AGENDA
Regular Board of Adjustment Meeting
July 13, 2021 - 6:30 PM
Meeting Location:
Town Hall
101 Huntersville-Concord Road
Huntersville NC 28078

1. Roll Call, Determination of Quorum

2. Approval of Minutes

2.A. Consider approval of the May 11, 2021 Minutes of the Meeting

3. Hearing of Cases

3.A. V 21-03, 6960 HEDRICK CR HUNTERSVILLE NC 28078

3.B. V 21-04, Parcel ID 02306232

4. Other Business

4.A. Consider appointment of Chairman and Vice-Chairman

5. Adjourn

Minutes of the Meeting
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

Quorum was determined, and Chairman Cecil called the meeting to order.
Regular Members in attendance: E. Cecil, Chairman, S. Genenbacher, and B. Welch, T. Primiano

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

Regular Members absent: D. Brewer, J. Kluttz, and W. Smith

2. Approval of Minutes

2.A. Consider approval of the March 18, 2021 Minutes
S. Genenbacher made a Motion to Approve the March 18, 2021 Minutes of the Meeting. T. Primiano seconded the motion. The motion passed unanimously (7-0).

Chairman Cecil read the conflict of interest disclosure statement and asked all Board members if there was any conflict. There was no conflict stated.

Chairman Cecil disclosed that he knows Mr. Shaheen, representative for the applicant. They have discussed other matters and matters occurring in Charlotte, but they have not discussed this case and knowing him would not influence his decision today. Mr. Shaheen and the applicants had no objecting to Chairman Cecil serving. There was no recusal.

S. Genenbacher disclosed that Mr. Shaheen has represented him in a previous unrelated legal matter. This will not influence his decision today, they have not spoken in months, and he is not a current client. Mr. Shaheen and the applicants had no objection to S. Genenbacher serving. There was no recusal.

Chairman Cecil provided a statement as to the handling of quasijudicial matters. Vice-Chair Welch read the attestation. J. Simoneau, L. Speight, L. Shaheen, A. Leach, M. Leach, J. Gilbert, D. Baily and M. Hedrick were all sworn in.

3. Hearing of Cases

3.A. V21-01 9808 Midas Springs Road
Chairman Cecil acknowledged there was new evidence provided by the Town and the applicant today which included an email response from the Fire Marshall and an environmental study related to the ability to construct a septic system on this lot. There was no objection by either party to admitting the evidence.

L. Shaheen requested that both variances be heard as one. The Board concurred and stated that they would vote on the variances individually.

L. Speight, Planner I provided an overview of the variance request as follows:

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.

   No structures are currently present on site, as recorded during the Staff site visit to place required meeting notice for variance hearing. (Exhibit 6)

10. 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."

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).

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. 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 CONCLUSIONS:

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.
Conclusion: 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.*
Conclusion: Staff finds the hardship is similar to several neighboring properties as well as properties in the Biltmore and Norman Park neighborhoods.

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.*
Conclusion: Staff does not find that any action by the property owner created 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.*
Conclusion: Evidence is not included the existing conditions meet the minimum gravel road requirements by NCDOT and that the requested variance is consistent with the spirit, purpose, or intent of the Ordinance.

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.

V21-02: 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:
>
> 2. 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.

Staff stated that they received additional evidence in the form of an email received from Randy Frazier, County Fire Marshall, dated today, Tuesday, May 11, 2021 who indicated that fire service could be provided to both parcels with less than a public street built to NCDOT's standards as long as the criteria outlined is maintained. This included: 16 foot wide gravel road capable to support an 80,000 lb. fire apparatus is provided to the end of the second lot; the gravel road would need to be maintained like the existing gravel portion of Midas Springs Road that begins before the intersection of Alton Street and Midas Springs Road; the gravel road must remain clear of debris and obstructions and provide free access for the fire department; the gravel road must provide 13ft 6in. of clearance from overhead obstructions; and Jeff Tracey or Randy Frazier with Mecklenburg County Fire Marshall's office shall be contacted to certify gravel road meets minimum fire safety requirements for access. Staff acknowledges that with this evidence the applicant may be able to demonstrate they have met two of the four hardships.

Larry Shaheen, McIntosh Law Firm spoke for the applicants and stated that from October – December 2020 due diligence was performed and a septic permit was issued by Mecklenburg County. The applicants stated that they spoke with the real estate agent and the closing attorney who both confirmed that they could build on this lot. On December 31, 2020, the day after closing, they contacted the Town of Huntersville Planning Department and received an email that the lot was not buildable due to a lack of frontage on a publicly maintained street. The applicants have exhausted all other methods to resolve this and have resorted to requesting a variance as a final resort.

L. Shaheen stated that it is their position that it is an unnecessary hardship because without a variance the lot is unusable due to the lack of road frontage and the lack of utilities. As demonstrated in the included evidence, the only suitable location for septic is within the scheduled right-of-way. Therefore, requiring the applicant to build the public street would deem the lot unusable.

The hardship was created by NCDOT not adopting the road through no fault of the applicant. There are currently five driveways to the public right-of way and the road width meets the criteria for fire service.

Chairman Cecil asked those in attendance if anyone was speaking in opposition to the variance. There were none.

Applicant, Monika Leach, 9808 Midas Springs Road stated that main issue identified during due process was if the land would perc. They hired two consultants and finally were able to locate the one location indicated as the only acceptable place that would perc, and they were approved septic for 3 bedrooms. On closing day of the purchase of the land, a neighbor mentioned the lawsuit related to the road. The closing attorney provided court order stating the road is a state road, road #2123. The applicants emailed the town of Huntersville to determine what type of structure can be built there with the existing structure. Lauren Speight replied that nothing can be built until the road frontage is resolved. The applicants then went back to the closing agent, Baker Law Firm, and they stated that it was a mistake because there is a road.

The potential solutions already explored required the applicant to have a survey completed that measured the amount of street frontage owned; the second solution attempted was for an easement but then determined that that was not an option.

Applicant, Aaron Leach, 9808 Midas Springs stated that it was the neighbor's comments that brought the issues to their attention that there had been a lawsuit with the road. When they went to the closing table, the closing attorney who represented both the buyer and seller, provided them with a copy of the court order and stated that it was closed and there is no issue with building. When they learned from the Town that they could not build, they contacted the closing attorney again and they received an email that is in the packet that stated in general what is the responsibility of a closing attorney.

Jim Gilbert, 9811 Midas Springs stated that in 1948 there is a map with the first known reference to Midas Springs Road. In 1950 this road was not petitioned to join NCDOT maintenance. NCDOT would not have accepted part of the road, they would have accepted the whole road. They have acknowledged that they accepted the front portion.

Chairman Cecil asked the Board if they would accept questions during the evidentiary hearing. There was no objection.

S. Genenbacher asked what the mailing address is and where their mailbox is located. Jim Gilbert responded that his mailbox faces Midas Springs across the street from the applicant and he receives his mail at that address. S. Genenbacher then stated that in his opinion this makes them an official road.

D. Baily, 9716 Midas Springs Road stated that she is a resident and history enthusiast of this area. She stated that she has researched and found a 1910 geological survey in UNCC's files that shows Midas Springs Road went completely around to Beatties Ford Road. There is a 1911 map that shows Long Creek community. At that time the road went completely around and back to Beatties Ford Road because not all homes had a well and they had water delivered. The road was labeled an essential rural route, as such the road had to be open to the public and it had to be a good road. Every lot sold referred to it as a road.

M. Hedrick, 7508 Hedrick Circle stated that he moved there in 1967. He grew up there and the state used to maintain it further than that. He used to ride and walk the road as a kid and he in support of the variance.

J. Simoneau, Planning Director commented that the referenced court case was related to the section connecting Hedrick to Midas Springs Road, not the section that these parcels front. He then identified the placement of the proposed septic L. Shaheen agreed and stated that the judge determined it was a right-of-way and these roads have been there and used for a long time and through a technicality the road was not accepted by NCDOT as a maintained road.

Chairman Cecil asked if there were any further public comments or evidence to be provided. He then closed the public session.

S. Genenbacher asked what constitutes a driveway, how many driveways are currently accessing this road, and how does this compare to other similar non-paved roads in Town. Staff responded that the development in this area predates the ordinance and does not meet the legal requirements today. Non-paved roads with new development would only be found in a farmhouse cluster.

Chairman Cecil asked why the road has not been considered an abandoned road and taken as a private road. Staff responded that even a private road would be required to come up to public street standards to be eligible to have a building permit issued.

P. Jacobson asked if this could be a farmhouse cluster so that the condition of the road would be acceptable, at what point the applicant contacted the Town to determine if it was a buildable lot. L. Shaheen responded that it would require all of the owners to consent and work together which may be considered an undue hardship. M. Leach stated that they contacted the Town the day they closed to find out about the location of where to build, not if they could build because they trusted that the attorneys were advising them accurately when they told them they could build on this lot. A. Leach responded that they had worked with Mecklenburg County for a number of reports and questions related to the septic permit, well location, and demo permit. The closing attorney, realtor both said this was a buildable lot and the septic permit stated that they could build a 3-bedroom home on this lot so there was no thought that they needed to confirm ability to build with the Town. L. Shaheen stated that in his opinion the error is on the side of the closing attorney and there should be greater requirements related to due diligence and representation of individuals.

Chairman Cecil stated that L. Shaheen commented about malpractice and asked if that had been pursued. L. Shaheen stated that it has not been pursued at this time as there are not any damages yet. T. Primiano asked if title was pulled for this property. The applicants confirmed that title was pulled. Chairman Cecil asked if L. Shaheen has spoken with the closing attorney regarding this. L. Shaheen stated that he intentionally has not.

Chairman Cecil asked L. Shaheen if he could make a brief statement related to what an equity decision is. L. Shaheen stated that an equity decision is justified by circumstances versus the letter of the law.

P. Jacobson asked staff if there was a previous variance request for this lot. Staff responded it was not for this parcel. A variance request submitted in 2015 requested to build a house and that was not fronting a public street. The variance was denied for not meet street frontage, not having an exclusive easement, four surrounding properties exhibiting the same conditions, various properties in Huntersville having similar conditions. Public street standards deemed necessary to ensure safety and no evidence from the fire department that they could provide service with the current road condition.

P. Jacobson asked what the basis is for requiring that properties front a public street and how is it handled if an existing home does not front a public street. Staff responded that there are properties that predate the Ordinance and are considered legal non-conforming.

J. Bradshaw asked if structures must be built to today's code, if a non-conforming build is allowed, if an easement would work and which fire jurisdiction this falls under. Staff responded that an existing non-conforming structure may be allowed to remain, new development would not be allowed to be non-conforming. Staff researched the exemption clause for an easement, and this does not meet those requirements. The parcel is serviced by Huntersville, but Mecklenburg County fire marshal oversees the entire county and they have determined that fire service can be provided on this road.

J. Bradshaw asked if granting this variance would create any hardship for the landowners further down this portion of the road who may choose to do something different with their land. L. Shaheen stated that they would have to avoid the applicant's septic field and in their due diligence if a developer was going to buy multiple lots to develop, then they would realign the public road accordingly. Given that each parcel owns to the center of the road there is no way to avoid assembling the land to construct the public road or negotiating with each landowner for the right-of-way.

E. Cecil stated that he believes in equitable principles and they have been applied before. In his opinion he thinks they should be applied here, and the applicant may now have 2 of the 4 hardships met.

S. Genenbacher stated he does not think this discussion should even be required given the road has a name and they receive their mail at this location.

E. Cecil asked the applicants if they intend to join the lots. The applicants stated that they do not plan to join the lots. They wanted to build on the second lot and the first lot has a current small home that they would like to rebuild a mother-in-law suite if septic somehow made that possible.

S. Genenbacher made a Motion to Approve the variance request for V21-01, 9808 Midas Springs Road request by Aaron and Monika Leach for a variance from Article 8.1 of the zoning ordinance, the Board of Adjustments approve the request based on the findings of fact as identified in the applicant's application. T. Primiano seconded the motion. The motion passed unanimously (7-0).

J. Bradshaw made an amended Motion to Approve the variance request for V21-01, 9808 Midas Springs Road to include the standards entered into evidence, exhibit 15 must be met for the conditions of the variance to be met and prior to the issuance of a building permit. B. Welch seconded the motion. The motion passed unanimously (7-0).

3.B. V21-02 9822 Midas Springs Road (Parcel 02305204)

L. Shaheen made a request for the record from the previous item be incorporated into the hearing for V21-02. There was no objection.

