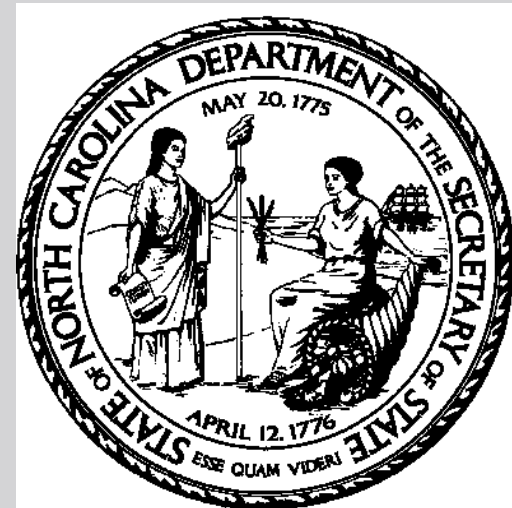


What the Court of Appeals and the Supreme Court of North Carolina have said on How to Interpret a Deed

Thomas W Morgan, (Presenter)
Land Records Manager for
North Carolina Secretary of State
The Honorable Elaine Marshall, Secretary



Contact information: tmorgan@sosnc.gov, 919-814-5400

Purpose

- This presentation is to illustrate why and how evidence and principles should be used in the interpretation of a deed description.
- Remember we as mappers or surveyors may use our judgment to interpret a deed description but until it is ruled on by a court of law it is just an interpretation.

Disclaimer

- The following are quotes taken from court cases. You should read the court case to determine if the quote applies to your unique circumstance.
- If you need a legal opinion contact an attorney. Only a licensed North Carolina attorney can give legal advice about North Carolina law.
- Thomas W. Morgan is not an attorney and this document is not to be considered a legal opinion or legal advice.

The Instrument of Title

- An Instrument affecting real property must be in writing.
- The holder in legal or equitable title:
 - Can transfer all or part of the property, (§ 22-2)
 - Can transfer some rights, (§ 39-6.4)
 - Can restrict or modify use. (§ 22-2)
- Registration of an instrument pursuant to NC GS Section 47 is not effective with regard to parties who have not executed the instrument or whose execution thereof has not been duly proved or acknowledged (§47-14(d))
- The instrument must be registered in the Register of Deeds office in the county where the property is located to be valid to pass any property interest as against lien creditors or purchasers for a valuable consideration from the donor, bargainer or lesser. (§47-18(a))

The mission of the courts

- The mission of the courts is to enforce the contract embodied in the instrument, and the first step in giving effect to the ambiguous agreement is to ascertain under established rules of evidence what the minds of grantor and grantee assented to at the time. 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 upon by the parties.

Higdon v. Rice, 119 N.C. 623, 625, 26 S.E. 256, 257, 1896 N.C. LEXIS 354, *3 (N.C. 1896)

Real property must have an owner

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

[Dupree v. Dupree, 45 N.C. 164 \(1853\).](#)

The full title chain is constructive notice.

- It has long been recognized that "[a] purchaser . . . has constructive notice of all duly recorded documents that a proper examination of the title should reveal."
- [Stegall v. Robinson, 81 N.C. App. 617, 619, 344 S.E.2d 803, 804, disc. review denied, 317 N.C. 714, 347 S.E.2d 456 \(1986\).](#)

A Reference to an unrecorded document may constitute notice.

- If the facts disclosed in an instrument appearing in a purchaser's chain of title would naturally lead an honest and prudent person to make inquiry concerning the rights of others, those facts constitute notice of everything which such inquiry, pursued in good faith and with reasonable diligence, would disclose

[North Carolina State Highway Com. v. Wortman, 4 N.C. App. 546, 550, 167 S.E.2d 462, 465, 1969 N.C. App. LEXIS 1548, *1 \(N.C. Ct. App. 1969\)](#)

Matter of law and a question of fact

- What are the boundaries of a grant or deed is a matter of law; but where they are is a question of fact.
- The court must determine the former question, and it is for the jury to ascertain the latter.
- [*Yadkin Lumber Co. v. Bernhardt*, Supreme Court of North Carolina, May 28, 1913, Filed](#)
- [*Carney v. Edwards* Supreme Court of North Carolina December 13, 1961 No 462](#)

Patent Ambiguity addresses Matters of Law

- The most specific and precise descriptions require some proof to complete the identification of the property. More general descriptions require more. The only requisite in evaluating the written contract, as to the certainty of the thing described, is that there be no patent ambiguity in the description. There is a patent ambiguity when the terms of the writing leaves the subject of the contract, the land, in a state of absolute uncertainty, and refer to nothing extrinsic by which it might possibly be identified with certainty. When the language is patently ambiguous parol evidence is not admissible to aid the description.

