



AGENDA

Regular Board of Adjustment Meeting May 11, 2021 - 6:30 PM

Meeting Location: Dellwood Center 508 Dellwood Drive Huntersville NC 28078

- 1. Roll Call, Determination of Quorum**
- 2. Approval of Minutes**
 - 2.A. Consider approval of the March 18, 2021 Minutes
- 3. Hearing of Cases**
 - 3.A. V21-01 9808 Midas Springs Road
 - 3.B. V21-02 9822 Midas Springs Road (Parcel 02305204)
- 4. Other Business**
- 5. Adjourn**

**Special Board of Adjustment
Meeting Minutes
March 18, 2021 - 6:30 PM
Virtual Meeting**



1. Roll Call, Determination of Quorum

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

Regular Members in attendance: E. Cecil, Chairman, B. Welch, Vice-Chairman, D. Brewer, J. Kluttz, T. Primiano, and S. Genenbacher (arrived at 6:34pm)

Alternate Members present: J. Bradshaw, J. Loucks and P. Jacobson

Regular Members absent: W. Smith

2. Approval of Minutes

2.A. Consider approval of the February 9, 2021 Minutes of the Meeting

B. Welch made a Motion to Approve the February 9, 2021 Minutes. D. Brewer seconded the motion. The motion passed unanimously (9-0).

2.B. Consider approval of the February 25, 2021 Minutes of the Meeting

B. Welch made a Motion to Approve the February 25, 2021 Minutes. J. Bradshaw seconded the motion. The motion passed unanimously (9-0).

3. Hearing of Cases

4. Other Business

4.A. Consider approval of the Rules of Procedure amendments

Chairman Cecil asked if there were any questions or discussion and if all members had an opportunity to review the attached amended Rules of Procedure.

S. Genenbacher made a Motion to Approve the amended Rules of Procedure. T. Primiano seconded the motion. The motion passed unanimously (9-0).

Chairman Cecil reviewed research that had been completed in the process of reviewing the Rules of Procedure.

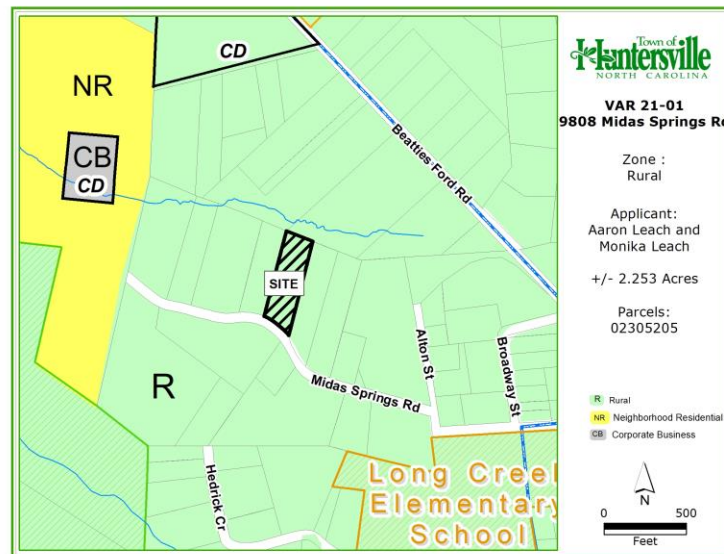
5. Adjourn

S. Genenbacher made a Motion to Adjourn. T. Primiano seconded the motion. The motion passed unanimously (9-0).

V 21-01
9808 Midas Springs Road

Case #: V21-01
Address: 9808 Midas Springs Road, Huntersville, NC 28078
Parcel #: 023-052-05
Acreage: 2.253
Property Owner/Applicant: Aaron and Monika Leach
Owner/Applicant Address: 14030 Bernardy Lane, Charlotte, NC 28269
Staff: Lauren Speight – Planner I

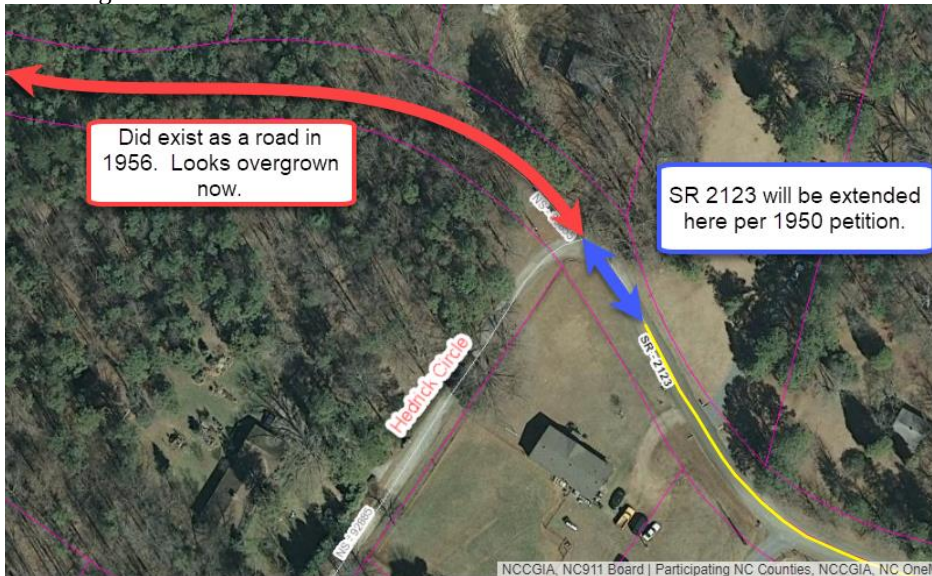
Currently a vacant lot, the 2.2 acre property is served by an overgrown gravel road that is not accepted for maintenance by NCDOT. The applicants, Aaron and Monika Leach are requesting a variance from **Article 8.1 Street Frontage Required**, stated below, to obtain a building permit to construct a single-family dwelling.



BACKGROUND:

1. The subject property, 9808 Midas Springs Road, is zoned Rural (R) and located in Critical Area 1 (CA-1) of the Mountain Island Lake Watershed Overlay (MIL-O).
2. Prior to the current property ownership, the lot was conveyed by deed, April 23, 1974. The deed recorded April 23, 1974 references the subject parcel was included in a survey dated November 4, 1953 with instructions to refer to the Carver Estate (1943) in Map Book 1357, Page 495. Regardless of whether the lot was created in 1974 or earlier, the lot was created prior to the effective date of Huntersville's current Zoning Ordinance. (Exhibit 1)
3. According to Mecklenburg County property records, a single-family home was constructed on the subject property in 1961. (Exhibit 2)
4. According to Google Earth historical aerials a manufactured home was added to the site since at least February 1993. (Exhibit 3)
5. And, according to Mecklenburg County historical data an accessory structured was also added to the property. (Exhibit 4)
6. The applicants purchased the lot December 30, 2020. (Exhibit 5)
7. The applicants contacted staff December 30, 2020 inquiring if a manufactured home is allowed for the subject property. (Exhibit 7)
8. Staff responded December 31, 2020 that manufactured homes are not permitted in the Rural Zoning District, but modular and "stick-built" homes are permitted although the subject property does not have legal access for zoning approval for a building permit. (Exhibit7)

9. According to an email from NCDOT staff, the State-maintained portion of Midas Spring Road ends in front of 9730 Midas Springs Road as represented by the yellow line in the below map (also Exhibit 12). The blue line is an area that was not previously accepted for maintenance but will be accepted per a 1950 petition. The red line with arrows shows the unmaintained portion of Midas Springs Road across the frontage of the subject property that is now overgrown.



10. No structures are currently present on site, as recorded during the Staff site visit to place required meeting notice for variance hearing. (Exhibit 6)
11. The applicants would like to obtain a variance to relieve the requirement of Article 8.1 that lots shall abut a public street. (Exhibit 8)

“Any lot for which a building (or buildings) is to be erected or use is to be established shall abut a **public street** [defined below] with the following exceptions:

1. Any lot for which a residential use has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement. A lot of one (1) acre or more in area created through a division of land not subject to the subdivision ordinance shall be eligible for issuance of a permit to establish a single-family detached house, provided the lot is served by a private and exclusive recorded easement or fee-simple projection of the building lot at least 15 feet in width connecting said lot to a public street. A driveway accessible by emergency equipment must be located on said easement or lot projection. Lots created under these provisions shall be known as “easement-access lots” and “flag lots”, respectively...”

A **public street** is defined in Article 12 as:

“**Street, Public:** A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Huntersville or the State of North Carolina.”

STAFF FINDINGS (ordinance standards are in italics):

Please see Exhibit 8 for the applicant’s responses to the required criteria for granting a variance.

In considering any variance request, the following Standards for Granting a Variance of the Huntersville Zoning Ordinance (Article 11.3.2.e) must be addressed:

Standards for Granting a Variance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

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

Staff Findings:

- A. The applicants contacted Staff December 30, 2020 for information about allowed structures for the property.
- B. Approximately, 190 linear feet of surface approved by NCDOT and accepted for maintenance is required for the frontage of the subject property to comply with Article 8.1 (Exhibit 9).
- C. The strict application of the Ordinance includes the frontage of the subject property must be paved to the applicable standards (NCDOT). Staff does not find this requirement dissimilar to the requirements of lots with similar conditions in the Town. And staff does not find evidence to indicate unnecessary hardship would result in the strict application of the Ordinance.

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

Staff Findings:

- A. There are at least six surrounding properties facing similar conditions if the property owners wish to construct a building on their lot (Exhibit 10).
- B. According to the applicant (Exhibit 8), the specifics surrounding the extension of Midas Springs Road are peculiar and other lots have been able to develop.
- C. A variance was submitted July 2015 for 9840 Midas Springs Road (V15-01) to relieve the requirement of Article 8.1 that lots shall abut a public street. V15-01 was denied by the Huntersville Board of Adjustment.
- D. There are various properties throughout Huntersville facing similar conditions. In 2021, an extension of Robert Street was privately constructed for the development of a single-family home in the Biltmore Park subdivision (Exhibit 11). Currently, there are lots in Biltmore and Norman Park that would require road improvements before a building permit could be issued for construction on the property.

- 3) *The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*

Staff Findings:

The subject property was purchased by the current property owners December 30, 2020. Staff does not know of any action by the property owner to create this hardship.

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

Staff Findings:

Lots must abut a public street per Article 8.1 to provide public safety and essential services. Evidence is not included the existing conditions meet the relevant requirements of a public street to thereby meet the spirit, purpose, or intent of the Ordinance. Per NCDOT staff, if the gravel road is constructed to NCDOT standards, NCDOT can be petitioned for the extension of maintenance. (Exhibits 12 and 13)

STAFF POSITION:

The applicant is seeking a variance from Article 8.1 of the Zoning Ordinance, which requires any lot on which a building (or buildings) is to be erected or use is to be established shall abut a public street. Staff finds the application meets one of the four requirements for granting a variance and therefore recommend denial of the request.

EXAMPLE MOTION: V21-01, 9808 Midas Springs Road, Huntersville, NC 28078

Planning Department	Board of Adjustment
	APPROVAL: In considering Staff's position for V21-01, a request by Aaron and Monika Leach for a variance from Article 8.1 of the Zoning Ordinance, the Board of Adjustment approves the variance request based on a finding that the request meets all of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance. The Board of Adjustment finds the request meets all of the four criteria for granting a variance based on the following findings of fact: <i>(explain findings of fact)</i>
DENIAL: In considering Staff's position for V21-01, a request by Aaron and Monika Leach for a variance from Article 8.1 of the Zoning Ordinance, the Planning Department recommends denial of the variance request based on a finding that 3 of 4 standards for granting a variance have not been met. Staff analysis to support denial of the request are listed on pages 1-3 of this staff report.	DENIAL: In considering Staff's position for V21-01, a request by Aaron and Monika Leach for a variance from Article 8.1 of the Zoning Ordinance, the Board of Adjustment denies the variance request based on a finding that the request meets _____ of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance. The Board of Adjustment finds the request does not meet the criteria for granting a variance based on the following findings of fact: <i>(explain findings of fact)</i>

Exhibit 1 – 1974 Deed for Subject Property, DB 3670, P448

Exhibit 2 – Mecklenburg County – Property Record Card for Subject Property

Exhibit 3 – Aerial of Subject Property February 1993

Exhibit 4 - Aerial of Subject Property February 2007

Exhibit 5 - 2020 Deed for Subject Property, DB 35499, P267-271

Exhibit 6 – Photo of Subject Property by Staff, 4/28/2021

Exhibit 7 – Excerpt of Correspondence between Staff and Applicant December 2020

Exhibit 8 – Variance Application

Exhibit 9 – Distance Across Frontage of Subject Property (approximate via Polaris 3G)

Exhibit 10 – Neighboring Lots, Similar Frontage Conditions

Exhibit 11 – Frontage of 6512 Robert Street, Huntersville, NC 28078 – Biltmore Park

Exhibit 12 – Correspondence from Wendy Taylor, NCDOT March 2021

Exhibit 13 - Correspondence from Wendy Taylor, NCDOT April 2021

INDIVIDUAL DEED

STATE OF NORTH CAROLINA

MECKLENBURG COUNTY

Printed and for Sale by
KALE OFFICE OUTFITTERS, LTD.
Charlotte, N. C.This Deed Made this 15 day of

113

April, A. D. 1974 by and between

SANDRA UPRIGHT

of the County of Mecklenburg and State of North Carolina
Part Y of the first part, and

HELEN LEE MUMPOWER

of the County of Mecklenburg and State of North Carolina
part Y of the second part:

WITNESSETH, that the said part Y of the first part, in consideration of Ten and
no/100 (\$10.00) Dollars and other valuable considerations----- Dollars
to her paid by the part Y of the second part, the receipt of which is hereby acknowledged
has she bargained and sold, and by these presents do she grant, bargain, sell and convey
unto the said party of the second part and
her heirs, all those certain lots or parcels
of land, situate, lying and being in
Township. County, State of
North Carolina, and more particularly described as follows:

PARCEL I.

2 Parcels
Being all of Lot 31 in Block E of Nationford Homes, Section III, as
same is shown on map book 6, at page 895 in the Mecklenburg Public
Registry.

PARCEL II.

Beginning at a point in the center line of Midas Spring Road, said
point being the Southeasterly corner of the property of E. B.
Honeycutt (now or formerly) and running thence with his line N.
13-04 E. passing an old iron 558 feet to an old iron in McElroy's
line and running thence with McElroy's line S. 69-50 E. 168.3 feet
to an iron, Simpson's corner; thence with Simpson's line S. 13-04 W.
passing 2 irons 642.23 feet to a point in the center line of Midas
Spring Road, Simpson's corner; thence with the center line of the
road, 2 calls as follows: (1) N. 36-17-30 W. 109.62 feet to a point,
(2) N. 55-04-30 W. 90.33 feet to the Beginning; containing 2.26 acres.
Refer to survey of J. W. Spratt, November 4, 1953. Refer to Craver
estate, 1934. Refer to Map Book 1357, Page 495.

PARCEL I is in Steele Creek Township; PARCEL II is in Long Creek
Township.

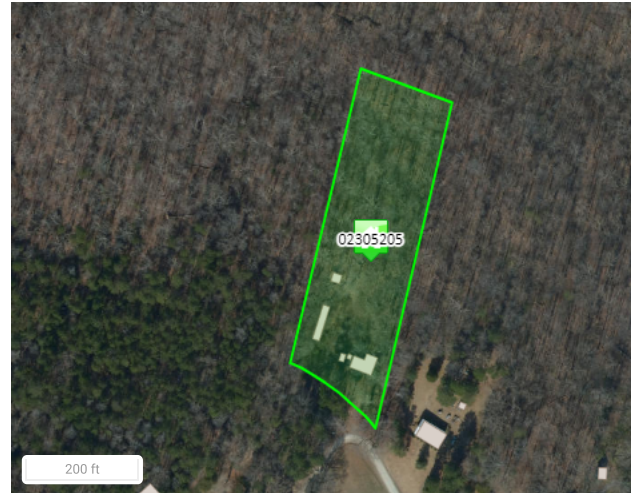


Mecklenburg County ~ Property Record Card Property Search

PARCEL ID: 02305205
9808 MIDAS SPRINGS RD UNINC NC

LEACH AARON, LEACH MONIKA
14030 BERNARDY LN
CHARLOTTE NC 28269

Total Appraised Value
\$83,500



KEY INFORMATION

Land Use Code	R120	Neighborhood	C301
Land Use Desc	SINGLE FAMILY RESIDENTIAL - ACREAGE	Land	2.26 ACRE
Exemption/Deferment	-	Municipality	MECKLENBURG COUNTY-UNINCORPORATED
Last Sale Date	12/30/2020	Fire District	LONG CREEK
Last Sale Price	\$73,000	Special District	FIRE SERVICE D
Legal Description	M1357-495		

ASSESSMENT DETAILS

2021 Real Estate Assessed Value	
Land Value	\$64,400
Building Value	\$19,100
Features	\$0
Total	\$83,500

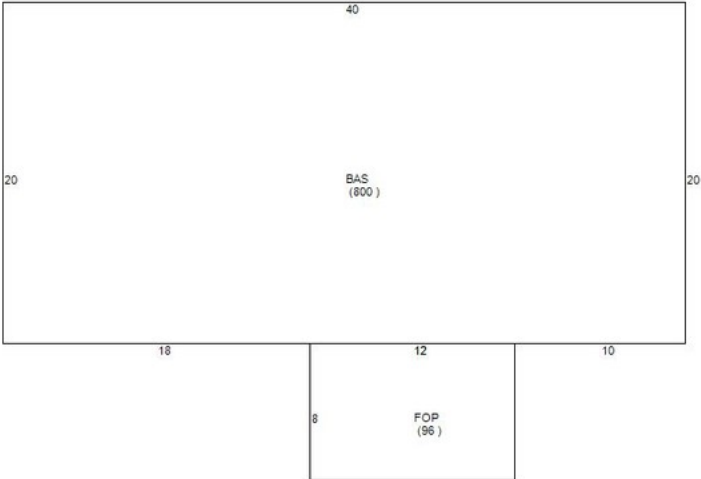
LAND

USE	UNITS	TYPE	NEIGHBORHOOD	ASSESSMENT
R120	2.26	ACRE	C301	\$64,400

BUILDING

BUILDING (1)

Finished Area	800
Year Built	1961
Built Use / Style	SINGLE FAMILY RESIDENTIAL
Story	1 STORY
Heat	FORCED AIR - DUCTED
Fuel	GAS
Foundation	CRAWL SPACE
External Wall	ALUMINUM, VINYL
Fireplace(s)	0
Full Bath(s)	1
Half Bath(s)	0
Bedroom(s)	2
Total (SqFt)	896



FEATURES

YEAR BUILT	TYPE	QUANTITY	UNITS	VALUE
1961	PUMP HOUSE	1	36	\$0

RECENT SALES HISTORY

The sales history includes only qualified sales made since January 1, 2016. A sale is qualified when it has been verified, by the appraiser, as an arm's length transaction for fair market value. Only qualified sales are considered in the appraisal process. For a complete history of sales and other transfers, please visit [Polaris](#). The [Register of Deeds](#) records, indexes, and stores all real estate related documents that are presented for registration.

SALE DATE	SALE PRICE	LUC AT SALE	LEGAL REFERENCE	DEED TYPE	SOLD AS VACANT	GRANTOR	GRANTEE
12/30/2020	\$73,000	R120	35499	"WARRANTY DEED"	Yes	"MUMPOWER HELEN LEE"	"LEACH AARON"

VALUE CHANGES

The value change history shows only changes in appraised value; it does not show exemptions, exclusions or deferrals that could reduce a property's taxable value. If any of these are in effect for a particular tax year, it will be shown on the property tax bill for that year. It is also possible that some previous value changes might be missing from this list or listed in the wrong order. If you have any questions, please call the County Assessor's Office at 704-336-7600.

DATE OF VALUE CHANGE	EFFECTIVE FOR TAX YEAR	REASON FOR CHANGE	NEW VALUE
01/14/2019	2019	COUNTYWIDE REVALUATION	\$83,500
06/07/2014	2011	REVALUATION REVIEW - PEARSON	\$83,800
02/04/2011	2011	COUNTYWIDE REVALUATION	\$127,300
01/02/2003	2003	COUNTYWIDE REVALUATION	\$97,500

PERMITS

For information on building, electrical, mechanical or plumbing permits issued for this property in the last six years, please visit Mecklenburg County Code Enforcement's [searchable permit site](#).