J. Bradshaw made a Motion to Approve the variance request for V21-02, 9822 Midas Springs Road from Article 8.1 of the zoning ordinance based on the finding that the request meets all four of the criteria outlined in the zoning ordinance for granting a variance based on the following findings of fact: there is an unnecessary hardship that would result from strict application of the ordinance, hardship and the conditions are peculiar to the property; the hardships did not result from the actions taken by the property owner; and, the requested variance is consistent with the spirit and intent of the ordinance. In addition, the terms and stipulations from exhibit 15 be added to the approval of the variance as a condition of approval. S. Genenbacher seconded the motion. The motion passed unanimously (7-0).

4. Other Business

5. Adjourn

S. Genenbacher made a Motion to Adjourn. T. Primiano seconded the motion. The motion passed unanimously (7-0).

Approved this ____ day of _____ 2021.

_____
Chairman or Vice Chairman

_____
Board Secretary

Town of Huntersville
Board of Adjustment
July 13, 2021

To: Town Board

From: Lauren Speight, Planner 1

Date: July 13, 2021

Subject:

EXPLAIN REQUEST:
The applicant, Barbara C. Montgomery is 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.

ACTION RECOMMENDED:

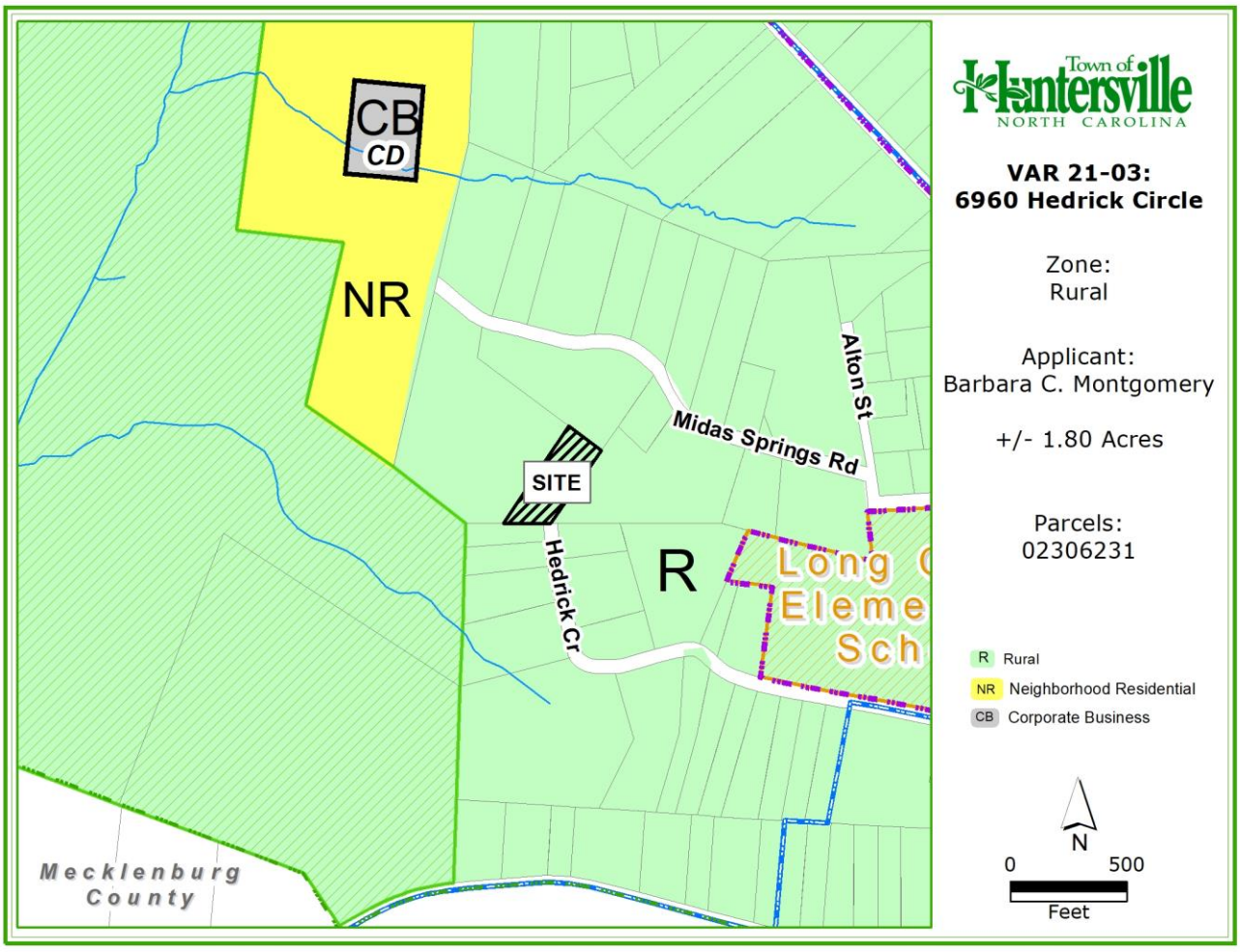
FINANCIAL IMPLICATIONS:

ATTACHMENTS:
1. V21-03 Staff Report_for web

V 21-03, 6960 HEDRICK CR HUNTERSVILLE NC 28078
Parcel ID 02306231

Case #:	V21-03
Address:	6960 Hedrick Circle Huntersville, NC 28078
Parcel #:	023-062-31
Acreage:	1.800
Property Owner/Applicant:	Barbara C. Montgomery on behalf of Barbara Simpson McQueen
Owner/Applicant Address:	205 Cherry Hills Drive Aiken, SC 29803
Staff:	Lauren Speight – Planner I

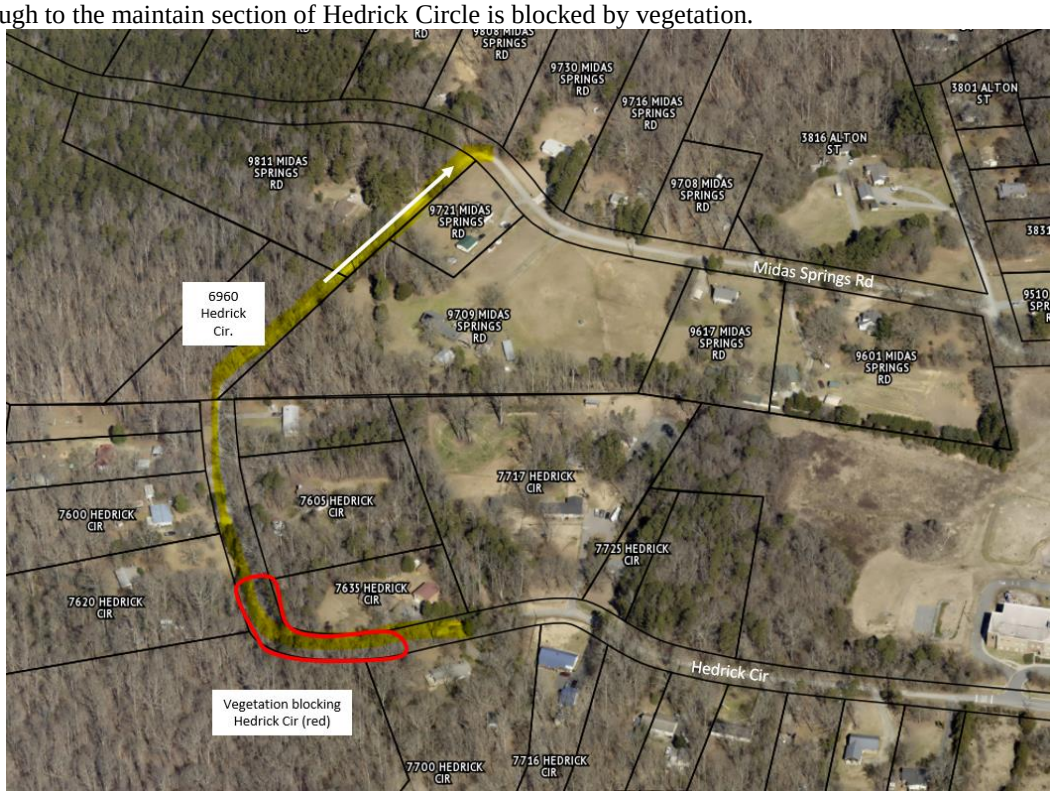
Currently a vacant lot, the 1.8 acre property is served by a gravel road that is not a public street accepted for maintenance by NCDOT. The applicant, Barbara C. Montgomery is requesting a variance from **Article 8.1 Street Frontage Required,** stated below, in order to obtain a building permit to construct a single-family dwelling.



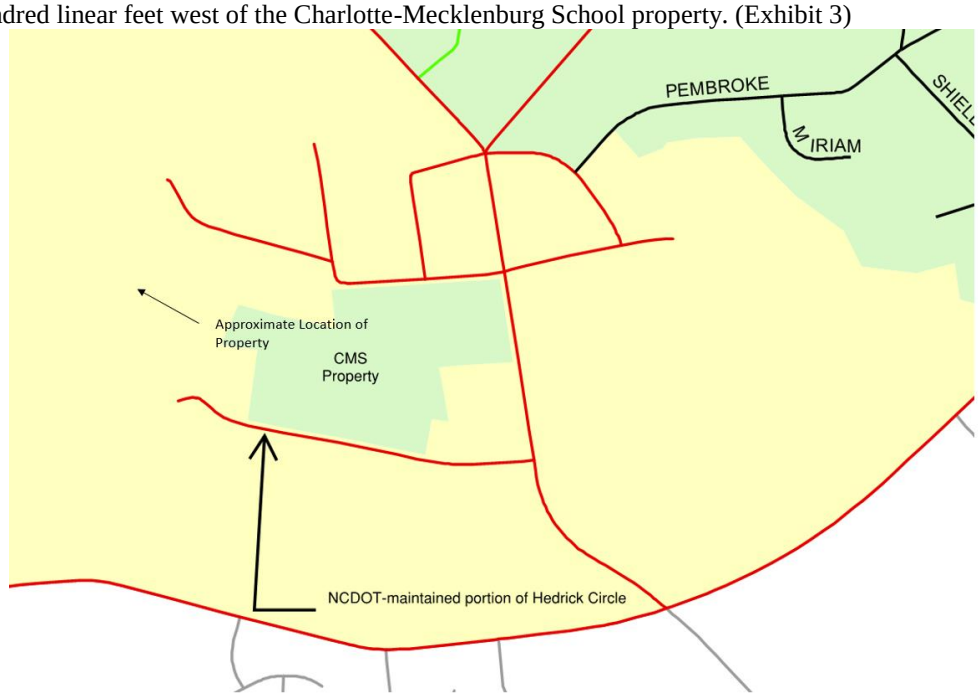
BACKGROUND:

1. The subject property, Parcel ID 023-062-31, is zoned Rural (R) and located in Critical Area 1 (CA-1) of the Mountain Island Lake Watershed Overlay (MIL-O).
2. The subject property is located within the extraterritorial jurisdictional (ETJ) of the Town of Huntersville.

3. The subject property was last conveyed via deed to Barbara S. Campbell (McQueen) December 3, 1954 and Staff does not find any public record of a residential structure existing on the property. (Exhibit 1)
4. Staff have been in communication with the applicant for several years. Most recently, the applicant contacted Staff May 4, 2021 regarding requirements, specifically access requirements, for zoning approval of a building permit as the subject property and parcel 02306232 were under contract for sale. (Exhibit 2)
5. Staff replied that while 6960 Hedrick Circle abuts Hedrick Circle the subject property is not connected to the the maintained portion of Hedrick Circle and that access could be achieved for the lots. (Exhibit 2)
6. While 6960 Hedrick Circle abuts Hedrick Circle, it is an unmaintained section of Hedrick Circle and the passage through to the maintain section of Hedrick Circle is blocked by vegetation.



7. The 2020 Town of Huntersville Powell Bill map shows the NCDOT-maintained section of Hedrick Circle ends several hundred linear feet west of the Charlotte-Mecklenburg School property. (Exhibit 3)



8. 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 most recently contacted staff May 4, 2021 regarding zoning approval for a building permit for the subject property (Exhibit 2).
B. More than approximately 1,168 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. 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 6). Currently, there are lots in Biltmore and Norman Park that would require road improvements before a building permit was issued for construction on the property.
D. The strict application of the Ordinance includes the frontage of the subject property must be paved to the applicable standards (NCDOT).
E. Staff finds the requirements for this lot similar with the requirements of lots with a similar history in the Town and Staff does not find this requirement has been met.

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 eight surrounding properties facing the same conditions (vacant lots on unmaintained apparent right-of-way) if the property owners wish to construct a building on their lot. (Exhibit 7)

B. 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.
C. Two variances were submitted April 2021 for 9808 Midas Springs Road (V21-01) and parcel 02305204 (V21-02) to relieve the requirement of Article 8.1 that lots shall abut a public street. The Huntersville Board of Adjustment approved V21-01 and V21-02.
D. Staff finds this requirement has been met.