[Lane v. Coe, 262 N.C. 8, 10, 136 S.E.2d 269, 271, 1964 N.C. LEXIS 608, *1 \(N.C. 1964\)](#)

Latent Ambiguity addresses the Question of Fact

- A patent ambiguity raises a question of construction. A latent ambiguity raises a question of identity. If the ambiguity is latent, evidence dehors (*Foreign to*) the contract is both competent and necessary. A description is said to be latently ambiguous if it is insufficient in itself to identify the property but refers to something extrinsic by which identification might possibly be made. In such case plaintiff may offer evidence, parol and other, with reference to such extrinsic matter tending to identify the property, and defendant may offer such evidence with reference thereto tending to show impossibility of identification, i.e., ambiguity.

[Lane v. Coe, 262 N.C. 8, 10, 136 S.E.2d 269, 271, 1964](#)

Ascertain the Intent

- The first and fundamental rule to apply in construing deeds is to ascertain the intent of the parties. We said in *Franklin v. Faulkner*, 248 N.C. 656, 104 S.E. 2d 841: ". . . when ascertained, that intent becomes the deed, will, or contract." “
- [*Carney v. Edwards, Supreme Court of North Carolina December 13, 1961 No 462*](#)

Interpretation of the deed

- a court will look to the circumstances attending the transaction, the situation of the parties, and the state of the thing granted, to ascertain the intention of the parties. In cases of doubt, the grant must be taken most strongly against the grantor.
- [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. 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 of the provisions of the instrument.

Deed is Clear and Unambiguous

- The intention of the parties as apparent in a deed should generally control in determining the property conveyed thereby; but, if the intent is not apparent from the deed, resort may be had to the general rules of construction. For conveyances executed after 1 January 1968, the courts will, under N.C. Gen. Stat. § 39-1.1, consider equally all clauses in a deed when ascertaining the intent of the parties.

Mason-Reel v. Simpson, 100 N.C. App. 651, 651, 397 S.E.2d 755, 755, 1990 N.C. App. (N.C. Ct. App. 1990)

The intent of a deed is to be gathered from the whole deed (know 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. LEXIS 292 \(N.C. 1914\), and NC GS 39-1.1](#)

Look to the language of the deed for evidence of this intent.

- In construing the deed, although "discerning the intent of the parties is the ultimate goal in construing a deed," we look to the language of the deed for evidence of this intent.
- *Station Assoc., Inc. v. Dare County, 350 N.C. 367, 373, 513 S.E.2d 789, 794 (1999)*

When the language in a deed is Clear and Unambiguous.

- Where the true dividing line between adjoining owners of land is in dispute in locating the *locus in quo*, and the call therefore in the **deeds is clear and unambiguous**, it only leaves for the determination of the jury, upon the evidence, the location of the line according to the boundary given in the instrument.

[Woodard v. Harrell, 191 N.C. 194, 195, 132 S.E. 12, 12, 1926 N.C.](#)

The effect of a deed is based on the terms within said deed

- 'The language of the deed being clear and unequivocal, it must be given effect according to its terms, and we may not speculate that the grantor intended otherwise. ...
- [County of Moore v. Humane Soc'y of Moore County, Inc., 157 N.C. App. 293](#)

Meaning to be given to terms

- When terms with special meanings or terms of art appear in an instrument, they are to be given their technical meaning; whereas, ordinary terms are to be given their meaning in ordinary speech.
- [County of Moore v. Humane Soc’y of Moore County, Inc., 157 N.C. App. 293](#)

A Referenced Map Becomes part of the Description

- when a deed refers to such a map for a more particular description of the premises, the map becomes a part of the instrument and will aid the description therein

[Jones v. Arehart, 125 N.C. App. 89, 92, 479 S.E.2d 254, 255, 1997 N.C. App.](#)

A Certified copy may be introduced into evidence.

- N.C. Gen. Stat. § 8-18 (1986) allows a certified copy of a registered map to be introduced into evidence unless it is shown by affidavit that there is some material variance from the original map in the registry.

