



AGENDA
Regular Board of Adjustment Meeting
January 12, 2021 - 6:30 PM
Arts & Cultural Center (109 S. Old Statesville Road)

Meeting Information- *This meeting will be held in public at the Huntersville Recreation Center (11836Verhoeff Dr, Huntersville, NC 28078) and will not be streamed online. Due to the current COVID-19pandemic, social distancing and face masks will be required. All who wish to attend will need to be screened prior to entering the center. Please arrive early, space will be limited to accommodate the recommended social distancing measures of being no less than 6 feet apart. The Board, attorneys, staff and essential witnesses will receive priority and members of the public will be allowed to the extent we can adhere to social distancing guidelines. In the event that the number present exceeds the maximum capacity permitted under these guidelines, please be prepared to wait outside and for members of the public to be rotated out to provide all who intend to speak the opportunity.*

1. Roll Call, Determination of Quorum

2. Approval of Minutes

2.A. Consider approval of the November 10, 2020 Meeting Minutes

3. Hearing of Cases

3.A. DA 20-01 15710 Pine Street (Receiving) & 16401 Terry Lane (Giving)

4. Other Business

4.A. Discussion of the Rules of Procedure updates including alignment to meet Statute 160D

5. Adjourn



MINUTES OF THE MEETING
Regular Board of Adjustment Meeting
November 10, 2020 - 6:30 PM
Recreation Center (11836 Verhoeff Drive)

Meeting Information- *This meeting will be held in public at the Huntersville Recreation Center (11836 Verhoeff Dr, Huntersville, NC 28078) and will not be streamed online. Due to the current COVID-19 pandemic, social distancing and face masks will be required. All who wish to attend will need to be screened prior to entering the center. Please arrive early, space will be limited to accommodate the recommended social distancing measures of being no less than 6 feet apart. The Board, attorneys, staff and essential witnesses will receive priority and members of the public will be allowed to the extent we can adhere to social distancing guidelines. In the event that the number present exceeds the maximum capacity permitted under these guidelines, please be prepared to wait outside and for members of the public to be rotated out to provide all who intend to speak the opportunity.*

1. Roll Call, Determination of Quorum

Quorum was determined, and Chairman Cecil called the meeting to order.

Regular Members in attendance: E. Cecil, Chairman, W. Smith, S. Genenbacher

Alternate Members present: J. Bradshaw, J. Loucks and P. Jacobson who were all called upon to serve as Regular Members.

Regular Members absent: B. Welch, T. Primiano, J. Kluttz, and D. Brewer

2. Approval of Minutes

2.A. Consider recommendation to approve the October 13, 2020 Meeting Minutes

J. Bradshaw made a Motion to Approve the October 13, 2020 Regular Meeting Minutes, and J. Loucks seconded the Motion. The vote carried unanimously (6-0).

3. Hearing of Cases

3.A. V20-06 15710 PINE ST HUNTERSVILLE NC 28078

The applicant is requesting a major variance from Article 3.3.3-A, Section E (Built-Up Area Development Standards). The request is for a variance to increase the impervious maximum built upon limit for the subject property by 1,190 square feet.

Lauren Speight, Planner 1 provided the Board with an update that the applicant has received a response to their request from a nearby property owner willing to complete an impervious transfer. Staff has determined that the property will likely qualify but a survey will be required.

The applicant did not receive the correspondence within an appropriate amount of time to complete the necessary survey to continue with the hearing. Therefore, the applicant has expressed a desire to continue the hearing.

The applicant, Laurie Martin was present and confirmed that she would like to request a continuation with the goal of resolving this issue through acquiring additional impervious rights.

J. Bradshaw made a Motion to Continue the item to the December 8, 2020 meeting. J. Loucks seconded the motion. The motion carried unanimously (6-0).

4. Other Business

4.A. Consider amendment to Rules of Procedure

The rules of procedure updates were presented for review by the Board. Per the rules of procedure, no vote is taken until the following regularly scheduled meeting.

4.B. Board of Adjustments 2021 Meeting Schedule

The 2021 meeting schedule was reviewed by the Board. J. Loucks made a Motion to Approve the schedule. P. Jacobson seconded the motion. The motion carried unanimously (6-0).

5. Adjourn

J. Loucks made a Motion to Adjourn. P. Jacobson seconded the motion. The motion passed unanimously (6-0).

**Town of Huntersville
Board of Adjustment
January 12, 2021**

To: Town Board

From: Lauren Speight, Planner 1

Date: January 12, 2021

Subject: DA 20-01 15710 Pine Street (Receiving) & 16401 Terry Lane (Giving)

EXPLAIN REQUEST:

The applicants, Laurie R. Martin, Mitchell W. Spahn, and Sheryl M. Spahn, are requesting a Density Averaging Certificate to allow 1,300 sq. ft. of impervious development rights to be transferred from 16401 Terry Lane to 15710 Pine Street.

ACTION RECOMMENDED:

Based on all of the findings included in the staff report, staff recommends approval of DA 20-01.

FINANCIAL IMPLICATIONS:

N/A

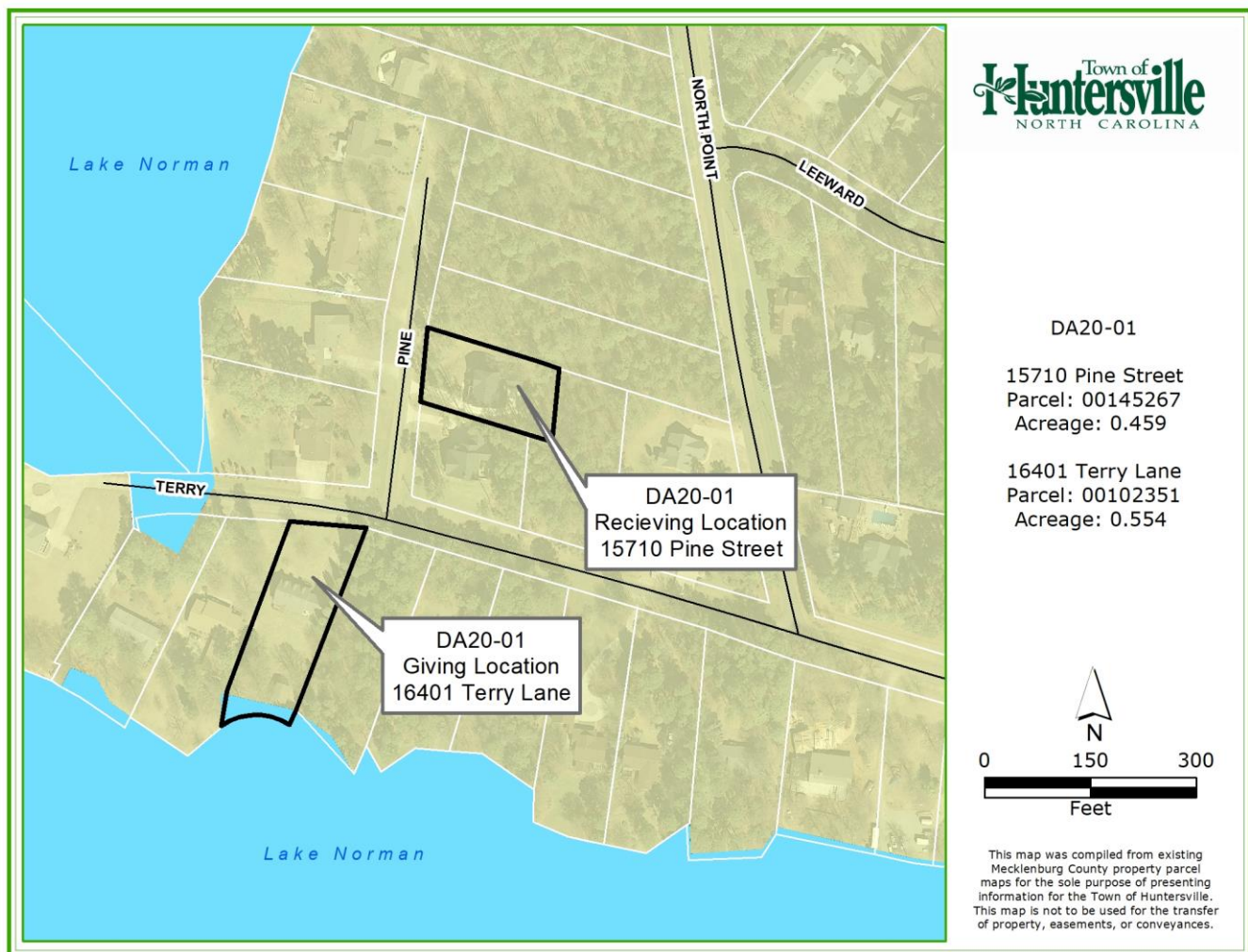
ATTACHMENTS:

None

DA 20-01 – 15710 Pine Street
15710 Pine Street (Receiving) & 16401 Terry Lane (Giving)

The applicants, Laurie R. Martin, Mitchell W. Spahn, and Sheryl M. Spahn, are requesting a Density Averaging Certificate to allow 1,300 sq. ft. of impervious development rights to be transferred from 16401 Terry Lane to 15710 Pine Street (see location map below and **Exhibit 5**). This action is possible via Article 3.3.3-A, i, (*Paired-Parcel Averaged-Density Development*) of the Huntersville Zoning Ordinance, which states:

The transfer of impervious development rights between two (2) parcels not within the boundaries of the same subdivision by way of designated undisturbed natural areas. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately.



BACKGROUND:

1. The receiving property, 15710 Pine Street is zoned General Residential (GR) and is located in the Lake Norman Watershed Critical Area (LN-CA). The giving property, 16401 Terry Lane, is also zoned General Residential (GR) and is also located in the Lake Norman Watershed Critical Area (LN-CA).
2. The lot at 15710 Pine Street (currently owned by Mitchell and Sheryl Spahn) has a total maximum allowable Built-Up Area (B.U. Area) of 4,800 sq. ft. The currently recorded map on Map Book 33, Page 287 was executed in 2000. While the map executed in 2000 does not include the maximum built upon area for the lot, the lot was a part of a subdivision subject to impervious area regulations per the Lake Norman Watershed. Currently, the lot has 5,979 sq. ft. of impervious coverage (Exhibit 4), which is not compliant, as it exceeds the permitted impervious amount by 1,179 sq. ft.
3. The lot located at 16401 Terry Lane (owned by Thomas Michael Almond) has a total maximum allowable Built-Up Area (B.U. Area) of 12,060 sq. ft. This is based upon the calculations of the survey included by the applicant (Exhibit 4). Currently, the lot has 6,763 sq. ft. of impervious coverage (Exhibit 4), which is compliant and currently has an additional 5,297 sq. ft. B.U. Area for future development.
4. The applicant proposes to transfer 1,300 sq. ft. of impervious rights from 16401 Terry Lane to 15710 Pine Street. This will give the property at 15710 Pine Street a total of 6,100 sq. ft. of B.U. Area (an excess of 121 sq. ft. for future development).
5. If granted, the Density Averaging Certificate would bring this property, 15710 Pine Street, into compliance with the Town of Huntersville Zoning Ordinance.

STAFF FINDINGS (ordinance standards are in italics)

In considering this Density Averaging request, the following *Paired-Parcel Averaged-Density Development* (Article 3.3.3-A,i) must be addressed with findings of fact:

- 1) *A density averaging certificate shall be considered one development request.*

Staff Finding:

The application has been processed as one development request.

- 2) *Overall impervious area/amount of the paired parcel averaged-density development, calculated by built-upon area, shall not exceed the impervious that would be allowed if the parcels were developed separately. The parcel pair shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. Parcel pairs may be located in the Critical Area and in the Protected Area. However, if one of the parcels is located in the Critical Area and one is located in the Protected Area, the Critical Area parcel shall not be developed beyond those impervious amounts allowed in the critical area provisions of the Huntersville Zoning Ordinance. A property in a more restricted watershed area shall not acquire impervious rights from a property in a less restricted area of the watershed. The purpose of this provision is to preserve open space in the more sensitive areas of the watershed.*

Staff Findings:

The lot at 15710 Pine Street is zoned General Residential (GR) and it is located in the Lake Norman Watershed Critical Area (LN-CA). The giving property, 16401 Terry Lane, is zoned General Residential (GR) and is also located in the Lake Norman Watershed Critical Area (LN-CA). The 1,300 sq. ft. proposed for 15710 Pine Street combined with the existing impervious area for both properties will not exceed the total impervious allowed for both parcels – which is 16,860 sq. ft.

- 3) *The paired parcels may include or be developed for residential or non-residential purposes.*

Staff Findings:

The paired-parcel lot at 15710 Pine Street is residential zoned and may be further developed for residential purposes. The lot at 16401 Terry Lane is residential zoned and may be further developed for residential purposes.

- 4) *Buffers shall at least meet the appropriate minimum Huntersville Zoning Ordinance water supply watershed protection requirements on both parcels in the parcel pair.*

Staff Findings:

There are no perennial streams that require buffers within or abutting either parcel.

- 5) *The portion of the parcel(s) which is not developed as part of the paired parcel, but that is being averaged in the land area being evaluated to meet the built-upon surface area, shall remain in an undisturbed vegetated or natural state. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for each individual lot if they were developed separately. It shall be noted on the plat that the Zoning Administrator shall reserve the right to make periodic inspections to ensure compliance.*

Staff Findings:

In order to comply with this requirement, a 1,300 sq. ft. metes and bounds description of an undisturbed vegetated buffer area will be reserved in perpetuity for the parcel at 16401 Terry Lane. This area will be recorded on a subdivision plat and property deeds at the Mecklenburg County Register of Deeds. This note does not currently appear on the included survey, but Town of Huntersville Staff will request the survey company to add a note to this effect before recordation of the map.

- 6) *A Density Averaging Certificate shall be obtained from the Watershed Review Board (Board of Adjustment) to ensure that both parcels considered together meet the standards of the ordinance and that potential owners have record of how the watershed regulations were applied to the parcel pair. Only the owner(s) of both of the paired parcels may submit the application for the Density Averaging Certificate. A site plan for both of the parcels must be submitted and approved as part of the Density Averaging Certificate. If such a certificate is granted, no change in the development proposal authorized for either parcel shall be made unless the certificate is amended. Upon issuance of such certificate, one copy will be forwarded to the North Carolina Division of Water Quality (DWQ). Included with the Density Averaging Certificate will be a site plan, registered plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.*

Staff Findings:

The owners of both paired-parcels submitted an application for a Density Averaging Certificate (**Exhibits 1-4**). The Board of Adjustment Hearing (acting as the Watershed Review Board) will be held on January 12, 2021 to determine whether a Density Averaging Certificate will be granted. If granted, the plats will be recorded with a copy of the Density Averaging Certificate, and revised deeds. The necessary parties will be notified, and given a copy of the recorded information.

- 7) *The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the public interest.*

Staff Findings:

The surveys provided demonstrate conformity to the intent and requirements of this Article and Section, and the proposed agreement does not adversely affect the public interest.

- 8) *The undisturbed land area shall be recorded in the deed for the parcel to which it applies. The Density Averaging Certificate shall be recorded in the deed for each of the parcels in the parcel-pair. Both the designated undisturbed land area and the certificate shall be noted on the subdivision plat that applies to each of the parcels.*

Staff Findings:

If the Density Averaging Certificate is granted, the applicant will prepare a revised deed and plat for both properties. Then the applicant is responsible for recording the Density Averaging Certificate for both properties with the appropriate deeds and plats.

- 9) *Storm water run-off from paired parcel averaged-density development which meets the low-density option development requirements shall be controlled by vegetative conveyances to the maximum extent practicable and shall be approved by Mecklenburg County Storm Water Services', Water Quality Program.*

Staff Findings:

On November 24, 2020, David Caldwell (Environmental Supervisor, Charlotte-Mecklenburg Storm Water Services, Water Quality Program) inspected the property at 15710 Pine St. in Huntersville. At the time of the inspection it was determined that storm water runoff was controlled by vegetative conveyances to the maximum extent practicable, as per item (9) in the Huntersville Density Averaging Ordinance. (**Exhibit 6**).