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:

A. The applicant is an heir of the property owner of the subject lot. The subject lot was last conveyed by deed December 3, 1954. Staff does not know of any action by the property owner or applicant to create this hardship.
B. Staff finds this requirement has been met.

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.*

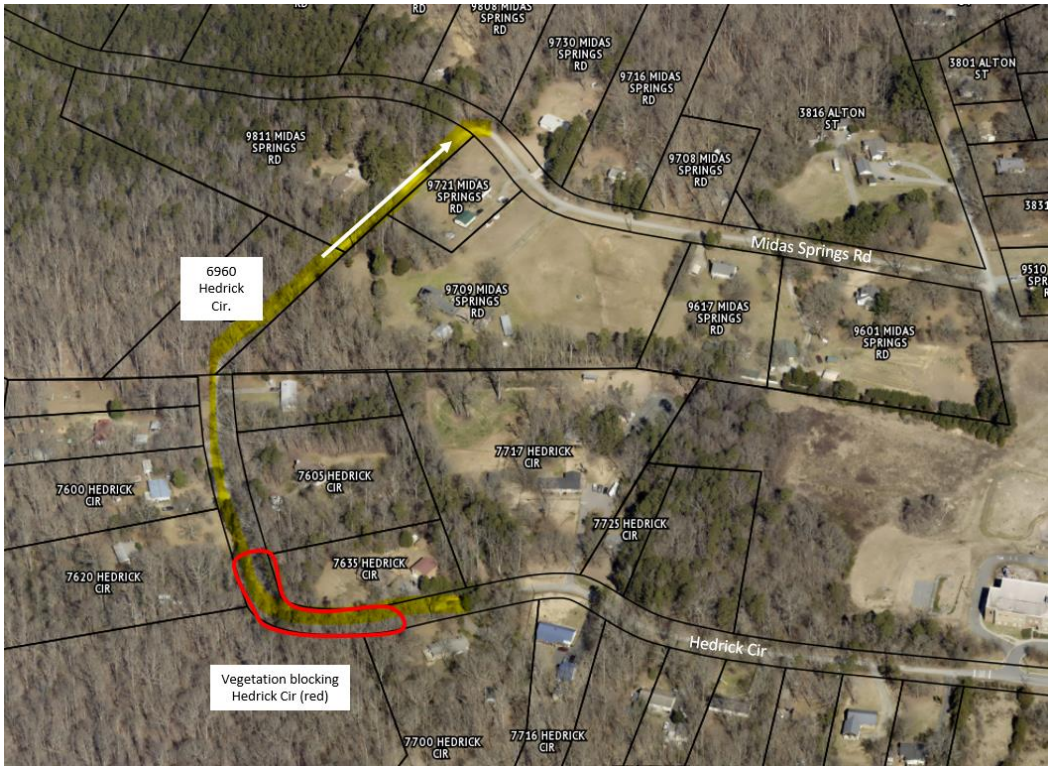
Staff Findings:

A. Lots must abut a public street per Article 8.1 to provide public safety and essential services. Per confirmation from Randy Frazier, Mecklenburg County Fire Marshall existing conditions of the unmaintained gravel road meet the minimum requirements for fire emergency access to the subject lot. (Exhibits 8)
B. During the staff visit to place required hearing signs, Staff observed the connection of Hedrick Circle and Midas Springs Road is partially unpassable. A barricade in Hedrick Circle near 7635 Hedrick Circle and the path is completely vegetated and appears to be impassible. (See Photo from #6 of Background, Exhibit 9)
C. If the access to the lot is via the right-of-way for public access that connects Midas Springs Road and Hedrick Circle and road conditions are satisfactory for emergency access, Staff finds this requirement is met.

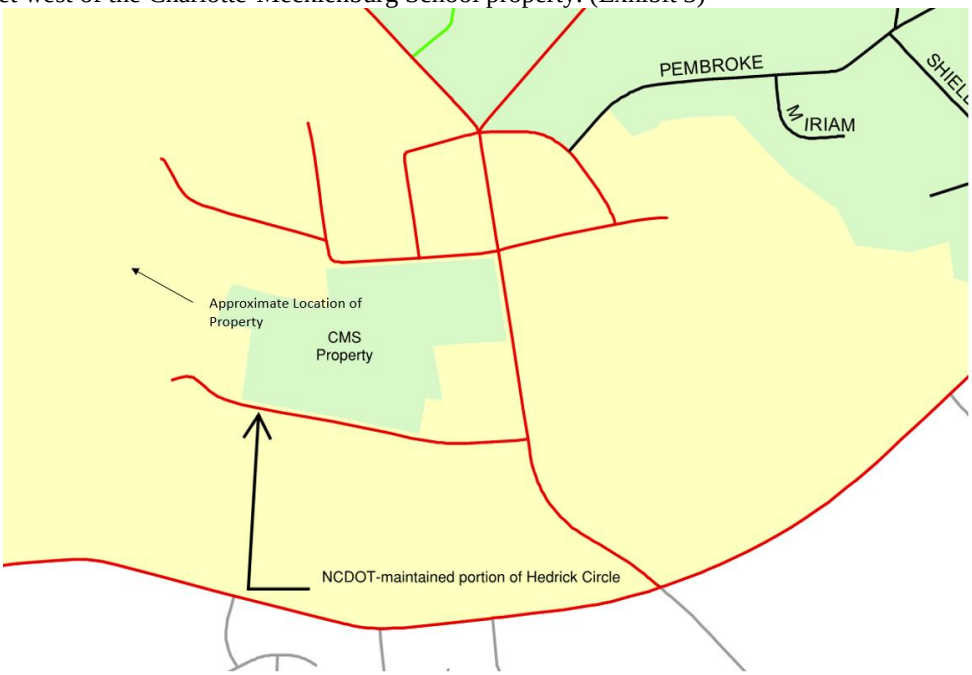
STAFF POSITION:

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 three of the four requirements for granting a variance and therefore recommend denial of the request based on the below findings:

1. The subject property, Parcel ID 023-062-31, is zoned Rural (R) and located in Critical Area 1 (CA-1) of the Mountain Island Lake Watershed Overlay (MIL-O).
2. The subject property is located within the extraterritorial jurisdictional (ETJ) of the Town of Huntersville.
3. The subject property was last conveyed via deed to Barbara S. Campbell (McQueen) December 3, 1954 and Staff does not find any public record of a residential structure existing on the property. (Exhibit 1)
4. Staff have been in communication with the applicant for several years. Most recently, the applicant contacted Staff May 4, 2021 regarding requirements, specifically access requirements, for zoning approval of a building permit as the subject property and parcel 02306232 were under contract for sale. (Exhibit 2)
5. Staff replied that while 6960 Hedrick Circle abuts Hedrick Circle the subject property is not connected to the the maintained portion of Hedrick Circle and that access could be achieved for the lots. (Exhibit 2)
6. While 6960 Hedrick Circle abuts Hedrick Circle, it is an unmaintained section of Hedrick Circle and the passage through to the maintain section of Hedrick Circle is blocked by vegetation. During the staff visit to place required hearing signs, Staff observed the connection of Hedrick Circle and Midas Springs Road is partially unpassable. A barricade in Hedrick Circle near 7635 Hedrick Circle and the path is completely vegetated and appears to be impassible. (See below and Exhibit 9)



7. The 2020 Town of Huntersville Powell Bill map shows the NCDOT-maintained section of Hedrick Circle ends several hundred linear feet west of the Charlotte-Mecklenburg School property. (Exhibit 3)



a.

8. 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)
    i. "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:
9. 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…"

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

ii. "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."

10. More than approximately 1,168 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).
11. 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 6). Currently, there are lots in Biltmore and Norman Park that would require road improvements before a building permit was issued for construction on the property.
12. The strict application of the Ordinance includes the frontage of the subject property must be paved to the applicable standards (NCDOT).
13. Staff finds the requirements for this lot similar with the requirements of lots with a similar history in the Town.
14. There are eight surrounding properties facing the same conditions (vacant lots on unmaintained apparent right-of-way) if the property owners wish to construct a building on their lot. (Exhibit 7)
15. 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.
16. Two variances were submitted April 2021 for 9808 Midas Springs Road (V21-01) and parcel 02305204 (V21-02) to relieve the requirement of Article 8.1 that lots shall abut a public street. The Huntersville Board of Adjustment approved V21-01 and V21-02.
17. The applicant is an heir of the property owner of the subject lot. The subject lot was last conveyed by deed December 3, 1954. Staff does not know of any action by the property owner or applicant to create this hardship.
18. Lots must abut a public street per Article 8.1 to provide public safety and essential services. Per confirmation from Randy Frazier, Mecklenburg County Fire Marshall existing conditions of the unmaintained gravel road meet the minimum requirements for fire emergency access to the subject lot. (Exhibits 8)

EXAMPLE MOTION: V21-03, 6960 Hedrick Circle Huntersville, NC 28078

Planning Department	Board of Adjustment
	APPROVAL: In considering the application for V21-03, a request by Barbara C. Montgomery on behalf of Barbara Simpson McQueen 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 ___ of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance. The Board of Adjustment finds the request meets ____ of the four criteria for granting a variance based on the following findings of fact: *(explain findings of fact)*
DENIAL: In considering the application for V21-03, a request by Barbara C. Montgomery on behalf of Barbara Simpson McQueen 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 been met. Staff finds the 1st requirements for granting a variance has not been met.	**DENIAL**: In considering the application for V21-03, a request by Barbara C. Montgomery on behalf of Barbara Simpson McQueen 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 met the criteria for granting a variance based on the following findings of fact: *(explain findings of fact)*

Exhibit 1 –1954 Deed of Subject Property, DB 1723, P 33
Exhibit 2 – Correspondence Between Town Planning Staff and Applicant from May 4, 2021
Exhibit 3 – 2020 Town of Huntersville Powell Bill Map
Exhibit 4 – Variance Application
Exhibit 5 – Length from Hedrick Circle to Subject Lot (Approximate via Polaris 3G)
Exhibit 6 – Frontage of 6512 Robert Street, Huntersville, NC 28078 - Biltmore Park
Exhibit 7 – Unbuilt Road Analysis Map by Planning Department
Exhibit 8 – Correspondence with Randy Frazier, Mecklenburg County Fire Marshal
Exhibit 9 – Image of Hedrick Circle near 7635 HEDRICK CR HUNTERSVILLE NC 28078

Exhibit 1 –1954 Deed of Subject Property, DB 1723, P 33

33

BOOK NO. 1723

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

Revenue Stamps Affixed $ 1.10

THIS DEED, Made this 3rd day of December, A.D., 19 54, by and between

J. Frank Houston and wife, Addie P. Houston

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

Mrs. Barbara S. Campbell

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

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

One Hundred Dollars and other valuable considerations - - - -

to them paid by the party 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 party of the second part and her heirs, all that certain tract of land situate, lying and being in Long Creek Township, Mecklenburg County, State of North Carolina, and more particularly described and defined as follows:

Beginning at a point, said point being the intersection of the center line of the Midas Springs Road and Hedrick Circle Road, and running thence with the center line of the said Hedrick Circle Road S. 34-30-10 W. passing an iron 764.99 feet to a point in the center of said road; thence continuing with the center of said Hedrick Circle Road S. 17-08-10 W. 43.15 feet to a point in the center of the said road in the line of M. L. Hedrick; running thence with Hedrick's line S. 88-14-10 W. passing an iron, 200 feet to an iron in Hedrick's line J. Frank Houston's corner; thence with J. Frank Houston's line N. 31-15-20 E. 922.06 feet, passing an iron, to a point in the center of the Midas Springs Road; thence with the center line of the said Midas Springs Road 4 calls as follows: (1) N. 83-37 E. 20.44 feet to a point; (2) S. 61-34 E. 53.60 feet to a point; (3) S. 55-04-30 E. 90.33 feet to a point; (4) S. 36-17-30 E. 44 feet to the Beginning, containing 3.58 acres, all as shown on survey of M. B. Seaver, Duputy County Surveyor, dated November 30, 1954.

Being a part of the old J. M. Houston tract of land purchased by said J. Frank Houston from his father, J. M. Houston, about 1902.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging, to the said party of the second part, her heirs and assigns, to her and their only use and behoof forever.

And the parties of the first part for themselves their heirs, executors and administrators, covenant with the said party of the second part, her 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.

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.

Signed, Sealed and Delivered in presence of

J. Frank Houston (SEAL)

Addie P. Houston (SEAL)

(SEAL)

(SEAL)

(SEAL)

STATE OF NORTH CAROLINA, COUNTY OF MECKLENBURG. } ss.

I, _____

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, and the said _____

being by me privately examined, separate and apart from her said husband touching her voluntary execution of the same, does state that she signed the same freely and voluntarily, without fear or compulsion of her said husband or any other person, and that she does still voluntarily assent thereto. Let the instrument and the certificate be registered.