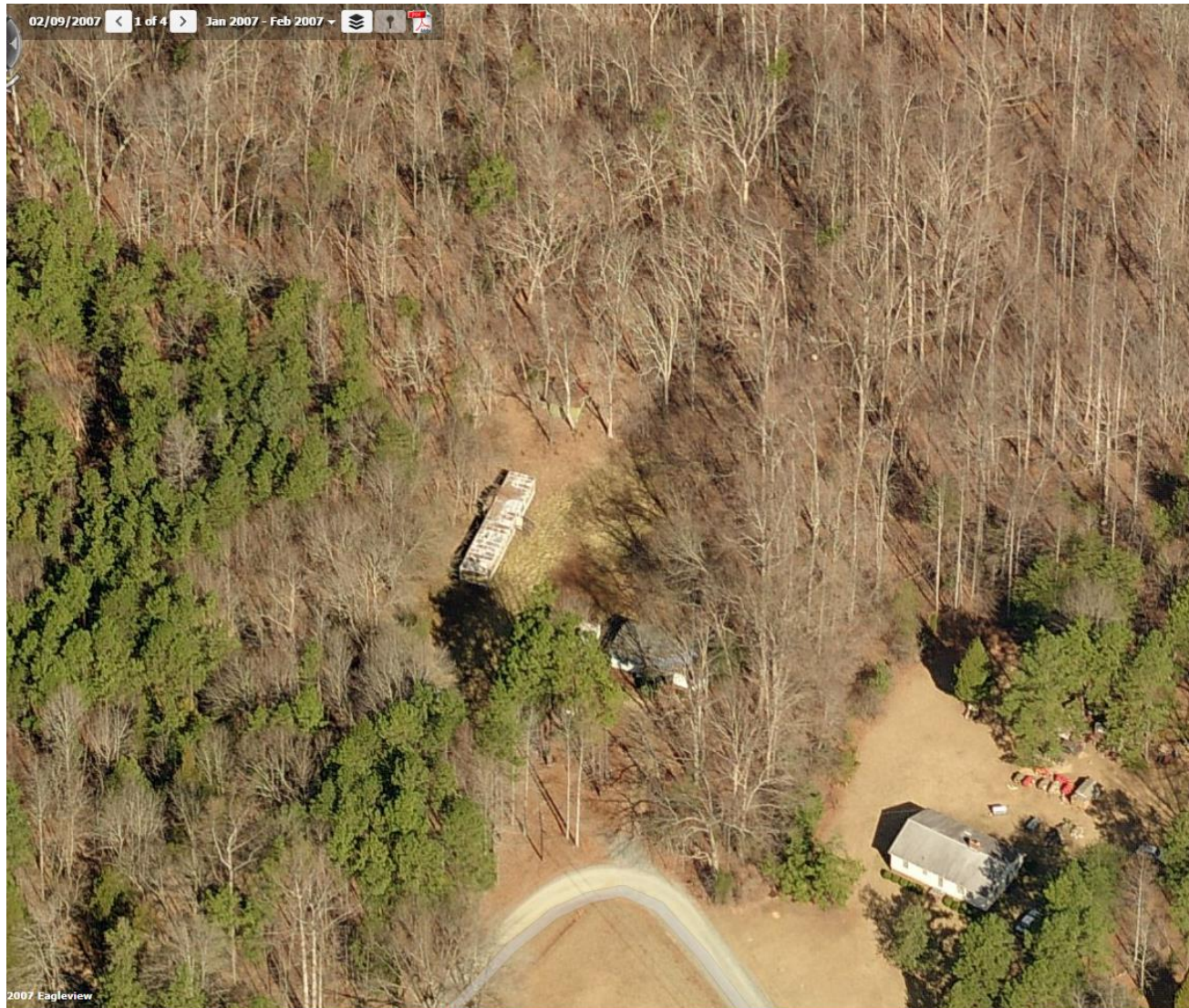
Disclaimer

Mecklenburg County makes every effort to produce the most accurate information possible. **No warranties, expressed or implied, are provided for the data herein, its use or interpretation.**

Exhibit 3



Exhibit 4



For Registration
 Fredrick Smith
 Register of Deeds
 Mecklenburg County, NC
 Electronically Recorded
 2020 Dec 30 02:40 PM RE Excise Tax: \$ 146.00
 Book: 35499 Page: 267 - 271 Fee: \$ 26.00
 Instrument Number: 2020222701

Fredrick Smith

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: 146.00

Parcel Identifier No. 02305205 Verified by _____ County on the _____ day of _____, 20____
 By: _____

Mail/Box to: Grantee

This instrument was prepared by: Baker Law Office, PLLC, 9620 Holly Point Dr., Ste. 102, Huntersville, NC 28078

Brief description for the Index: _____

THIS DEED made this 23rd day of _____ December _____, 2020, by and between

GRANTOR

Sandra Mumpower James and husband, Royal David James and
 Barbara Ann Pierce and husband, Nelson Cole Pierce
 10508 Kerns Rd.
 Huntersville, NC 28078

GRANTEE

Aaron Leach and wife, Monika Leach
 14030 Bernardy Lane
 Charlotte, NC 28269

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

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

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

PIN #

See Exhibit A attached hereto and incorporated herein by reference.

See Exhibit B attached hereto and incorporated herein by reference.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 3670 page 448.
 All or a portion of the property herein conveyed includes or X does not include the primary residence of a Grantor.

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

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

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

1. All easements, restrictions and rights of way of record. 2. Those matters that a current and accurate survey would disclose. 3. Ad Valorem taxes for the year 2021 and subsequent years.

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

By: _____ (Entity Name) _____ Print/Type Name: Sandra Mumpower James (SEAL)

Print/Type Name & Title: Sophia McKenzie / Teller _____ (SEAL)

By: Sophia McKenzie WITNESS _____ Print/Type Name: Royal David James

Print/Type Name & Title: _____ _____ (SEAL)

By: Johanna Aviles WITNESS _____ Print/Type Name: Barbara Ann Pierce

Print/Type Name & Title: Johanna Aviles _____ (SEAL)

Print/Type Name: Nelson Cole Pierce

State of North Carolina - County or City of Mecklenburg

I, the undersigned Notary Public of the County or City of Mecklenburg and State aforesaid, certify that Sandra Mumpower James and husband, Royal David James personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 30th day of December, 20 20.

My Commission Expires: 10/27/2023 (Affix Seal) _____

Pedro A. Vargas Notary Public

Notary's Printed or Typed Name

State of Florida - County or City of Orange

I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that Barbara Ann Pierce & husband, Nelson Cole personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 24 day of December, 20 20.

My Commission Expires: 10/27/2023 (Affix Seal) _____

Pedro A. Vargas Notary Public

Notary's Printed or Typed Name

State of Florida - County or City of _____

I, the undersigned Notary Public of the County or City of Orange and State aforesaid, certify that FLDL PG 20-07345-8270 DL 2062349320 personally came before me this day and acknowledged that he is the _____ a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 24 day of December, 20 20.

My Commission Expires: 10/27/2023 (Affix Seal) _____

Pedro A. Vargas Notary Public

Notary's Printed or Typed Name

Exhibit A

Beginning at a point in the center line of Midas Spring Road, said point being the Southeasterly corner of the property of E. B. Honeycutt (now or formerly) and running thence with his line N. 13-04 E. passing an old iron 558 feet to an old iron in McElroy's line and running thence with McElroy's line S. 69-50 E. 168.3 feet to an iron, Simpson's corner; thence with Simpson's line S. 13-04 W. passing 2 irons 642.23 feet to a point in the center line of Midas Spring Road, Simpson's corner; thence with the center line of the road, 2 calls as follows: (1) N. 36-17-30 W. 109.62 feet to a point, (2) N. 55-04-30 W. 90.33 feet to the Beginning; containing 2.26 acres. Refer to survey of J. W. Spratt, November 4, 1953. Refer to Craver estate, 1934. Refer to Map Book 1357, Page 495.

Exhibit B

Helen Lee Mumpower died testate in Mecklenburg County, North Carolina on June 30, 2013. Her estate is probated in File 18 E 408 in the Office of the Clerk of Court of Mecklenburg County, North Carolina. Her son, Michael Mumpower, preceded her in death. Her surviving heirs and beneficiaries are Sandra Mumpower James and Barbara Ann Pierce.

Exhibit 6



Photo taken of 9808 Midas Springs Road by Staff 4/28/2021

Lauren Speight

From: Lauren Speight
Sent: Thursday, December 31, 2020 10:42 AM
To: leachmonika@gmail.com
Cc: Aaron Leach; Tracy Barron; Kim Behrenbrinker; Au'Darius Blackwood
Subject: RE: 9808 Midas Springs Rd

Good morning,

The property located at 9808 MIDAS SPRINGS RD HUNTERSVILLE NC 28078 is in the Rural Zoning District and manufactured/mobile homes are not permitted. Modular and "stick-built" single family detached homes are permitted.

However, this property does not have legal access by easement or frontage to the public street at this time, so Town Staff cannot current give zoning approval for any building permit for any homes/structures at the property.

Let me know if you have any additional questions!

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: leachmonika@gmail.com <leachmonika@gmail.com>
Sent: Wednesday, December 30, 2020 2:38 PM
To: General Planning <GeneralPlanning@huntersville.org>
Cc: Aaron Leach <leachas@corning.com>
Subject: 9808 Midas Springs Rd

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,

We purchased land on 9808 Midas Springs Rd, Huntersville, NC 28078, and we are trying to use the existing septic tank that is connected to an old house that had been damaged. The Mecklenburg county advised us that we will have to rebuild on the existing foundation and we are looking into manufacturing homes to see what can we put it there to save the money.

Could you please advise if we could add a manufacturing home?

Thank you,

Monika Leach



Variance Application

Date of Application: 4/13/2021

Property/Building Address: 9808 Midas Springs Rd., Huntersville, NC 28078 Parcel Size (ac): 2.253

Tax Parcel ID (PIN) Number(s): 02305205

Text of Ordinance to be varied

Ordinance: Zoning Article: 8.1 Street Frontage Section: 1

Description of Request: The applicant requests that a variance to this ordinance be granted to recognize that the original division of this lot was intended to be single family residential lot and that through no fault of the applicant there will be no public street to connect this lot to. Strict application of the ordinance would result in an unnecessary hardship to the applicant, the particular hardships are peculiar to the property, no actions taken by the applicant resulted in the hardship, the requested variance is consistent with the spirit, purpose, and intent of the ordinance, and public safety will be secured and substantial justice achieved.

Submittal Requirements and Procedure

The following shall be submitted with the completed application (signed and dated by the property owner and/or applicant):

- One (1) electronic copy by email or (1) hard copy of applicable map(s), site plans, exhibits, and applications showing exact location of property with respect to existing streets, adjoining lots and other important features on or contiguous to the property. Also, include any maps and/or illustrations (to scale), which are necessary to show the location, number and size of buildings, signs, etc., on the property.
- Applications shall be emailed to planning@huntersville.org or mailed as directed below.
- A list of names, addresses and tax parcel identification numbers of properties that abut the site, are across the street from the site or are otherwise within one hundred feet (100') of the site.
- Review Fee - Please check most recent version of Fee Schedule for applicable Variance Review Fee. Reviews shall be submitted by mail as directed below or through the Town website: www.huntersville.org/planning (Select Permits & Process > Submit Planning and Zoning Fee)
- See the current Board of Adjustment Submittal Deadlines and Meeting Schedule for filing deadlines and meeting dates
- Please submit your complete application and fee by **noon the day filing deadline**

Physical Address: 105 Gilead Road | Third Floor (**Fed Ex, UPS, and Couriers**)
Mailing Address: P.O. Box 664 | Huntersville, North Carolina 28070 (**USPS**)
Attention: Planning Department

Please make checks payable to: Town of Huntersville
Include property address and/or Tax Parcel ID in memo

Notification Requirements

Planning Staff will be required to notify in writing each adjoining property owner.

Planning Staff will also be required, if you are seeking a variance from the requirements of the Mountain Island Lake or Lake Norman Watershed Overlay Districts, to notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption as follows:

- * Mountain Island Lake Watershed Overlay. Local governments having jurisdiction in the watershed: Charlotte Mecklenburg, Cornelius and Huntersville. Entities using the water supply for consumption: Mecklenburg County, Gastonia and Mount Holly.
- * Lake Norman Watershed Overlay. Local governments having jurisdiction in the watershed: Davidson, Cornelius and Huntersville. Entities using the water supply for consumption: Mooresville, Mecklenburg County and Lincoln County.

Variance Requirements

STANDARDS FOR GRANTING A VARIANCE (Article 11.3.2.e.):

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed by the Board (Article 11.3.1.e.).

In the following spaces, indicate **FACTS** that demonstrate to the Board of Adjustment you meet all the standards for granting a variance:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property.

The variance application requests that the Town recognize that Midas Spring Road is not going to be extended to the applicant's property and, as such, the applicant would be unable to pursue their dream of home ownership due to strict application of the statute. The applicants believed this lot to be able to build a home on it, but unfortunately were misled through the due diligence process, through no fault of the town. See exhibit A

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. The difficulty or hardship is peculiar to the property and is not generally shared by other properties classified in the same zoning district and/or use for the same purpose.

The specifics surrounding the extension of Midas Spring Road are very peculiar to this property and no other. Other lots on the street that are part of the maintained road allow homes, but the cutoff of maintenance makes development difficult. The state will not be extending maintenance to the road. See Exhibit A and B

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The hardship exists as a function of the state of NC not maintaining the road. Applicant has in no way contributed or caused this hardship. See exhibit A and C

4. The public safety and general welfare have been protected and substantial justice done.

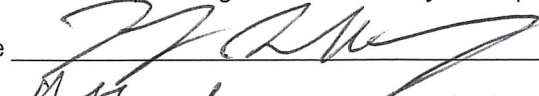
The granting of this variance will in no way jeopardize public safety or general welfare. Approval of this variance will allow for substantial justice for the applicant of completing their long awaited dream of home ownership in Huntersville.

Applicant

Printed Name Lawrence J. Shaheen Jr Phone 704-892-1699 ext 350

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

☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable if box is checked)

Signature  Date 4/13/2021

Title Attorney Applicant Phone 704-892-1699 ext 350

Applicant Email Larry@McIntoshLawFirm.com

Address of Applicant PO Box 2270, Davidson, NC 28036

Property Owner (if different than applicant)

* Printed Name Aaron and Monica Leach Phone 910-336-1299 or 910-580-8803

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

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the owner my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable if box is checked)

Signature Aaron & Monica Leach Date 4/13/2021

Title Owner's of Property Applicant Phone 910-336-1299 or 910-580-8803

Applicant Email leachas@corning.com or leachmonika@gmail.com

Address of Property Owner 14030 Bernady Ln, Charlotte, NC 28269

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

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, 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.**

Contact Information

Town of Huntersville	Phone: 704-875-7000
Planning Department	Fax: 704-875-6546
PO Box 664	Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Huntersville, NC 28070	Website: https://www.huntersville.org/228/Planning-Department

Received By Planning Department Staff: _____

Staff Initials: _____

Variance Application for 9808 Midas Springs Rd.

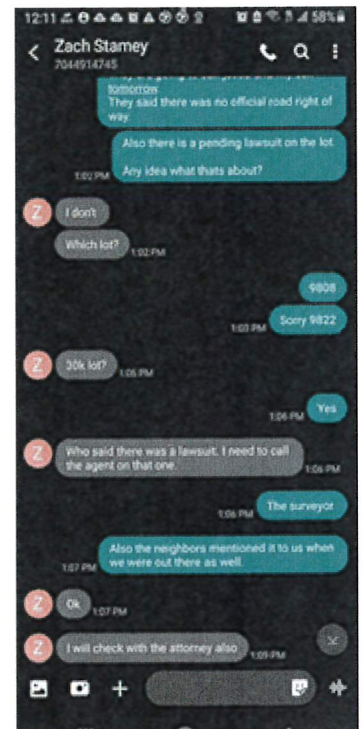
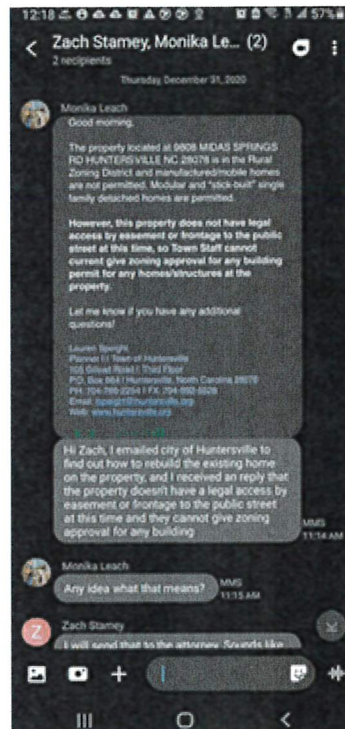
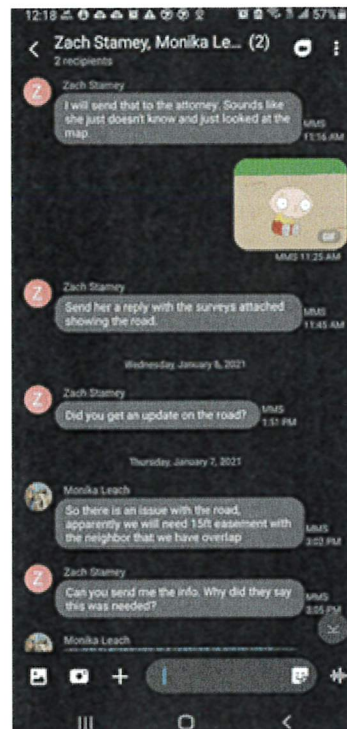
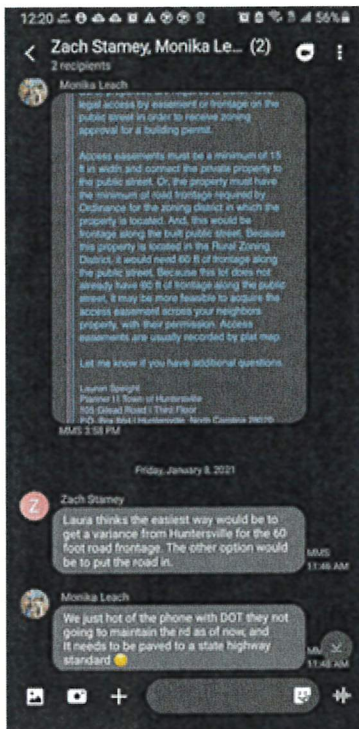
Explanation of Exhibits

Exhibit	Purpose	Content	Recognition from Town
Exhibit A – Correspondence	Informational	Shows proof and presented material of lots eligibility of permitting	Recognize the lots permitting issue was unbeknownst to the applicant.
Exhibit B - Local Map	Informational	Shows immediate vicinity of subject property including existing driveway access	The unmaintained portion of Midas Springs is continually used.
Exhibit C – Local Map with Aerial	Informational	Survey showing current frontage and newly agreed upon maintenance from NCDOT.	Lot has partial maintained Rd. frontage.
Exhibit D – Safety improvements and cleanup	Informational	Lot was used as a dumping ground for many years. applicants have been diligently cleaning and hauling off truckloads of trash, broken glass and and dangerous and condemned buildings	efforts have and will continue to improve the safety people who pass through as well as the wildlife.
Additional Information – Historical surveys/data	Informational	Old Surveys and information about the purchase lot that alluded to a perfectly permissible lot.	Accept these Exhibits as evidence of legal access to the subject property.

Exhibit A – Correspondence

We were never informed by our agent nor our closing attorney at any point throughout our due diligence period (Oct. 3rd. - Dec. 30th) that there would be any sort of permitting issue. We were very specific in asking this question throughout this time frame. At the closing table, with Baker's Law office; we again received further verification through a presented court order stating that all of Midas Springs road was a now a public road as of (12/19/2019).

We reached out to both our agent & attorney to request our knowledge of such issue in black and white. Both are hesitant on sending us this information as it may be damming to them on a personal/professional level. So, we have attached our text and email correspondence below.



Larry Shaheen

From: Sossamon, Gary D <dsossamon@ncdot.gov>
Sent: Tuesday, April 13, 2021 10:42 AM
To: Leach, Aaron S; Taylor, Wendy A; Davis, John T
Cc: leachmonika@gmail.com; Larry Shaheen
Subject: RE: [EXTERNAL]--Midas Spring Rd.

NCDOT has no plans/or projects that would extend our maintenance beyond the end of the blue arrow. The blue arrow shows the end of state maintenance. Any road improvements along the red line area would be performed by private development upgrade. In order to take that section over all items would need to be build to state standards and meet all requirements for adding a road to state system.

From: Leach, Aaron S <LeachAS@corning.com>
Sent: Monday, April 12, 2021 1:43 PM
To: Taylor, Wendy A <wataylor1@ncdot.gov>; Davis, John T <jtdavis4@ncdot.gov>; Sossamon, Gary D <dsossamon@ncdot.gov>
Cc: leachmonika@gmail.com; Larry Shaheen <Larry@mcintoshlawfirm.com>
Subject: RE: [EXTERNAL]--Midas Spring Rd.

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Hi Everyone,

I trust you are all doing well.

I understand Wendy is OOP today; John or Gary, if one of you could take this action item, I would greatly appreciate it.

Apologies for waiting last minute, but we are actually coming up on our deadline. Our variance application must be submitted by tomorrow morning at the latest for us to qualify for the Mid-May processing timeline, otherwise we will need to wait until Mid-June.

I would really appreciate a response asap so we can finish our application today and get it submitted intime for the variance processing in May.

Thank you all so much for your continued support.

Respectfully,

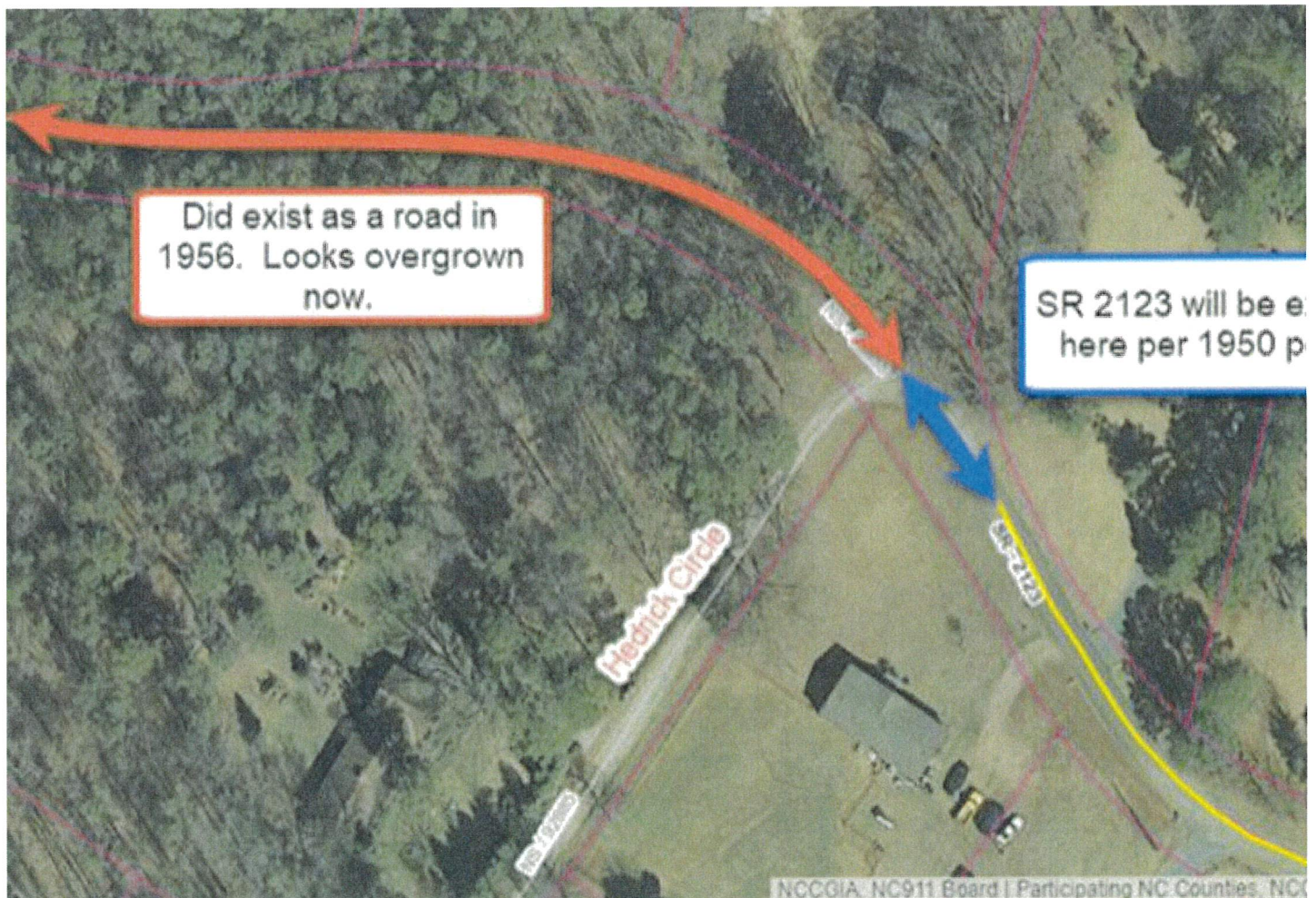
Aaron S. Leach
HR Coordinator – Corning Inc.
Optical Commercial Operations
4200 Corning Place, Charlotte, NC 28216

Cell: (704) 975-1533
Email: leachas@corning.com

From: Larry Shaheen <Larry@mcintoshlawfirm.com>
Sent: Monday, April 12, 2021 12:30 PM
To: wataylor1@ncdot.gov; jtdavis4@ncdot.gov; dsossamon@ncdot.gov
Cc: Leach, Aaron S <LeachAS@corning.com>; leachmonika@gmail.com
Subject: [EXTERNAL]--Midas Spring Rd.