Jones v. Arehart, 125 N.C. App. 89, 93, 479 S.E.2d 254, 255, 1997 N.C. App.

Area claimed must fit within area described 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. LEXIS 2339](#)

The entire intention in 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. LEXIS 154 \(N.C. 1915\)](#)

Statement of Intent

- Following the statement that intent, when ascertained, controls, we said: "It is equally well settled that a general description will not enlarge a specific description when the latter is in fact sufficient to identify the land which it purports to convey.
- Only when the attempted specific description is ambiguous and uncertain will the general prevail.
- *Carney v. Edwards, Supreme Court of North Carolina December 13, 1961 No 462*

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. LEXIS 154 \(N.C. 1915\)](#)

The plaintiff has the burden of proof

- The burden to identify the property referred to in a deed is on the party seeking to enforce the deed. The description, when considered in light of the evidence presented must be fitted to the land and the land fully identified by competent evidence.
- [Mason v. Crescent State Bank \(In re Deuce Invs.\), 2011 Bankr. LEXIS 4627](#)

The plaintiff must rely upon the strength of his own title

- [t]he plaintiff must rely upon the strength of his own title, and not upon the weakness of his adversary's. To recover in such action the plaintiff must show title good against the world, or good against the defendant by estoppel. It makes no difference whether the defendant has title or not, the only inquiry being whether the plaintiff has it.

[Davis v. Federal Land Bank, 219 N.C. 248, 249, 13 S.E.2d 417, 418, 1941 N.C.](#)

A deed is void when the description can't 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. N.C. Gen. Stat. § 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 (from another source) to make the description complete is to be sought. (clarification added)

*Baldwin v. Hinton, 243 N.C. 113, 117, 90 S.E.2d 316, 319, 1955 N.C. LEXIS 557, *8 (N.C. 1955)*

The description may refer to something extrinsic

- A deed purporting to convey an interest in land is void unless it contains a description of the land sufficient to identify it or refers to something extrinsic by which the land may be identified with certainty."
- [Overton v. Boyce, 289 N.C. 291, 293, 221 S.E.2d 347, 349 \(1976\).](#)

Map or Plat as Part of 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. Comm'n v Wortman, 4 N.C. 546, 167 S.E.2d 462 (1969)

Ancient Documents Rule

- The Ancient Documents Rule dispenses with the necessity of authenticating certain old papers in the usual way; but whether any particular old paper is receivable as substantive or illustrative evidence depends upon the document's nature, not its age. *See 2 Brandis, N.C. Evidence § 196 (2d ed. 1982).*
- [Lackey v. Tripp, 63 N.C, App. 765](#)

Substantive Evidence

- Maps are divided into two classes, public and private. Public maps, such as official maps of cities, etc., may be exhibited as substantive evidence, it seems, but private maps and diagrams cannot be exhibited as substantive evidence, though they may be admitted and shown to the jury to elucidate (**illustrate**) and explain the testimony of witnesses,

(Note: the word (illustrate) added)

[McKay v. Bullard, 219 N.C. 589, 593, 14 S.E.2d 657, 660, 1941 N.C. LEXIS 107, *8 \(N.C. 1941\)](#)

Illustrative Evidence

- Private maps are admissible only as **illustrative evidence**

[Lackey v. Tripp, 63 N.C. App. 765, 768, 306 S.E.2d 464, 466, 1983 N.C. App., \(N.C. Ct. App. 1983\)](#)

Substantive Evidence v. Illustrative Evidence.

- Private maps are admissible only as illustrative evidence. *Searcy v. Logan*, 226 N.C. 562, 39 S.E. 2d 593 (1946). Official maps, and private maps that have been recorded, G.S. 1-38, may be substantive evidence. (*Maps recorded under 47-30 are also included as substantive evidence.*) (Clarification Added)
- *Lackey v. Tripp*, 63 N.C, App. 765

Note: about Illustrative evidence

- To be admissible, maps, surveys and the like must be authenticated and verified as accurate and true by a qualified witness. In North Carolina, such exhibits are admissible for illustrative, not substantive purposes. However, there is no reversible error where maps and surveys are admitted for substantive purposes absent a timely request for limiting instructions made by the objecting party.

[Zagaroli v. Pollock, 94 N.C. App. 46, 49, 379 S.E.2d 653, 654, 1989 N.C. App. LEXIS 429, *1 \(N.C. Ct. App. 1989\)](#)

§ 8-39. Parol evidence to identify land described.