WITNESS my hand and seal, this day of , A.D., 19

My Commission Expires

STATE OF NORTH CAROLINA, COUNTY OF MECKLENBURG. } ss.

I, Margaret L. Smith, a Notary Public for said County and State, do hereby certify that J. Frank Houston and Addie P. Houston, his wife personally appeared before me this day, and acknowledged the due execution of the foregoing (or annexed) instrument

WITNESS my hand and notarial seal this 3rd day of Dec., A.D., 1954

NOTARY SEAL PUBLIC

Margaret L. Smith, Notary Public

My Commission Expires 10-24-56

STATE OF NORTH CAROLINA, COUNTY OF MECKLENBURG. } ss.

The foregoing (or annexed) certificate of Margaret L. Smith, a Notary Public for said county and state is adjudged to be correct. Let the instrument and the certificate be registered.

This 3rd day of December, A.D. 1954.

J. Lester Wolfe, Clerk Superior Court, By: Naomi G. Meske

Deputy Clerk of Superior Court.

Filed at 11:18 o'clock A M., December 3rd, 1954

Registered at 2:55 o'clock P M., December 7th, 1954

Recorded and Verified

J. R. RENFROW, Register of Deeds.

KRE

Exhibit 2 – Correspondence Between Town Planning Staff and Applicant from May 4, 2021

Lauren Speight

From: Lauren Speight
Sent: Tuesday, May 4, 2021 4:23 PM
To: Barbara Montgomery; Brian Richards
Cc: clintgandy@mvalaw.com; Trainum, Brian; Terry Montgomery
Subject: RE: Building Permit for 6960 Hedrick Circle

Good afternoon,

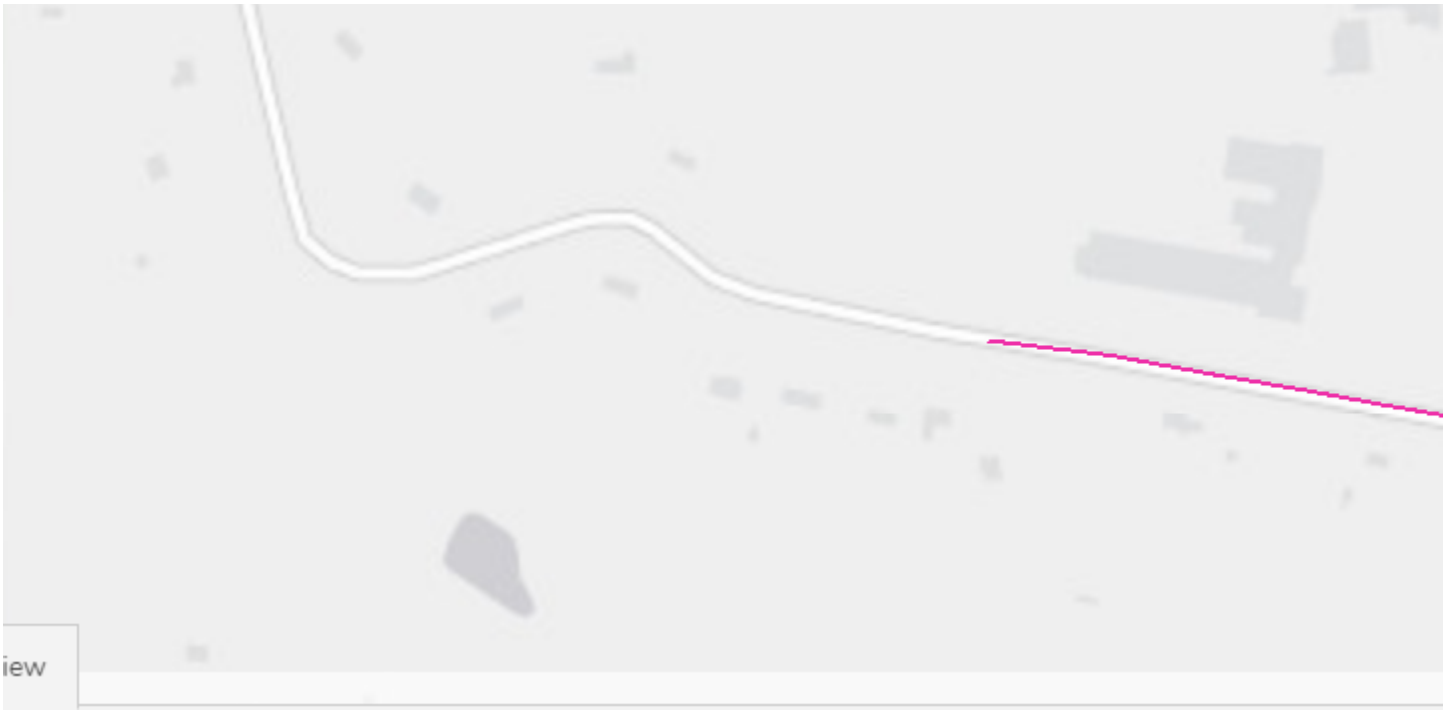
Sierra Saumenig is no longer with the Planning Department, but I recall this meeting actually have my research with Sierra and the Town Attorney at the time regarding these lots. The determination was the Superior Court ruling established the drive through the lots was for public use, unless I am mistaken. A drive/road for public use is not the same as recorded public right of way under the maintenance of Town/City/State.

6960 HEDRICK CR HUNTERSVILLE NC 28078 abuts Hedrick Circle, but it is not connected to the maintained portion of Hedrick Circle. A public street is defined by the Town Ordinance as indicated below. At the time, Staff established that access **could** be achieved for the lots, though difficult. Staff were told it would be up to any future buyer to go through the Town processes to achieve legal access for both lots. Staff did not guarantee zoning approval for any building permits based on existing conditions. As a practice Staff does not guarantee zoning approval for building permits until the permits are submitted with all required documents.

And, as shown in the map from NCDOT, the pink line indicates the section of road that is accepted for maintenance by NCDOT.

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 is happy to set up a time to further discuss this if you have any questions!



Lauren Speight, CZO
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: Barbara Montgomery <montgomerybc@yahoo.com>
Sent: Tuesday, May 4, 2021 4:06 PM
To: Lauren Speight <lspeight@huntersville.org>; Sierra Saumenig <ssaumenig@huntersville.org>; Brian Richards <brichards@huntersville.org>
Cc: clintgandy@mvalaw.com; Trainum, Brian <brian.trainum@cbcarolinas.com>; Terry Montgomery <tmontgomery922@yahoo.com>
Subject: Building Permit for 6960 Hedrick Circle

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.

Ms. Speight,

My name is Barbara C. Montgomery and I am the Personal Representative of my mother's estate. The estate includes parcels 02306231 and 32. The address is 6960 Hedrick Circle. My husband, Terry Montgomery and I met with you, Sierra Saumenig and Brian Richards of the Huntersville Planning Department on March 2, 2020 regarding these parcels. We had previously provided Superior Court Ruling 17-SP-001238 dated December 19, 2019. We were informed at this meeting that the Town of Huntersville would willingly grant a building permit for each of these lots. The decision

was clear and unanimous from you and the other two representatives addressed on this email from the town's Planning Department.

I currently have a contract with a buyer, Clint Gandy, who wants to be assured that he can obtain a building permit to construct a house on these lots. Mr. Gandy has been in communication with you and is being given information that conflicts with what the Town of Huntersville provided us at the March 2, 2020 meeting. We have a closing date of May 20, 2021 and need to resolve this in a timely manner.

The Superior Court Order concerns approximately 800 feet of road that runs from the Sunrise Acres subdivision to Midas Springs Road. The court order clarifies that this section of road is dedicated for public use and also means Hedrick Circle is one public road from Beatties Ford Road to its intersection with Midas Springs Road (State Road #2123). Parcel 02306231 abuts this road and right of way for approximately 400 feet. As a result of this court ruling, Hedrick Circle Road, a public road, runs from Beatties Ford Road to its intersection with Midas Springs Road. As a result, Parcel 02306231 has access to Beatties Ford Road via Hedrick Circle Road and Midas Springs Road in one direction or via Hedrick Circle Road through Sunrise Acres in the opposite direction. At least five residences use the right of way designated by the Superior Court Order to access Midas Springs Road on a daily basis. The United States Postal Service, trash services, emergency vehicles and parcel delivery services utilize the right of way to access residences. Parcel 02306231 is approximately 400 feet from Midas Springs Road, a state maintained road. There are residences on both sides of Parcel 02306231 which use this right of way.

Based on the facts presented above, which are facts validated by an order from the Mecklenburg County Superior Court, the Town of Huntersville Planning Department is requested to honor its commitment to my husband and myself and agree to provide Mr. Gandy with a building permit.

Thank you for your cooperation,
Barbara Montgomery

Sent from Mail for Windows 10

Exhibit 3 – 2020 Town of Huntersville Powell Bill Map

2020 Powell Bill Map*
Huntersville, NC

0 1,200 2,400 3,600 4,800
Feet

* Revised 7/14/2020

Paved:	211.02
Unpaved:	0.00
Total Mileage:	211.02

- NCDOT
- Huntersville
- Huntersville Gravel
- Alley; Private Party
- Developer/Unknown
- County Boundary
- Corporate Limits
- Huntersville ETJ

Skybrook Insert

Path: M:\PLANNING\Arcview Projects\Public Works Department Maps\Powell Bill\2020_Powell_Bill_Map.mxd

Exhibit 4 – Variance Application

Variance Application

Date of Application: May 31, 2021

Property/Building Address: 6960 Hedrick Cir. Rd. Huntersville 28078 **Parcel Size (ac):** 11.42

Tax Parcel ID (PIN) Number(s): 02306231 (1.800) ~~02306232 (9.620)~~

Text of Ordinance to be varied Application for Parcel 02306232 submitted separately.

Ordinance: Zoning Article: 8.1 Street Frontage Section: 1

Description of Request:

See Attached

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.

See Attached

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.

See Attached

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.

See Attached

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

See Attached

Description of Request: The applicant requests a Variance to the ordinance requirement that the lots, intended to be a single family residential lots, through no fault of the applicant do not abut a public street as defined by the ordinance. Instead the lots abut a public right of way (ROW). Strict application of the ordinance would result in an unnecessary hardship to the applicant. The hardships are unique to the particular 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 maintained, and substantial justice and fairness achieved.

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.**

In the absence of a Variance, the applicant would not be able to market and sell the property so that she can close out her mother's estate because the property would not qualify for a building permit. This property has been idle for decades and the hardship is due to regulations that have been promulgated during this period. The applicant has taken positive action in successfully obtaining Superior Court Order 17-SP-001238 issued in December 2019, attached, which clarified ROW issues by declaring the approximately 800 feet of road that runs from Midas Springs Road to the Sunrise Acres platted subdivision road as a 30' ROW for public use. The Variance Application requests that the Town of Huntersville recognize that Hedrick Circle Road is highly unlikely to be taken over for maintenance by either the Town of Huntersville or NC Department of Transportation in the foreseeable future.

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 this hardship are peculiar and unique to this property. Properties adjacent to and across the road were all developed prior to promulgation of regulations by the Town of Huntersville and therefore escaped imposition of the regulations. These properties were developed with full knowledge that the road frontage would be privately maintained. Failure to obtain a Variance would impose restrictions on my property that are not imposed on adjacent properties creating a hardship and not resulting in substantial justice and fairness.

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 applicant did not purchase the property but inherited it. The hardship clearly did not result from actions taken by the applicant. The promulgation of regulations by the Town of Huntersville created the hardship. As stated above the applicant has taken positive actions to improve the situation.

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

The Superior Court Order, Paragraph 4 in the Conclusions of Law section states that residents on the south end of Hedrick Circle Road have chosen to use the right of way segment at issue for ingress and egress to their properties and that guests, garbage collectors, delivery people, service providers and mail collectors traverse the segment routinely. Additionally, residents along Hedrick Circle Road access their property daily using a similarly conditioned road. Adding one additional single family residence would not impact public safety and general welfare since the ROW is very lightly travelled and has been for over 60 years. Substantial justice would be done by allowing the applicant to sell the property, close her mother's estate and allow a buyer to establish a personal residence.

