died September 10, 1926; Cora Lee Fink Karriker died May 10, 1962 and Marvin Thomas Karriker died June 18, 1970.

The property hereinabove described was acquired by Grantor by instrument recorded in Book , Page .

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

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 right 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 except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

1. ANY AND ALL EASEMENTS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD.
2. ANY AND ALL ZONING AND PLANNING ORDINANCES.
3. ANY DISCREPANCIES AS AN ACCURATE SURVEY OF THE PREMISES MIGHT REVEAL.

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.

 (Corporate Name) Evelyn K. Foster (SEAL)
 EVELYN K. FOSTER

By: _____
 _____ President Hoyle Foster (SEAL)
 HOYLE FOSTER

ATTEST: _____
 _____ Secretary (Corporate Seal) Ruth K. Hodge (SEAL)
 RUTH K. HODGE

_____ Secretary (Corporate Seal) Robie Hodge (SEAL)
 ROBIE HODGE

_____ Nena K. Gibson (SEAL)
 NINA K. GIBSON (also known as NENA K. GIBSON)

_____ John Gibson (SEAL)
 JOHN GIBSON

SEAL-STAMP NORTH CAROLINA, IREDELL County.
 I, a Notary Public of the County and State aforesaid, certify that EVELYN K. FOSTER and husband, HOYLE FOSTER; RUTH K. HODGE and husband, ROBIE HODGE; NINA K. GIBSON (also known as NENA K. GIBSON) and husband, JOHN GIBSON, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 20th day of February, 1998.

My commission expires: 11/19/01
John Gibson Notary Public

SEAL-STAMP NORTH CAROLINA, _____ County.
 I, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he/she is _____ Secretary of _____, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal and attested by him/her as its _____ Secretary. Witness my hand and official stamp or seal, this _____ day of _____, 1998.

My commission expires: _____
 _____ Notary Public

NC Rowan Notary Public

The foregoing Certificate(s) of Salena Jo Sawyer NP of
Rowan Co. NC

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

By Bobbie M. Ehrenhardt REGISTER OF DEEDS FOR ROWAN COUNTY
Shirley M. Stiles Deputy/Assistant-Register of Deeds. NC

2-23-1998

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THIS INDENTURE, Made this the 10th day of May

in the year of our Lord one thousand nine hundred and sixty eight (1968) between

Marvin T. Karriker

of the County of Rowan and State of North Carolina, of the first part, and

Marvin T. Karriker and wife, Sadie G. Karriker

of the County of Rowan, State of North Carolina, of the second part:

WITNESSETH, That the said part y of the first part, for and in consideration of the sum of

Ten (\$10.00) Dollars and other valuable consideration Dollars.

to the said part y of the first part in hand paid, the receipt whereof is hereby acknowledged, has

gained, sold and conveyed, and by these presents does bargain, sell and convey unto the said part ies of

the second part their heirs and assigns, the following described real estate, situate, lying and being in

Steele Township, County of Rowan and State of North Carolina, bounded as follows, to-wit

On the North-west side of the Sherrill's Ford public road, about one-half mile North-east of Bear Poplar in Steele Township beginning at a stake in the center of the Sherrill's Ford Public Road, at the intersection of said road and a road leading towards E. L. Karriker's residence and runs thence along the East side of said road N. 25 1/2° W. 7.51 chs. to a stake in the center of the North Carolina Midland Railroad; thence with the center of said railroad S. 37° W. 10.07 chs. to a stake in the center of said railroad; thence S. 36° E. 4.37 chs. to a stone in the center of the Sherrill's Ford public road; thence with the center of said road N. 54° E. 7.75 chs. to the Beginning, containing 5.2 acres, more or less, subject to the right of way of the North Carolina Midland Railroad and of the Sherrill's Ford Public Road, and being carved from the premises conveyed to B. B. Miller and C. A. Brown by John W. Fries and others, under deed dated November 1, 1919, and recorded in Book 157, page 129 of Rowan County Record of Deeds.

There is reserved a right of way over a roadway at least 20 ft. wide from the Sherrill's Ford road to the North Carolina Midland Railroad over the above granted premises and along the eastern boundary thereof, said right of way being for ingress and egress to and from the lands situated east of the above granted premises and between the Sherrill's Ford Road and the North Carolina Midland Railroad.

This conveyance is made subject to G. S. 39-13, 3(b) for the purpose of converting the above described premises to a tenancy by the entirety from sole seizen.

Dist up > Marvin T. Karriker