- In all actions for the possession of or title to any real estate, parol testimony may be introduced to identify the land sued for, and fit it to the description contained in the paper-writing offered as evidence of title or of the right of possession, and if from this evidence the jury is satisfied that the land in question is the identical land intended to be conveyed by the parties to such paper-writing, then such paper-writing shall be deemed and taken to be sufficient in law to pass such title to or interest in such land as it purports to pass: Provided, that such paper-writing is in all other respects sufficient to pass such title or interest.

§ 39-2. Vagueness of description not to invalidate.

- No deed or other writing purporting to convey land or an interest in land shall be declared void for vagueness in the description of the thing intended to be granted by reason of the use of the word "adjoining" instead of the words "bounded by," or for the reason that the boundaries given do not go entirely around the land described: Provided, it can be made to appear to the satisfaction of the jury that the grantor owned at the time of the execution of such deed or paper-writing no other land which at all corresponded to the description contained in such deed or paper-writing.

The Footsteps of the Surveyor

- *Chief Justice Marshall* is quoted as having said that "The most material and most certain call shall control those which are less material and less certain." In this case it is laid down as a prime rule that the "Footsteps of the surveyor must be followed, and the above rules are found to afford the best and most unerring guides to enable one to do so.
- ((1) natural objects, (2) artificial marks, (3) course and distance)

[W. M. Ritter Lumber Co. v. Montvale Lumber Co., 169 N.C. 80, 103-104, 85 S.E. 438, 451, 1915 N.C. LEXIS 154, \(N.C. 1915\)](#)

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. LEXIS 16, 3 Mur. 82 \(N.C. 1819\)](#)

All deed evidence is to be considered

- All the descriptive matter set out in a deed, where pertinent, is to be considered in the attempt to identify the land to be conveyed, both in its content and extent; but we must observe other more specific rules, respecting the comparative weight and value of the descriptive elements in the conveyance –
- [Tice v. Winchester, 225 N.C. 673, 36 S.E.2d 257, 1945 N.C. LEXIS 406 \(N.C. 1945\)](#)

Boundary Monuments v. Measurements

- This rule, in respect to questions of boundary, presupposes that the description which is to control, and be put in the place of course and distance, has of itself sufficient certainty to locate the land, supposing the course and distance which it controls and contradicts to be stricken out of the grant.
- [Addington v. Jones, 52 N.C. 582, 1860](#)

A Call to the natural object Controls

- Where a deed gives course and distance to a natural object, the call for the natural object is less apt to be incorrect and will for that reason prevail over course and distance.
- [Carney v. Edwards, 256 N.C. 20; 122 S.E.2d 786; 1961 N.C.](#)

A call to an Adjoining Boundary Line is treated as a call to a Natural Monument.

- This principle is applicable to descriptions calling for the line of another tract when that line is known and established.
- a call to a line of an adjacent tract is a call to a natural object within the purport of the rule when such line is known and established. This does not apply if the adjoining line is junior.
- [Carney v. Edwards, 256 N.C. 20; 122 S.E.2d 786; 1961 N.C.](#)

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.](#)

Does the destruction on a corner destroy the title it monuments?

- The iron pipe called for has been removed. Does this fact destroy the title acquired, or is the owner at liberty to show where in fact the pipes were located?
- The answer would seem to be plain. *It is* permissible to show where the lines were located when the deed was made.
- [Carney v. Edwards, 256 N.C. 20; 122 S.E.2d 786; 1961 N.C.](#)

Location information may be used from a source other the granting deed.

- Where the iron stake marking a corner has been removed subsequent to the execution of the deed, and such corner, if located in accordance with courses and distances, would patently include land not owned by grantor, the missing corner may be established *aliunde* (*from another source*).
- [Carney v. Edwards, 256 N.C. 20; 122 S.E.2d 786; 1961 N.C.](#)

Proof from Another Source

- The description by parol testimony of disinterested witnesses as to the location of the line and at the time the deed was executed, including testimony as to the location of the corner in a contemporaneous survey even though the survey is not referred to in the deed, and when the description in the deed can thus be made certain, it is controlling.
- [Carney v. Edwards, 256 N.C. 20; 122 S.E.2d 786; 1961 N.C.](#)

Parol agreement cannot change the location of locatable boundary

- If the calls of a deed are sufficiently definite to be located by extrinsic evidence, the location cannot be changed by parol agreement, unless the agreement was contemporaneous with the making of the deed.
- [*Andrews v. Andrews, 252 N.C. 97, Supreme Court of North Carolina, March 2, 1960*](#)