- 10) *Storm water runoff from paired-parcel averaged density development which meets the high-density option development requirements shall be controlled on the parcel(s) where the high-density development is occurring in accordance with the criteria specified in the Huntersville Water Quality Design Manual and the Huntersville Zoning Ordinance for high-density development.*

Staff Findings:

Both properties are in a low-density development area.

- 11) *No parcel for which a watershed variance has been granted, or would be required, may be included as part of a parcel pair.*

Staff Findings:

There have been no watershed variances granted for either parcel.

- 12) *Compliance with criteria 1-12 shall be evidence that the parcel pair is consistent with the orderly and planned distribution of development throughout the watershed.*

Staff Findings:

The applicant has complied with all applicable criteria for a Density Averaging Certificate.

STAFF CONCLUSIONS

Based on all of the above findings, staff recommends approval of a Density Averaging Certificate. Based upon finding of facts, staff concludes the criteria as outlined in Zoning Ordinance Article 3.3.3.A,i, (*Paired-Parcel Averaged-Density Development*) has been satisfied.

Exhibit 1 – Density Averaging Certificate Application

Exhibit 2 – Addendum to Density Averaging Certificate Application

Exhibit 3 – Summary of DocuSign for Density Averaging Certificate Application

Exhibit 4 – Survey of 15710 Pine Street and 16401 Terry Lane

Exhibit 5 – Vicinity Map of 15710 Pine Street and 16401 Terry Lane

Exhibit 6 – Inspection by Charlotte-Mecklenburg Storm Water Services, Water Quality Program

Exhibit 1 – Density Averaging Certificate Application



Density Averaging Certificate Application

INCOMPLETE SUBMISSIONS WILL NOT BE ACCEPTED. PLEASE CHECK ALL ITEMS CAREFULLY.

The terms "lot" and "parcel" are used interchangeably.

1. Description of Request

Briefly explain the nature of this request. If a separate sheet is necessary, please attach to this application.

I am requesting a Density Averaging Certificate for my former property at 15710 Pine Street, Huntersville, NC. My co-applicants are Mitchell W. Spahn and Sheryl M. Spahn, who are the new owners of this property. This is an amended Application for a Density Averaging Certificate. The original application was submitted on November 12, 2020 while I was the owner of this property, and this matter has been assigned file number DA 20-1. Please see the attached Addendum, which has more details in support of the Amended Application.

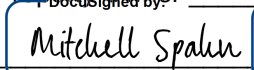
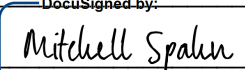
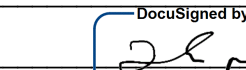
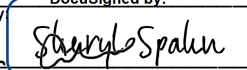
2. Receiving Parcel Information (Receiving parcel shall not be located in the Critical Area, CA)

* Printed Name Laurie R. Martin, Mitchell W. Spahn, and Sheryl M. Spahn Phone (704) 622-6555

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: Individual

Title: Owner Email shlauriem1@yahoo.com; mspahn@columbusobgyn.com; sspahn@columbusobgyn.com

Address of Property Owner 15710 Pine Street, Huntersville, NC 28078

Signature    

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Parcel Identification Number of Receiving Lot (PIN)	001-452-67
Zoning District	GR
Watershed Overlay	Lake Norman Critical Area
Property Size (acres)	.459
Amount of Existing Impervious Lot Coverage (sf)	See survey
Amount Impervious Area Receiving from Giving Lot (sf)	
Has a watershed variance ever been granted for this parcel?	☐ YES ☒ NO

If this application is signed by an agent on behalf of the Property Owner(s), this application MUST be accompanied by a notarized Limited Power of Attorney signed by the property owner (s), specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

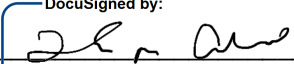
3. Giving Parcel Information

* Printed Name Thomas M. Almond _____ Phone (704) 661-5560 _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: Individual

Title Owner Email Tommy_almond73@yahoo.com

Address of Property Owner 16401 Terry Lane, Huntersville, NC 28078

Signature  _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Parcel Identification Number of Receiving Lot (PIN)	001-023-51
Zoning District	GR
Watershed Overlay	Lake Norman Critical Area
Property Size (acres)	.553
Amount of Existing Impervious Lot Coverage (sf)	See survey
Has a watershed variance ever been granted for this parcel?	☐ YES ☒ NO

If this application is signed by an agent on behalf of the Property Owner(s), this application MUST be accompanied by a notarized Limited Power of Attorney signed by the property owner (s), specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

4. Site Plan Submission Schedule

Density Averaging Plats must be reviewed by the Town of Huntersville Planning Department and approved by the Board of Adjustment. The [Board of Adjustment Submittal Deadlines and Meeting Schedule](#) can be found through the Planning Department website.

5. Reference Information

Please see the Town Website below for the following:

- [Town of Huntersville Impervious Applicability Map](#)
- [Town of Huntersville Fee Schedule](#)
- [Density Averaging Certificate Checklist](#)
- [Density Averaging Review Process](#)
- Town of Huntersville Zoning Ordinance Watershed Overlays
 - For Parcels in the Mountain Island Lake Watershed Overlay (MIL-O), See [Article 3.3.2](#)
 - For Parcels in the Lake Norman Watershed Overlay (LN-O), See [Article 3.3.3](#)

Contact Information

Town of Huntersville	Phone:	704-875-7000
Planning Department	Fax:	704-992-5528
PO Box 664	Physical Address:	105 Gilead Road, Third Floor
Huntersville, NC 28070	Website:	https://www.huntersville.org/228/Planning-Department

Date Received by Staff _____

Exhibit 2 – Addendum to Density Averaging Certificate Application

Addendum to Amended Application for Density Averaging Certificate

DA 20-01

15710 Pine Street, Huntersville, North Carolina

When the house was built in 2007, there was a large concrete pour. In 2020, Laurie Martin, the then-owner of the property, learned for the first time that the amount of impervious surface area on the property exceeds the allowable amount. The excess impervious has existed since 2007 and was approved when the County issued a Certificate of occupancy. We wish to obtain a Density Averaging Certificate in lieu of obtaining a variance. Thomas Almond owns a nearby property, 16401 Terry Lane, and he has agreed to the impervious transfer as part of a Density Averaging Certificate. Laurie Martin submitted the original application while she was the owner of the property. She sold the property to her co-applicants Dr. Mitchell W. Spahn and his wife Sheryl M. Spahn. The closing occurred on November 17, 2020.

Per the survey from Don Allen & Associates dated December 17, 2020, the amount of existing impervious lot coverage for 15710 Pine Street is 5,979 square feet. This application seeks to increase the maximum impervious area limit for 15710 Pine Street by 1,300 square feet, which is to be received from 16401 Terry Lane. The new maximum impervious area limit for 15710 Pine Street is proposed to be 6,100 square feet and the new maximum impervious area limit for 16401 Terry Lane is proposed to be 6,763 square feet.

