

Prepared by and return to Bagwell, Holt & Smith, P.A.  
Grantee's address: 8300 Pickards Meadow Road, Chapel Hill, NC 27516

FOR MULTIPLE PIN SHEET  
SEE BOOK 2520 PAGE 14

**NORTH CAROLINA**

**ORANGE COUNTY**

BOOK **2520** PAGE **7**

**DECLARATION OF RESTRICTIONS  
AND PROVISIONS FOR PRIVATE  
ROAD MAINTENANCE**

This Declaration is made by Toben Properties, LLC and Timothy P. Toben, hereinafter called Declarants.

WITNESSETH:

WHEREAS, Declarants own in fee simple those eleven (11) tracts of land described in Article 1 below ("the Property"); and

WHEREAS, the Property will have access to S.R. 1103 via the private road shown by that plat of record at Plat Book 89 Page 195, Orange County Registry, which private road is known as Pickards Meadow Road; and

WHEREAS, Declarants, by this Declaration of Restrictions, wish to bind themselves, their successors and assigns to provide all owners of any portion of the Property owned by Declarants described below perpetual ingress, egress and regress to State Road 1103; and

WHEREAS, Declarants, by this Declaration of Restrictions, wish to bind themselves, their successors and assigns to provide for maintenance of the private road until such time as the private road is accepted by the State of North Carolina or some other governmental authority for maintenance;

NOW, THEREFORE, Declarants agree for themselves and for any and all persons or entities hereafter acquiring any of the Property, that the same shall be subject to the following restrictions, conditions, and covenants relating to the use and occupancy thereof, which restrictions, conditions and covenants shall run with the Property and inure to the benefit of and be binding upon the heirs, successors and assigns of Declarants and other acquiring parties and persons.

Article 1. The Property which is, and shall be, held, transferred, sold and conveyed subject to the protective and restrictive covenants set forth in the various Articles of this Declaration is located in Bingham Township, Orange County, North Carolina, and is more particularly described in Exhibit A attached hereto and incorporated herein.

Article 2. Declarants hereby grant and reserve between themselves and unto themselves and the future record owners of any portion of the Property a perpetual, appurtenant easement for ingress, egress and regress and for the installation and maintenance of utilities along and within the private road as it currently exists and as it may be extended to serve any portion of the Property.

Article 3. The record owners of any and all individually existing tracts or parcels of land within the Property as shown on the records of the Orange County Office of Land Records, whether now existing or subsequently created by subdivision, shall bear on a pro-rata basis the cost of maintaining the private road, this being each owner's pro-rata share for grading costs, gravel, or rock hauled in to fill ruts, holes, and washed out sections and necessary replacement or additions of drainage culverts. Written notice of all proposed maintenance shall be made to all owners of record at their addresses as shown on the records of the Orange County Tax Collector. The road shall be maintained to Class B standards as prescribed by Orange County now and as the same may be revised from time to time. Maintenance and repairs necessary to keep the said road to Class B standards shall be approved by a majority of the votes cast with respect to the proposed maintenance provided that for this purpose the owners of each tract shall have one vote for each "point" assigned to their tract. Each tract's pro-rata share of the maintenance costs of the private road shall be computed by a point system whereby one point is assigned per tract or parcel owned, and three points for each occupied dwelling unit on a tract. For example, a single tract with a single dwelling unit built upon it would be assigned four (4) points. Each tract's share shall be the percentage that the tract's total points is of the total of all points assigned to all tracts. Each tract's pro-rata share of the maintenance cost of the said private road shall be due and owing to whomever takes at that time responsibility for maintenance of said road, within 30 days of the work's being completed. If such share is not paid within that time, interest shall accrue from the date of mailing of a notice of demand for payment at the rate of ten percent (10.00%) per annum. If such share remains unpaid for a period of forty-five (45) days from the date of mailing of the notice of demand for payment, then the person or entity to whom payment is due shall have a lien on the delinquent tract or parcel for the total amount due, plus interest thereon as herein provided, plus the costs of collection thereof, including reasonable attorney's fees. The lien may be filed by the person or entity to whom payment is due against the delinquent tract or parcel and its owners in the Office of the Clerk of Superior Court of Orange County.