Applicant

Printed Name Barbara C. Montgomery Phone 803-522-0117

☐ Corporation ☐Limited Liability Company ☐ Trust☐ Partnership ☒ Other: Personal Representative of Barbara S. McQueen (deceased)

☒ 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 Barbara C. Montgomery Date May 31, 2021

Title Personal Representative Applicant Phone 803-522-0117

Applicant Email montgomerybc@yahoo.com

Address of Applicant 205 Cherry Hills Drive Aiken, SC 29803

Property Owner (if different than applicant)

* Printed Name See Attached Power of Attorney Phone _____

☐ Corporation ☐Limited Liability Company ☐ Trust☐ Partnership ☐ Other: _____

☐ 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 _____ Date _____

Title _____ Applicant Phone _____

Applicant Email _____

Address of Property Owner _____

* 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
Planning Department
PO Box 664
Huntersville, NC 28070

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

Received By Planning Department Staff: _____

Staff Initials: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF: AIKEN)
)
IN THE MATTER OF:)
BARBARA SIMPSON MCQUEEN)
(Decedent))

IN THE PROBATE COURT

CERTIFICATE OF APPOINTMENT

CASE NUMBER: 2014ES02-0601

This is to certify that

BARBARA C. MONTGOMERY

is/~~are~~ the duly qualified

- [X] PERSONAL REPRESENTATIVE
- [ ] SUCCESSOR PERSONAL REPRESENTATIVE
- [ ] SPECIAL ADMINISTRATOR

in the above matter and that this appointment, having been executed on the 18th day of JUNE, 20 15, is in full force and effect.

RESTRICTIONS:

NONE

Executed this 18th day of JUNE 2015.

AIKEN COUNTY, Probate Court Judge

Do not accept a copy of this certificate without the raised seal of the Probate Court.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

18th DAY OF June 15

JUDGE OF PROBATE

BY

FORM #141ES (1/2014)
62-1-305, 62-3-103

List of Attachments

Attachment 1	Superior Court Order 17-SP-001238
Attachment 2	Supplemental Information Related to Variance Application
Attachment 3	November 30, 1954 Seaver Survey
Attachment 4	May 6, 1980 Turner Survey
Attachment 5	ROW Easement for Parcel 02306213 (then Thomas, now Ingram)
Attachment 6	Correspondence w/ Town of Huntersville Planning Department

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.

MECKLENBURG COUNTY
FILED #64
DEC 19 2019
AT_____O'CLOCK___M
BY_____
CLERK OF SUPERIOR COURT

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

Attachment 2

Supplemental Information Relevant to Variance Application

In 1954 and 1961 my mother and stepfather purchased property that constitutes the current Parcels 02306231, 02306232, 02306251 and 02305204. In 1980, the house and approximately 5 acres that constitutes Parcel 02306251 was sold (now identified as 9811 Midas Springs although the house faces and the driveway connects to Hedrick Circle Road). In December 2020, Parcel 02305204 was sold. Parcels 02306231 and 02306232, which I am selling together, are the subject of this Variance Application. The legal access to these parcels is from Beatties Ford Road via Midas Springs Road (State Road 2123) to the recently declared right of way (which extends Hedrick Circle Road) to Parcel 02306231. It not via Hedrick Circle Road through Sunrise Acres Subdivision. Parcel 02306232 abuts the non-maintained portion of Midas Springs Road and, although the recent Leach Variance application was approved, obtaining access via the non-maintained portion of Midas Springs Road would be very difficult and not something I am pursuing due to the rejection of Variance No. V15-01 for 9840 Midas Springs Road in 2015. Polaris 3G Maps are attached.

I first became aware of the right of way issue for Parcel 02306231 in 2016 when I attempted to sell it and Parcel 02306232. Meredith Miller, then with the Planning Department, informed me that I did not have legal right to use the 800' of road to access Midas Springs Road. Surveys are attached which show the road in existence on Nov. 30, 1954 and May 6, 1980 which are referenced in the Superior Court Order. In 1983, my mother, Stepfather and others had granted a 30' right of way to Parcel 02306314, then Thomas, now Ingram (the same as the right of way designated later by the Superior Court Order). A copy of the Right of Way Agreement and accompanying survey is attached. Only Parcel 02306314 was provided legal access in perpetuity even though the road had been used continuously since at least 1954.

Initially, I contacted the neighbors to get access to this right of way for my property. I soon realized this would be difficult due to one disagreeable neighbor who was evasive and uncooperative. Subsequently, I contacted an attorney and filed legal action to get a 15' easement to Midas Springs Road via Parcel 02306251. If successful, this would result in a 15' easement alongside a 30'right of way needlessly using up real estate and negatively impacting the aesthetics of the neighborhood. Also, it was concluded that it did not solve the problem for the other neighbors on Hedrick Circle Road who used this section of road as ingress and egress to Midas Springs Road.

One of the neighbors discovered North Carolina Statute 136-96.1 which fit our situation exactly. The statute provides for declaration of a right of way for public use if; 1) The landowners of tracts constituting two-thirds of the road frontage of the land abutting the right of way in question join in the action, 2) The right of way is depicted on an unrecorded map, plat, or survey, 3) The right of way has been actually open and used by the public, and, 4) Recorded deeds for at least three separate parcels abutting the right of way recite the existence of the right of way as a named street or road. That these criteria were met is evidenced and discussed in the Superior Court Order which is discussed in the next paragraph. The right of way dedicated by the Superior Court Order in 2019 is identical to the right of way established in 1983. In fact, Mr. Ingram, the current owner of Parcel 02306314 joined in our legal action. The declaration of the right of way maintained the access and character of the neighborhood as it has been for over 60 years.

Mecklenburg County Superior Court Order 17-SP-001238 issued in Dec. 2019, attached, dedicated the approximately 800 feet of road that runs from Midas Springs Road to the Sunrise Acres platted subdivision road as a 30' right of way for public use. Together, the right of way and subdivision road create a single connection from Beatties Ford Road to Midas Springs Road referred to as Hedrick Circle Road. With the exception of a short portion adjacent to Long Creek Elementary School, Hedrick Circle Road, including the portion recently dedicated for public use is maintained by the residents abutting the road. Egress for my property is via the newly designated right of way 420 feet to Midas Springs Road. It does not meet the definition in Article 12 as a Public Street since it is not maintained by the Town of Huntersville or NCDOT which is the reason for this Variance Application. It is not within the limits of the Town of Huntersville. The residents that I have spoken with are not interested in either the Town of Huntersville or NCDOT assuming maintenance since this would result in more traffic travelling at higher speeds. The residents wish to maintain the current character of the neighborhood.

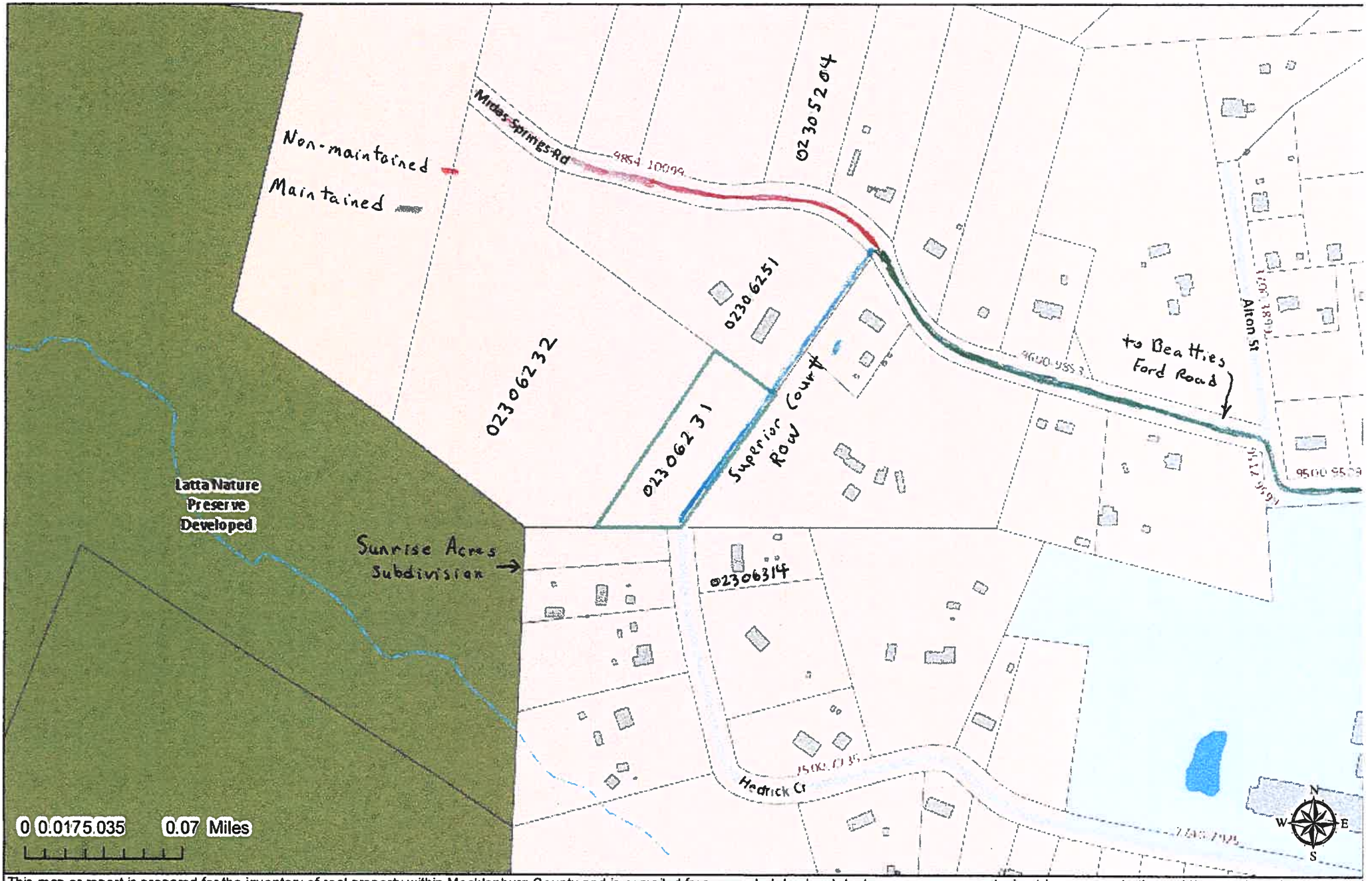
Article 8.1 includes an exception from the requirement to abut a public street stating "A lot of one (1) acre or more in area created through a division of land not subject to the subdivision ordinance shall be eligible for issuance of a permit to establish a single-family detached house, provided the 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 of lot projection.

The intent of the requirement for a 15' wide private and exclusive recorded easement appears primarily to be to ensure access to the lot by emergency equipment. The requirements do not anticipate the situation where a lot abuts a public right of way. The Superior Court Order, Paragraph 4 in the Conclusions of Law section states that residents on the south end of Hedrick Circle Road have chosen to use the right of way segment at issue for ingress and egress to their properties and that guests, garbage collectors, delivery people, service providers and mail collectors traverse the segment routinely. Our use of the statute to establish the 30' right of way in lieu of a 15'easement was intentional in that it served the best interests of the affected property owners and should not preclude our ability to obtain relief under Article 8.1. As stated above, we filed legal action to obtain a 15 feet exclusive easement but withdrew it when it was clear it did not meet the needs of all affected neighborhood property owners. The 30' right of way is double the 15' requirement. A Superior Court Order declaring a public right of way is as binding as a private and exclusive recorded easement or fee simple projection. The use of the right of way for over 60 years demonstrates its viability. This exceeds the requirements for an exception. Hedrick Circle Road and Midas Springs Road have houses over their lengths. Parcels 02306231 and 02306232 were established in 1980, prior to the establishment of the zoning ordinance. Residents travel this road daily including the portion of the newly designated right of way that is part of Parcel 02306231. I should not be punished for acting in the best interests of and protecting the character of the neighborhood. My conclusion is that this meets or exceeds the spirit and intent of the criteria and the facts and circumstances support Variance approval.

In summary, the ordnance contains exceptions to address unique situations in a timely and efficient manner. I have explained the actions taken in maintaining the character and best interests of the neighborhood.