Exhibit 3 – Summary of DocuSign for Density Averaging Certificate Application

Certificate of Completion

Envelope Id: 4F4B98423ED3461C98D73E5097EE7393	Status: Completed
Subject: Please DocuSign: DA 20-01 Martin, Laurie - Addendum to Amended Application for Density Averagi.DOCX	
NSS User Access:	
Source Envelope:	
Document Pages: 3	Signatures: 6
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Laurie Martin
Time Zone: (UTC-07:00) Arizona	Routing code**0190
	PO Box 5136
	Portland, OR 97208
	lamartin@taylormorrison.com
	IP Address: 172.58.155.242

Record Tracking

Status: Original	Holder: Laurie Martin	Location: DocuSign
12/18/2020 2:40:38 PM	lamartin@taylormorrison.com	

Signer Events

Mitchell Spahn
mspahn@columbusobgyn.com
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

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Signature Adoption: Pre-selected Style
Using IP Address: 74.219.61.218

Timestamp

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Electronic Record and Signature Disclosure:

Accepted: 12/18/2020 6:54:49 PM
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Sheryl Spahn
sspahn@columbusobgyn.com
Office Manager
Security Level: Email, Account Authentication (None)

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Electronic Record and Signature Disclosure:

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Thomas Almond
tommy_almond73@yahoo.com
Security Level: Email, Account Authentication (None)

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Signed using mobile

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Laurie Martin
shlauriem1@yahoo.com
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Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
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Completed	Security Checked	12/18/2020 9:52:12 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES ("DISCLOSURES")

By your optional election below to accept this electronic records delivery system in connection with our business relationship,* our family of related and affiliated entities, including but not limited to our Taylor Morrison® and Darling Homes® branded operations in the U.S. (collectively hereafter, "**we**", "**us**", "**our**" or the "**Company**") is or may be required by law to provide to you certain written notices or disclosures for acknowledgement prior or subsequent to its delivery of Electronic Records (defined below) for e-signatures. This may include, by way of example only, any non-recordable notices, contracts of any type or scope (including exhibits, amendments and addenda thereto), consents, minutes, confidentiality agreements, proposals, releases, acknowledgements or similar such instruments, as well as any written notices, authorizations, and disclosures whether required by law or policy that remain subject to change (collectively, hereafter the "**Electronic Records**"). Described below are the prerequisite terms and conditions by which the Company will be able to deliver such Electronic Records through your DocuSign, Inc. (DocuSign) Express user account and you expressly agree to such delivery, absent which we would not be able to use this delivery method.

Please first carefully and thoroughly read the information below and only if you can access this information electronically to your satisfaction and agree to your ability to comply to these terms and conditions, please confirm your agreement by clicking the '**I agree**' button at the bottom of this document. * **Important Note:** *All parties to a subject transaction's Electronic Records must mutually agree to receiving Electronic Records. If not an unanimous election by all parties, we will provide you with paper copies only and we will be unable to honor your election to receiving Electronic Records.*

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an active authorized user of the DocuSign system, you will have the ability to and we strongly encourage you to download and print any documents we send to you on your own through your DocuSign user account for a limited period of time (usually 30 days) after such Electronic Records are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, we will waive the per-page fee for a reasonable number of requests. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your Prior Consent

If you decide to receive Electronic Records, you may at any time subsequently change your mind and tell us that thereafter you want to receive such Electronics Records only in paper format (**Non-Electronic Records**). The specific manner you must inform us of your decision to no longer receive future Electronic Records and withdraw your consent is described below.

Consequences of changing

If you elect to receive future records only as Non-Electronic Records and exclusively in paper format, it is reasonable to assume that it will slow the speed at which we can complete certain steps in transactions in which you are involved and delivering services to you because we will first need to manually send Non-Electronic Records to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper Non-Electronic Records. To indicate to us that you are changing your mind, you must expressly withdraw your

consent using the DocuSign '**Withdraw Consent**' form on the signing page of your DocuSign account. This will indicate to us that you have *withdrawn* your consent to receive Electronic Records from us, and by your own election, you will **no longer be able to use your DocuSign Express user account** to receive Electronic Records from us or to electronically sign documents from us.

All Electronic Records will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all Electronic Records, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any Electronic Records, during the term of our relationship, we strongly prefer to consistently provide all of the Electronic Records to you by the same method and to the same e-mail address that you have given us. Thus, you should elect to receive everything either by Electronic Records or by Non-Electronic Records. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the potential consequences of your election not to receive Electronic Records from us.

How to contact the Company:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive Electronic Records as follows:

To contact us by phone, call: +1.480.840.8100.

Website:

Taylor Morrison - <http://www.taylormorrison.com/contact-us/question>

Darling Homes - <http://www.darlinghomes.com/contact-us/question>

To advise the Company of your new e-mail address

To let us know of a change in your e-mail address where we should now send Electronic Records to you, you must send an e-mail message to us at and in the body of such request you must include details as to: your previous e-mail address, your new e-mail address and effective date regarding same. We do not require any other information from you to change your e-mail address.

In addition, you must notify DocuSign, Inc. to arrange for your new e-mail address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from the Company

To request delivery from us of paper copies of Electronic Records previously provided by us to you, you must send us an e-mail to and in the body of such request you must state your e-mail address, full name, mailing address, and telephone number.

To withdraw your consent with the Company

To inform us that you no longer want to receive future Electronic Records and wish to change to Non-Electronic Records, you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to and in the body of such request you must state your e-mail, full name, mailing address, telephone number, and account number. We do not need any other information from you to withdraw consent. The consequences of your withdrawing consent for Electronic Records will be that transactions may take a longer time to process.

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
E-mail:	Access to a valid e-mail account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	Allow per session cookies Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an e-mail message at the e-mail address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

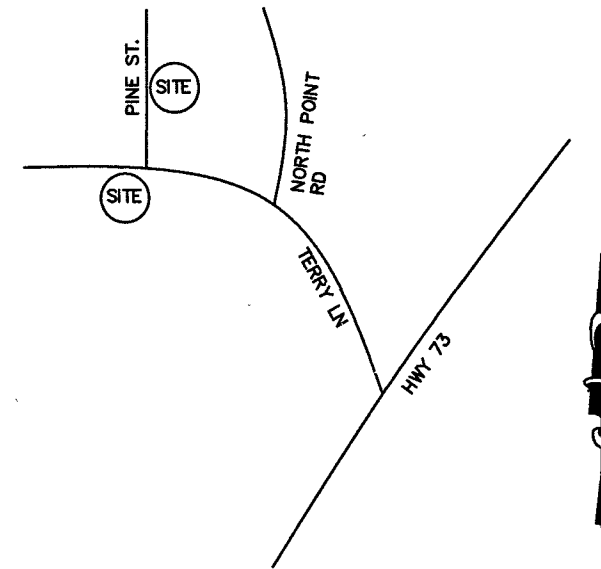
Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to Electronic Records that we will provide to you, please verify that you were able to read these Disclosures and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail Electronic Records, inclusive of these Disclosures, and consented to an e-mail address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving Electronic Records exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I have reviewed this Disclosure and consent to transact business using electronic communications to receive notices and disclosures and to utilize electronic signatures in lieu of using paper documents.
- I can print on paper this Disclosure or save or send this Disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify the Company as described above, I consent to receive from them exclusively through electronic means all Electronic Records described above, and other documents that are required to be provided or made available to me by the Company during the course of my relationship with you.

Exhibit 4 – Survey of 15710 Pine Street and 16401 Terry Lane



LINE TABLE		
LINE	BEARING	LENGTH
L1	S 22°59'44" W	13.33'
L2	S 28°18'10" W	11.82'
L3	N 72°05'54" W	42.72'
L4	N 85°16'43" W	38.22'
L5	S 44°58'24" W	29.82'