Hierarchy of Deed Elements when Resolving Ambiguities

- In the order here given, these elements of description in a deed are usually considered as controlling over those which experience has shown to afford less certainty: calls for a natural object or a point in itself unambiguous, course, distance, quantity.
- [Tice v. Winchester, 225 N.C. 673, 36 S.E.2d 257, 1945 N.C. LEXIS 406 \(N.C. 1945\)](#)

Natural Monuments Control over Artificial Monuments

- An artificial monument, such as a stake, usually is not considered as of so much dignity and certainty as a reference to natural objects or to objects more or less permanent in their nature, such as permanent structures on land.
- [Tice v. Winchester, 225 N.C. 673, 36 S.E.2d 257, 1945 N.C. LEXIS 406 \(N.C. 1945\)](#)

Natural Monuments Control over course and distance.

- That whenever a natural boundary is called for in a patent or deed, the line is to terminate at it, however wide of the course called for, it may be: or however short or beyond the distance specified.
- [Cherry v. Slade's Adm'r, 7 N.C. 82, 1819 N.C. LEXIS 16, 3 Mur. 82 \(N.C. 1819\)](#)

Reporting a measurement made with greater precision than the historical boundary.

- When such point has been established, it cannot be shifted backward or forward in the line by any call for course or distance; but the actual distance between it and the next corner shall be taken regardless of whether the distance called for is over or short of that point.

[Tice v. Winchester, 225 N.C. 673, 678, 36 S.E.2d 257, 260, 1945](#)

Metes (courses) v. Bounds (boundaries)

- If monuments are inconsistent with the calls for other monuments, and it is apparent from all the other particulars in the deed that they were inadvertently inserted, they will be rejected. Other things being equal, boundaries prevail over courses.
- [W. M. Ritter Lumber Co. v. Montvale Lumber Co., 169 N.C. 80, 85 S.E. 438, 1915 N.C. LEXIS 154 \(N.C. 1915\)](#)

Deeds and Conveyances -- Natural Objects -- Course and Distance.

- Where there is a call for natural objects, and course and distance are also given, the former are the boundaries, and the latter merely guides to them; and in applying the principles, where the line of another tract is called for and the same is identified, fixed, and established, such line is considered as a natural object.
- [Yadkin Lumber Co. v. Bernhardt, 162 N.C. 460; 78 S.E. 485; 1913 N.C.](#)

Course and distance may be used to identify the proper monument.

- Where there are several natural objects equally answering the description, course and distance may be examined to ascertain which is the true object; for in such case they do not control a natural boundary, but only serve to explain a latent ambiguity.
- [Yadkin Lumber Co. v. Bernhardt, 162 N.C. 460; 78 S.E. 485; 1913 N.C.](#)

Marked or unmarked lines

- If a line in a survey is properly fixed and established pursuant to recognized rules it makes no difference whether it was marked or unmarked.
- *Yadkin Lumber Co. v. Bernhardt*, 162 N.C. 460; 78 S.E. 485; 1913 N.C.

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

- [T]he 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. LEXIS 3419, *5-6 \(N.C. Ct. App. 1984\)](#)

A Referenced Adjoining Boundary is Treated as a Monument

- When the lines or courses of an adjoining tract are called for in a deed or patent, the lines shall be extended to them, without regard to distance: Provided those lines and courses be sufficiently established, and no other departure be permitted from the words of the patent or deed, than such as necessity enforces, or a true construction renders necessary.
- [Cherry v. Slade's Adm'r, 7 N.C. 82, 1819 N.C. LEXIS 16, 3 Mur. 82 \(N.C. 1819\)](#)

A Record Monument may yield to a Senior Boundary Line.