Polaris 3G Map – Mecklenburg County, North Carolina

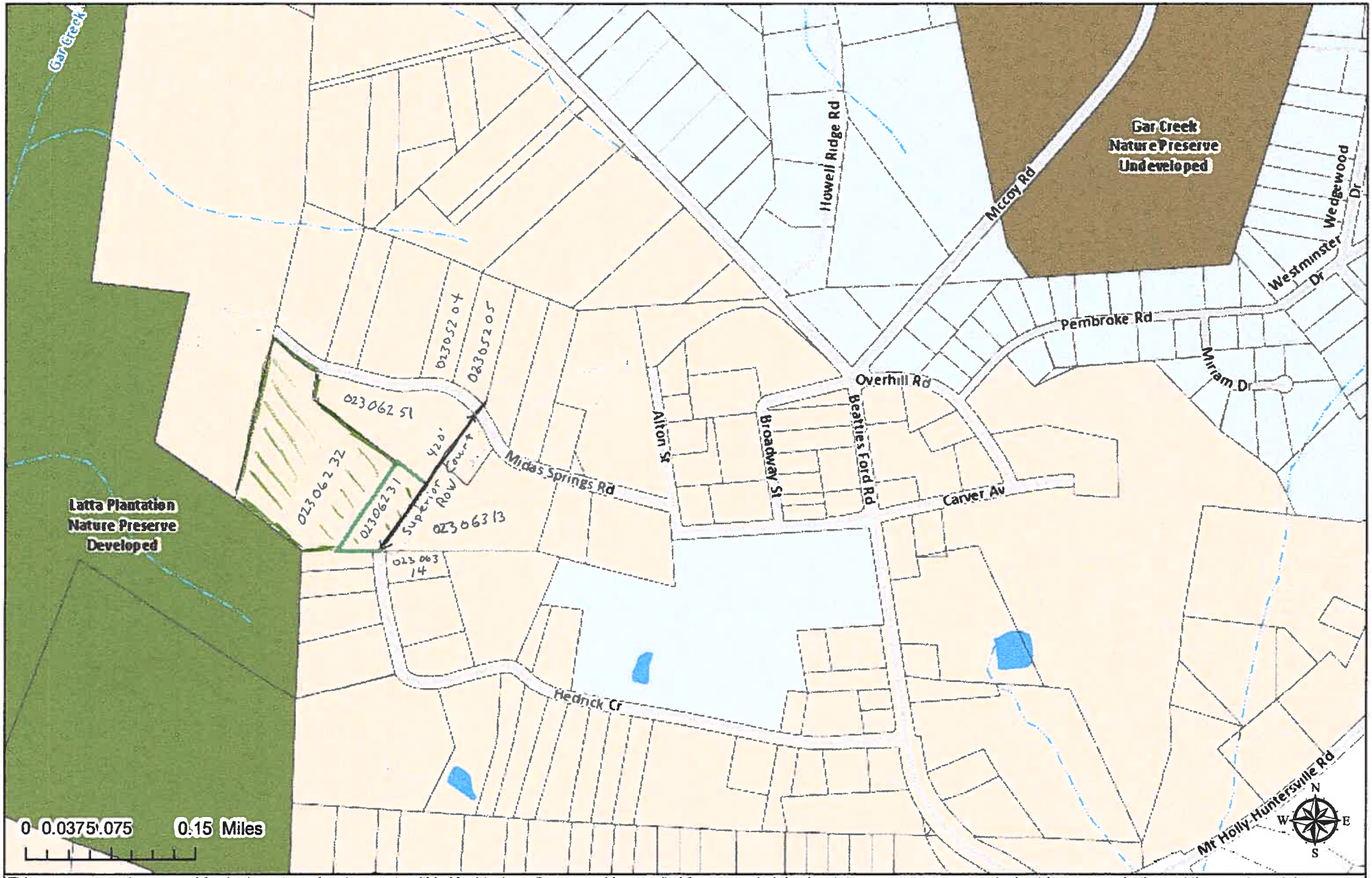
Date Printed: 5/27/2021 5:19:52 PM



This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

Polaris 3G Map – Mecklenburg County, North Carolina
BC Montgomery

Date Printed: 2/23/2020 12:07:41 PM

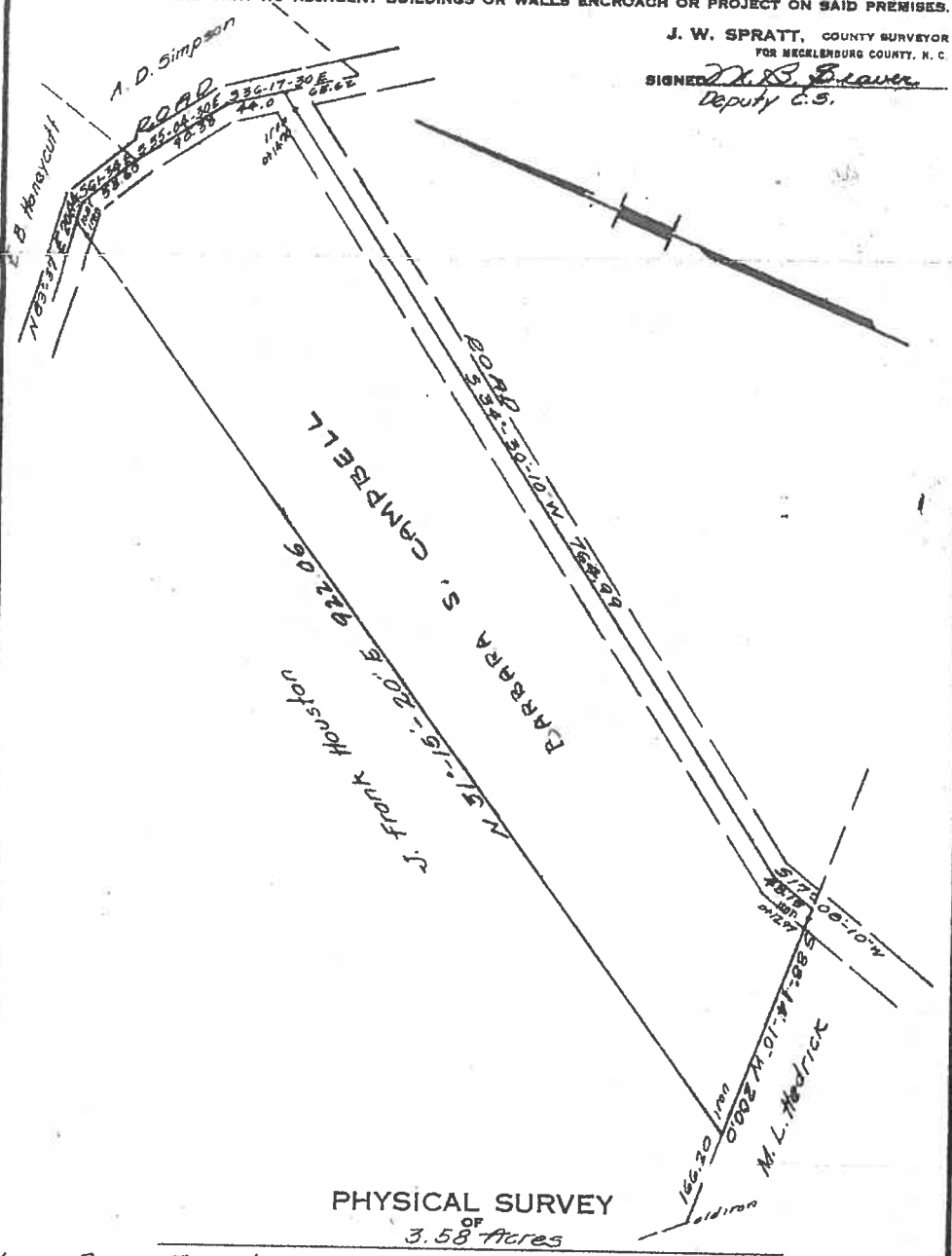


This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

Attachment 3

THIS IS TO CERTIFY THAT ON THE 20TH DAY OF Nov 19 54 I SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE PROPERTY LINES, WALLS AND BUILDINGS ARE AS SHOWN HEREON; THAT THE BUILDINGS LOCATED ON SAID LOT DO NOT ENCROACH OR PROJECT ON ADJACENT STREETS OR PROPERTY; AND THAT NO ADJACENT BUILDINGS OR WALLS ENCROACH OR PROJECT ON SAID PREMISES.

J. W. SPRATT, COUNTY SURVEYOR
FOR MECKLENBURG COUNTY, N. C.
SIGNED J. W. Spratt
Deputy C.S.



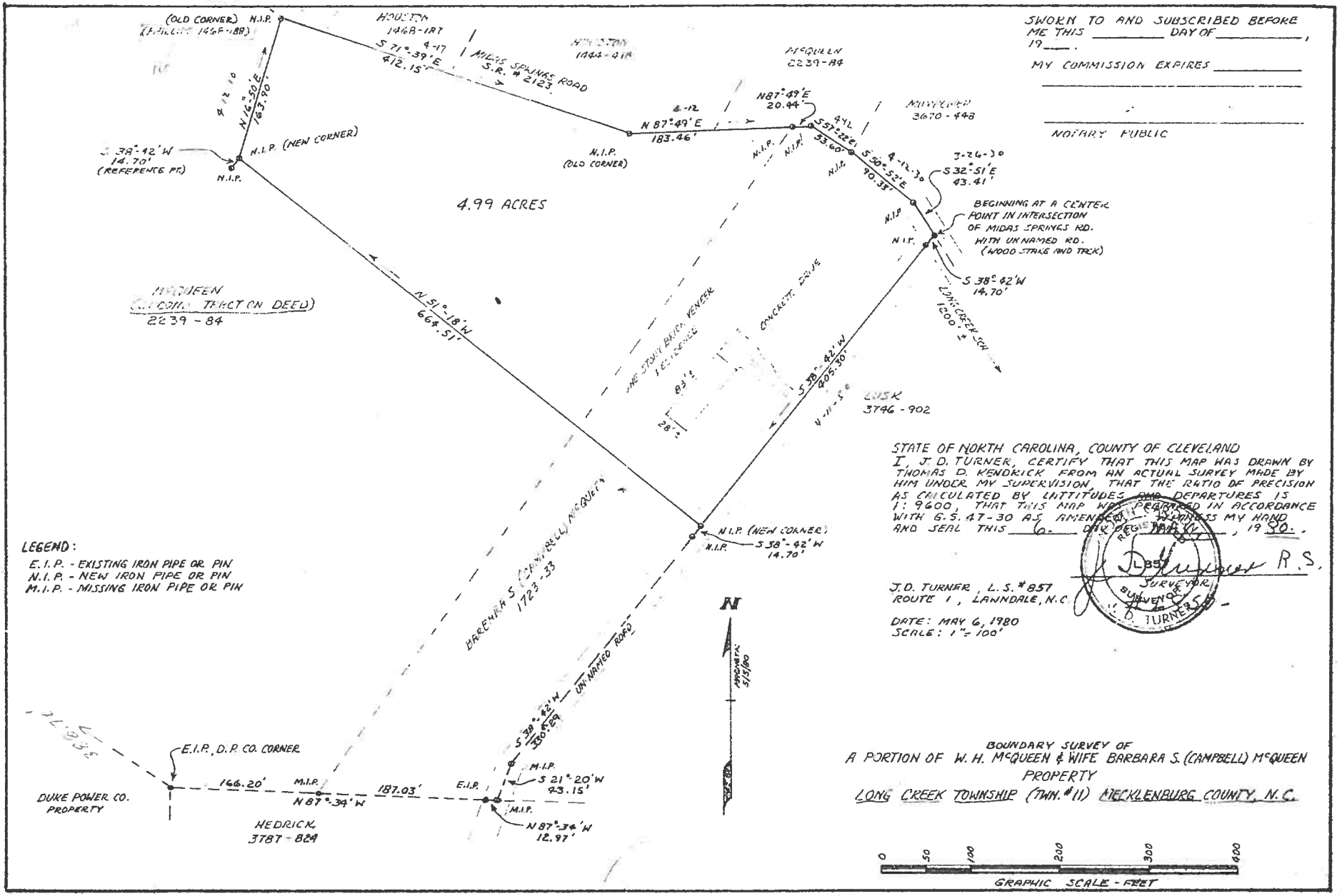
PHYSICAL SURVEY
OF
3.58 Acres

Long Creek Township CHARLOTTE, N. C. Mecklenburg County, N. C.

PROPERTY OF
J. FRANK HOUSTON

SCALE 1" = 100' DEED RECORDED MAP RECORDED

Attachment 4



SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 19___.

MY COMMISSION EXPIRES _____

_____

NOTARY PUBLIC

LEGEND:
E.I.P. - EXISTING IRON PIPE OR PIN
N.I.P. - NEW IRON PIPE OR PIN
M.I.P. - MISSING IRON PIPE OR PIN

STATE OF NORTH CAROLINA, COUNTY OF CLEVELAND

I, J. D. TURNER, CERTIFY THAT THIS MAP WAS DRAWN BY THOMAS D. KENDRICK FROM AN ACTUAL SURVEY MADE BY HIM UNDER MY SUPERVISION, THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:9600, THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS 6 DAY OF MAY, 19 80.

L.S. 857 R.S.

J.D. TURNER, L.S. #857
ROUTE 1, LAWNDALE, N.C.

DATE: MAY 6, 1980
SCALE: 1" = 100'

BOUNDARY SURVEY OF
A PORTION OF W. H. McQUEEN & WIFE BARBARA S. (CAMPBELL) McQUEEN PROPERTY
LONG CREEK TOWNSHIP (TWN. # 11) MECKLENBURG COUNTY, N.C.