Good afternoon Mrs. Taylor, Mr. Davis, and Mr. Sossamon,

My name is Larry Shaheen and I represent the Leach family in their variance appeal before the town of Huntersville. There had been some email traffic regarding the extension of maintenance along Midas Spring Rd., but I wanted to ask, other than the blue arrow on the exhibit below, do you have any plans to extend maintenance down Midas Spring Rd further along the red arrow? We do need an answer for the town to consider the variance. Thank you so much and please reach out as soon as you can.



Lawrence (Larry) Shaheen Jr.

Attorney At Law



Mailing Address: P.O. Box 2270, Davidson, NC 28036

Physical Address: 209 Delburg Street, Suite 203, Davidson, NC 28036

Telephone: 704.892-1699 Ext 350

Fax: 704-892-8664

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

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STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE CLERK
17-SP-001238

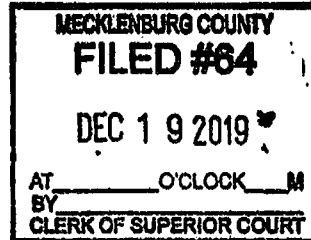
Barbara C. Montgomery, Terry)
Montgomery, Jordan Campbell, Janiel)
Campbell, Tate Campbell, Cori C.)
O'Rourke, Liam O'Rourke, David L.)
Campbell, Kathy Campbell, John)
Campbell, Lorin C. White, Elbert White,)
Melissa C. Woolery, Joey Woolery,)
Michael W. Campbell, Sandy Lusk, Joel)
K. Robinson, Cathy L. Robinson,)
Matthew F. Hedrick, Gay W. Hedrick,)
Fredrick W. Ingram, and Doris J. Ingram.)

Petitioners,)

v.)

James R. Gilbert and Debra L. Sharp,)

Respondents.)



ORDER

This matter appeared before the Honorable Louis A. Trosch, Mecklenburg County Superior Court Judge, on November 12, 2019 upon the appeal of the Respondents for a trial *de novo* of this petition for an order declaring an existing right-of-way dedicated to public use pursuant to N.C.G.S. § 136-96.1. The Court finds that the parties were duly and timely noticed of the trial in this matter, and the Petitioners were represented at the hearing by Alan W. Guffy, Esq. and the Respondents were represented by Drew A. Richards, Esq.

The Court, after having considered the contents of the Petition and having heard and considered the evidence presented and the arguments of counsel, hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The right-of-way at issue in this matter (the "Right-of-Way") is a thirty-foot wide road right of way located in the Long Creek Township of Mecklenburg County. It is approximately eight hundred feet long and runs from Midas Springs Road (SR 2123) to a platted subdivision road depicted on the plat of the Sunrise Acres subdivision recorded in Map Book 6, Page 377 of the Mecklenburg County Registry (the "Sunrise Acres Plat").

2. As platted, the subdivision road runs from the Right-of-Way to Beatties Ford Road (SR 2074) such that together, the Right-of-Way and subdivision road create a single connection from Midas Springs Road to Beatties Ford Road. Both the Right-of-Way and the subdivision road are referred to as "Hedrick Circle Road."

3. It is unclear the precise age of the Right-of-Way; however, the Sunrise Acres Plat was recorded in 1950 and it depicts the Right-of-Way as one outlet for the subdivision.

4. Travelling westward from Beatties Ford Road, the subdivision road "bends" northward toward the Right-of-Way. Over time, this "bend" in the road has become partially blocked and is "passable" but seldom used.

5. Today, residents of the subdivision to the north of this bend almost exclusively access their properties by use of Midas Springs Road and the Right-of-Way.

6. Residents of properties along the Right-of-Way, specifically the Respondents, also utilize the Right-of-Way for access.

7. The United States Postal Service, trash services, emergency vehicles, and parcel delivery services utilize the Right-of-Way to access residences, including residences of individuals residing within the subdivision who do not abut the Right-of-Way.

8. Mailboxes for individuals who do not own property abutting the Right-of-Way are installed and serviced on the Right-of-Way.

9. The road contained within the Right-of-Way abuts four properties identified by the following Parcel ID Nos: (1) 02306231; (2) 02306313; (3) 02306352; (4) 02306251.

10. Petitioners Barbara C. Montgomery, Terry Montgomery, Jordan Campbell, Janiel Campbell, Tate Campbell, Cori C. O'Rourke, Liam O'Rourke, David L. Campbell, Kathy Campbell, John Campbell, Lorin C. White, Elbert White, Melissa C. Woolery, Joey Woolery, and Michael W. Campbell are the heirs of Barbara Simpson McQueen and the owners of Mecklenburg County Parcel No. 02306231.

11. Petitioner Sandy Nadine Lusk is the owner of Mecklenburg County Parcel Number 02306313 (9709 Midas Springs Road, Huntersville, NC 28078).

12. Petitioners Joel K. Robinson and Cathy L. Robinson are the owners of Mecklenburg County Parcel Number 02306352 (9721 Midas Springs Road, Huntersville, NC 28078).

13. Respondents James Gilbert and Debra Sharp are the owners of Mecklenburg County Parcel Number 02306251 (9811 Midas Springs Road, Huntersville, NC 28078).

14. Petitioners Fredrick and Doris Ingram, by virtue of their ownership of Lot 27, are the dominant estate of a right of way easement that encumbers the same Right of Way, duly recorded at Book 4679, Page 0336 of the Mecklenburg County Public Registry.

15. Two surveys, the first dated November 30, 1954 and prepared by M. B. Seaver (the "Seaver Survey") and the second dated May 6, 1980 prepared by J.D. Turner (the "Turner Survey") depict the Right-of-Way as an unnamed thirty-foot-wide road right-of-way that runs from Midas

Springs Road (SR 2123) along the common boundary of the parties' properties for a length of 808.14 feet.

16. Three deeds for properties abutting the Right-of-Way refer to the Right-of-Way as "Hedrick Circle Road," namely:

- a. That certain deed from J. Frank Houston and wife Addie P. Houston to Barbara S. Campbell recorded in Deed Book 1723, Page 33 of the Mecklenburg County Registry dated December 3, 1954 (the "Houston Deed"). This deed is the most recent deed in the chain of title for the property identified as Mecklenburg County Parcel No. 02306231.
- b. That certain deed from William H. McQueen and Barbara S. McQueen to John J. Cattuna and De Leslie Smith recorded in Deed Book 4303, Page 597 of the Mecklenburg County Registry dated May 15, 1980 (the "Cattuna Deed"). This deed is the deed creating the property identified as Mecklenburg County Parcel Number 02306251.
- c. That certain deed from James Franklin Lusk to Cathy Lynn Robinson and Joel K. Robinson recorded in Deed Book 6862, page 824 of the Mecklenburg County Registry dated April 29, 1992 (the "Robinson Deed"). This deed is the deed creating the property identified as Mecklenburg County Parcel Number 02306352.

17. The legal descriptions in the Houston Deed and the Cattuna Deed were drawn from the Seaver Survey and the Turner Survey, respectively, and the right-of-way referred to as "Hedrick Circle Road" in those deeds is the Right-of-Way.

18. Based upon the boundary measurements provided in the surveys and deeds before the Court, as well as the records of the Mecklenburg County Geographic Information System (GIS) which were admitted by stipulation of the parties, Petitioners own more than two-thirds of the road frontage of the land abutting the Right-of-Way.

CONCLUSIONS OF LAW

1. The Court has jurisdiction over this matter and the parties herein.
2. With respect to N.C.G.S. § 136-96.1(a)(1), Respondents argue that for the purposes of this statute, Hedrick Circle Road constituted a single road extending from Midas Springs Road to Beatties Ford Road and that therefore, the landowners along that portion of the road depicted on the Sunrise Acres Plat should be included when determining if Petitioners constituted "landowners of tracts constituting two-thirds of the road frontage of the land abutting the right-of-way." After a review of the applicable law, the Court concludes that "the road frontage of the land abutting the right-of-way in question" refers strictly to the Right-of-Way—that being the right-of-way for the actual section of road that is being petitioned for public use. The Petitioners presented evidence that the owners of more than two-thirds of the road frontage along the Right-of-Way (that portion of Hedrick Circle Road beginning at the end of the subdivision and continuing to the

intersection with Midas Springs Road) joined in this action and therefore satisfied the requirements of N.C.G.S. § 136-96.1(a)(1).

3. The Seaver Survey and Turner Survey depict the Right-of-Way and therefore Petitioners have satisfied the requirements of N.C.G.S. § 136-96.1(a)(2).

4. With respect to N.C.G.S. § 136-96.1(a)(3), the Petitioners presented evidence that Hedrick Circle Road has connected Midas Springs Road to Beatties Ford Road for decades and been used for that purpose at least until a portion of the road (where Hedrick Circle Road turns in a northerly direction) became partially blocked. Following the time that the bend in Hedrick Circle Road became partially blocked, the northern arm of Hedrick Circle Road which lies outside of the platted subdivision (the Right-of-Way) has continued to be used by the land owners, residents, their invited guests, delivery people, mail carriers, garbage collectors, and others providing services to those properties. In addition, it has been used by those property owners and residents of the subdivision whose property is south of the Hedrick Circle segment Petitioners are seeking to dedicate through this action, but north of the partial blockage in the bend of Hedrick Circle. While the bend is "passable," the evidence demonstrated that those people had chosen (and been allowed) to use the segment at issue for ingress and egress to their properties. In addition their guests, garbage collectors, delivery people, service providers and mail collectors traverse that same segment routinely. As a result, this court concludes that the Right-of-Way "has been actually open and used by the public" and Petitioners have satisfied the requirements of N.C.G.S. § 136-96.1(a)(3).

5. The Houston Deed, Cattuna Deed, and Robinson Deed are deeds for three separate parcels of land abutting the Right-of-Way and each recites the existence of the Right-of-Way as a named street or road. Accordingly, Petitioners have satisfied the requirements of N.C.G.S. § 136-96.1(a)(4).

6. The Right-of-Way has not been established by adverse possession or cartway proceeding.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED, that the Petitioners, having satisfied the requirements of N.C.G.S. § 136-96.1(a), are entitled to an order declaring the right-of-way dedicated to public use. Their petition is therefore granted, and the right-of-way at issue in this matter, more commonly known as Hedrick Circle Road, shall be and now is dedicated for public use.

AND IT IS SO ORDERED.

Ordered this the 19 day of December, 2019.

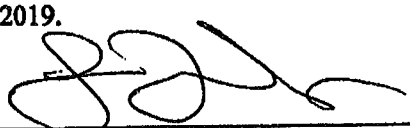

The Honorable Louis A. Trosch
Superior Court Judge

Exhibit B - Local Map

The addresses to the left and right are both occupied and addressed to Midas Springs road; both have driveway access to a partially maintained state road (2123).

Key:

Yellow Highlighted area represents current maintained portion of the road by NCDOT.

Green Arrows indicate driveway access to said lot.

Red indicates additional details.

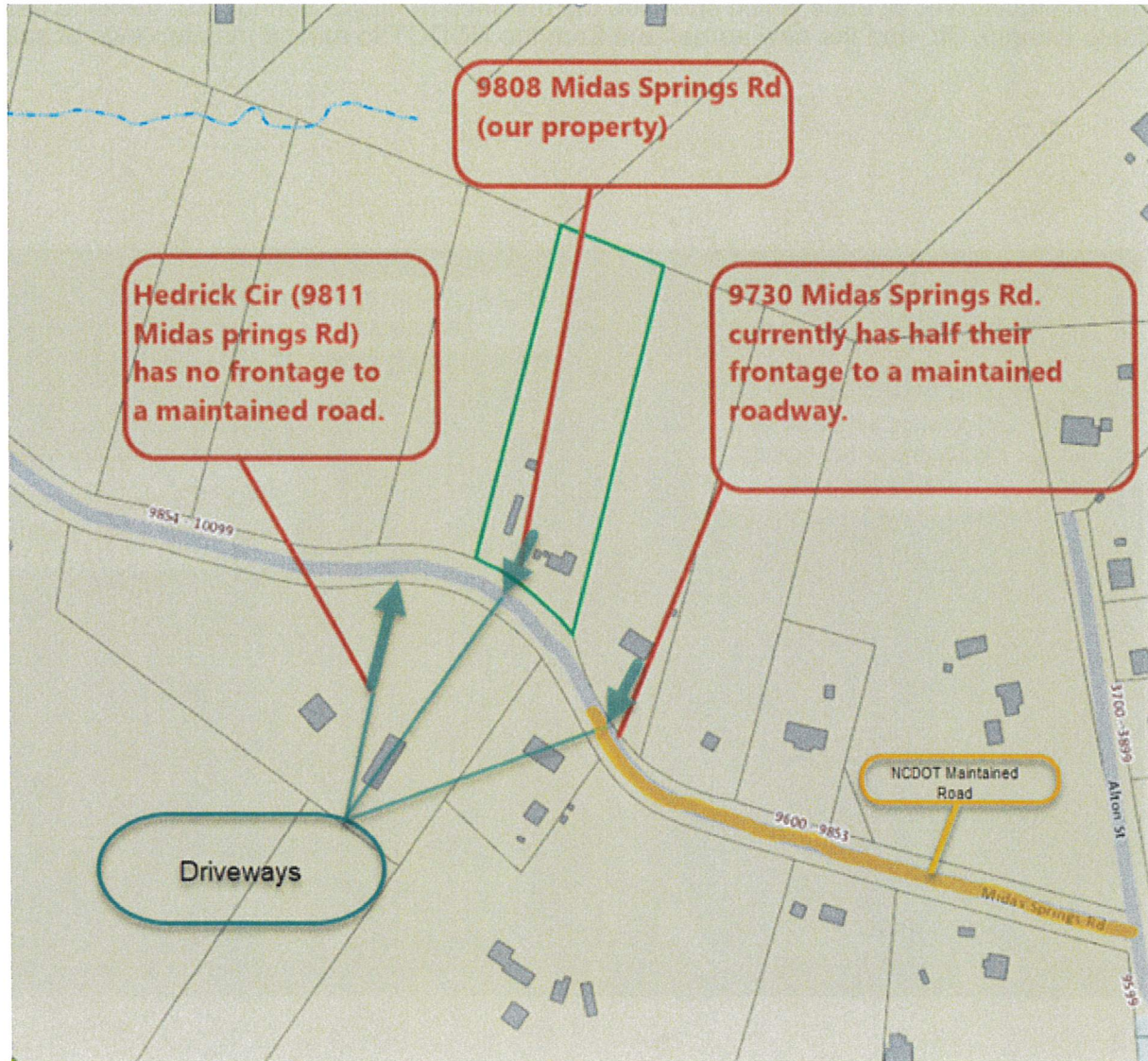
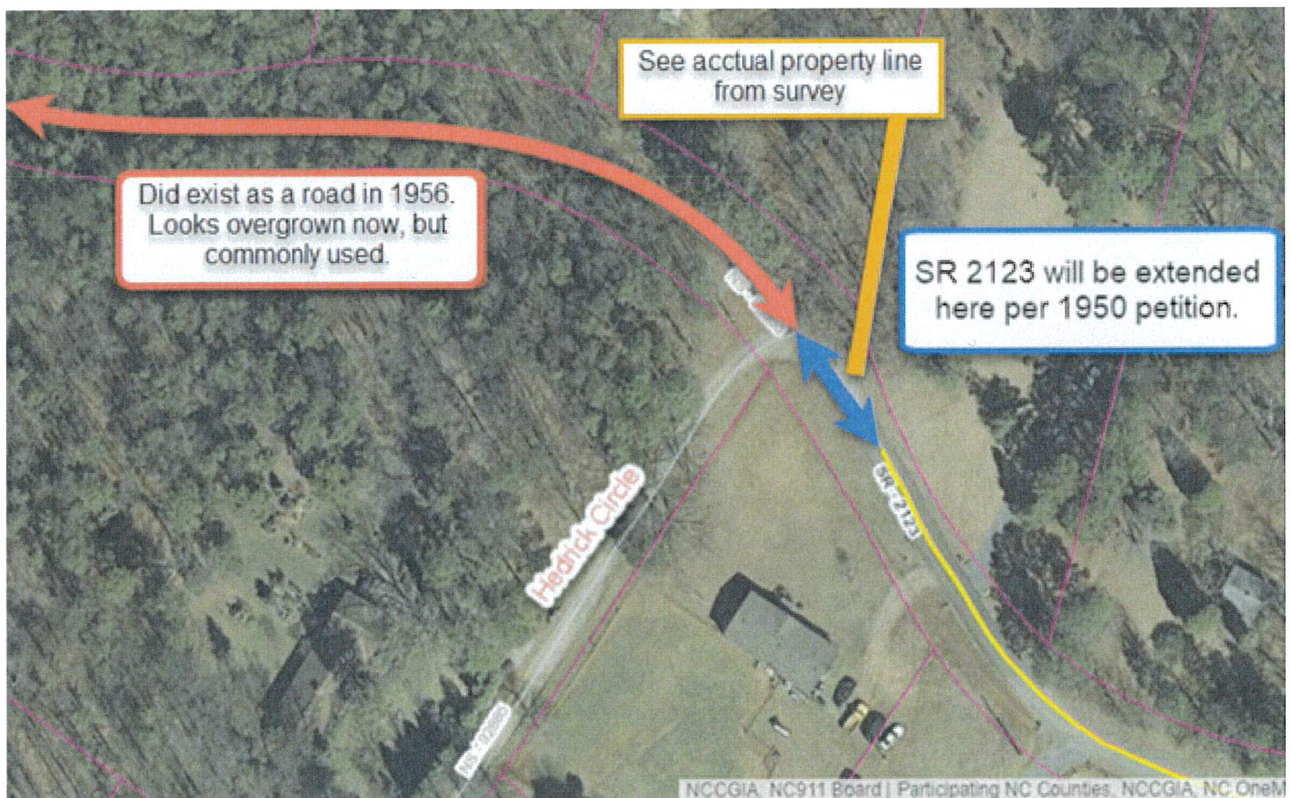


Exhibit C – Local Map
with Aerial

We were informed by the Town of Huntersville that we had two Options to obtain a building permit. First, request/obtain an easement over a property to the maintained portion of a state rd. Second, to contact NCDOT to take over maintenance of all of Midas Springs Rd. We managed to convince the neighbor after a several weeks to grant us the necessary easement only to find out that the easement option is not a valid one. Through research, we discover that NCDOT no longer maintained the linier footage agreed upon during the original agreement. After several discussions and the conclusion of their own research. NCDOT has agreed to extend the maintenance of Midas Springs Rd. to the original agreed upon distance which puts it in the same situation as the neighboring lost with 1/2 frontage. Below is the original survey of 9808 which specifies the distance of Midas Springs Rd. frontage before it turns off into Hedrick Cir. and the new agreement from the NCDOT to extend maintenance of said road.



LEGEND

- △ PK NAIL FOUND
- ▲ PK NAIL SET
- CONCRETE MONUMENT SET
- #4 REBAR SET
- ⊙ # REBAR FOUND
- POINT NOT SET
- ⊙ 1" IRON PIPE FOUND

Boundary not surveyed

Tie Line (Not to Scale)

Right of Way

5: WATERSHED MNT. ISLAND LAKE
WATERSHED CLASS CA1

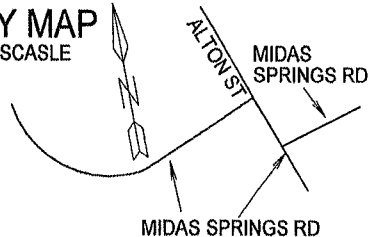
6: CONSULT WITH GOVERNING
AGENCY FOR PREVAILING LAND
DEVELOPMENT REQUIREMENTS
PRIOR TO DESIGN OR
CONSTRUCTION.

CHARLES L. SANDERS JR
DB.8939 PG.373

LILLIAN W. GRIFFIN TRUSTEE
LILLIAN W. GRIFFIN REVOCABLE
TRUST DEED BOOK 31869 PAGE 676

VICINITY MAP

NOT TO SCALE



LINE TABLE		
Id	Bearing	Distance
L1	S 81°47'47" W	20.58'
L2	N 62°54'34" W	53.62'
L3	N 11°10'47" E	33.24'
L4	N 38°12'47" W	43.79'
L5	N 38°08'18" W	64.41'
L6	S 11°15'24" W	24.04'

1: NO NCGS GRID
MONUMENTS
WITHIN 2000' OF SUBJECT
PROPERTY.

2: PROPERTY MAY BE SUBJECT
TO OTHER COVENANTS,
RESTRICTIONS, EASEMENTS
OR RIGHT OF WAY OF RECORD

3: SETBACKS SHOWN ARE PER
TOWN OF HUNTERVILLE
CURRENT "R" ZONING

4: PER TOWN OF HUNTERVILLE
PLANNING DEPARTMENT,
IMPERVIOUS AREA RESTRICTION
FOR THIS LOT WAS VERBALLY
STATED
AS 6% OF TOTAL LOT AREA.

NOTE: AREA BY
COMPUTER

AC=2.253

+/-

ZONED R

JOHN DANIEL BAILEY
DB.35103 PG. 541

JAMES R. GILBERT
& DEBRA I SHARP
DB. 31272 PG. 95

MIDAS SPRINGS ROAD
60' APPARENT R/W
UNOPEN & UNIMPROVED
(PER DEED BOOK 31272 PG 95)
SR (2123)

40.49' GRAVEL RD
FROM P/L

Joseph C. Roberts PLS L3580
424 Leland St.
Charlotte N.C. 28214
Telephone # (704) 995-1120

CATHY LYNN ROBINSON
& JOEL K ROBINSON
NOW OR FORMERLY
DB.6862 PG.824

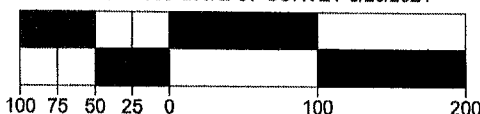


2" IRON PIPE
FOUND ON P/L

BOUNDARY SURVEY

OF
9808 MIDAS SPRINGS RD
TAX PARCEL #023-052-05
OWNERS: AARON LEACH & MONIKA
LEACH
DEED BOOK 35499 PAGE 267
LOCATION: LONG CREEK TOWNSHIP
MECKLENBURG COUNTY N.C.