- When a marked tree in the line of another tract is called for, and the marked tree is identified, but is not in the line of the other tract, that the tree will be held the true corner, and the mis-description of it, as being in such other line, will be disregarded.
- [W. M. Ritter Lumber Co. v. Montvale Lumber Co., 169 N.C. 80, 85 S.E. 438, 1915 N.C. LEXIS 154 \(N.C. 1915\)](#)

Junior Grants may control if referenced to a survey made prior to the Senior Grant

- While the description in a junior grant may not be evidence of the location of lines and boundaries of a senior grant, the rule does not apply when the survey to establish the line in dispute was made prior to the date of the senior grant.
- [W. M. Ritter Lumber Co. v. Montvale Lumber Co., 169 N.C. 80, 85 S.E. 438, 1915 N.C. LEXIS 154 \(N.C. 1915\)](#)

A Call to a known line of another tract is equal strength to calling for a natural boundary

- The design of all rules for locating boundaries is to ascertain the location originally made; and, calling for another well known line of another tract, denotes the intention of the party with equal strength to calling for a natural boundary, so long as that line can be proved.
- [W. M. Ritter Lumber Co. v. Montvale Lumber Co., 169 N.C. 80, 85 S.E. 438, 1915 N.C. LEXIS 154 \(N.C. 1915\)](#)

A Record Monument Controls even if called by the Wrong Name.

- A natural boundary, such as a water course, is designated from other water courses by its name, or by its situation, or by names, the other descriptions must be very strong: but if they be sufficiently so, the name must give away, and be accounted for from the misapprehension or mistake of the parties.
- [Cherry v. Slade's Adm'r, 7 N.C. 82, 1819 N.C. LEXIS 16, 3 Mur. 82 \(N.C. 1819\)](#)

A Stake is not a monument

- The *terminus* of a line must be either the distance called for in the deed, or some permanent monument, which will endure for years; the erection of which was contemporaneous with the execution of the deed. A stake is not such a monument, and evidence of its erection when the land was surveyed is not admissible, to control the course and distance.

Den ex dem. Reed v. Shenck, 14 N.C. 65, 73, 1831
N.C. (N.C. 1831)

More on the term “Stake”

- But stakes, without more, for the marking of a line or making a corner, are, as stated in the opinion here under challenge, too lacking in stability and fixedness as to serve as monuments for those purposes.

[Brown v. Hodges, 233 N.C. 617, 622, 65 S.E.2d 144, 147, 1951 N.C. LEXIS 367, *12 \(N.C. 1951\)](#)

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 Wall is a call to a Monument

- 'Where the calls are inconsistent, the general rule is that calls to natural objects control courses and distances. A call to a wall, or to another's line, if known or established, is a call to a monument within the meaning of this rule, as is a call to a highway

[Stephens v. Dortch, 147 N.C. App. 429, 437, 2001 N.C.](#)

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--to the middle, or thread, of the stream.*"
- *Rowe v. Lumber Co., 128 N.C. 301, 38 S.E. 896, and 133 N.C. 433.*

A call to a Navigable Body of Water

- [t]he 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 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](#)

A call to a ditch is a call to the center of the ditch.

- It is generally accepted that where a line is run to a stream or to "a stake on a stream" and thence with the stream, the intention is to extend the line to the middle of the stream as the true boundary, unless by the language employed the contrary appears. 8 Am. Jur., p. 764, Sec. 27. There is no reason why this should not apply to a ditch, although this is a rather indefinite term.

[White v. Woodard, 227 N.C. 332, 333, 42 S.E.2d 94, 95, 1947 N.C. LEXIS 411, *3 \(N.C. 1947\)](#)

When no Physical Evidence Exists Bearings and Distances may be used.

- Where there are no natural boundaries called for, no marked trees or corners to be found, nor the places where they once stood ascertained and identified by evidence; or where no lines or courses of an adjacent tract are called for; in all such cases, we are of necessity confined to the courses and distances described in the patent or deed: for however fallacious such guides may be, there are none other left for the location.
- [Cherry v. Slade's Adm'r, 7 N.C. 82, 1819 N.C. LEXIS 16, 3 Mur. 82 \(N.C. 1819\)](#)

The terminus of a Line

- In questions of boundary that course and distance govern unless there be in the deed some more certain description by which one or both may be controlled, the terminus of a line must be either the distance called for in the deed, or some permanent monument which will endure for years, the erection of which was contemporaneous with the execution of the deed.

*Brown v. Hodges, 232 N.C. 537, 541, 61 S.E.2d 603, 606-607, 1950 N.C. LEXIS 577, *10-11 (N.C. 1950)*

Boundary should be determined by following the sequence in the deed but the direction may be reversed if:

- The location of the boundaries of a parcel of land should be determined by following the directions and in the sequence given in the deed. However, if a particular corner is unknown and cannot be determined by adhering to the directions in the sequence specified, it is permissible to go to a subsequent known or established corner and by reversing the direction fix the location of the unknown corner. *Id.* Ordinarily a corner is unknown when a monument is missing or disputed, and its description fails to give a course and distance from an established corner.