Article 5. In the event that Pickards Meadow Road is extended within the Property, or in the event that new roads are extended into any of the Property that originate from Pickards Meadow Road, then the costs of maintaining the entire road system as extended shall be borne by all of owners of the Property on the point system set forth above; provided, however, that the initial costs of constructing any extension of the road shall be borne solely by the owners of the portion of the Property abutting said road extension as they may agree, or if they do not agree, then by the same point system as set out above.

Article 6. In the event Orange County or any other governmental body, as a condition to the approval of any further subdivision of the property described in Article 1, may require said private road to be upgraded above a Class B standard or publicly dedicated and

constructed to Department of Transportation standards, then in that event, Declarants and all persons taking title to the Property shall bear the costs of maintaining the entire road system to the new standard on the point system described in Article 3. Provided, however, that the initial cost of constructing the road or any portion of the road to a higher private road standard or to Department of Transportation standards shall be borne solely by the owners of the portion of the Property, the subdivision of which requires that the road or any portion of it be upgraded. The cost of constructing the road or any portion of it to a higher private road standard or to Department of Transportation standards shall be shared by the owners responsible for the upgrading according to the point system described in Article 3. In the event public dedication of the private road or any extension of the private road or portion thereof is required by Orange County, Declarants and all persons taking title to any portion of the Property from and through Declarants shall publicly dedicate the portion of said road required to be dedicated.

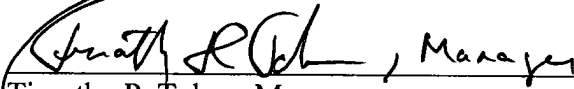
Article 6. The private road located within Property may be dedicated to the public at the election of the owners in the event dedication is not required by a governing body as set forth above. In that event, the owners and their successors in title and interest to any of the property described herein will remain responsible for road maintenance as herein provided until such time as the road dedicated is maintained by the North Carolina Department of Transportation or other governmental body.


Article 7. This Agreement shall run with and be appurtenant to the land and shall be binding upon the heirs, successors, and assigns of each record owner of any portion of the Property

Article 8. This Agreement shall remain in full force and effect until such time as the road or any portion thereof is taken over by the Department of Transportation or other governmental entity for maintenance purposes, and shall remain in full force and effect for any portion of the road not so taken.

IN WITNESS WHEREOF, Declarants have caused this instrument to be signed and sealed on February 22, 2002.

Toben Properties, LLC

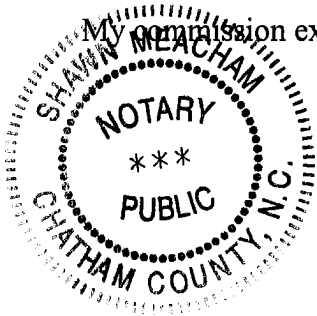
By:  , Manager  
 Timothy P. Toben, Manager

  
 Timothy P. Toben

NORTH CAROLINA, CHATHAM COUNTY

I, Shawn Meacham, a Notary Public for said County and State, do hereby certify that Timothy P. Toben personally came before me this day and acknowledged that he is Manager of Toben Properties, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the company, he executed the foregoing instrument in its name as its Manager.

Witness my hand and official seal, this 22<sup>nd</sup> day of February, 2002.



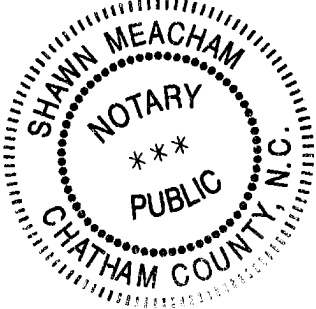
My commission expires: 04/26/2003

Shawn Meacham  
Notary Public

NORTH CAROLINA, CHATHAM COUNTY.