SCALE 1" = 100' DATE OF SURVEY 6/20/2021



I, Joseph C. Roberts, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 35499 page 267, etc) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book 8939, page 373; or other reference source, DB 31869 Page 676; that the ratio of precision or positional accuracy is 1: 10,000; and that this map meets the requirements of the Standards of Practice for Land Surveying in North Carolina (21 NCAC 56. 1600.)

This 12th day of January, 2021 Seal

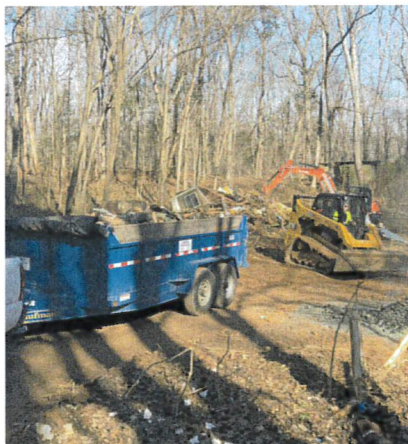
Professional Land Surveyor L-3580

Exhibit D – Safety
improvements and
cleanup

Upon Purchase of said lot, we immediately started cleanup and demolition of condemned structures. To date, there has been roughly 15 trash piles of mostly glass uncovered and hauled away. I brought my little dog out there to run around our new home where i knew she should love it and one of those piles of glass cut her paw so deep she needed 2 stiches and 5 staples. although we have cleaned up a ton of trash out there, it is still not safe for our animals to run around out there.

we have also pulled out 4 old vehicles that were being used as target practice. There are still at least 2 vehicles out there that need to be pulled out.

there were countless appliances that and other junk that needed to be pulled out. so far, we have salvaged about two 40-yard dumpsters of scrap metal.



Additional information –
Historical surveys/data

3/7/2021

Gmail - FW: Midas Spring Rd

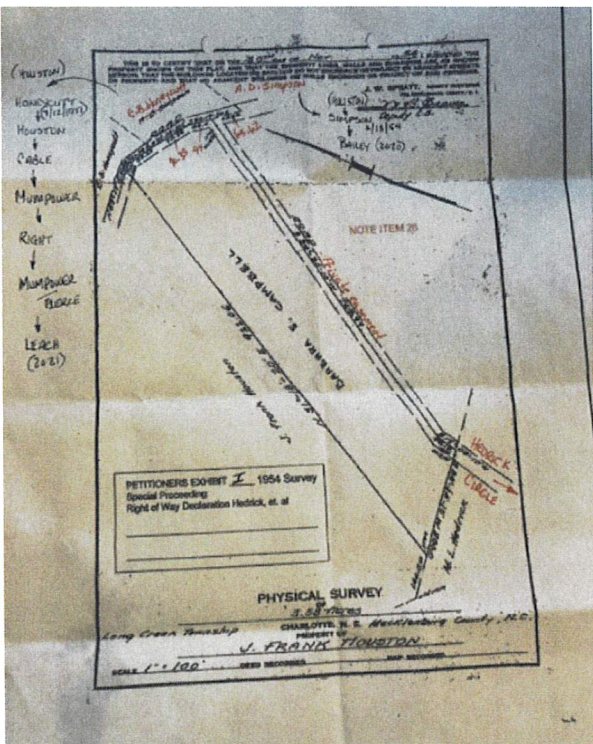
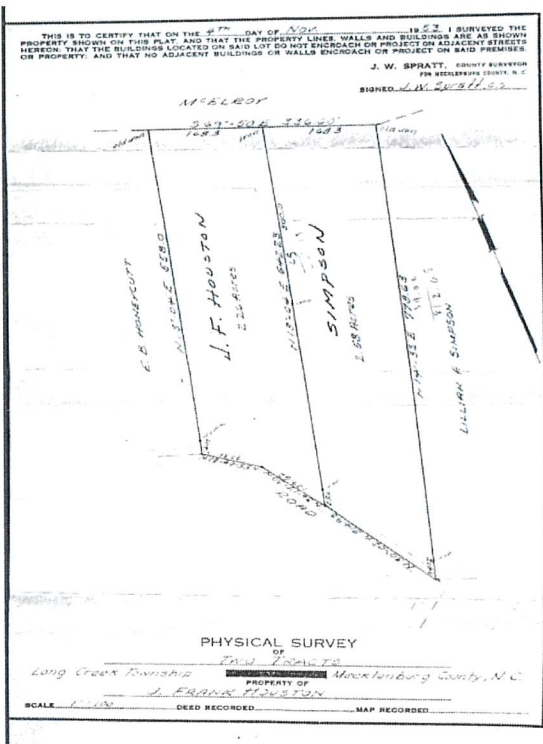


Exhibit 9



Exhibit 10

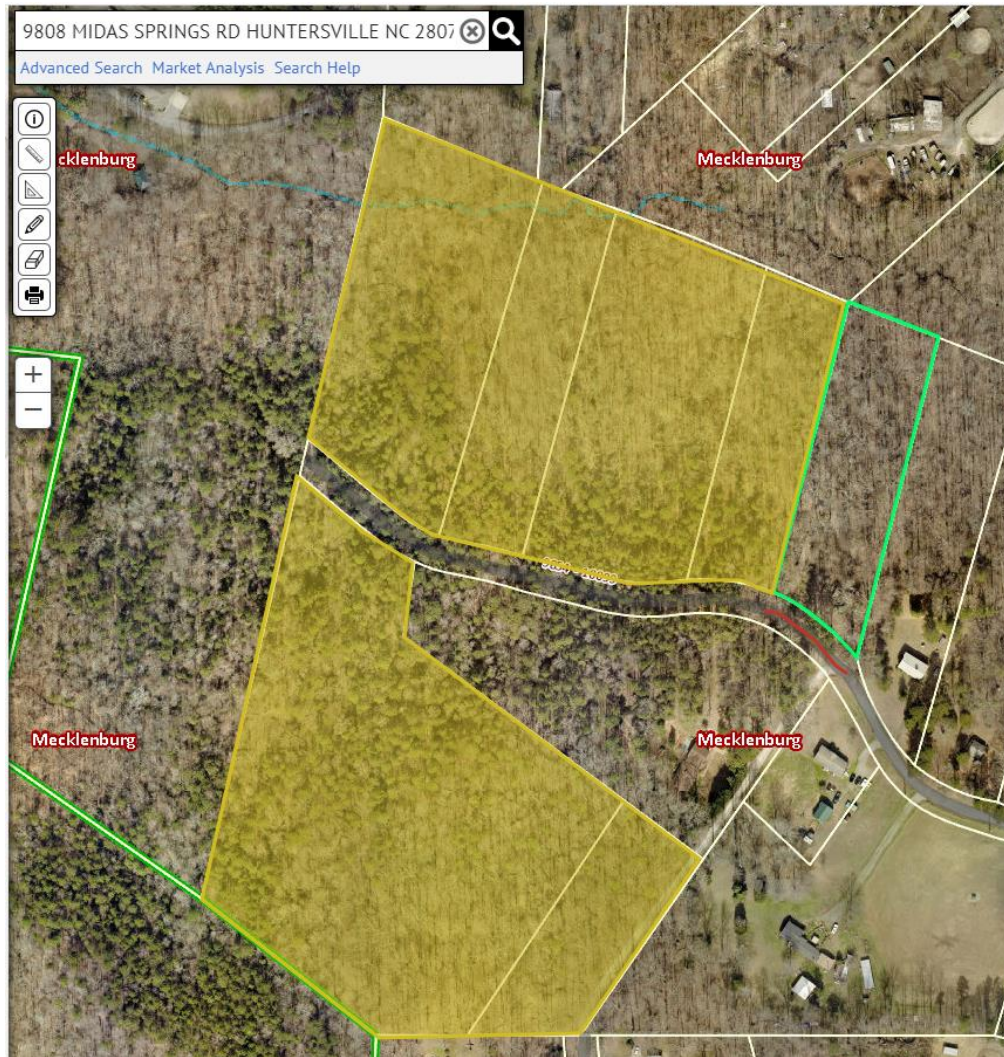


Exhibit 11



6512 Robert Street, Huntersville, NC 28078

Lauren Speight

From: Taylor, Wendy A <wataylor1@ncdot.gov>
Sent: Thursday, March 4, 2021 1:14 PM
To: Leach, Aaron S; Monika Leach; Lauren Speight
Subject: FW: Midas Spring Rd

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.

Please see email below.

Wendy Taylor, PE
District Engineer
North Carolina Department of Transportation
Division 10 District 2

980 523 0000 office
wataylor1@ncdot.gov

7605 District Drive
Charlotte, NC 28213



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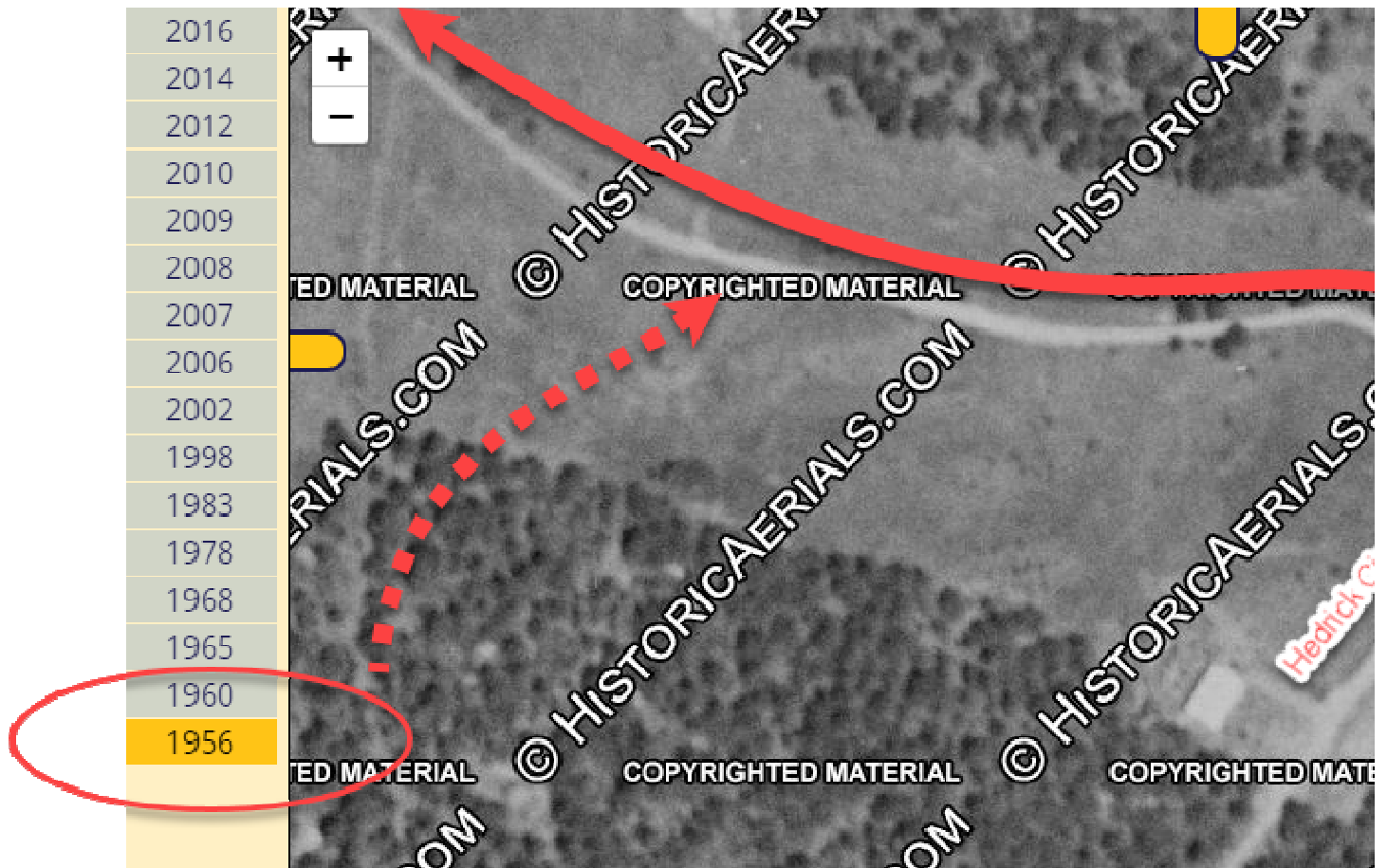
[Facebook](#) [Twitter](#) [YouTube](#)

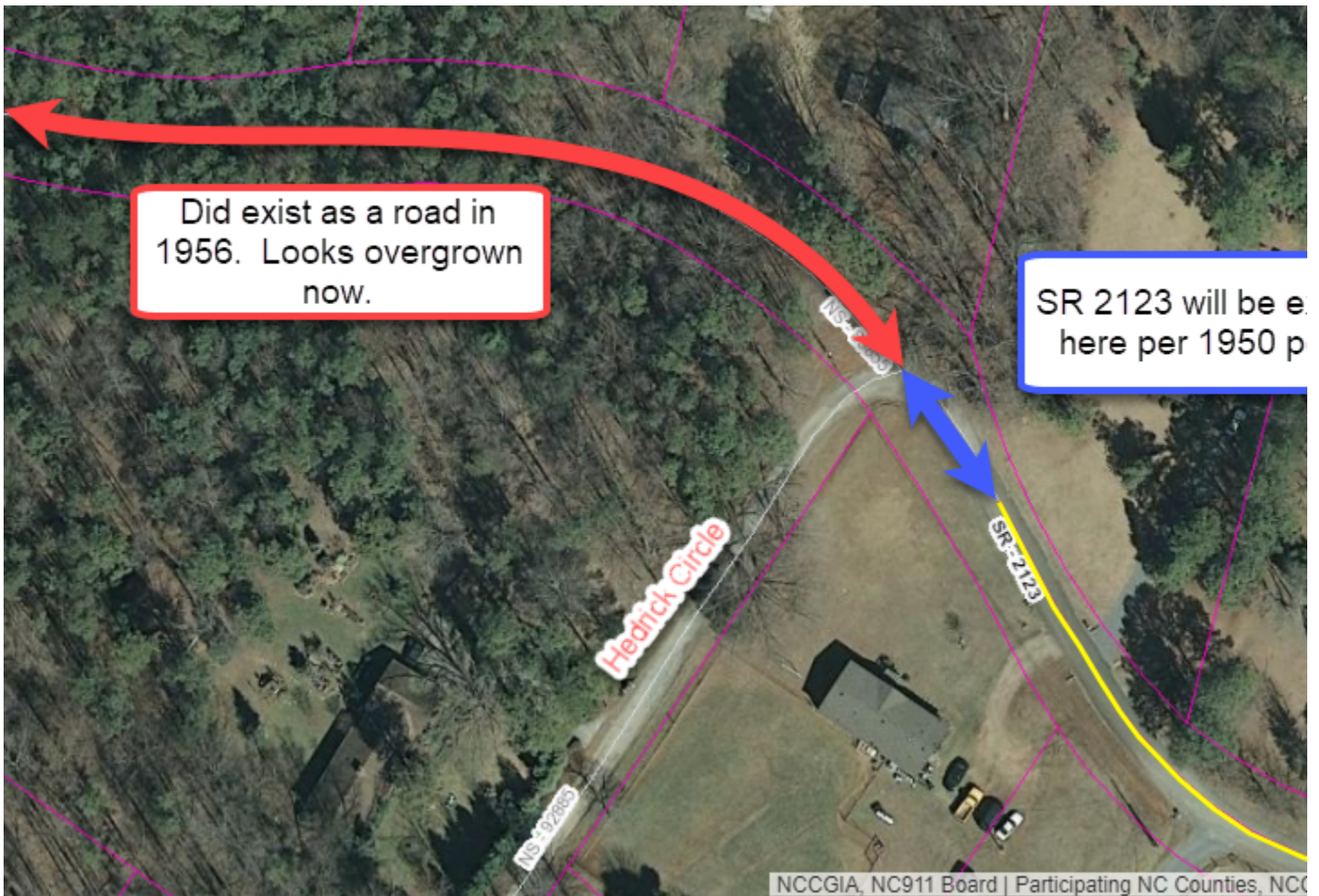
From: Davis, John T <jtdavis4@ncdot.gov>
Sent: Tuesday, March 2, 2021 9:50 AM
To: Sossamon, Gary D <dsossamon@ncdot.gov>
Subject: RE: Midas Spring Rd

Doug,

I haven't forgotten to respond, but I'm getting further clarification from the Chief's office just to make sure any response to the customer is solid. I was mistaken yesterday...this road did exist pre-1975. I'll be in touch once I get this clarification.

I still do plan to extend this along the section below in blue.





John Davis
Road Inventory Engineer
Operations Program Management
North Carolina Department of Transportation

919 673 1425 cell (teleworking)
jtdavis4@ncdot.gov

4809 Beryl Road
Raleigh, NC 27606



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[Facebook](#) [Twitter](#) [YouTube](#)

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Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

Lauren Speight

From: Taylor, Wendy A <wataylor1@ncdot.gov>
Sent: Thursday, April 29, 2021 3:02 PM
To: Leach, Aaron S; Monika Leach; Davis, John T; Sossamon, Gary D
Cc: Lauren Speight
Subject: RE: [External] RE: Midas Spring Rd.

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 Aaron,

Since we are going to allow it to be constructed as a gravel road, our new manuals do not have the design parameters for unpaved roads. I've talked to Doug and he's going to look back through his old manuals to see what those design standards were back then and provide that info to you. The road will also need to have a turnaround constructed at the end of the road.

In addition to the design and construction of the road, we will also need the R/W to be dedicated on both sides of the road. So you will need to have the property owner across the street from your parcels dedicate R/W to NCDOT for this road extension. We cannot add this road extension without good R/W.

Thanks,

Wendy Taylor, PE
District Engineer
North Carolina Department of Transportation
Division 10 District 2

980 523 0000 office
wataylor1@ncdot.gov

7605 District Drive
Charlotte, NC 28213



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[Facebook](#) [Twitter](#) [YouTube](#)

From: Leach, Aaron S <LeachAS@corning.com>
Sent: Thursday, April 22, 2021 10:51 AM
To: Monika Leach <leachmonika@gmail.com>; Taylor, Wendy A <wataylor1@ncdot.gov>; Davis, John T <jtdavis4@ncdot.gov>; Sossamon, Gary D <dsossamon@ncdot.gov>
Subject: [External] RE: Midas Spring Rd.

Thank you Wendy,

And happy Thirsty Thursday!

Are there minimum standards that you can send us to construct the continuation of Midas Springs Rd if it comes to that?

Does the width of the street have to match the rest of the maintained portion of the Midas Springs?

Are there minimum standards for:

- Road density
- Width
- Thickness
- Material
- Drainage
- Cul-de-sac/turnaround
 - o Width
 - o Circumference

Thanks for any information you/your team can provide.

Happy Earth Day!

Respectfully,

Aaron S. Leach
HR Coordinator – Corning Inc.
Optical Commercial Operations
4200 Corning Place, Charlotte, NC 28216

Cell: (704) 975-1533
Email: leachas@corning.com

From: Taylor, Wendy A <wataylor1@ncdot.gov>
Sent: Tuesday, April 13, 2021 10:52:09 PM
To: Larry Shaheen <Larry@mcintoshlawfirm.com>; Davis, John T <jtdavis4@ncdot.gov>; Sossamon, Gary D <dsossamon@ncdot.gov>
Cc: Aaron Leach <leachas@corning.com>; leachmonika@gmail.com <leachmonika@gmail.com>
Subject: RE: [External] Midas Spring Rd.

Hi Larry,

That road no longer exists and when it did exist, NCDOT was not petitioned to add it to our system. If the Leach's construct an extension of Midas Spring Rd, then they can petition us to add that section of road to our system provided that it is designed and constructed to state standards and they would have to construct a turnaround at the end of the road extension. NCDOT will not construct the road extension and we cannot extend our maintenance limits on a road that doesn't exist. The road extension does not have to be paved, but it will need to meet our design standards for a gravel road. Let me know if you have any other questions.

Thanks,

Wendy Taylor, PE
District Engineer
North Carolina Department of Transportation
Division 10 District 2

980 523 0000 office
wataylor1@ncdot.gov

7605 District Drive
Charlotte, NC 28213



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[Facebook](#) [Twitter](#) [YouTube](#)

From: Larry Shaheen <Larry@mcintoshlawfirm.com>
Sent: Monday, April 12, 2021 12:30 PM
To: Taylor, Wendy A <wataylor1@ncdot.gov>; Davis, John T <jtdavis4@ncdot.gov>; Sossamon, Gary D <dsossamon@ncdot.gov>
Cc: Aaron Leach <leachas@corning.com>; leachmonika@gmail.com
Subject: [External] Midas Spring Rd.

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Good afternoon Mrs. Taylor, Mr. Davis, and Mr. Sossamon,

My name is Larry Shaheen and I represent the Leach family in their variance appeal before the town of Huntersville. There had been some email traffic regarding the extension of maintenance along Midas Spring Rd., but I wanted to ask, other than the blue arrow on the exhibit below, do you have any plans to extend maintenance down Midas Spring Rd further along the red arrow? We do need an answer for the town to consider the variance. Thank you so much and please reach out as soon as you can.



Lawrence (Larry) Shaheen Jr.