[Jones v. Arehart, 125 N.C. App. 89, 93, 479 S.E.2d 254, 256, 1997 N.C. App.](#)

What if the Beginning corner has been Destroyed.

- If the beginning corner has been destroyed, as in this case, it is competent, in order to ascertain the true boundary, to survey the land by beginning at any known corner or point from which the boundaries may be located,

[Cowles v. Reavis, 109 N.C. 417, 422, 13 S.E. 930, 931, 1891 N.C. LEXIS 237, *8 \(N.C. 1891\)](#)

Boundary line agreement (uncertain location)

- Where a division line between tracts of land is well ascertained, and can be located by the plain and unambiguous calls of the deed, the acts and admissions of the parties claiming the respective tracts are not competent evidence, either to change the line or to estop the party from setting up the true line. But where the dividing line is in dispute, and is unfixed and uncertain, the acts and admissions of the adjoining proprietors recognizing a certain line as the proper division line is evidence competent to be submitted to the jury.
- [*Andrews v. Andrews, 252 N.C. 97, Supreme Court of North Carolina, March 2, 1960*](#)

Boundary line agreement (when location ascertainable)

- Coterminous landowners cannot conclusively establish as a boundary between their lands a line which they know not to be the true one, except by an agreement in writing based on a proper consideration and containing words of conveyance.
- [*Andrews v. Andrews, 252 N.C. 97, Supreme Court of North Carolina, March 2, 1960*](#)

Tax Parcel Identification Number (PIN) used as a description

- ("In the interpretation of the provisions of a deed, the intention of the grantor must be gathered from the whole instrument and every part thereof given effect, unless it contains conflicting provisions which are irreconcilable, or a provision which is contrary to public policy or runs counter to some rule of law." (quotation omitted)).

[GMAC Mortg., LLC v. Miller, 2011 N.C. App. LEXIS 2250, *10, 216 N.C. App. 416, 716 S.E.2d 876, 2011 WL 4920645 \(N.C. Ct. App. 2011\)](#)

Tax Parcel Identification Number (PIN) used as a description

- “[a] deed purporting to convey an interest in land is void unless it contains a description of the land sufficient to identify it or **refers to something extrinsic by which the land may be identified with certainty.**”
- *Overton v. Boyce, 289 N.C. 291, 293, 221 S.E.2d 347, 349 (1976)*

The court has held that a PIN may be a valid description if extrinsic evidence can identify the tract.

- First, the tax parcel number 595800013803 is a reference to a Surry County tax map which cites to a Plat that is recorded at the Surry County Register of Deeds at Plat Book 5, Page 41. The recorded Plat contains a survey for Tract I

[GMAC Mortg., LLC v. Miller, 2011 N.C. App. LEXIS 2250, *11, 216 N.C. App. 416, 716 S.E.2d 876, 2011 WL 4920645 \(N.C. Ct. App. 2011\)](#)

Note: The PIN Number is the Official Index for Orange County, North Carolina

- However § 161-22.2. Parcel identifier number indexes states:
... [F]or each instrument filed of record, the entry in a land parcel identifier number index must contain the following information:
 - (1) The parcel identifier number of the parcel or parcels affected;
 - (2) A brief description of the parcel or parcels, including subdivision block and lot number, if any;
 - (3) A description of the type of instrument recorded and the date the instrument was filed;
 - (4) The names of the parties to the instrument to the same extent as required by G.S. 161-22 and the legal status of the parties indexed;
 - (5) The book and page number, or film reel and frame number, or other file number where the instrument is recorded.

§ 102-6. Legality of use in descriptions (coordinates)

- For the purpose of describing the location of any survey station or land boundary corner in the State of North Carolina, it shall be considered a complete, legal, and satisfactory description to define the location of such point or points by means of coordinates of the North Carolina Coordinate System ...

§ 102-7. Use not compulsory. (coordinates)

- Nothing contained in this Chapter shall be interpreted as requiring any purchaser or mortgagee to rely wholly on a description based upon the North Carolina Coordinate System.

Notes:

I found no case law on the use of coordinates as a identifier of a property corner (excluding NC grid coordinates) that would define a position in the hierarchy for resolving ambiguities. I would place grid coordinates are in the same general category as other measurements i.e. subject to mistakes. You must determine which came first coordinates or bearings and distance to rank the hierarchy.