Attachment 5

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

RIGHT OF WAY EASEMENT

THIS EASEMENT made and entered into this 17th day of November, 1983 by and between BARBARA S. McQUEEN, JOHN J. CATUNA, JR., and JAMES F. LUSK hereinafter referred to as GRANTORS and GUY C. THOMAS, and wife MARY H. THOMAS, hereinafter referred to as GRANTEES:

WITNESSETH:

THAT WHEREAS GRANTORS are hereby seized of certain real property located in Long Creek Township, Mecklenburg County, North Carolina and whereas GRANTEES are seized of certain real property located adjacent to GRANTORS' property;

And whereas the GRANTORS and GRANTEES have come to a mutual agreement for the establishment of a Right of Way Easement;

NOW, THEREFORE, GRANTORS hereby convey to GRANTEES, their heirs, successors and assigns a perpetual easement of ingress and egress across their property located in Long Creek Township, Mecklenburg County, North Carolina, said easement being more completely described as follows:

BEGINNING at a point on the western edge of SR2123 (Midas Springs Road) in the corner common to the property of James F. Lusk and John J. Catuna, thence from said beginning point extends the center line of an existing road right of way as follows: South 34° 44' 40" West 770.11 feet to a point, thence South 5° 00' 05" East 15.00 feet to a point on the property line common to Mark R. Hedrick, Guy C. Thomas, James F. Lusk, and Barbara S. McQueen, and the end of the road right of way, as shown on map of Henry L. Parnell, R. L. S. dated May 27, 1983, to which map reference is hereby made.

The right of way herein granted to the GRANTEES shall consist of the following:

1. The right to enter and cross said existing road right of way, and on, in, and along said road to inspect, maintain and repair said road.

2. The right to clear and keep clear the said road of any hinderances to passage across said road and including the right to clear debris and rubble from said road.

3. GRANTORS reserve all other rights to said right of way not inconsistant with the rights and easements herein granted.

TO HAVE AND TO HOLD said tract or parcel of land with all privileges and appurtenances thereunto belonging for the use and purposes aforesaid, unto the GRANTEES, their heirs and assigns forever.

AND GRANTORS, for the GRANTORS and for the GRANTORS' heirs, executors, administrators, successors and assigns, covenant to and with the GRANTEES, their successors and assigns that GRANTORS are lawfully seized of the above described land in fee and have the right to convey

land is free and clear from any and all encumbrances and that the GRANTORS will forever warrant and defend the title to the said rights and easements against the lawful claims of all persons whomsoever.

This easement shall be deemed to run with the land of the GRANTORS and shall be appurtenant thereto.

IN WITNESS WHEREOF, the said GRANTORS do hereunto set their hands and seals the 17th day of June, 1983.

John J. Cattus Jr. (SEAL)

James F Lusk (SEAL)

Barbara J McCall (SEAL)

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

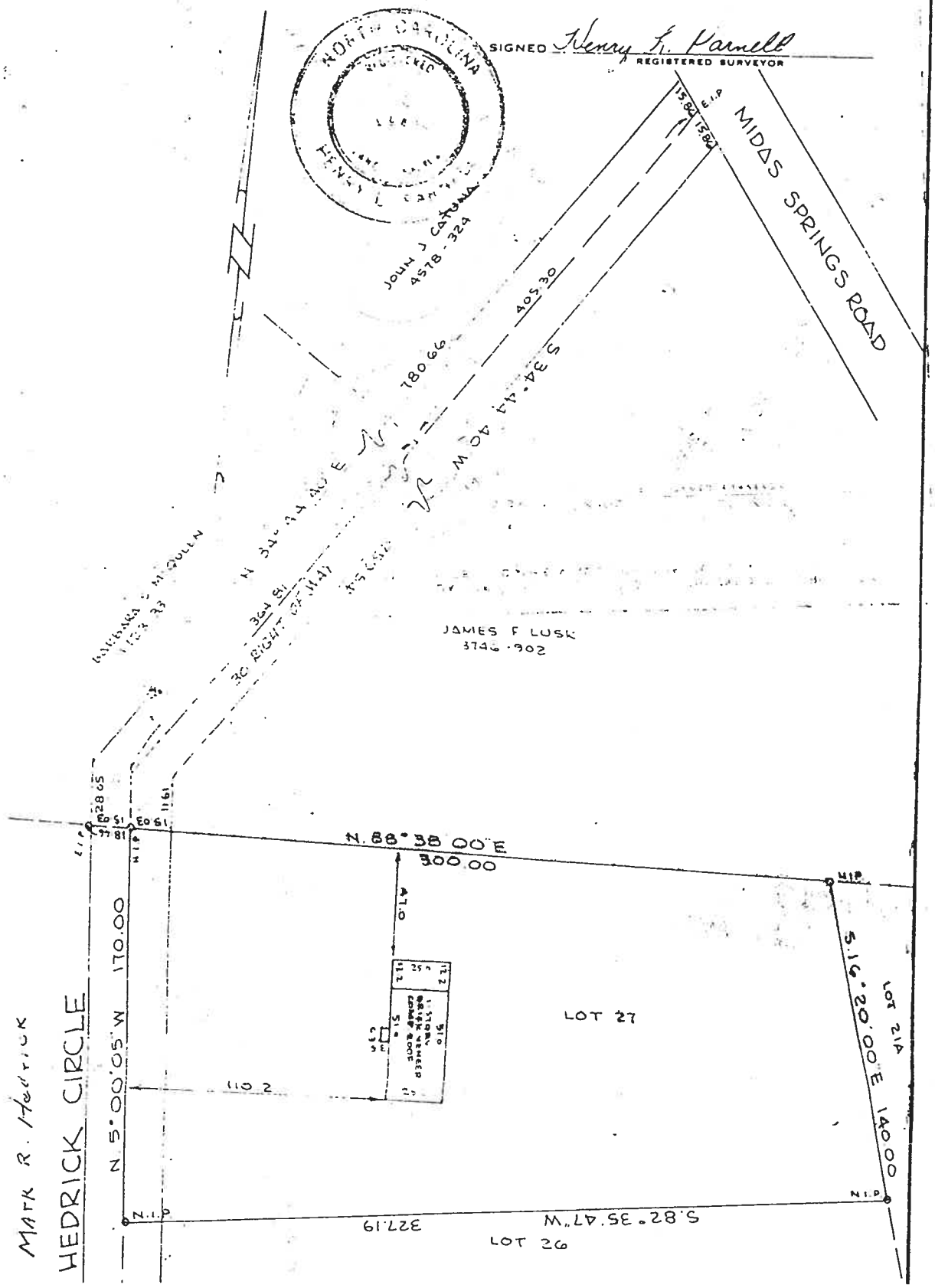
I, Ann Lupton a Notary Public for said County and State, do hereby certify that John J. Cattus Jr., James F. Lusk, Barbara J McCall, and personally appeared before me this day, and acknowledged the due execution of the foregoing instrument. Witness my hand and notarial seal, this 17th day of June, 1983.

Ann Lupton
NOTARY PUBLIC

My Commission Expires: May 27, 1986

THIS IS TO CERTIFY THAT ON THE 27th DAY OF MAY 1983 I. SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS IF ANY ARE SHOWN HEREON

SIGNED Henry L. Parnell
REGISTERED SURVEYOR



From: Lauren Speight
Sent: Tuesday, May 25, 2021 10:47 AM
To: Terry Montgomery; Yah. reps; Brian Richards
Cc: Trainum Brian; clintgandy@mvalaw.com; Jack Simoneau
Subject: RE: Building Permit for 6960 Hedrick Circle

Good morning,

I apologize for the delay. Please see below and let us know if you have any questions!

Context: Staff received an email from Barbara Montgomery Monday, May 17, 2021 requesting a review of the email sent Sunday, May 16, 2021 detailing the history of the subject lot (6960 Hedrick Circle) with regard to Article 8.1. Staff was requested if an exception could be made for the subject property from Article 8.1 based on the information outlined in their email sent May 16, 2021.

Article 8.1 states, "Any lot on which a building (or buildings) is to be erected or use is to be established shall abut a public street 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."

As far as Staff is aware, a residential use was not legally established prior to the effective date of the Zoning Ordinance at 6960 Hedrick Circle and there is no private and exclusive recorded easement of at least 15 feet in width connecting the subject lot to a public street.

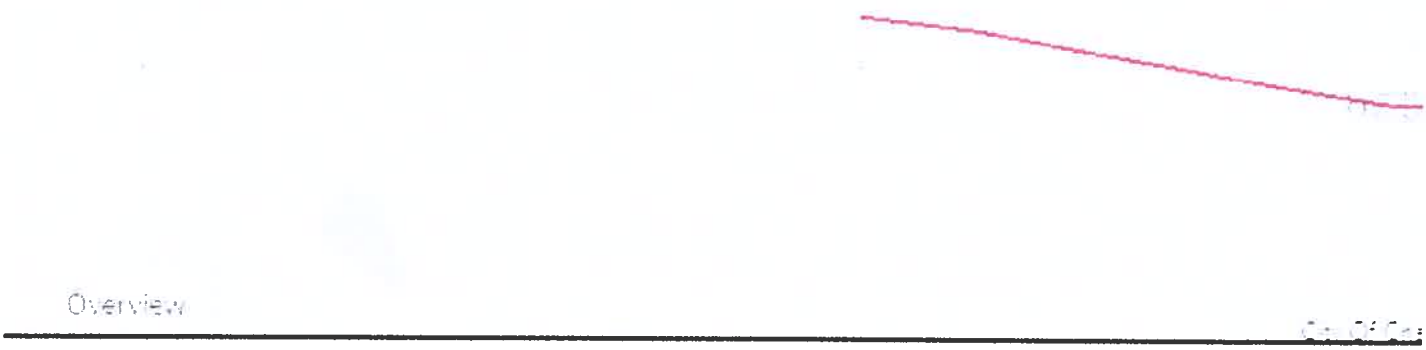
The Court Order previously referenced establishes that the right-of-way in question is for public use. The Court Order does not establish the right-of-way in question meets the standards of a public street per the Town Zoning Ordinance.

Right-of-way is defined in the Zoning Ordinance as, "...any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Huntersville or Mecklenburg County, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Huntersville; or has otherwise been established as a public street prior to the adoption of this ordinance."

A public street is defined in the Zoning Ordinance as, "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."

The below image from the NCDOT database of state-maintained road shows the section of Hedrick Circle that is maintained by NCDOT. The portion of Hedrick Circle that is maintained by NCDOT is considered a public street per the Town Zoning Ordinance. The section that is not maintained by NCDOT is un-maintained right-of-way.



From the information currently available to Staff, 6960 HEDRICK CR HUNTERSVILLE NC 28078 does not meet the minimum access requirements. Staff does not have the flexibility to administratively grant an exception to Article 8.1 for the subject property to receive zoning approval for a building permit.

Options for the subject property to be eligible to receive zoning approval for building permit include:

- Request a variance from the Board of Adjustment
- Appeal Staff's zoning determination to the Board of Adjustment
- Propose a text amendment to Article 8.1 regarding the street frontage requirement

Respectfully,

Lauren Speight, CZO
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

Town of Huntersville
NORTH CAROLINA

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: Terry Montgomery <tmontgomery922@yahoo.com>
Sent: Monday, May 17, 2021 12:47 PM
To: Lauren Speight <lspeight@huntersville.org>; Yah. reps <montgomerybc@yahoo.com>; Brian Richards <brichards@huntersville.org>
Cc: Trainum Brian <brian.trainum@cbcarolinas.com>; clintgandy@mvalaw.com
Subject: Re: Building Permit for 6960 Hedrick Circle

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,

The purpose of the email was to provide the history of our efforts to obtain adequate and legal access to our property in order to qualify for a Building Permit. I am requesting review of our property meeting the requirements for an exception without automatically jumping to a Variance. In the email I explain the reasons for getting the right of way order from Superior Court, why this meets or exceeds the requirements for an exception, and why it was necessary and in the best interests of the neighborhood. I am requesting review at a level within the Planning Department where discretion, judgement and common sense can be exercised. I would expect this to take several days since I request full and thorough consideration of my request for an exception. We believe we have made the case for why we meet the exception requirements.

Terry Montgomery

Sent from Yahoo Mail for iPad

On Monday, May 17, 2021, 8:59 AM, Lauren Speight <lspeight@huntersville.org> wrote:

> Good morning,
>
> If you would not like to submit a variance, Staff will evaluate and provide a response. This may take several days, but we will follow up as soon as possible.
>
> Thank you!

Lauren Speight, CZO

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: Yah.reps <montgomerybc@yahoo.com>
Sent: Sunday, May 16, 2021 12:36 PM
To: Lauren Speight <lspeight@huntersville.org>; Brian Richards <brichards@huntersville.org>
Cc: Trainum Brian <brian.trainum@cbcarolinas.com>; clintgandy@mvalaw.com; Terry Montgomery <tmontgomery922@yahoo.com>
Subject: Building Permit for 6960 Hedrick Circle

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.