Attorney At Law
THE

McIntosh
LAW FIRM

Mailing Address: P.O. Box 2270, Davidson, NC 28036

Physical Address: 209 Delburg Street, Suite 203, Davidson, NC 28036

Telephone: 704.892-1699 Ext 350

Fax: 704-892-8664

www.mcintoshlawfirm.com

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

CONFIDENTIALITY NOTICE: This electronic mail transmission has been sent by a lawyer. It may contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it, or any attachments. If you have received this message in error, please delete this message and any attachments from your system without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

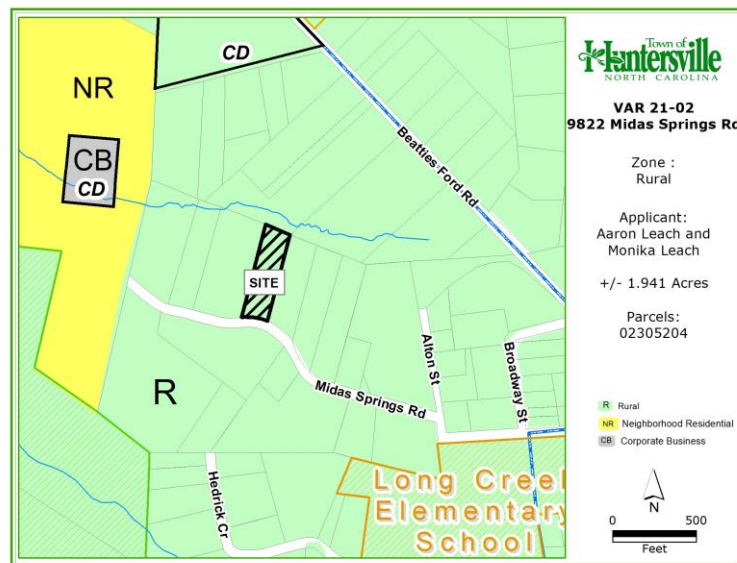
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Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

V 21-02
Parcel ID 02305204

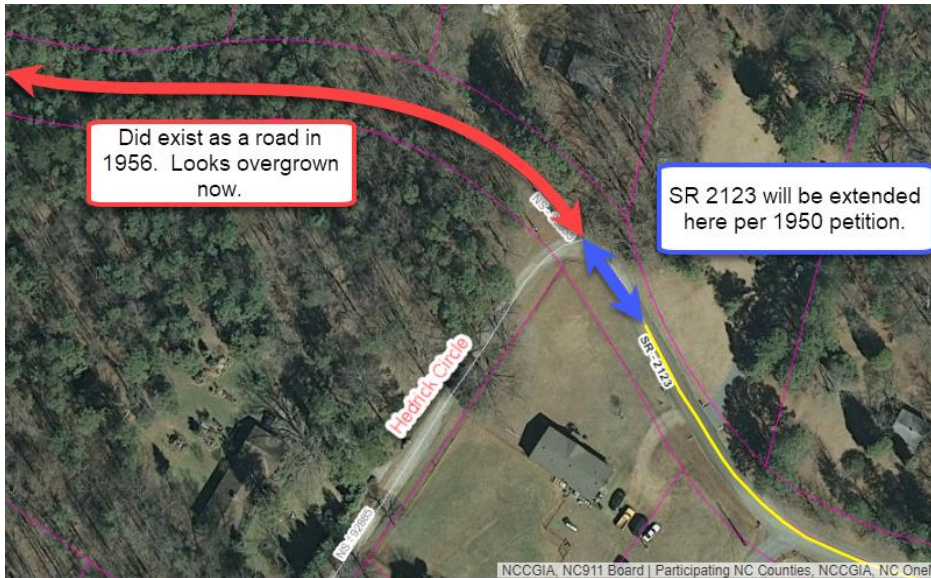
Case #: V21-02
Address: Parcel ID 023-052-04
Parcel #: 023-052-05
Acreage: 1.970
Property Owner/Applicant: Aaron and Monika Leach
Owner/Applicant Address: 14030 Bernardy Lane, Charlotte, NC 28269
Staff: Lauren Speight – Planner I

Currently a vacant lot, the 1.9 acre property is served by an overgrown gravel road that is not accepted for maintenance by NCDOT. The applicants, Aaron and Monika Leach are requesting a variance from **Article 8.1 Street Frontage Required**, stated below, in order to obtain a building permit to construct a single-family dwelling.



BACKGROUND:

1. The subject property, Parcel ID 023-052-04, is zoned Rural (R) and located in Critical Area 1 (CA-1) of the Mountain Island Lake Watershed Overlay (MIL-O).
2. Prior to the current property ownership, the lot was conveyed by deed, August 23, 1961. The deed recorded August 23, 1961 references the subject parcel was previously conveyed by deed October 26, 1955. Regardless of whether the lot was created in 1961 or earlier, the lot was created prior to the effective date of Huntersville's current Zoning Ordinance. (Exhibit 1)
3. The applicants purchased the lot December 30, 2020. (Exhibit 2)
4. The applicants contacted Staff December 30, 2020 inquiring if a manufactured home is allowed for the subject property. (Exhibit 3)
5. Staff responded December 31, 2020 that manufactured homes are not permitted in the Rural Zoning District, but modular and "stick-built" homes are permitted although the subject property does not have legal access for zoning approval for a building permit. (Exhibit 3)
6. According to an email from NCDOT staff, the State-maintained portion of Midas Spring Road ends in front of 9730 Midas Springs Road as represented by the yellow line in the below map (also Exhibit 12). The blue line is an area that was not previously accepted for maintenance but will be accepted per a 1950 petition. The red line with arrows shows the unmaintained portion of Midas Springs Road across the frontage of the subject property that is now overgrown.



7. The applicants would like to obtain a variance to relieve the requirement of Article 8.1 that lots shall abut a public street. (Exhibit 4)

“Any lot for which a building (or buildings) is to be erected or use is to be established shall abut a **public street** [defined below] with the following exceptions:

1. Any lot for which a residential use has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement. A lot of one (1) acre or more in area created through a division of land not subject to the subdivision ordinance shall be eligible for issuance of a permit to establish a single-family detached house, provided the lot is served by a private and exclusive recorded easement or fee-simple projection of the building lot at least 15 feet in width connecting said lot to a public street. A driveway accessible by emergency equipment must be located on said easement or lot projection. Lots created under these provisions shall be known as “easement-access lots” and “flag lots”, respectively...”

A **public street** is defined in Article 12 as:

“**Street, Public:** A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Huntersville or the State of North Carolina.”

STAFF FINDINGS (ordinance standards are in italics):

Please see Exhibit 4 for the applicant’s responses to the required criteria for granting a variance.

In considering any variance request, the following Standards for Granting a Variance of the Huntersville Zoning Ordinance (Article 11.3.2.e) must be addressed:

Article 11.3.2.e Standards for Granting a Variance of the Huntersville Zoning Ordinance:

Before granting a variance, the Board of Adjustment shall have made the following findings:

Standards for Granting a Variance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

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

Staff Findings:

- A. The applicants contacted Staff December 30, 2020 for information about allowed structures for the adjoining property.

- B. Approximately, 327 linear feet of surface approved by NCDOT and accepted for maintenance is required for the frontage of the subject property to comply with Article 8.1 (Exhibit 5).
- C. The strict application of the Ordinance includes the frontage of the subject property must be paved to the applicable standards (NCDOT). Staff does not find this requirement dissimilar to the requirements of lots with a similar history in the Town and Staff does not find evidence to indicate unnecessary hardship would result in the strict application of the Ordinance.

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

Staff Findings:

- A. There are at least six surrounding properties facing the same conditions if the property owners wish to construct a building on their lot (Exhibit 6).
- B. According to the applicant (Exhibit 4), the specifics surrounding the extension of Midas Springs Road are peculiar and other lots have been able to develop.
- C. A variance was submitted July 2015 for 9840 Midas Springs Road (V15-01) to relieve the requirement of Article 8.1 that lots shall abut a public street. V15-01 was denied by the Huntersville Board of Adjustment.
- D. There are various properties throughout Huntersville facing similar conditions. In 2021, an extension of Robert Street was privately constructed for the development of a single-family home in the Biltmore Park subdivision (Exhibit 7). Currently, there are lots in Biltmore and Norman Park that would require road improvements before a building permit could be issued for construction on the property.

- 3) *The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*

Staff Findings:

The subject property was purchased by the current property owners December 30, 2020. Staff does not know of any action by the property owner to create this hardship.

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

Staff Findings:

Lots must abut a public street per Article 8.1 to provide public safety and essential services. Evidence is not included the existing conditions meet the relevant requirements of a public street to thereby meet the spirit, purpose, or intent of the Ordinance. Per NCDOT staff, if the gravel road is constructed to NCDOT standards, NCDOT can be petitioned for the extension of maintenance. (Exhibits 8 and 9)

STAFF POSITION:

The applicant is seeking a variance from Article 8.1 of the Zoning Ordinance, which requires any lot on which a building (or buildings) is to be erected or use is to be established shall abut a public street. Staff finds the application meets one of the four requirements for granting a variance and therefore recommend denial of the request.

EXAMPLE MOTION: V21-02, Parcel ID 023-052-04, Huntersville, NC 28078

Planning Department	Board of Adjustment
	APPROVAL: In considering Staff's position for V21-02, a request by Aaron and Monika Leach for a variance from Article 8.1 of the Zoning Ordinance, the Board of Adjustment approves the variance request based on a finding that the request meets all of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance. The Board of Adjustment finds the request meets all of the four criteria for granting a variance based on the following findings of fact: <i>(explain findings of fact)</i>
DENIAL: In considering Staff's position for V21-02, a request by Aaron and Monika Leach for a variance from Article 8.1 of the Zoning Ordinance, the Planning Department recommends denial of the variance request based on a finding that 3 of 4 standards for granting a variance have not been met. Staff analysis to support denial of the request are listed on pages 1-3 of this staff report.	DENIAL: In considering Staff's position for V21-02, a request by Aaron and Monika Leach for a variance from Article 8.1 of the Zoning Ordinance, the Board of Adjustment denies the variance request based on a finding that the request meets _____ of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance. The Board of Adjustment finds the request does not meet the criteria for granting a variance based on the following findings of fact: <i>(explain findings of fact)</i>

Exhibit 1 – 1961 Deed of Subject Property, DB 2239, P 84

Exhibit 2 – 2020 Deed of Subject Property, DB 35499, P 267

Exhibit 3 – Except of Correspondence Between Staff and Property Owners/Applicants December 2020

Exhibit 4 – Variance Application

Exhibit 5 – Distance of Frontage Across Subject Property (Approximate via Polaris 3G)

Exhibit 6 – Surrounding Properties with Similar Frontage Conditions

Exhibit 7 – Frontage of 6512 Robert Street, Huntersville, NC 28078 - Biltmore Park

Exhibit 8 – Correspondence with Wendy Taylor, NCDOT March 2021

Exhibit 9 – Correspondence with Wendy Taylor, NCDOT April 2021

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

Revenue Stamps Affixed \$ 4.95

THIS DEED, Made this 23rd day of August, A.D. 1961, by and between

Robert F. Ritchie and wife, Mary Ella Ritchie

of the County of Mecklenburg and State of North Carolina, parties of the first part, and

William H. McQueen and wife, Barbara S. McQueen

of the County of Mecklenburg and State of North Carolina, parties of the second part.

WITNESSETH, That the said parties of the first part, in consideration of

(\$100.00)
One Hundred Dollars/and other valuable considerations

to them paid by the parties of the second part, the receipt of which is hereby acknowledged, have bargained and

sold, and by these presents do grant, bargain, sell and convey unto said parties of the second part

and their heirs, all

those tracts or parcels

of land situate, lying and being in Long Creek Township, Mecklenburg County, State of North Carolina,
and more particularly described and defined as follows:

FIRST TRACT:

BEGINNING at a stake in the center line of the Midas Spring Road, the southeasterly corner of the 2.08 acre tract of land conveyed by J. Frank Houston and wife to Edward Taylor and wife by deed recorded in Book 1451, page 579, Mecklenburg Registry; and runs thence with the easterly line of said Taylor tract N. 13-04 E. 597.25 feet to an iron in the line of the McElroy land; thence with said McElroy line S. 69-50 E. 150 feet to an iron; thence S. 13-04 W. 558 feet to a stake in the center line of Midas Spring Road; thence with the center line of Midas Spring Road in two courses: (1) N. 61-34 W. 53.6 feet, and (2) S. 83-47 W. 103.9 feet to the point of beginning, all as shown on plat of survey made by J. W. Spratt, C. S., dated September 12, 1950; and containing 1.97 acres.

SECOND TRACT:

BEGINNING at a point in the center of Midas Spring Road, the northwest corner of the property of Barbara S. Campbell and runs thence with Barbara S. Campbell's line, S. 31-15-20 W. 922.06 feet to an old iron in the line of M. L. Hedrick; thence with Hedrick's line S. 88-14-10 W. 166.20 feet to an old iron; corner of the property of Duke Power Company; thence with the line of Duke Power Company, N. 55-24-10 W. 388.70 feet to an old iron in the line of J. F. Houston; thence with J. F. Houston's line, N. 12-37-50 E. 834.70 feet to a point in the center of Midas Spring Road; thence with the center line of Midas Spring Road, four calls as follows: (1) S. 48-22 E. 178.80 feet to a point; (2) S. 56-44 E. 78.83 feet to a point; (3) S. 75-56 E. 412.15 feet to a point; (4) N. 83-37 E. 183.46 feet to the beginning; containing 12.61 acres, more or less, as shown on survey of J. W. Spratt, C. S., dated April 5, 1955.

The above First Tract and Second Tract being in all respects the same tracts of land conveyed to Robert F. Ritchie and wife, Mary Ella Ritchie by J. Frank Houston and wife, Addie P. Houston, by deed dated October 26, 1955 and recorded in Book 1805, page 161 of Mecklenburg County Registry.

TO HAVE AND TO HOLD the aforesaid.....tracts or parcels.....
.....of land and all privileges and appurtenances thereto
belonging, to the said parties of the second part, their
heirs and assigns, to.....their.....only use and behoof forever.
And the said parties of the first part.....for themselves
their.....heirs, executors and administrators, covenant with the said parties.....of the second part,.....their
heirs, and assigns, that they are.....seized of said premises in fee, and have right to convey the same in fee simple; that
the same are free and clear of all encumbrances, that.....they.....will warrant and defend the said title to the same against
the lawful claims of all persons whomsoever.

Except the lien of ad valorem taxes to Mecklenburg County for the year, 1961 on the above described
property, which taxes have been prorated and adjusted between the parties hereto, and the parties
of the second part assume and agree to pay all such taxes for 1961.

IN TESTIMONY WHEREOF, The said parties of the first part to these presents have hereunto set their
hands.....and seals.....the day and year above written. Mary Ella Ritchie.....(SEAL)
Signed, Sealed and Delivered } Robert F. Ritchie.....(SEAL)
in presence of }(SEAL)
.....(SEAL)
.....(SEAL)
.....(SEAL)

STATE OF NORTH CAROLINA, }
COUNTY OF MECKLENBURG. } ss.
I, Margaret B. Alexander.....a Notary Public
for said County and State, do hereby certify that.....
Robert F. Ritchie and wife, Mary Ella Ritchie.....
personally appeared before me this day, and acknowledged the due execution of the foregoing (or annexed) instrument.
WITNESS my hand and Notarial seal, this 23rd day of August, A.D. 1961.
Margaret B. Alexander.....Notary Public.
My Commission Expires Feb. 26, 1963

STATE OF NORTH CAROLINA, }
COUNTY OF MECKLENBURG. } ss.
I,a Notary Public for said County and
State, do hereby certify that.....
personally appeared before me this day, and acknowledged the due execution of the foregoing (or annexed) instrument.
WITNESS my hand and Notarial seal, this.....day of....., A.D. 19.....
.....Notary Public.
My Commission Expires.....

STATE OF NORTH CAROLINA, }
COUNTY OF MECKLENBURG. } ss.
The foregoing (or annexed) certificate of Margaret B. Alexander, a Notary Public
for said County and State
is adjudged to be correct. Let the instrument and the certificate be registered.
This 23 day of August, A.D. 1961.
J. Edward Stokes, Clerk Superior Court By: Wilma H. Spain, Deputy
Deputy Clerk of Superior Court.

Filed at 11:54 o'clock A. M., August 23, 1961
Registered at 4:55 o'clock P. M., August 24, 1961
Drawn by: Ray Rankin, Recorded and Verified
EDGAR SMITH, Register of Deeds.
EFB

For Registration
 Fredrick Smith
 Register of Deeds
 Mecklenburg County, NC
 Electronically Recorded
 2020 Dec 30 02:40 PM RE Excise Tax: \$ 146.00
 Book: 35499 Page: 267 - 271 Fee: \$ 26.00
 Instrument Number: 2020222701

Fredrick Smith

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: 146.00

Parcel Identifier No. 02305205 Verified by _____ County on the _____ day of _____, 20____
 By: _____

Mail/Box to: Grantee

This instrument was prepared by: Baker Law Office, PLLC, 9620 Holly Point Dr., Ste. 102, Huntersville, NC 28078

Brief description for the Index: _____

THIS DEED made this 23rd day of _____ December _____, 2020, by and between

GRANTOR

Sandra Mumpower James and husband, Royal David James and
 Barbara Ann Pierce and husband, Nelson Cole Pierce
 10508 Kerns Rd.
 Huntersville, NC 28078

GRANTEE

Aaron Leach and wife, Monika Leach
 14030 Bernardy Lane
 Charlotte, NC 28269

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

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

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

PIN #

See Exhibit A attached hereto and incorporated herein by reference.

See Exhibit B attached hereto and incorporated herein by reference.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 3670 page 448.
 All or a portion of the property herein conveyed includes or X does not include the primary residence of a Grantor.

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

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

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

1. All easements, restrictions and rights of way of record. 2. Those matters that a current and accurate survey would disclose. 3. Ad Valorem taxes for the year 2021 and subsequent years.

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

(Entity Name)
By: _____
Print/Type Name & Title: _____

Sandra Mumpower James (SEAL)
Print/Type Name: Sandra Mumpower James

Royal David James (SEAL)
Print/Type Name: Royal David James

By: _____
Print/Type Name & Title: _____

Barbara Ann Pierce (SEAL)
Print/Type Name: Barbara Ann Pierce

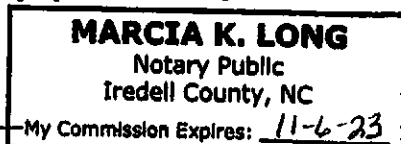
By: _____
Print/Type Name & Title: _____

Nelson Cole Pierce (SEAL)
Print/Type Name: Nelson Cole Pierce

State of North Carolina - County or City of Mecklenburg

I, the undersigned Notary Public of the County or City of Mecklenburg Iredell and State aforesaid, certify that Sandra Mumpower James and husband, Royal David James personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 30th day of December, 20 20.

My Commission Expires: 11-6-23
(Affix Seal)



Marcia K. Long Notary Public
Notary's Printed or Typed Name

State of _____ - County or City of _____

I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that Barbara Ann Pierce & husband, Nelson Cole personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this _____ day of December, 20 20.

My Commission Expires: _____
(Affix Seal)

Notary Public
Notary's Printed or Typed Name

State of _____ - County or City of _____

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

My Commission Expires: _____
(Affix Seal)

Notary Public
Notary's Printed or Typed Name

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

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

1. All easements, restrictions and rights of way of record. 2. Those matters that a current and accurate survey would disclose. 3. Ad Valorem taxes for the year 2021 and subsequent years.

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

By: _____ (Entity Name) _____ Print/Type Name: Sandra Mumpower James (SEAL)

Print/Type Name & Title: Sophia McKenzie / Teller _____ (SEAL)

By: Sophia McKenzie WITNESS _____ Print/Type Name: Royal David James

Print/Type Name & Title: _____ _____ (SEAL)

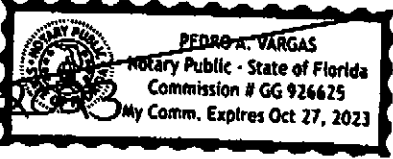
By: Johanna Aviles WITNESS _____ Print/Type Name: Barbara Ann Pierce

Print/Type Name & Title: Johanna Aviles _____ (SEAL)

Print/Type Name: Nelson Cole Pierce

State of North Carolina - County or City of Mecklenburg

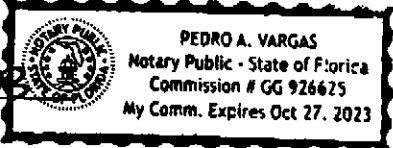
I, the undersigned Notary Public of the County or City of Mecklenburg and State aforesaid, certify that Sandra Mumpower James and husband, Royal David James personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 30th day of December, 20 20.

My Commission Expires: 10/27/2023 (Affix Seal)  Pedro A. Vargas Notary Public

Notary's Printed or Typed Name

State of Florida - County or City of Orange

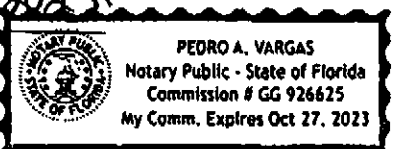
I, the undersigned Notary Public of the County or City of Orange and State aforesaid, certify that Barbara Ann Pierce & husband, Nelson Cole personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 24 day of December, 20 20.

My Commission Expires: 10/27/2023 (Affix Seal)  Pedro A. Vargas Notary Public

Notary's Printed or Typed Name

State of Florida - County or City of Orange

I, the undersigned Notary Public of the County or City of Orange and State aforesaid, certify that FLDL PG 20-07345-8270 DL 2062349320 personally came before me this day and acknowledged that he is the GP of GP 04/07/2021, a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 24 day of December, 20 20.

My Commission Expires: 10/27/2023 (Affix Seal)  Pedro A. Vargas Notary Public

Notary's Printed or Typed Name

Exhibit A

Beginning at a point in the center line of Midas Spring Road, said point being the Southeasterly corner of the property of E. B. Honeycutt (now or formerly) and running thence with his line N. 13-04 E. passing an old iron 558 feet to an old iron in McElroy's line and running thence with McElroy's line S. 69-50 E. 168.3 feet to an iron, Simpson's corner; thence with Simpson's line S. 13-04 W. passing 2 irons 642.23 feet to a point in the center line of Midas Spring Road, Simpson's corner; thence with the center line of the road, 2 calls as follows: (1) N. 36-17-30 W. 109.62 feet to a point, (2) N. 55-04-30 W. 90.33 feet to the Beginning; containing 2.26 acres. Refer to survey of J. W. Spratt, November 4, 1953. Refer to Craver estate, 1934. Refer to Map Book 1357, Page 495.

Exhibit B

Helen Lee Mumpower died testate in Mecklenburg County, North Carolina on June 30, 2013. Her estate is probated in File 18 E 408 in the Office of the Clerk of Court of Mecklenburg County, North Carolina. Her son, Michael Mumpower, preceded her in death. Her surviving heirs and beneficiaries are Sandra Mumpower James and Barbara Ann Pierce.

Lauren Speight

From: Lauren Speight
Sent: Thursday, December 31, 2020 10:42 AM
To: leachmonika@gmail.com
Cc: Aaron Leach; Tracy Barron; Kim Behrenbrinker; Au'Darius Blackwood
Subject: RE: 9808 Midas Springs Rd

Good morning,

The property located at 9808 MIDAS SPRINGS RD HUNTERSVILLE NC 28078 is in the Rural Zoning District and manufactured/mobile homes are not permitted. Modular and "stick-built" single family detached homes are permitted.

However, this property does not have legal access by easement or frontage to the public street at this time, so Town Staff cannot current give zoning approval for any building permit for any homes/structures at the property.

Let me know if you have any additional questions!

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: leachmonika@gmail.com <leachmonika@gmail.com>
Sent: Wednesday, December 30, 2020 2:38 PM
To: General Planning <GeneralPlanning@huntersville.org>
Cc: Aaron Leach <leachas@corning.com>
Subject: 9808 Midas Springs Rd

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,

We purchased land on 9808 Midas Springs Rd, Huntersville, NC 28078, and we are trying to use the existing septic tank that is connected to an old house that had been damaged. The Mecklenburg county advised us that we will have to rebuild on the existing foundation and we are looking into manufacturing homes to see what can we put it there to save the money.

Could you please advise if we could add a manufacturing home?