- NOTES:
- 1) This property may be subject to any easements and/or Rights-of-way of record.
 - 2) Tax Parcel No.'s (00145267) LOT 3B- DB. 35333 PG.389 (PB 33 PG 287) (00102351) LOT 8- DB. 31536 PG.362 (PB 12 PG 31)
 - 3) Both lots are zoned : GR (and all surrounding property)
 - 4) Minimum Building Setback Per GR Zoning: 40' FRONT
10' SIDEYARD
*SETBACKS SHOWN ON LOT 3B
ARE FROM PB. 33 PG. 287 & GR ZONING 50' REAR YARD
10' MIN. BLDG. SEPARATION
 - 5) Both lots are located in Lake Norman Watershed CA.
 - 6) No geodetic monument found within 2000' of said property.
 - 7) Lot 8 is located in zone "AE & X" per flood map 3710462100K dated 09/02/2015
Lot 3B is located in zone "X" per flood map 3710462100K dated 09/02/2015
 - 8) AREAS COMPUTED BY COORDINATE METHOD
THE ACREAGE OF THIS PLAT = 1.1211 AC. TOTAL
ANY ADDITIONAL IMPERVIOUS ADDED TO EITHER PROPERTY, SUBJECT TO ZONING APPROVAL,
MAY REQUIRE SURVEY AT THE COMPLETION OF THE PROJECT.
 - 9) ACCESSORY STRUCTURES MUST BE A MINIMUM OF 5 FT. FROM
SIDE AND REAR YARD PROPERTY LINE
 - 10) IRON PINS SET AT ALL CORNERS UNLESS OTHERWISE NOTED
 - 11) NO DEVELOPMENTAL STUMP HOLES REPORTED TO THIS FIRM WITHIN THE LOTS WHICH MAKE
UP THIS MAP
 - 12) NO STOR. WATER MITIGATION PLAN REQUIRED. VEGETATIVE CONVEYANCES CONFIRMED
11/24/2020 FOR LOW DENSITY OPTION.
 - 13) NEITHER PARCELS NEED OR HAVE BEEN GRANTED A WATERSHED VARIANCE.
 - 14) THE PURPOSE OF THE FINAL PLAT IS TO INDICATE THE ENFORCEABLE RESTRICTIONS
ON PROPERTY USAGE THAT RUN WITH THE LAND TO ENSURE THAT FUTURE
DEVELOPMENT AND REDEVELOPMENT MAINTAINS THE SITE IN COMPLIANCE WITH
ORDINANCE REQUIREMENTS. THE RESTRICTIONS ON THIS RECORDED FINAL PLAT SHALL
BE SHOWN ON ANY SURVEY OF ANY OF THE PROPERTIES WITHIN THE PLAT.
PROPERTY OWNERS HAVE RECORD NOTICE OF THESE RESTRICTIONS AND SHALL
MAINTAIN THE SITE IN COMPLIANCE WITH ORDINANCE REQUIREMENTS. IT IS
RECOMMENDED THAT REAL ESTATE PROFESSIONALS (SURVEYORS, TITLE
COMPANY REPRESENTATIVES, REAL ESTATE AGENTS, CLOSING ATTORNEYS)
MAKE PROPERTY OWNERS OR PURCHASERS AWARE OF THESE
RESTRICTIONS AT OR PRIOR TO CLOSING.
 - 15) DEVELOPMENT OF PROPERTIES IS SUBJECT TO THE TOWN OF HUNTERSVILLE
SEDIMENT AND EROSION CONTROL ORDINANCE. CONTACT THE
TOWN OF HUNTERSVILLE TO DETERMINE IF DEVELOPMENT THRESHOLDS
REQUIRE ADDITIONAL PLAN APPROVAL.
 - 16) BUFFERS MEET THE MINIMUM HUNTERSVILLE ZONING ORDINANCE
WATER SUPPLY WATERSHED REQUIREMENTS.
 - 17) DENSITY AVERAGING CERTIFICATE, DA20-01, APPROVED
(ENTER DATE HERE BEFORE SUBMITTING TO EPM)

IMPERVIOUS AREA CHART	
PREVIOUS IMPERVIOUS AREA	
LOT 3B (PB.33 PG.287) = 24% X 20,000 SQ. FT.= 4,800 SF	
LOT 8 (PB.12 PG.31) = 28,836 SF - 6,763 SF EXISTING = 22,073 SF	
22,073 SF X 24% = 5,297 SF	
TOTAL BOTH LOTS = 16,860 SQ. FT.	
NEW IMPERVIOUS AREA ALLOTMENT PER LOT	
LOT 3B (PIN 00145267) = 6,100 SQ. FT.	
LOT 8 (PIN 00102351) = 10,760 SQ. FT.	
TOTAL BOTH LOTS = 16,860 SQ. FT.	
SURVEYED IMPERVIOUS AREA	
LOT 3B = 5,979 SQ. FT.(TOTAL)	
HOUSE\PORCHES = 3,150 SF	
DRIVEWAY = 2,669 S.F.	
SIDEWALK = 152 S.F.	
A\C PADS = 8 S.F.	
LOT 8 = 6,763 S.F.(TOTAL)	
HOUSE\PORCH = 2,027 SF	
DRIVEWAY\SIDEWALK = 2,059 S.F.	
DECK WITH GRAVEL UNDER IT = 230 SF	
A\C PAD = 17 S.F.	
STONE WALK = 1,649 SF	
BLDG. = 448 SF	
WALLS = 47 SF	
WALK\PAD BY LAKE = 286 SF	
TOTAL BOTH LOTS = 12,742 SQ. FT.	
IMPERVIOUS AREA REMAINING PER LOT	
LOT 3B = 121 SQ. FT.	
LOT 8 = 3,997 SQ. FT.	

LOT 7
KATHRYN L. MULLEN
16407
00102352

LOT 8
0.662 AC.
16401
00102351

LOT 9
JOELLEN F. HERNDON
16333
00102350

DENSITY AVERAGING/IMPERVIOUS TRANSFER PLAT
THIS PLAT REPRESENTS A TRANSFER OF IMPERVIOUS RIGHTS THROUGH A DEDICATED
UNDISTURBED NATURAL AREA FOR PROPERTIES WITHIN THE JURISDICTION OF THE TOWN OF
HUNTERSVILLE THAT MAY OR MAY NOT RESULT IN THE CREATION OF TRACTS OF LAND THAT
ARE COMPLIANT WITH THE STANDARDS OF THE ZONING AND SUBDIVISION ORDINANCE. IT IS
SUBJECT TO THE PROVISIONS OF THE HUNTERSVILLE ZONING ORDINANCE DENSITY AVERAGING
STANDARDS AND REQUIRES THE APPROVAL OF THE HUNTERSVILLE BOARD OF ADJUSTMENTS
ACTING AS THE WATERSHED REVIEW BOARD. ANY CHANGE IN THE DEVELOPMENT PROPOSAL
(IMPERVIOUS ALLOWANCE) AUTHORIZED FOR EITHER PARCEL SHALL REQUIRE AN AMENDMENT
OF THE DENSITY AVERAGING CERTIFICATE BY THE BOARD OF ADJUSTMENT
TOWN OF HUNTERSVILLE

Town Planner _____ Date _____

REVIEW OFFICER BLOCK
I, _____, REVIEW OFFICER OF MECKLENBURG
COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS
AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER _____ Date _____

PURPOSE STATEMENT

THE PURPOSE OF THIS PLAT IS TO REVISE THE IMPERVIOUS
COVERAGE. LOT 8 (PLAT BK. 12 PG. 31) (16401 TERRY LN.) IS TRANSFERRING
1,300 S.F. OF IMPERVIOUS TO LOT 3B (PLAT BK. 33 PG. 287)(15710 PINE ST.)
(SEE IMPERVIOUS CHART FOR DETAIL)

GRAPHIC SCALE



(IN FEET)
1 inch = 50 ft.

OWNER CERTIFICATION
I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED
HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE
CONSENT, AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS, AND OTHER SITES AND
EASEMENTS TO PUBLIC OR PRIVATE USE AS NOTED. FURTHERMORE, I DEDICATE ALL
SEWER LINES AND ALL WATER LINES TO THE CHARLOTTE-MECKLENBURG UTILITY
DEPARTMENT, IF APPLICABLE.

Owner : MITCHELL W. SPAHN _____ Date _____

OWNER : SHERYL M. SPAHN _____ DATE _____

OWNER : THOMAS M. ALMOND _____ DATE _____

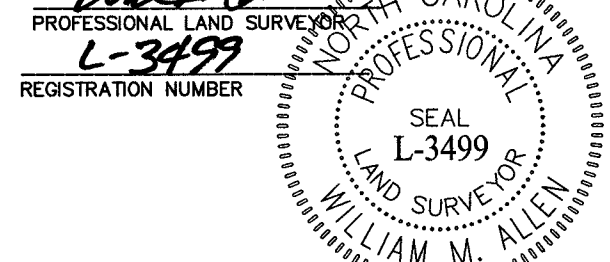
OWNER : JACKIE G. ALMOND _____ DATE _____

SURVEYORS CERTIFICATION

I, WILLIAM M. ALLEN CERTIFY THAT THIS MAP WAS DRAWN
UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE
UNDER MY SUPERVISION DEED DESCRIPTION RECORDED
IN BOOK 2619, PAGE 2209; THAT THE RATIO OF
PRECISION AS CALCULATED BY LATITUDES AND
DEPARTURES IS 1:10000, (THAT THE BOUNDARIES NOT
SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM
INFORMATION FOUND IN BOOK 2583, PAGE 2036);
THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH
G.S. 47-30, AS AMENDED.