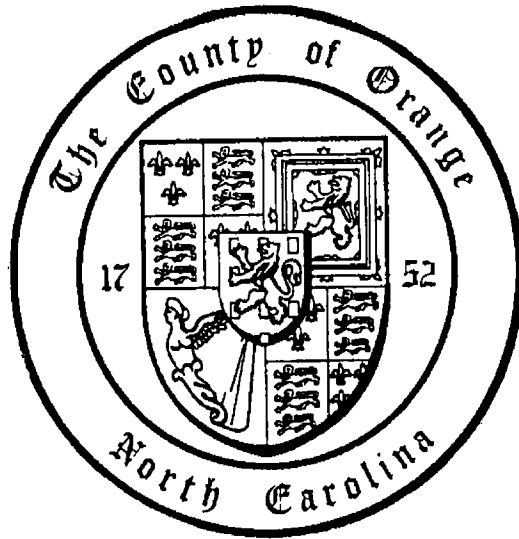
I, Shawn Meacham, a Notary Public for said County and State, do hereby certify that Timothy P. Toben personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this 22<sup>nd</sup> day of February, 2002.



My commission expires: 04/26/2003

Shawn Meacham  
Notary Public



Joyce H. Pearson  
Register of Deeds  
Orange County  
North Carolina

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FILED  
25 FEB 2002, at 04:09:45pm  
Book 2520, Page 7 - 13  
Joyce H. Pearson  
Register of Deeds,  
Orange County, N. C.

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State of North Carolina, County of Orange

The foregoing certificate/s of Shawn Meacham, Notary/Notaries Public for the Designated Governmental units is/are certified to be correct. See filing certificate herein.

This day February 25, 2002

JOYCE H. PEARSON, REGISTER OF DEEDS By: *Hewitt Benadum*  
Deputy/Assistant Register of Deeds

EXHIBIT A

Property of Toben Properties, LLC:

TRACT ONE: Being all of that 51.31 acre tract shown as Lot A by plat of survey of record at Plat Book 89 Page 195, Orange County Registry.

PIN: 9850 - 40 - 3682                      TMN: 6 . 21 . .6D

TRACT TWO: Being all of that 18.95 acre tract shown as Lot B by plat of survey of record at Plat Book 89 Page 195, Orange County Registry.

PIN: 9850 - 31 - 4705                      TMN: 6 . 21 . .6E

TRACT THREE: Being all of that 10.76 acre tract shown as Lot 1 by plat of survey of record at Plat Book 89 Page 195, Orange County Registry.

PIN: 9850 - 40 - 1040                      TMN: 6 . 21 . .6

TRACT FOUR: Being all of that 11.31 acre tract shown as Lot 2 by plat of survey of record at Plat Book 89 Page 195, Orange County Registry.

PIN: 9850 - 30 - 5763                      TMN: 6 . 21 . .6A

TRACT FIVE: Being all of that 12.04 acre tract shown as Lot 3 by plat of survey of record at Plat Book 89 Page 195, Orange County Registry.

PIN: 9850 - 20 - 9723                      TMN: 6 . 21 . .6B

TRACT SIX: Being all of that 10.41 acre tract shown as Lot 4 by plat of survey of record at Plat Book 89 Page 195, Orange County Registry.

PIN: 9850 - 21 - 8552                      TMN: 6 . 21 . .6C

Property of Timothy P. Toben:

TRACT ONE: Being all of that 39.70 acre tract shown as TRACT ONE by plat of survey of record at Plat Book 83 Page 156, Orange County Registry.

PIN: 9850-67-8850                      TMN: 6. 20. .4



TRACT TWO: Being all of that 231.41 acre tract shown as TRACT TWO by plats of survey of record at Plat Book 83 Pages 156 and 157, Orange County Registry. Rosa + Except: Property at DB 2109/596 + Property at DB 2109/598  
TMN: 6. 20. .9

TRACT THREE: Being all of that 32.51 acre tract shown as TRACT THREE by plat of survey of record at Plat Book 83 Page 157, Orange County Registry.  
PIN: 9850-33-3137 TMN: 6. 20. .10

TRACT FOUR: Being all of that 48.00 acre tract described in that Deed of record at Book 2088 Page 58, Orange County Registry.  
PIN: 9850-42-3300 TMN: 6. 21. .38

TRACT FIVE: Being all of that 26.50 acre tract of real estate shown by plat of survey entitled, "PROPERTY OF EVA H. HICKS," of record at Plat Book 85 Page 27, Orange County Registry.  
PIN: 9850-22-1765 TMN: 6. 21. .3