Thank you,

Monika Leach



Variance Application

Date of Application: _____ 4/13/2021 _____

Property/Building Address: 9822 Midas Springs Rd., Huntersville, NC 28078 **Parcel Size (ac):** 1.941 ____

Tax Parcel ID (PIN) Number(s): 02305204

Text of Ordinance to be varied

Ordinance: Zoning Article: 8.1 Street Frontage Section: 1

Description of Request: _The applicant requests that a variance to this ordinance be granted to recognize that the original division of this lot was intended to be single family residential lot and that through no fault of the applicant there will be no public street to connect this lot to. Strict application of the ordinance would result in an unnecessary hardship to the applicant, the particular hardships are peculiar to the property, no actions taken by the applicant resulted in the hardship, the requested variance is consistent with the spirit, purpose, and intent of the ordinance, and public safety will be secured and substantial justice achieved.

Submittal Requirements and Procedure

The following shall be submitted with the completed application (signed and dated by the property owner and/or applicant):

- One (1) electronic copy by email or (1) hard copy of applicable map(s), site plans, exhibits, and applications showing exact location of property with respect to existing streets, adjoining lots and other important features on or contiguous to the property. Also, include any maps and/or illustrations (to scale), which are necessary to show the location, number and size of buildings, signs, etc., on the property.
- Applications shall be emailed to planning@huntersville.org or mailed as directed below.
- A list of names, addresses and tax parcel identification numbers of properties that abut the site, are across the street from the site or are otherwise within one hundred feet (100') of the site.
- Review Fee - Please check most recent version of Fee Schedule for applicable Variance Review Fee. Reviews shall be submitted by mail as directed below or through the Town website: www.huntersville.org/planning (Select Permits & Process > Submit Planning and Zoning Fee)
- See the current Board of Adjustment Submittal Deadlines and Meeting Schedule for filing deadlines and meeting dates
- Please submit your complete application and fee by **noon the day filing deadline**

Physical Address: 105 Gilead Road | Third Floor **(Fed Ex, UPS, and Couriers)**

Mailing Address: P.O. Box 664 | Huntersville, North Carolina 28070 **(USPS)**

Attention: Planning Department

Please make checks payable to: Town of Huntersville
Include property address and/or Tax Parcel ID in memo

Notification Requirements

Planning Staff will be required to notify in writing each adjoining property owner.

Planning Staff will also be required, if you are seeking a variance from the requirements of the Mountain Island Lake or Lake Norman Watershed Overlay Districts, to notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption as follows:

- * Mountain Island Lake Watershed Overlay. Local governments having jurisdiction in the watershed: Charlotte Mecklenburg, Cornelius and Huntersville. Entities using the water supply for consumption: Mecklenburg County, Gastonia and Mount Holly.
- * Lake Norman Watershed Overlay. Local governments having jurisdiction in the watershed: Davidson, Cornelius and Huntersville. Entities using the water supply for consumption: Mooresville, Mecklenburg County and Lincoln County.

Variance Requirements

STANDARDS FOR GRANTING A VARIANCE (Article 11.3.2.e.):

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed by the Board (Article 11.3.1.e.).

In the following spaces, indicate **FACTS** that demonstrate to the Board of Adjustment you meet all the standards for granting a variance:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property.

The variance application requests that the Town recognize that Midas Spring Road is not going to be extended to the applicant's property and, as such, the applicant would be unable to pursue their dream of home ownership due to strict application of the statute. The applicants believed this lot to be able to build a home on it, but unfortunately were misled through the due diligence process, through no fault of the town. See exhibit A

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. The difficulty or hardship is peculiar to the property and is not generally shared by other properties classified in the same zoning district and/or use for the same purpose.

The specifics surrounding the extension of Midas Spring Road are very peculiar to this property and no other. Other lots on the street that are part of the maintained road allow homes, but the cutoff of maintenance makes development difficult. The state will not be extending maintenance to the road. See Exhibit A and B

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The hardship exists as a function of the state of NC not maintaining the road. Applicant has in no way contributed or caused this hardship. See exhibit A and C

4. The public safety and general welfare have been protected and substantial justice done.

The granting of this variance will in no way jeopardize public safety or general welfare. Approval of this variance will allow for substantial justice for the applicant of completing their long awaited dream of home ownership in Huntersville.

Applicant

Printed Name Lawrence J. Shaheen Jr Phone 704-892-1699 ext 350

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

☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable if box is checked)

Signature [Signature] Date 4/13/2021

Title Attorney Applicant Phone 704-892-1699 ext 350

Applicant Email Larry@McIntoshLawFirm.com

Address of Applicant PO Box 2270, Davidson, NC 28036

Property Owner (if different than applicant)

* Printed Name Aaron and Monica Leach Phone 910-336-1299 or 910-580-8803

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

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the owner my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable if box is checked)

Signature Aaron + Monica Leach Date 4/13/2021

Title Owner's of Property Applicant Phone 910-336-1299 or 910-580-8803

Applicant Email leachas@corning.com or leachmonika@gmail.com

Address of Property Owner 14030 Bernady Ln, Charlotte, NC 28269

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

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, 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.**

Contact Information

Town of Huntersville	Phone: 704-875-7000
Planning Department	Fax: 704-875-6546
PO Box 664	Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Huntersville, NC 28070	Website: https://www.huntersville.org/228/Planning-Department

Received By Planning Department Staff: _____

Staff Initials: _____

Variance Application for 9822 Midas Springs Rd.

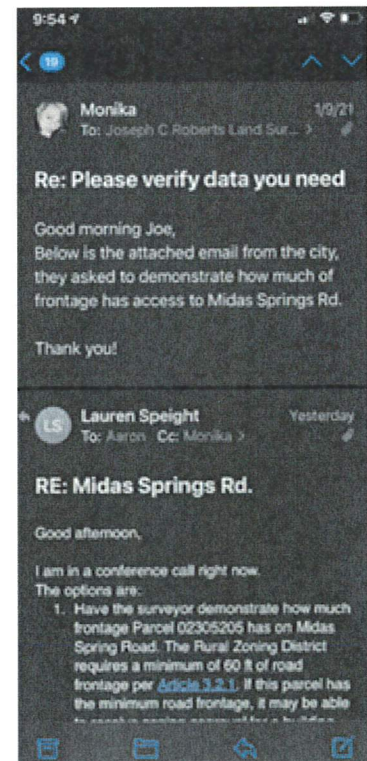
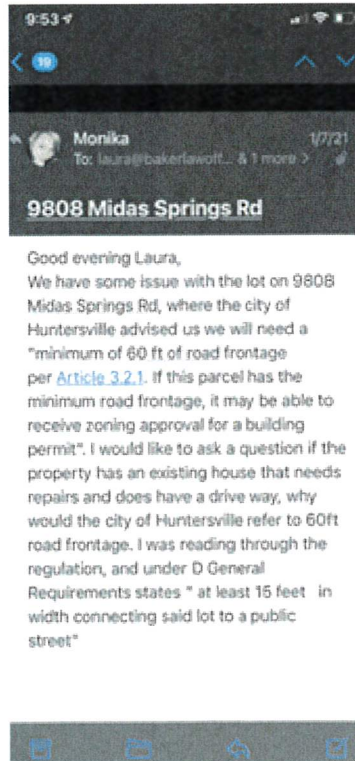
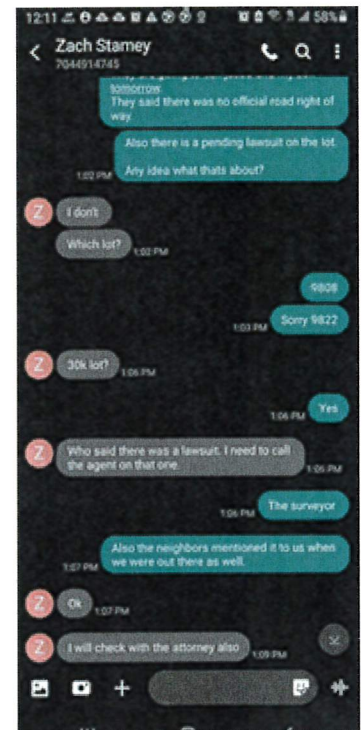
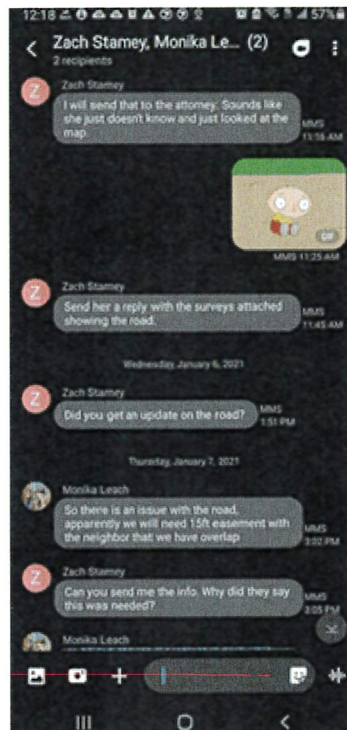
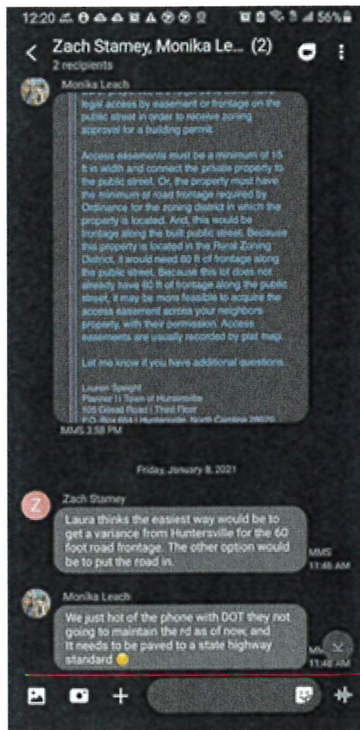
Explanation of Exhibits

Exhibit	Purpose	Content	Recognition from Town
Exhibit A – Correspondence	Informational	Shows proof and presented material of lots eligibility of permitting	Recognize the lots permitting issue was unbeknownst to the applicant.
Exhibit B - Local Map	Informational	Shows immediate vicinity of subject property including existing driveway access	The unmaintained portion of Midas Springs is continually used.
Exhibit C – Local Map with Aerial	Informational	Survey showing current frontage and newly agreed upon maintenance from NCDOT.	Lot has partial maintained Rd. frontage.
Exhibit D – Safety improvements and cleanup	Informational	Lot was used as a dumping ground for many years. applicants have been diligently cleaning and hauling off truckloads of trash, broken glass and and dangerous and condemned buildings	efforts have and will continue to improve the safety people who pass through as well as the wildlife.
Additional information – Historical surveys/data	Informational	Old Surveys and information about the purchase lot that alluded to a perfectly permissible lot.	Accept these Exhibits as evidence of legal access to the subject property.

Exhibit A – Correspondence

We were never informed by our agent nor our closing attorney at any point throughout our due diligence period (Oct. 3rd. - Dec. 30th) that there would be any sort of permitting issue. We were very specific in asking this question throughout this time frame. At the closing table, with Baker's Law office; we again received further verification through a presented court order stating that all of Midas Springs road was a now a public road as of (12/19/2019).

We reached out to both our agent & attorney to request our knowledge of such issue in black and white. Both are hesitant on sending us this information as it may be damming to them on a personal/professional level. So, we have attached our text and email correspondence below.



Larry Shaheen

From: Sossamon, Gary D <dsossamon@ncdot.gov>
Sent: Tuesday, April 13, 2021 10:42 AM
To: Leach, Aaron S; Taylor, Wendy A; Davis, John T
Cc: leachmonika@gmail.com; Larry Shaheen
Subject: RE: [EXTERNAL]--Midas Spring Rd.

NCDOT has no plans/or projects that would extend our maintenance beyond the end of the blue arrow. The blue arrow shows the end of state maintenance. Any road improvements along the red line area would be performed by private development upgrade. In order to take that section over all items would need to be build to state standards and meet all requirements for adding a road to state system.

From: Leach, Aaron S <LeachAS@corning.com>
Sent: Monday, April 12, 2021 1:43 PM
To: Taylor, Wendy A <wataylor1@ncdot.gov>; Davis, John T <jtdavis4@ncdot.gov>; Sossamon, Gary D <dsossamon@ncdot.gov>
Cc: leachmonika@gmail.com; Larry Shaheen <Larry@mcintoshlawfirm.com>
Subject: RE: [EXTERNAL]--Midas Spring Rd.

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Hi Everyone,

I trust you are all doing well.

I understand Wendy is OOP today; John or Gary, if one of you could take this action item, I would greatly appreciate it.

Apologies for waiting last minute, but we are actually coming up on our deadline. Our variance application must be submitted by tomorrow morning at the latest for us to qualify for the Mid-May processing timeline, otherwise we will need to wait until Mid-June.

I would really appreciate a response asap so we can finish our application today and get it submitted intime for the variance processing in May.

Thank you all so much for your continued support.

Respectfully,

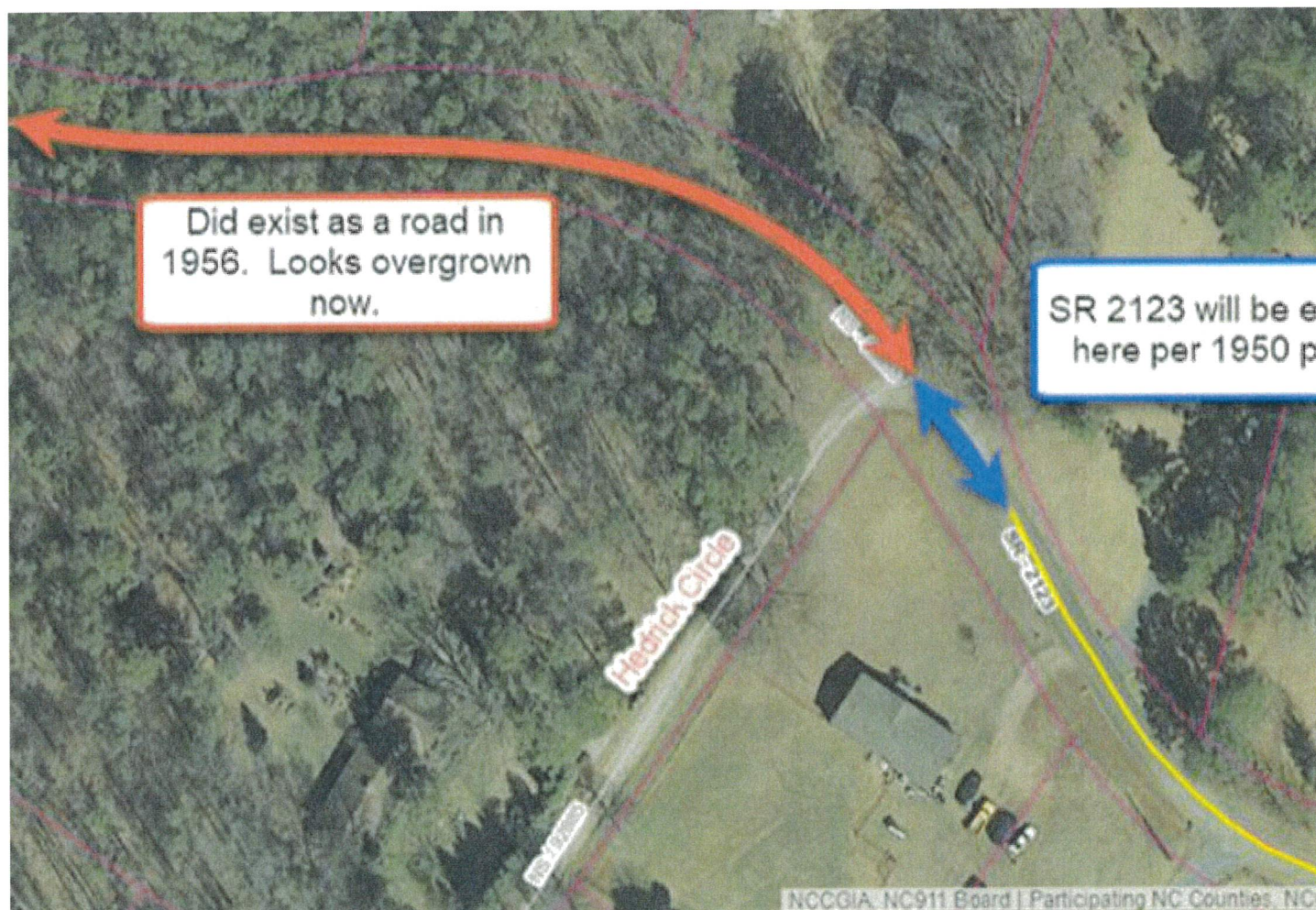
Aaron S. Leach
HR Coordinator – Corning Inc.
Optical Commercial Operations
4200 Corning Place, Charlotte, NC 28216

Cell: (704) 975-1533
Email: leachas@corning.com

From: Larry Shaheen <Larry@mcintoshlawfirm.com>
Sent: Monday, April 12, 2021 12:30 PM
To: wataylor1@ncdot.gov; jtdavis4@ncdot.gov; dsossamon@ncdot.gov
Cc: Leach, Aaron S <LeachAS@corning.com>; leachmonika@gmail.com
Subject: [EXTERNAL]--Midas Spring Rd.

Good afternoon Mrs. Taylor, Mr. Davis, and Mr. Sossamon,

My name is Larry Shaheen and I represent the Leach family in their variance appeal before the town of Huntersville. There had been some email traffic regarding the extension of maintenance along Midas Spring Rd., but I wanted to ask, other than the blue arrow on the exhibit below, do you have any plans to extend maintenance down Midas Spring Rd further along the red arrow? We do need an answer for the town to consider the variance. Thank you so much and please reach out as soon as you can.



Lawrence (Larry) Shaheen Jr.

Attorney At Law



Mailing Address: P.O. Box 2270, Davidson, NC 28036

Physical Address: 209 Delburg Street, Suite 203, Davidson, NC 28036

Telephone: 704.892-1699 Ext 350

Fax: 704-892-8664

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

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Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

**Fwd: [EXTERNAL]--RE: 9808
Midas Springs Rd**

Hi Zach,

That was Lauren replied. I'm very confused about the road requirements, and we thought we don't have to build one, and also we thought there was something at the closing day about the court made this a state road. Is there something we can workout before we star build on it?

Thank you,

Monika Leach

Begin forwarded message:

From: Lauren Speight <lspeight@hunterville.org>
Date: December 31, 2020 at 7:36:00 PM EST
To: leachmonika2@gmail.com, "Leach, Aaron S" <LeachAS@corning.com>
Subject: RE: [EXTERNAL]--RE: 9808 Midas Springs Rd

Good evening,

Thank you for the email. I believe this road is built around

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE CLERK
17-SP-001238

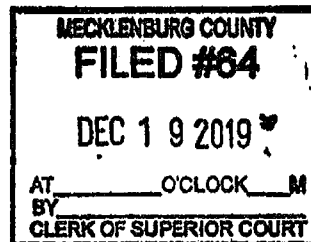
Barbara C. Montgomery, Terry)
Montgomery, Jordan Campbell, Janiel)
Campbell, Tate Campbell, Cori C.)
O'Rourke, Liam O'Rourke, David L.)
Campbell, Kathy Campbell, John)
Campbell, Lorin C. White, Elbert White,)
Melissa C. Woolery, Joey Woolery,)
Michael W. Campbell, Sandy Lusk, Joel)
K. Robinson, Cathy L. Robinson,)
Matthew F. Hedrick, Gay W. Hedrick,)
Fredrick W. Ingram, and Doris J. Ingram.)

Petitioners,)

v.)

James R. Gilbert and Debra L. Sharp,)

Respondents.)



ORDER

This matter appeared before the Honorable Louis A. Trosch, Mecklenburg County Superior Court Judge, on November 12, 2019 upon the appeal of the Respondents for a trial *de novo* of this petition for an order declaring an existing right-of-way dedicated to public use pursuant to N.C.G.S. § 136-96.1. The Court finds that the parties were duly and timely noticed of the trial in this matter, and the Petitioners were represented at the hearing by Alan W. Guffy, Esq. and the Respondents were represented by Drew A. Richards, Esq.

The Court, after having considered the contents of the Petition and having heard and considered the evidence presented and the arguments of counsel, hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The right-of-way at issue in this matter (the "Right-of-Way") is a thirty-foot wide road right of way located in the Long Creek Township of Mecklenburg County. It is approximately eight hundred feet long and runs from Midas Springs Road (SR 2123) to a platted subdivision road depicted on the plat of the Sunrise Acres subdivision recorded in Map Book 6, Page 377 of the Mecklenburg County Registry (the "Sunrise Acres Plat").

2. As platted, the subdivision road runs from the Right-of-Way to Beatties Ford Road (SR 2074) such that together, the Right-of-Way and subdivision road create a single connection from Midas Springs Road to Beatties Ford Road. Both the Right-of-Way and the subdivision road are referred to as "Hedrick Circle Road."

3. It is unclear the precise age of the Right-of-Way; however, the Sunrise Acres Plat was recorded in 1950 and it depicts the Right-of-Way as one outlet for the subdivision.

4. Travelling westward from Beatties Ford Road, the subdivision road "bends" northward toward the Right-of-Way. Over time, this "bend" in the road has become partially blocked and is "passable" but seldom used.

5. Today, residents of the subdivision to the north of this bend almost exclusively access their properties by use of Midas Springs Road and the Right-of-Way.

6. Residents of properties along the Right-of-Way, specifically the Respondents, also utilize the Right-of-Way for access.

7. The United States Postal Service, trash services, emergency vehicles, and parcel delivery services utilize the Right-of-Way to access residences, including residences of individuals residing within the subdivision who do not abut the Right-of-Way.

8. Mailboxes for individuals who do not own property abutting the Right-of-Way are installed and serviced on the Right-of-Way.

9. The road contained within the Right-of-Way abuts four properties identified by the following Parcel ID Nos: (1) 02306231; (2) 02306313; (3) 02306352; (4) 02306251.

10. Petitioners Barbara C. Montgomery, Terry Montgomery, Jordan Campbell, Janiel Campbell, Tate Campbell, Cori C. O'Rourke, Liam O'Rourke, David L. Campbell, Kathy Campbell, John Campbell, Lorin C. White, Elbert White, Melissa C. Woolery, Joey Woolery, and Michael W. Campbell are the heirs of Barbara Simpson McQueen and the owners of Mecklenburg County Parcel No. 02306231.

11. Petitioner Sandy Nadine Lusk is the owner of Mecklenburg County Parcel Number 02306313 (9709 Midas Springs Road, Huntersville, NC 28078).

12. Petitioners Joel K. Robinson and Cathy L. Robinson are the owners of Mecklenburg County Parcel Number 02306352 (9721 Midas Springs Road, Huntersville, NC 28078).

13. Respondents James Gilbert and Debra Sharp are the owners of Mecklenburg County Parcel Number 02306251 (9811 Midas Springs Road, Huntersville, NC 28078).