WITNESS MY HAND AND SEAL THIS 17 DAY OF
Dec. A.D. 2020.

OFFICIAL SEAL



THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE
RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED
SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF

PROFESSIONAL LAND SURVEYOR

LOT 3B - REVISED
BROWN'S ADDITION
PLAT BOOK 33 PAGE 287

TITLE:

LOT 8 - REVISED
BROWNS COVE
PLAT BOOK 12 PAGE 31

OWNERS:

LOT 3B
MICHELL W. & SHERYL M. SPAHN
15710 PINE ST.
HUNTERSVILLE, NC 28078
DEED BK 35333 PG 389

LOT 8
THOMAS M. & JACKIE G. ALMOND
16401 TERRY LN.
HUNTERSVILLE, NC 28078
DEED BK 31536 PG 362

LOCATION:

TOWN OF HUNTERSVILLE
HUNTERSVILLE TWSP., MECKLENBURG COUNTY, N.C.

DATE SURVEYED:

12\03\2020

DATE DRAWN:

12\14\2020

DRAWN BY:

WMA

JOB NO.

FILE: BROWNS ADDITION 3B.DWG

REVISED DATE : DEC. 17, 2020 (TOWN COMMENTS)

Exhibit 5 – Vicinity Map of 15710 Pine Street and 16401 Terry Lane

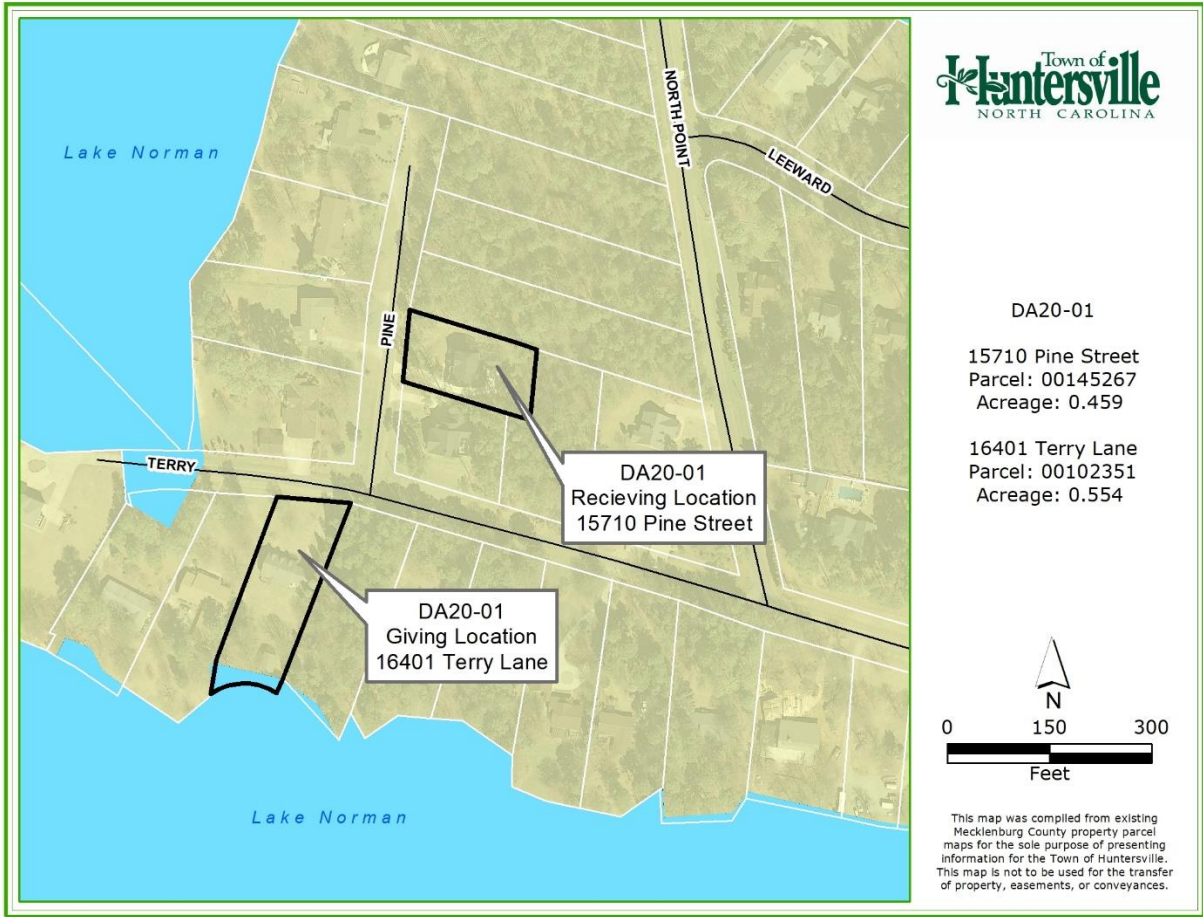


Exhibit 6 – Inspection by Charlotte-Mecklenburg Storm Water Services, Water Quality Program

Lauren Speight

From: Caldwell, David <David.Caldwell@mecklenburgcountync.gov>
Sent: Monday, November 30, 2020 1:30 PM
To: Lauren Speight
Subject: RE: [External]Inspections - Density Averaging Certificates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Lauren,

On November 24, 2020 I inspected the property at 15710 Pine St. in Huntersville. At the time of the inspection it was determined that storm water runoff was controlled by vegetative conveyances to the maximum extent practicable, as per item (9) in the Huntersville Density Averaging Ordinance. Let me know if have questions or need additional information. thanks

David Caldwell

Environmental Supervisor
Charlotte-Mecklenburg Storm Water Services
Water Quality Program
2145 Suttle Avenue
Charlotte, NC 28208-5237
980-314-3218

StormWater.CharMeck.org

Storm Water Service's WHY statement: *We are passionate about making our environment safe and healthy by reducing flood losses and improving water quality for all.*



From: Lauren Speight <lspeight@huntersville.org>
Sent: Wednesday, November 18, 2020 3:26 PM
To: Caldwell, David <David.Caldwell@mecklenburgcountync.gov>
Subject: RE: [External]Inspections - Density Averaging Certificates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Understood. Thank you!

Lauren Speight

Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org



Pursuant to North Carolina General Statutes, Chapter 132, email correspondence to and from this address may be considered public record under the North Carolina Public Records Law and may be disclosed to third parties.

From: Caldwell, David <David.Caldwell@mecklenburgcountync.gov>
Sent: Wednesday, November 18, 2020 3:25 PM
To: Lauren Speight <lspeight@huntersville.org>
Subject: RE: [External]Inspections - Density Averaging Certificates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Per item #9 in your Density Averaging Ordinance we just look at the runoff/stormwater patterns on the parcel and make sure its controlled primarily by vegetative conveyances to the maximum extent practicable to allow for filtering of runoff to reduce pollutants, etc.

From: Lauren Speight <lspeight@huntersville.org>
Sent: Wednesday, November 18, 2020 3:11 PM
To: Caldwell, David <David.Caldwell@mecklenburgcountync.gov>
Subject: RE: [External]Inspections - Density Averaging Certificates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Thank you! And, if you do not mind my asking, what does your inspection evaluate?

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org



Pursuant to North Carolina General Statutes, Chapter 132, email correspondence to and from this address may be considered public record under the North Carolina Public Records Law and may be disclosed to third parties.

From: Caldwell, David <David.Caldwell@mecklenburgcountync.gov>
Sent: Wednesday, November 18, 2020 12:27 PM
To: Lauren Speight <lspeight@huntersville.org>
Subject: RE: [External]Inspections - Density Averaging Certificates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ok, thanks. I'll be back in touch after I inspect.

From: Lauren Speight <lspeight@huntersville.org>
Sent: Wednesday, November 18, 2020 9:09 AM
To: Caldwell, David <David.Caldwell@mecklenburgcountync.gov>
Cc: Mike MacIntyre <mmacintyre@huntersville.org>
Subject: RE: [External]Inspections - Density Averaging Certificates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Please see the application attached.

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org



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From: Caldwell, David <David.Caldwell@mecklenburgcountync.gov>
Sent: Wednesday, November 18, 2020 9:04 AM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Mike MacIntyre <mmacintyre@huntersville.org>
Subject: RE: [External]Inspections - Density Averaging Certificates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Lauren, would you mind forwarding me the application? I should be able to inspect that and get back to you by next week. Thanks, David

David Caldwell
Environmental Supervisor
Charlotte-Mecklenburg Storm Water Services
Water Quality Program

2145 Suttle Avenue
Charlotte, NC 28208-5237
980-314-3218

StormWater.CharMeck.org

Storm Water Service's WHY statement: *We are passionate about making our environment safe and healthy by reducing flood losses and improving water quality for all.*



From: Lauren Speight <lspeight@huntersville.org>
Sent: Tuesday, November 17, 2020 2:40 PM
To: Caldwell, David <David.Caldwell@mecklenburgcountync.gov>
Cc: Mike MacIntyre <mmacintyre@huntersville.org>
Subject: [External]Inspections - Density Averaging Certificates

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Sierra Saumenig forwarded your email to me.

Town of Huntersville Staff received a Density Averaging Certificate for our December 8th BOA meeting. The subject parcel is located at [15710 PINE ST HUNTERSVILLE NC 28078](#) and the lot from which they are seeking impervious area is [16401 TERRY LN HUNTERSVILLE NC 28078](#).

I spoke with Rusty Rozelle 11/12 and he indicated a storm water plan would not be required for this DA Certificate. But, I believe I am supposed to request you to complete an inspection for the DA Certificate.

Please let me know if you need anything from me to proceed.

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org



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Disclaimer

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**Town of Huntersville
Board of Adjustment
January 12, 2021**

To: Town Board

From: Tracy Barron, Exec Asst

Date: January 12, 2021

Subject: Discussion of the Rules of Procedure updates including alignment to meet Statute 160D

EXPLAIN REQUEST:

ACTION RECOMMENDED:

This will be a discussion only. Per the Rules of Procedure no action will be taken until the following regular meeting at which time a vote will be taken.

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. BOA ROP Change January 2021 EAS-JG

**RULES OF PROCEDURE
BOARD OF ADJUSTMENT
TOWN OF HUNTERSVILLE, NORTH CAROLINA**

I. GENERAL RULES

The Board of Adjustment (hereinafter referred to as the “Board”) shall be governed by the terms of Chapter 160DA, Article 319, ~~Part 3~~ of the North Carolina General Statutes and by the Town of Huntersville Zoning Ordinance and Code of Ordinances. All members of the Board shall thoroughly familiarize themselves with these laws. The Board, being a public body, shall at all times conduct meetings in conformity with the applicable Open Meetings Law statutes. The members of the Board shall also act as the Watershed Review Board.

II. OFFICERS AND DUTIES

A. Appointments

The Board shall consist of seven (7) Regular members and three (3) Alternate members. The Regular membership shall consist of six (6) members who reside within the corporate limits, and one (1) extraterritorial member. The number of Regular members appointed who reside in the extraterritorial zoning jurisdiction (“ETJ”) shall at a minimum meet the requirement of N.C.G.S. §160DA-30762 for proportional representation, but shall in no instance be less than one (1). The Alternate membership shall consist of at least two (2) members who reside within the corporate limits, with the remaining Alternate member residing in either the corporate limits or the ETJ.

Regular and Alternate members shall be appointed by the Town of Huntersville Board of Commissioners (hereinafter referred to as “Town Board”) to terms of office of three (3) years. Members of the Board shall be limited to three (3) consecutive terms, unless waived; however, may be reappointed after remaining off the Board for at least one (1) year.

If vacancy on the Board occurs by reason of death, resignation, change of residence, Town Board removal, or any other reason, the seat shall be filled by the Town Board in an expeditious manner for the duration of the unexpired term. The Town Board may appoint certain members for less than three (3) years so that the terms of all members shall not expire at the same time.

The Town of Huntersville Planning Department shall be responsible for maintaining a current list of Board members, including the effective date of their appointment and expiration date of their term. The Planning Department shall keep the Town Board informed, at least sixty (60) days prior to the expiration date, as to when any term is to expire.

At the regular Board meeting held in the month of January, or at the first regular meeting held each calendar year, the Board shall elect a Chairman and Vice Chairman from their Regular membership. All Regular and Alternate members shall be allowed to vote. Office holders, however, shall be limited to Regular members. Terms of office shall be one (1) year. Persons may be reelected to the same office for successive terms.

B. Duties

The Chairman shall decide upon all points of order and procedure subject to these Rules unless directed otherwise by a majority of the Board in session at the time. The Vice Chairman shall serve as acting Chairman in the absence of the Chairman, and at such times, he shall have the same powers and duties as the Chairman. In the event of the absence of both the Chairman and the Vice Chairman from a Board of Adjustment meeting, the Regular members present may elect a temporary Chairman for that meeting and proceed with the order of the business. The Chairman, or any member acting as Chairman is authorized to administer oaths to witnesses **(who may either swear or affirm)** in any matter coming before the Board.

C. Secretary

A staff member of the Town of Huntersville Planning Department shall be the recording Secretary to keep Minutes of Regular and Special Board meetings. The Secretary shall keep in a permanent volume the Minutes of every meeting of the Board. The Minutes shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board, and all votes of the Board upon a resolution of upon the final determination of any question, indicating the names of members absent or failing to vote. The Minutes of the Board of Adjustment shall be kept at the office of the Town of Huntersville Planning Department. The Secretary is authorized to administer oaths to witnesses **(who may either swear or affirm)** in any matter coming before the Board.

III. RULES OF CONDUCT FOR MEMBERS

A. Removal

Members of the Board may be removed by the Town Board for cause, including violation of the Rules stated herein.

B. Attendance

In order for the Board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. If any Regular member is absent for three (3) consecutive regular meetings within any twelve (12) month period such member may be removed by the Town Board, and a replacement made for the unexpired portion of the term. Alternate members may be removed by the Town Board for repeated failure to attend or participate in meetings when requested as set forth herein. The Board may make a recommendation to the Town Board regarding removal of a member for duly cited causes and the request must be in writing, and signed by the Chairman of the Board.

The Regular members, on receiving notice of a meeting they cannot attend or upon learning that they will be unable to participate in a meeting, shall promptly notify the Secretary that they are unable to attend or participate. The Alternates, when called upon to participate because of a Regular member's absence or recusal shall alternate their participation. The order in which they

are called to sit shall be determined through a pre-arranged schedule prepared by the Secretary. Alternate members shall have the same powers and duties as Regular members.

The Alternate members are encouraged to attend all meetings regardless if they are voting. When an Alternate member attends a meeting and is called on to participate because of a Regular member's absence, that Alternate member shall retain their "Regular" status should the absent Regular member enter the meeting after the public hearing has been opened. The Regular member who appears after the opening of the hearing will take on "Alternate" status for the duration of that meeting. If an Alternate member is called on to participate in the Board's consideration of an item from which a Regular Board member shall be excused due to conflict or otherwise, the Alternate shall relinquish their seat upon conclusion of that matter.

C. Conflicts of Interest

No member shall participate in or vote in any matter in which he or she has an impermissible conflict, which includes the member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed *ex parte* communications, a close familial business, other relationship with an affected person, or a financial interest in the outcome of the matter. If a member or Alternate member has a conflict of interest they must disclose the conflict **to the Board and** remove themselves from the dais prior to the item being heard. They may return to the dais after the hearing is concluded. **The Chairman may request disclosure of conflicts at the beginning of any hearing.**

D. Discussion of Board Cases

Board members shall refrain from discussing upcoming matters of business with any parties, including other Board members, prior to the meeting at which such items are to be publicly discussed; however, members may receive and/or seek general technical information pertaining to the case from the Secretary, Town Manager, Town Attorney or Planning staff prior to the Board meeting at which the case is to be heard.