14. Petitioners Fredrick and Doris Ingram, by virtue of their ownership of Lot 27, are the dominant estate of a right of way easement that encumbers the same Right of Way, duly recorded at Book 4679, Page 0336 of the Mecklenburg County Public Registry.

15. Two surveys, the first dated November 30, 1954 and prepared by M. B. Seaver (the "Seaver Survey") and the second dated May 6, 1980 prepared by J.D. Turner (the "Turner Survey") depict the Right-of-Way as an unnamed thirty-foot-wide road right-of-way that runs from Midas

Springs Road (SR 2123) along the common boundary of the parties' properties for a length of 808.14 feet.

16. Three deeds for properties abutting the Right-of-Way refer to the Right-of-Way as "Hedrick Circle Road," namely:

- a. That certain deed from J. Frank Houston and wife Addie P. Houston to Barbara S. Campbell recorded in Deed Book 1723, Page 33 of the Mecklenburg County Registry dated December 3, 1954 (the "Houston Deed"). This deed is the most recent deed in the chain of title for the property identified as Mecklenburg County Parcel No. 02306231.
- b. That certain deed from William H. McQueen and Barbara S. McQueen to John J. Cattuna and De Leslie Smith recorded in Deed Book 4303, Page 597 of the Mecklenburg County Registry dated May 15, 1980 (the "Cattuna Deed"). This deed is the deed creating the property identified as Mecklenburg County Parcel Number 02306251.
- c. That certain deed from James Franklin Lusk to Cathy Lynn Robinson and Joel K. Robinson recorded in Deed Book 6862, page 824 of the Mecklenburg County Registry dated April 29, 1992 (the "Robinson Deed"). This deed is the deed creating the property identified as Mecklenburg County Parcel Number 02306352.

17. The legal descriptions in the Houston Deed and the Cattuna Deed were drawn from the Seaver Survey and the Turner Survey, respectively, and the right-of-way referred to as "Hedrick Circle Road" in those deeds is the Right-of-Way.

18. Based upon the boundary measurements provided in the surveys and deeds before the Court, as well as the records of the Mecklenburg County Geographic Information System (GIS) which were admitted by stipulation of the parties, Petitioners own more than two-thirds of the road frontage of the land abutting the Right-of-Way.

CONCLUSIONS OF LAW

1. The Court has jurisdiction over this matter and the parties herein.

2. With respect to N.C.G.S. § 136-96.1(a)(1), Respondents argue that for the purposes of this statute, Hedrick Circle Road constituted a single road extending from Midas Springs Road to Beatties Ford Road and that therefore, the landowners along that portion of the road depicted on the Sunrise Acres Plat should be included when determining if Petitioners constituted "landowners of tracts constituting two-thirds of the road frontage of the land abutting the right-of-way." After a review of the applicable law, the Court concludes that "the road frontage of the land abutting the right-of-way in question" refers strictly to the Right-of-Way—that being the right-of-way for the actual section of road that is being petitioned for public use. The Petitioners presented evidence that the owners of more than two-thirds of the road frontage along the Right-of-Way (that portion of Hedrick Circle Road beginning at the end of the subdivision and continuing to the

intersection with Midas Springs Road) joined in this action and therefore satisfied the requirements of N.C.G.S. § 136-96.1(a)(1).

3. The Seaver Survey and Turner Survey depict the Right-of-Way and therefore Petitioners have satisfied the requirements of N.C.G.S. § 136-96.1(a)(2).

4. With respect to N.C.G.S. § 136-96.1(a)(3), the Petitioners presented evidence that Hedrick Circle Road has connected Midas Springs Road to Beatties Ford Road for decades and been used for that purpose at least until a portion of the road (where Hedrick Circle Road turns in a northerly direction) became partially blocked. Following the time that the bend in Hedrick Circle Road became partially blocked, the northern arm of Hedrick Circle Road which lies outside of the platted subdivision (the Right-of-Way) has continued to be used by the land owners, residents, their invited guests, delivery people, mail carriers, garbage collectors, and others providing services to those properties. In addition, it has been used by those property owners and residents of the subdivision whose property is south of the Hedrick Circle segment Petitioners are seeking to dedicate through this action, but north of the partial blockage in the bend of Hedrick Circle. While the bend is "passable," the evidence demonstrated that those people had chosen (and been allowed) to use the segment at issue for ingress and egress to their properties. In addition their guests, garbage collectors, delivery people, service providers and mail collectors traverse that same segment routinely. As a result, this court concludes that the Right-of-Way "has been actually open and used by the public" and Petitioners have satisfied the requirements of N.C.G.S. § 136-96.1(a)(3).

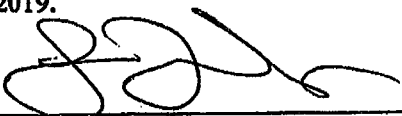
5. The Houston Deed, Cattuna Deed, and Robinson Deed are deeds for three separate parcels of land abutting the Right-of-Way and each recites the existence of the Right-of-Way as a named street or road. Accordingly, Petitioners have satisfied the requirements of N.C.G.S. § 136-96.1(a)(4).

6. The Right-of-Way has not been established by adverse possession or cartway proceeding.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED, that the Petitioners, having satisfied the requirements of N.C.G.S. § 136-96.1(a), are entitled to an order declaring the right-of-way dedicated to public use. Their petition is therefore granted, and the right-of-way at issue in this matter, more commonly known as Hedrick Circle Road, shall be and now is dedicated for public use.

AND IT IS SO ORDERED.

Ordered this the 19 day of December, 2019.



The Honorable Louis A. Trosch
Superior Court Judge

The addresses to the left and right are both occupied and addressed to Midas Springs road; both have driveway access to a partially maintained state road (2123).

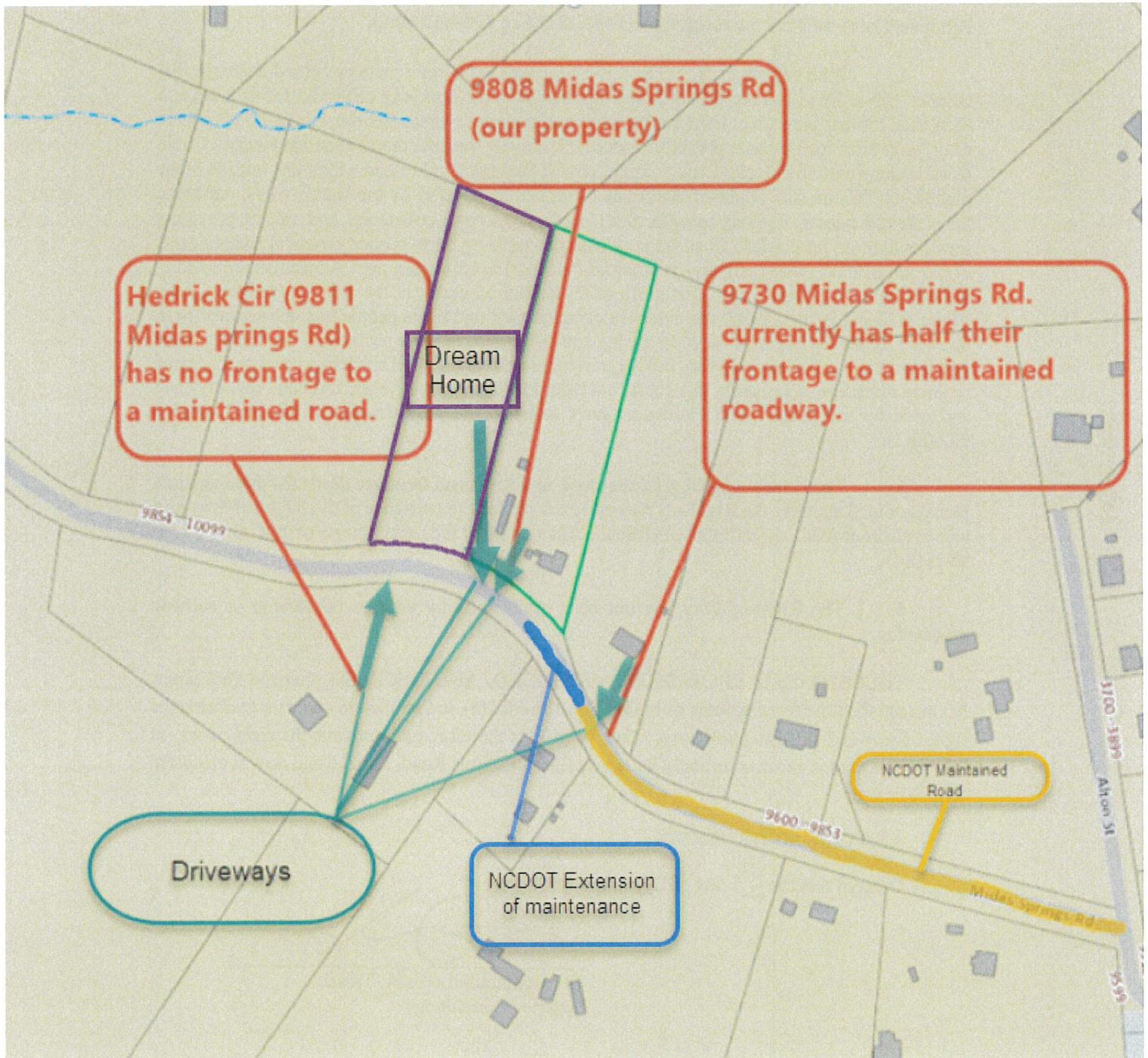
Key:

Yellow Highlighted area represents current maintained portion of the road by NCDOT.

Green Arrows indicate driveway access to said lot.

Red indicates additional details.

Blue represents the newly added maintenance agreed upon by NCDOT



with Aerial

We managed to convince the neighbor after a several weeks to grant us the necessary easement only to find out that the easement option is not a valid one. Through research, we discover that NCDOT no longer maintained the linier footage agreed upon during the original agreement. After several discussions and the conclusion of their own research, NCDOT has agreed to extend the maintenance of Midas Springs Rd. to the original agreed upon distance which puts it in the same situation as the neighboring lost with 1/2 frontage. Below is the original survey of 9808 which specifies the distance of Midas Springs Rd. frontage before it turns off into Hedrick Cir. and the new agreement from the NCDOT to extend maintenance of said road.



EXHIBIT A

LEGEND

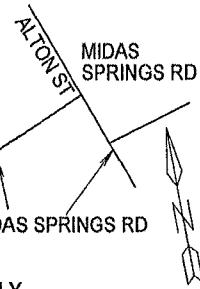
- △ PK NAIL FOUND
- ▲ PK NAIL SET
- CONCRETE MONUMENT SET
- #4 REBAR SET
- ⊙ # REBAR FOUND
- POINT NOT SET
- ⊙ 1" IRON PIPE FOUND

- Boundary not surveyed
- Tie Line (Not to Scale)
- Right of Way

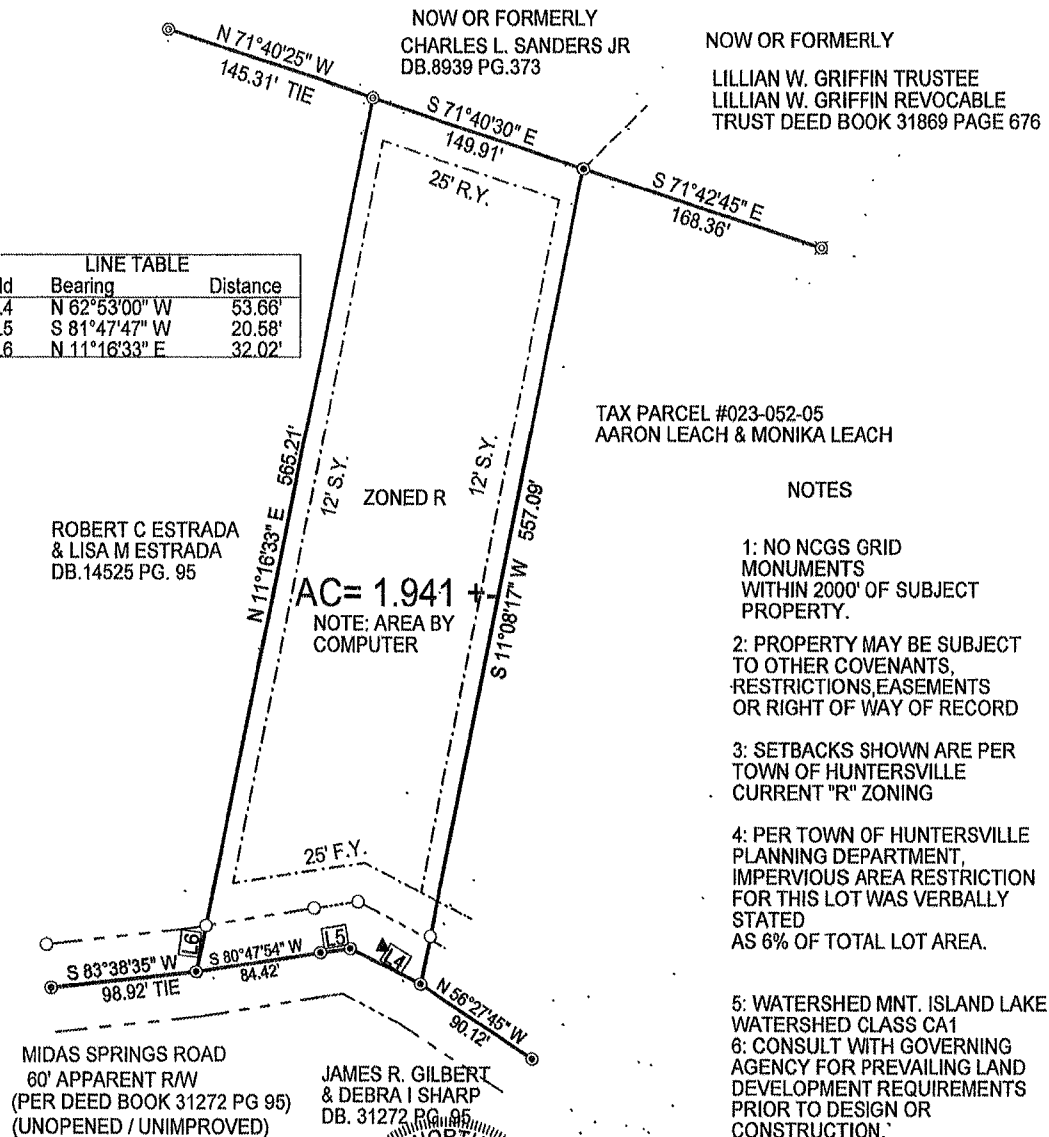
VICINITY MAP

NOT TO SCALE

MIDAS SPRINGS RD



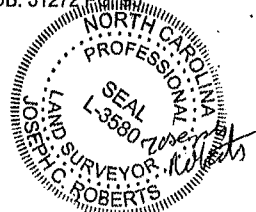
LINE TABLE		
Id	Bearing	Distance
L4	N 62°53'00" W	53.66'
L5	S 81°47'47" W	20.58'
L6	N 11°16'33" E	32.02'



NOTES

- 1: NO NCGS GRID MONUMENTS WITHIN 2000' OF SUBJECT PROPERTY.
- 2: PROPERTY MAY BE SUBJECT TO OTHER COVENANTS, RESTRICTIONS, EASEMENTS OR RIGHT OF WAY OF RECORD
- 3: SETBACKS SHOWN ARE PER TOWN OF HUNTERSVILLE CURRENT "R" ZONING
- 4: PER TOWN OF HUNTERSVILLE PLANNING DEPARTMENT, IMPERVIOUS AREA RESTRICTION FOR THIS LOT WAS VERBALLY STATED AS 6% OF TOTAL LOT AREA.
- 5: WATERSHED MNT. ISLAND LAKE WATERSHED CLASS CA1
- 6: CONSULT WITH GOVERNING AGENCY FOR PREVAILING LAND DEVELOPMENT REQUIREMENTS PRIOR TO DESIGN OR CONSTRUCTION.

Joseph C. Roberts PLS L3580
424 Leland St.
Charlotte N.C. 28214
Telephone # (704) 995-1120



BOUNDARY SURVEY

OF

9822 MIDAS SPRINGS RD
TAX PARCEL #023-052-04
OWNERS
: AARON S. LEACH
& MONIKA LEACH
DEED BOOK 35499 -267
LOCATION: LONG CREEK TOWNSHIP
MECKLENBURG COUNTY N.C.

I, Joseph C. Roberts, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 35499 page 267, ect) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book 8939, page 373; or other reference source; DB 31869 PG 676; that the ratio of precision or positional accuracy is 1: 10,000; and that this map meets the requirements of the Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600).")

This 11th day of January, 2021 Seal
Joseph C. Roberts
Professional Land Surveyor L-3580

SCALE 1" = 100' DATE OF SURVEY 1/7/2021

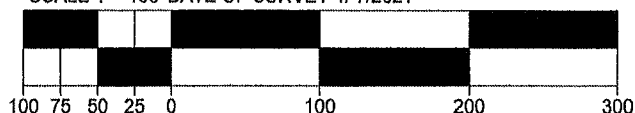


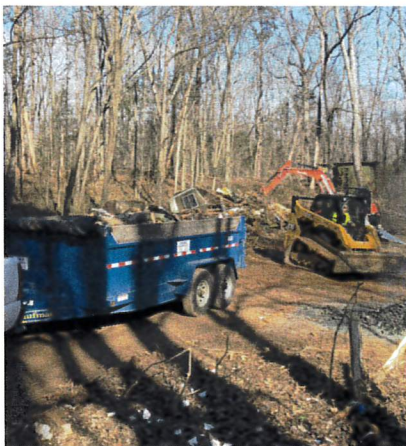
Exhibit D – Safety
improvements and
cleanup

Upon Purchase of said lot, we immediately started cleanup and demolition of condemned structures. To date, there has been roughly 15 trash piles of mostly glass uncovered and hauled away. I brought my little dog out there to run around our new home where i knew she should love it and one of those piles of glass cut her paw so deep she needed 2 stiches and 5 staples.

although we have cleaned up a ton of trash out there, it is still not safe for our animals to run around out there.

we have also pulled out 4 old vehicles that were being used as target practice. There are still at least 2 vehicles out there that need to be pulled out.

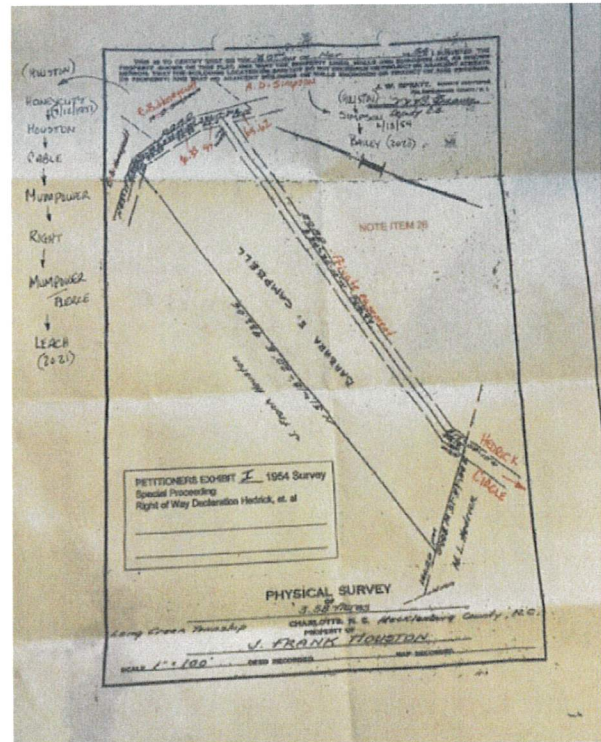
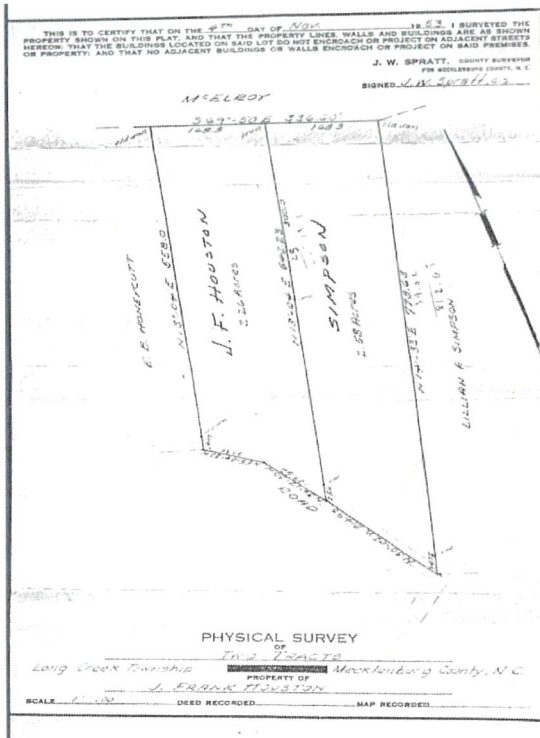
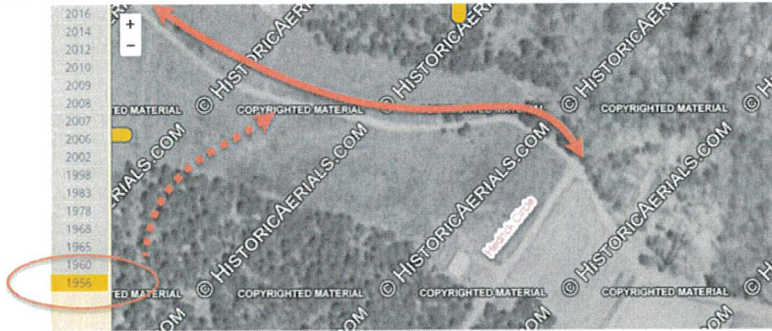
there were countless appliances that and other junk that needed to be pulled out. so far, we have salvaged about two 40-yard dumpsters of scrap metal.



Additional information –
Historical surveys/data

3/7/2021

Gmail - FW: Midas Spring Rd



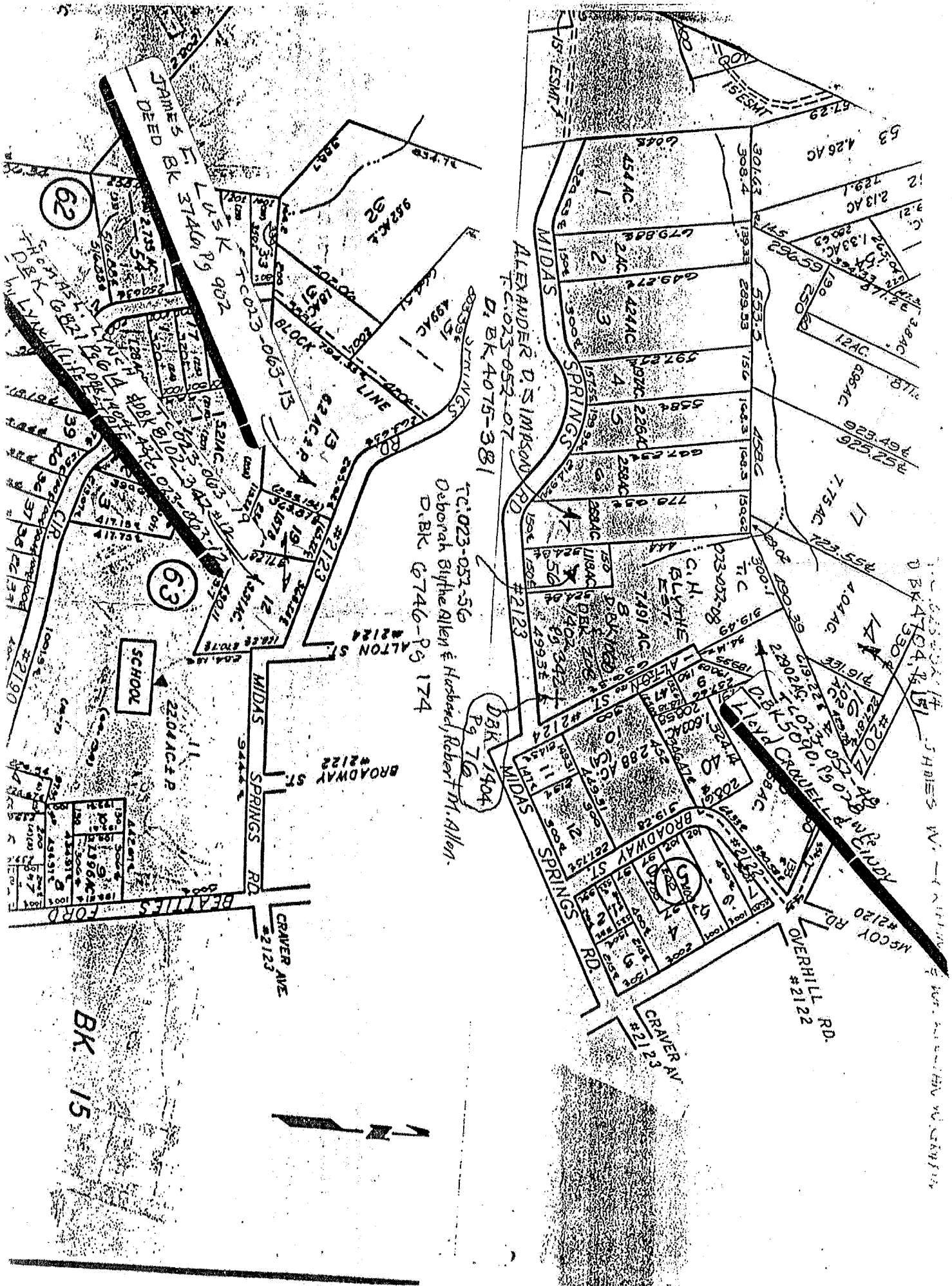


Exhibit 5



POLARIS 3G

[Tutorials](#) [Quick Tips](#) [Report Issues](#) [More Map Apps](#)

[Search Results](#) [Layers/Labels](#) [Property Report](#) [Zoom To](#)

Property Key

Parcel ID	GIS ID
02305204	02305204
Address located on Property (Postal City)	
NA	
Owner Name	Mailing Address
AARON LEACH	14030 BERNARDY LN CHARLOTTE NC 28269
MONIKA LEACH	14030 BERNARDY LN CHARLOTTE NC 28269

[Is ownership or parcel boundary wrong?](#) Request Change

[Is the mailing address wrong?](#) Request Change

Link To

[Google Street View](#)

[Birdseye View maintained by Mecklenburg County](#)

[Unselect Property](#)

Associated Information

Legal Desc	M1357-495
------------	-----------

02305204

[Advanced Search](#) [Market Analysis](#) [Search Help](#)

Distance Measure

327.25 ft
(0.06 miles)

+

-

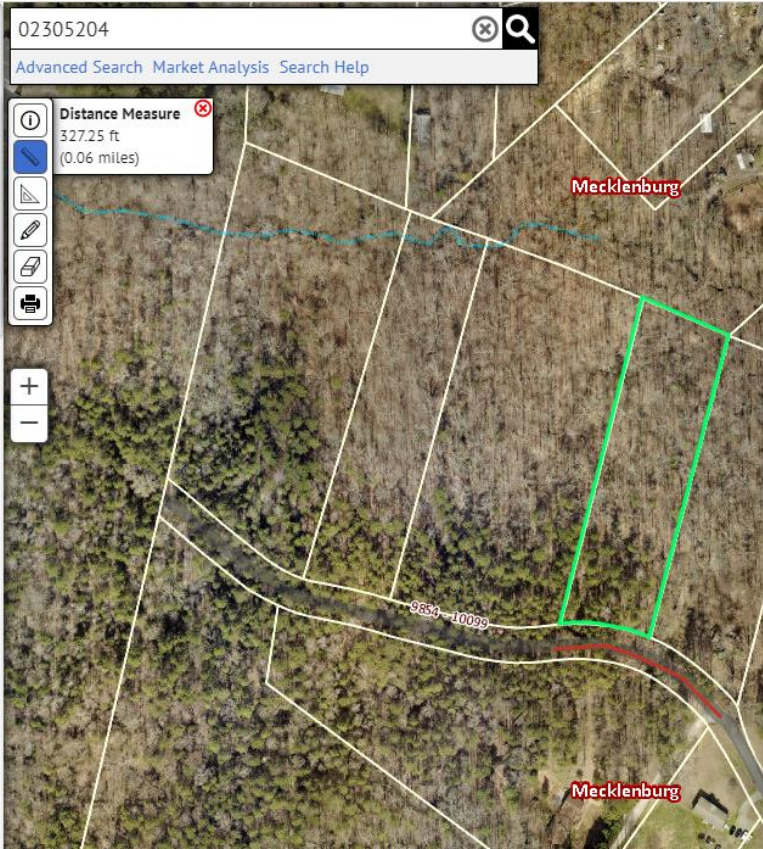


Exhibit 6



POLARIS 3G

[Tutorials](#) [Quick Tips](#) [Report Issues](#) [More Map Apps](#)

Search Results

Layers/Labels

Property Report

Zoom To

Property Key

Parcel ID	GIS ID
02305204	02305204
Address located on Property (Postal City)	
NA	
Owner Name	Mailing Address
AARON LEACH	14030 BERNARDY LN CHARLOTTE NC 28269
MONIKA LEACH	14030 BERNARDY LN CHARLOTTE NC 28269

Is ownership or parcel boundary wrong? [Request Change](#)

Is the mailing address wrong? [Request Change](#)

Link To

Google Street View

Birdseye View maintained by Mecklenburg County

Unselect Property

Associated Information

Legal Desc	M1357-495
Land Area	1.970 AC
Fire District	Long Creek
Special District	Fire Service D
Account Type	Individual
Municipality	Mecklenburg County-unincorporated
Land Use	Single Family Residential -

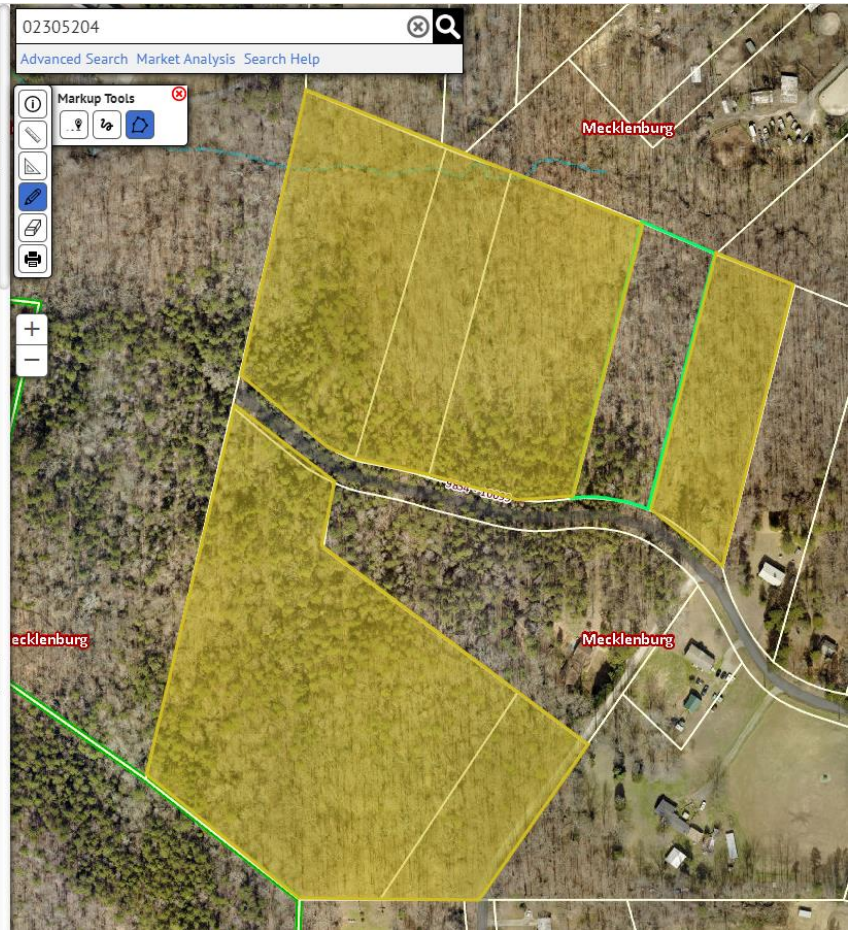


Exhibit 7



6512 Robert Street, Huntersville, NC 28078

Lauren Speight

From: Taylor, Wendy A <wataylor1@ncdot.gov>
Sent: Thursday, March 4, 2021 1:14 PM
To: Leach, Aaron S; Monika Leach; Lauren Speight
Subject: FW: Midas Spring Rd

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.

Please see email below.

Wendy Taylor, PE
District Engineer
North Carolina Department of Transportation
Division 10 District 2

980 523 0000 office
wataylor1@ncdot.gov

7605 District Drive
Charlotte, NC 28213



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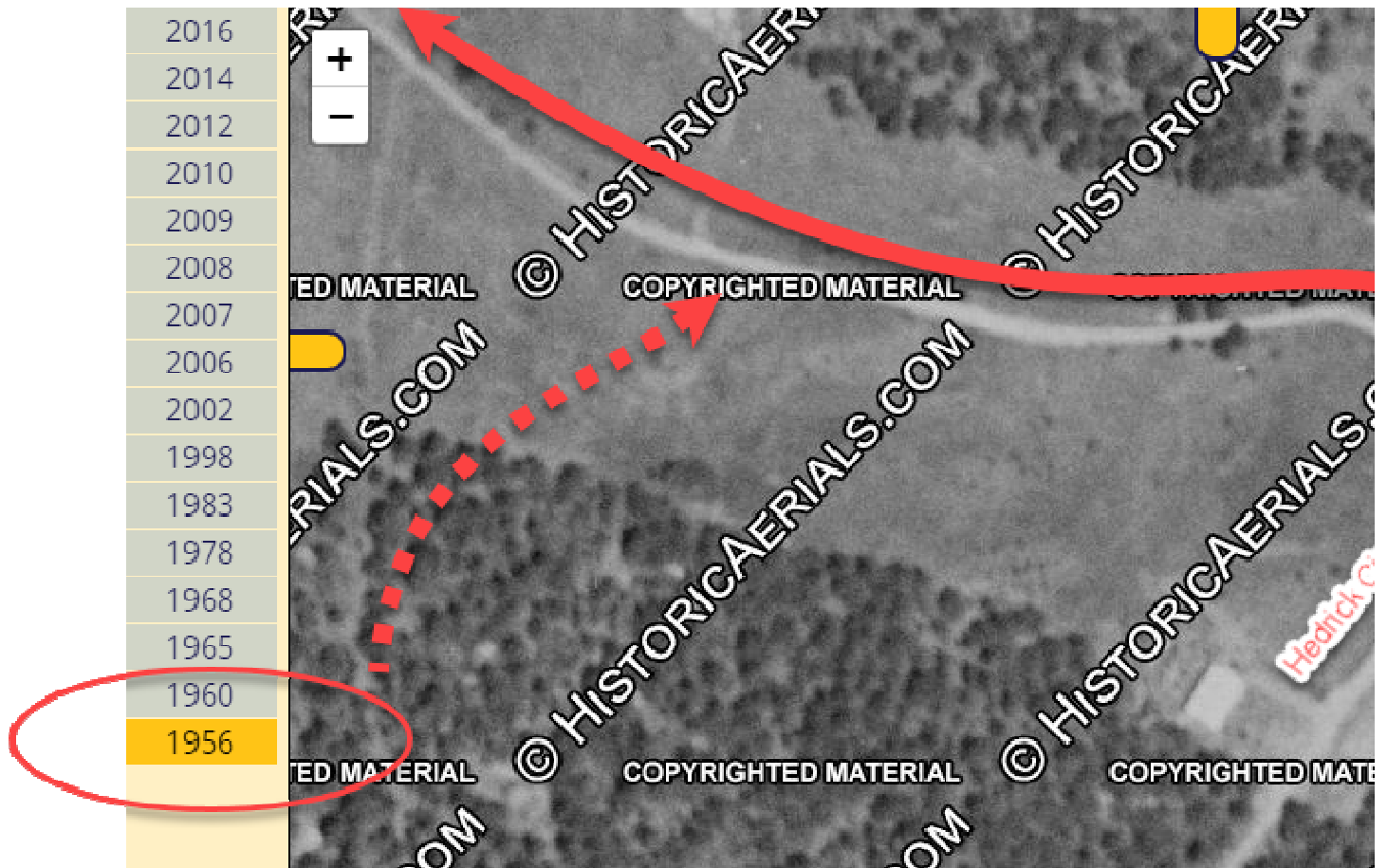
[Facebook](#) [Twitter](#) [YouTube](#)

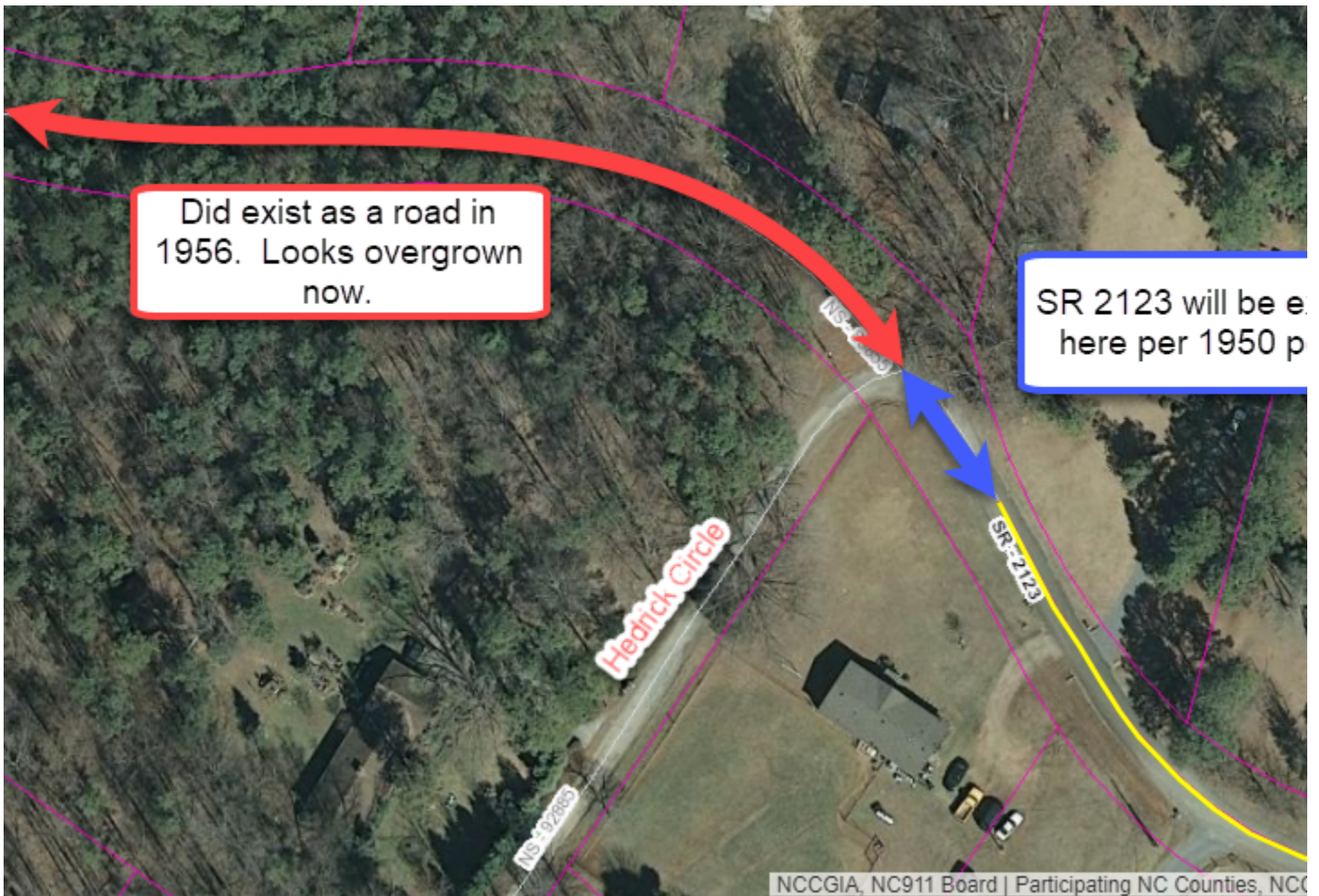
From: Davis, John T <jtdavis4@ncdot.gov>
Sent: Tuesday, March 2, 2021 9:50 AM
To: Sossamon, Gary D <dsossamon@ncdot.gov>
Subject: RE: Midas Spring Rd

Doug,

I haven't forgotten to respond, but I'm getting further clarification from the Chief's office just to make sure any response to the customer is solid. I was mistaken yesterday...this road did exist pre-1975. I'll be in touch once I get this clarification.

I still do plan to extend this along the section below in blue.





John Davis
Road Inventory Engineer
Operations Program Management
North Carolina Department of Transportation

919 673 1425 cell (teleworking)
jtdavis4@ncdot.gov

4809 Beryl Road
Raleigh, NC 27606



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Lauren Speight

From: Taylor, Wendy A <wataylor1@ncdot.gov>
Sent: Thursday, April 29, 2021 3:02 PM
To: Leach, Aaron S; Monika Leach; Davis, John T; Sossamon, Gary D
Cc: Lauren Speight
Subject: RE: [External] RE: Midas Spring Rd.

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Hi Aaron,

Since we are going to allow it to be constructed as a gravel road, our new manuals do not have the design parameters for unpaved roads. I've talked to Doug and he's going to look back through his old manuals to see what those design standards were back then and provide that info to you. The road will also need to have a turnaround constructed at the end of the road.

In addition to the design and construction of the road, we will also need the R/W to be dedicated on both sides of the road. So you will need to have the property owner across the street from your parcels dedicate R/W to NCDOT for this road extension. We cannot add this road extension without good R/W.

Thanks,

Wendy Taylor, PE
District Engineer
North Carolina Department of Transportation
Division 10 District 2

980 523 0000 office
wataylor1@ncdot.gov

7605 District Drive
Charlotte, NC 28213



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From: Leach, Aaron S <LeachAS@corning.com>
Sent: Thursday, April 22, 2021 10:51 AM
To: Monika Leach <leachmonika@gmail.com>; Taylor, Wendy A <wataylor1@ncdot.gov>; Davis, John T <jtdavis4@ncdot.gov>; Sossamon, Gary D <dsossamon@ncdot.gov>
Subject: [External] RE: Midas Spring Rd.

Thank you Wendy,

And happy Thirsty Thursday!

Are there minimum standards that you can send us to construct the continuation of Midas Springs Rd if it comes to that?

Does the width of the street have to match the rest of the maintained portion of the Midas Springs?

Are there minimum standards for:

- Road density
- Width
- Thickness
- Material
- Drainage
- Cul-de-sac/turnaround
 - o Width
 - o Circumference

Thanks for any information you/your team can provide.

Happy Earth Day!

Respectfully,

Aaron S. Leach
HR Coordinator – Corning Inc.
Optical Commercial Operations
4200 Corning Place, Charlotte, NC 28216

Cell: (704) 975-1533
Email: leachas@corning.com

From: Taylor, Wendy A <wataylor1@ncdot.gov>
Sent: Tuesday, April 13, 2021 10:52:09 PM
To: Larry Shaheen <Larry@mcintoshlawfirm.com>; Davis, John T <jtdavis4@ncdot.gov>; Sossamon, Gary D <dsossamon@ncdot.gov>
Cc: Aaron Leach <leachas@corning.com>; leachmonika@gmail.com <leachmonika@gmail.com>
Subject: RE: [External] Midas Spring Rd.

Hi Larry,

That road no longer exists and when it did exist, NCDOT was not petitioned to add it to our system. If the Leach's construct an extension of Midas Spring Rd, then they can petition us to add that section of road to our system provided that it is designed and constructed to state standards and they would have to construct a turnaround at the end of the road extension. NCDOT will not construct the road extension and we cannot extend our maintenance limits on a road that doesn't exist. The road extension does not have to be paved, but it will need to meet our design standards for a gravel road. Let me know if you have any other questions.

Thanks,

Wendy Taylor, PE
District Engineer
North Carolina Department of Transportation
Division 10 District 2

980 523 0000 office
wataylor1@ncdot.gov

7605 District Drive
Charlotte, NC 28213



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From: Larry Shaheen <Larry@mcintoshlawfirm.com>
Sent: Monday, April 12, 2021 12:30 PM
To: Taylor, Wendy A <wataylor1@ncdot.gov>; Davis, John T <jtdavis4@ncdot.gov>; Sossamon, Gary D <dsossamon@ncdot.gov>
Cc: Aaron Leach <leachas@corning.com>; leachmonika@gmail.com
Subject: [External] Midas Spring Rd.

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Good afternoon Mrs. Taylor, Mr. Davis, and Mr. Sossamon,

My name is Larry Shaheen and I represent the Leach family in their variance appeal before the town of Huntersville. There had been some email traffic regarding the extension of maintenance along Midas Spring Rd., but I wanted to ask, other than the blue arrow on the exhibit below, do you have any plans to extend maintenance down Midas Spring Rd further along the red arrow? We do need an answer for the town to consider the variance. Thank you so much and please reach out as soon as you can.



Lawrence (Larry) Shaheen Jr.

Attorney At Law
THE

McIntosh
LAW FIRM

Mailing Address: P.O. Box 2270, Davidson, NC 28036

Physical Address: 209 Delburg Street, Suite 203, Davidson, NC 28036

Telephone: 704.892-1699 Ext 350

Fax: 704-892-8664

www.mcintoshlawfirm.com

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