IV. MEETINGS

A. Regular Meetings

Regular meetings of the Board shall be held on the second Tuesday of each month at a reasonable time at the Town Hall (typically 6:30 p.m.), provided that meeting may be held at any other conveniently located place in Huntersville if directed by the Chairman at least forty-eight (48) hours in advance of the meeting. The Secretary shall cause notice of change to the time or place of a meeting to be given in compliance with N.C.G.S. § 143-318.12. Each member (including the Alternate members) shall be notified of each meeting by the Secretary.

B. Special Meetings

Special meetings of the Board may be called at any time by the Chairman provided that at least forty-eight (48) hours written notice of the time and place of the special meeting be given by the

Secretary to each member of the Board including the Alternate members, and as may be required by the Open Meeting Law of North Carolina.

C. Cancellation of Meetings

Whenever there are no appeals, interpretations, applications for variances, or other business for the Board, or whenever so many Regular and Alternate members notify the Secretary of their inability to attend that a quorum will not be available, the Chairman may dispense with a regular meeting by having the Secretary give written or oral notice to all members prior to the time set for the meeting.

D. Quorum

A quorum consisting of six (6) members of the Board shall be required before any vote is taken for a variance. A quorum consisting of four (4) members shall be required before any vote is taken for any other quasi-judicial matter including acting as the Watershed Review Board.

E. Voting

The concurring vote of four~~th~~-fifths (six voting members) of the Board shall be necessary to grant a variance, including a variance as the Watershed Review Board. A majority of the members shall be required to decide any other quasi-judicial matter, or to determine an appeal, or to enter a decision, other than a decision involving a variance, as the Watershed Review Board. Vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified Alternates available to take the place of such members. No more than seven (7) Regular and Alternate members may vote on any matter for which a public hearing was held. The Chairman shall be able to vote on any matter, including making and seconding a motion. No Board members shall vote on any matter deciding an application or appeal unless he shall have attended the public hearing on that application or fully reviewed any available transcript or video of the public hearing. Every quasi-judicial decision shall be signed by the Chairman, or other duly authorized member of the Board, and is effective upon filing the written decision with the Secretary of the Board.

F. Conduct of Meeting

All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- (A) Roll Call, Determination of Quorum
- (B) Approval of Minutes of Previous Meetings
- (C) Hearing of Cases
- (D) Other Business

(E) Adjourn

G. Continuation of Meeting

Meetings may be continued from one date to another upon majority vote provided that the reconvened meeting occurs at least forty-eight (48) hours thereafter, and such meeting is held in a conveniently located meeting site in Huntersville.

H. Variance

A variance may only be granted upon a showing that all four of the following provisions are met:

- i. Unnecessary hardship would result from the strict application of the land regulation.
- ii. The hardship results from conditions that are peculiar to the property such as location; size, or topography;
- iii. The hardship did not result from actions taken by the applicant or the property owner; and
- iv. The requested variance is consistent with the spirit, purpose, and intent of the regulation such that public safety is secured and substantial justice is achieved.

V. APPEALS, APPLICATIONS, PUBLIC HEARINGS

A. Types of Appeals

The Board shall hear and decide appeal decisions of administrative officials charged with enforcement of the Zoning Ordinance, and may hear appeals arising out of any other Ordinance that regulates land use or development.

B. Procedures for Filing Appeals

No appeal shall be heard by the Board unless a completed Notice of Appeal is filed with the Town Clerk within thirty (30) days from the date of the order, decision, determination, or interpretation is made or rendered by an administrative officer, and any such fees shall be paid upon filing the Notice of Appeal. All notices shall be made upon the form furnished by the Town for that purpose, and all information required thereon shall be completed, including a statement for the grounds for appeal, before an appeal shall be considered as having been filed.

C. Public Hearing Mandate

A public hearing conducted by the Board shall be required to:

- (1) Decide all appeals and interpretation

- (2) Grant any variance to the terms of the Ordinance and,
- (3) Hear and decide all other matters referred to it or upon which it is required to pass by the Zoning Ordinance.

D. Public Hearing Date

After receipt of a completed application for an interpretation or variances, **or Notice of Appeal**, the Board shall hear the case on **the first regular meeting which is at least 31 days following the date of such submittal of a completed application or Notice of Appeal**, unless postponed by planning staff with the consent of the applicant **prior to notice of hearing being mailed as provided in the Town of Huntersville Zoning Ordinance, as amended.**

E. Conduct of Hearing

Any public hearing shall be conducted in a *quasi*-judicial manner. Any party may appear in person, by agent, or by attorney at the hearing. All persons presenting evidence before the Board shall be placed under oath by the Chairman or acting Chairman, or Secretary, and the opposing party may cross examine them. The Chairman may rule on the admissibility of evidence. The order of business for public hearing shall be as follows:

- (1) Persons giving testimony shall be placed under oath;
- (2) The Chairman may establish reasonable procedures to assure that the hearing is conducted in a fair, impartial and efficient manner.
- (3) The Chairman, or such person acting as Chairman shall direct planning staff to give a preliminary statement of the case;
- (4) The applicant shall present the argument in support of their application;
- (5) Persons opposed to granting the application shall present the evidence against the application;
- (6) Other persons in favor of granting the application shall present the evidence for the application;
- (7) Both sides will be permitted to present rebuttals to opposing testimony;
- (7) The Chairman, or their designee, shall summarize the evidence which has been presented giving parties the opportunity to make objections or corrections; [E1]
- (8) Board members may ask questions of any witness.

(98) The Chairman shall close the period for public discussion. The Board shall publicly discuss the case without further input from the public. Board members, however, may seek input, clarification, etc. from persons eligible to give evidence who are seated in the audience on any piece of evidence heretofore presented. Cross examination and rebuttals may be made only on any such new evidence presented;

(109) The Board shall render a decision and findings of fact on the matter based on substantial, competent, material evidence in record or, if it so chooses, continue the public hearing to a publicly stated date, time and location at least forty-eight (48) hours thereafter. No further notice of a continued hearing need be made unless a period of six (6) weeks or more elapses between hearing dates.

F. Rehearings

An application for a rehearing may be made in the same manner as provided for in the original hearing. All applications for rehearing shall be made within thirty (30) days after the decision of the Board has been filed in its office. Evidence in support of the application shall initially be limited to that which is necessary to enable the Board to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. The application for hearing shall be denied by the Board if, from the record it finds that there has been no substantial change in facts, evidence, or conditions. If the Board finds that there has been a substantial change it shall there upon treat the request in the same manner as any other application. The Board of Adjustment shall not be required to hold a public hearing to determine whether a rehearing of the case shall be conducted. Said determination shall, however, require a four-fifths (4/5) vote of the Board of Adjustment.

G. Decisions

(1) Time

Decisions by the Board of Adjustment shall be made within thirty-one (31) days from the date the hearing was officially closed.

(2) Form

Written notice of the decision in a case shall be sent by first class mail to the applicant and to every aggrieved party who has filed a written request for such a notice with the Secretary or the Chairman when the hearing is held within five (5) working days after the case is decided. The final decision shown in the record of the case shall be entered in the Minutes of the Board. Such record shall show the reasons for the determination with a summary of the evidence introduced, and the findings of fact made by the Board.

VI. ADOPTION OF BY-LAWS AND AMENDMENTS

These Rules shall at all times be consistent with all Ordinances of the Town of Huntersville and laws of the State of North Carolina. Should any provisions of these Rules be inconsistent with such Ordinances or laws of the State of North Carolina, said Ordinances and laws shall control.

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four (4) members of the Board, provided that such amendment be presented in writing at a regular or special meeting before the meeting at which the vote is taken.

Adopted, as amended, this _____ day of XXXAugust 2021~~10~~16.

Joseph R. Kluttz, III, Chairman [ES2]

ATTEST:

Michelle V. HainesTracy Barron, Secretary [ES3]