Ms. Speight,

Thank you for your quick response. You state that Staff established that access could be achieved, though difficult. I would like to make the

process as simple and straight forward a possible. There is some history associated with Parcels 02306231 and 02306232 that I would like to provide that impacts the decision of whether a Variance is necessary. I would appreciate the appropriate Planning Department personnel reviewing the information presented below very carefully.

In 1954 and 1961 my mother and stepfather purchased property that constitutes the current Parcels 02306231, 02306232, 02306251 and 02305204. In 1980, the house and approximately 5 acres that constitutes Parcel 02306251 was sold. In December 2020, Parcel 02305204 was sold. I am left with Parcels 02306231 and 02306232 which I am selling together. The logical access is along Hedrick Circle Road via parcel 02306231. Parcel 02306232 abuts the non-maintained portion of Midas Springs Road and, although the Leach Variance application was approved, obtaining access via Midas Springs Road would be very difficult and not something I wish to pursue given the Estrada situation.

The Mecklenburg County Superior Court Order 17-SP-001238 dedicated the approximately 800 feet of road that runs from Midas Springs Road to the Sunrise Acres platted subdivision road as a 30' right of way for public use. Also, together the right of way and subdivision road create a single connection from Beatties Ford Road to Midas Springs Road referred to as Hedrick Circle Road. With the exception of a short portion adjacent to Long Creek Elementary School, Hedrick Circle Road is maintained by the residents abutting the road. It does not meet the definition in Article 12 as a public street. It is also not within the limits of the Town of Huntersville. The residents that I have spoken with are not interested in either the Town of Huntersville or NCDOT assuming maintenance since this would result in more traffic travelling at higher speeds. The residents wish to maintain the current character of the neighborhood.

I became aware of the right of way issue for Parcel 02306231 in 2016 when I attempted to sell it and Parcel 02306232. Meredith Miller of the Planning Department informed me that I did not have legal right to use the 800' of road to access Midas Springs Road. In 1983, my mother, Stepfather and others had granted a 30' right of way to Parcel 02306314, then Thomas, now Ingram (the same as the right of way designated later by the Superior Court Order). I have a copy of the Right of Way Agreement and accompanying survey. Only Parcel 02306314 was provided legal access.

I contacted the neighbors to get access to this right of way for my property and realized this would be difficult due to one neighbor who was evasive and uncooperative. I contacted an attorney and filed legal action to get a 15' easement to Midas Springs Road via Parcel 02306251. If successful, this would result in a 15' easement alongside a 30'right of way which

doesn't make sense. Also, it was concluded that it did not solve the problem for the other neighbors on Hedrick Circle Road who used this section of road to access Midas Springs Road.

One of the neighbors discovered North Carolina Statute 136-96.1 which fit our situation exactly. The statute provides for declaration of a right of way for public use if 1) The landowners of tracts constituting two-thirds of the road frontage of the land abutting the right of way in question join in the action, 2) The right of way is depicted on an unrecorded map, plat, or survey, 3) The right of way has been actually open and used by the public, and, 4) Recorded deeds for at least three separate parcels abutting the right of way recite the existence of the right of way as a named street or road. That these criteria were met is evidenced and discussed in the Superior Court Order. The right of way dedicated by the Superior Court Order is identical to the right of way established in 1983. In fact, Mr. Ingram, the current owner of Parcel 02306314 joined in our legal action. The declaration of the right of way maintained the access and character of the neighborhood as it had been for over 60 years.

Article 8.1 includes an exception stating "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 of lot projection.

The intent of the requirement for a 15' wide private and exclusive recorded easement appears primarily to be to ensure access to the lot by emergency equipment. The requirements do not anticipate the situation where a lot abuts a public right of way. The Superior Court Order, Paragraph 4 in the Conclusions of Law section states that residents on the south end of Hedrick Circle Road have chosen to use the right of way segment at issue for ingress and egress to their properties and that guests, garbage collectors, delivery people, service providers and mail collectors traverse the segment routinely. Our use of the statute to establish the 30' right of way in lieu of a 15'easement was intentional in that it served the best interests of the affected property owners and should not preclude our ability to obtain relief under Article 8.1. The 30' right of way is double the 15' requirement. A Superior Court Order declaring a public right of way is as binding as a private and exclusive recorded easement or fee simple projection. The use of the right of way for over 60 years demonstrates its viability.

The ordnance contains exceptions to address unusual situations in a timely and efficient manner. I have explained the actions taken were to maintain the character of the neighborhood. My conclusion is that this meets or exceeds the spirit and intent of the criteria for getting an exception and no Variance would be necessary.

Barbara Montgomery

From: Lauren Speight
Sent: Tuesday, May 4, 2021 4:23 PM
To: Barbara Montgomery; Brian Richards
Cc: clintgandy@mvalaw.com; Trainum, Brian; Terry Montgomery
Subject: RE: Building Permit for 6960 Hedrick Circle

Good afternoon,

Sierra Saumenig is no longer with the Planning Department, but I recall this meeting actually have my research with Sierra and the Town Attorney at the time regarding these lots. The determination was the Superior Court ruling established the drive through the lots was for public use, unless I am mistaken. A drive/road for public use is not the same as recorded public right of way under the maintenance of Town/City/State.

6960 HEDRICK CR HUNTERSVILLE NC 28078 abuts Hedrick Circle, but it is not connected to the maintained portion of Hedrick Circle. A public street is defined by the Town Ordinance as indicated below. At the time, Staff established that access could be achieved for the lots, though difficult. Staff were told it would be up to any future buyer to go through the Town processes to achieve legal access for both lots. Staff did not guarantee zoning approval for any building permits based on existing conditions. As a practice Staff does not guarantee zoning approval for building permits until the permits are submitted with all required documents.

And, as shown in the map from NCDOT, the pink line indicates the section of road that is accepted for maintenance by NCDOT.

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 is happy to set up a time to further discuss this if you have any questions!

Lauren Speight, CZO
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: Barbara Montgomery <montgomerybc@yahoo.com>
Sent: Tuesday, May 4, 2021 4:06 PM
To: Lauren Speight <lspeight@huntersville.org>; Sierra Saumenig <ssaumenig@huntersville.org>; Brian Richards <brichards@huntersville.org>
Cc: clintgandy@mvalaw.com; Trainum, Brian <brian.trainum@cbcarolinas.com>; Terry Montgomery <tmontgomery922@yahoo.com>
Subject: Building Permit for 6960 Hedrick Circle

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.

Ms. Speight,

My name is Barbara C. Montgomery and I am the Personal Representative of my mother's estate. The estate includes parcels 02306231 and 32. The address is 6960 Hedrick Circle. My husband, Terry Montgomery and I met with you, Sierra Saumenig and Brian Richards of the Huntersville Planning Department on March 2, 2020 regarding these parcels. We had previously provided Superior Court Ruling 17-SP-001238 dated December 19, 2019. We were informed at this meeting that the Town of Huntersville would willingly grant a building permit for each of these lots. The decision was clear and unanimous from you and the other two representatives addressed on this email from the town's Planning Department.

I currently have a contract with a buyer, Clint Gandy, who wants to be assured that he can obtain a building permit to construct a house on these lots. Mr. Gandy has been in communication with you and is being given information that conflicts with what the Town of Huntersville provided us at the March 2, 2020 meeting. We have a closing date of May 20, 2021 and need to resolve this in a timely manner.

The Superior Court Order concerns approximately 800 feet of road that runs from the Sunrise Acres subdivision to Midas Springs Road. The court order clarifies that this section of road is dedicated for public use and also means Hedrick Circle is one public road from Beatties Ford Road to its intersection with Midas Springs Road (State Road #2123). Parcel 02306231 abuts this road and right of way for approximately 400 feet. As a result of this court ruling, Hedrick Circle Road, a public road, runs from Beatties Ford Road to its intersection with Midas Springs Road. As a result, Parcel 02306231 has access to Beatties Ford Road via Hedrick Circle Road and Midas Springs Road in one direction or via Hedrick Circle Road through Sunrise Acres in the opposite direction. At least five residences use the right of way designated by the Superior Court Order to access Midas Springs Road on a daily basis. The United States Postal Service, trash services, emergency vehicles and parcel delivery services utilize the right of way to access residences. Parcel 02306231 is approximately 400 feet from Midas Springs Road, a state maintained road. There are residences on both sides of Parcel 02306231 which use this right of way.

Based on the facts presented above, which are facts validated by an order from the Mecklenburg County Superior Court, the Town of Huntersville Planning Department is requested to honor its commitment to my husband and myself and agree to provide Mr. Gandy with a building permit.

Thank you for your cooperation,
Barbara Montgomery

Sent from Mail for Windows 10

LIST OF Heirs of Barbara Simpson McQueen

Barbara Campbell Montgomery

David Lawrence Campbell

Cori Campbell O'Rourke

Tate Durant Campbell

Jordan Ross Campbell

Lorin Campbell White

Michael William Campbell

John Campbell

Melissa Woolery

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:696-699
FEE:$26.00
INSTRUMENT # 2018001693
TAYLORD

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **David L. Campbell and wife Kathy Campbell,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

4

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 27th day of November, 2017.

David L Campbell (SEAL)
David L. Campbell

Kathy Campbell (SEAL)
Kathy Campbell

STATE OF South Carolina
COUNTY OF Horry

On this 27th day of November, 2017, personally appeared before me the said named **David L. Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 27th day of November, 2017.

Notary Public

My commission expires:
12/15/21

Clark Crist
Commission Expires
Notary
Public
12-15-2021
State of South Carolina

STATE OF South Carolina
COUNTY OF Horry

On this 27th day of November, 2017, personally appeared before me the said named **Kathy Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 27 day of November, 2017.

Notary Public

My commission expires:
12/15/21

Clark Crist
Commission Expires
Notary Public
12-15-2021
State of South Carolina

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

BEING ALL THAT CERTAIN PROPERTY LYING IN MECKLENBURG COUNTY, NORTH CAROLINA OWNED BY BARBARA CAMPBELL MCQUEEN AT THE TIME OF HER DEATH. SAID TRACTS SPECIFICALLY INCLUDING THE FOLLOWING PARCELS OF LAND:

TRACT 1 (3.58 acres +/-, Deed Book 1723, Page 33): Beginning at a point, said point being the intersection of the center line of the Midas Springs Road and Hedrick Circle Road, and running thence with the center line of the said Hedrick Circle Road S. 34-30-10 W. passing an iron 764.99 feet to a point in the center of said road; thence continuing with the center of said Hedrick Circle Road S. 17-06-10 W. 43.15 feet to a point in the center of the said road in the line of M. L. Hedrick; running thence with Hedrick's Line S. 88-14-10 W. passing an iron, 200 feet to an iron in Hedrick's line J. Frank Houston's corner; thence with J. Frank Houston's line N. 31-15-20 E. 922.06 feet, passing an iron, to a point in the center of the Midas Springs Road; thence with the center line of the said Midas Springs Road 4 calls as follows: (1) N 83-37 E. 20.44 feet to a point; (2) S. 61-34 E. 53.60 feet to a point; (3) S. 55-04-30 E. 90.33 feet to a point; (4) S. 36-17-30 E. 44 feet to the Beginning, containing 3.58 acres, all as shown on survey of M. B. Seaver, Deputy County Surveyor, dated November 30, 1954.

TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:711-714
FEE:$26.00
INSTRUMENT # 2018001697

TAYLORD

2018001697

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **Cori C. O'Rourke and spouse Liam O'Rourke,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 11th day of November, 2017.

December

_____(SEAL)
Cori C. O'Rourke

_____(SEAL)
Liam O'Rourke

STATE OF Massachusetts
COUNTY OF Worcester

December Inc

On this 12th day of ~~November~~, 2017, personally appeared before me the said named **Cori C. O'Rourke**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

December Inc

WITNESS MY HAND AND NOTARIAL SEAL, this the 12th day of ~~November,~~ 2017.

_____
Notary Public

My commission expires: March 9, 2018

JILL M. CODERRE NOTARY PUBLIC COMMONWEALTH OF MASSACHUSETTS MY COMMISSION EXPIRES MAR. 9, 2018

STATE OF Massachusetts
COUNTY OF Worcester

On this 12th day of ~~November,~~ December 2017, personally appeared before me the said named **Liam O'Rourke**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 12 day of ~~November~~ December, 2017.

Julie M. Coderre
Notary Public

My commission expires:
March 9, 2018

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

BEING ALL THAT CERTAIN PROPERTY LYING IN MECKLENBURG COUNTY, NORTH CAROLINA OWNED BY BARBARA CAMPBELL MCQUEEN AT THE TIME OF HER DEATH. SAID TRACTS SPECIFICALLY INCLUDING THE FOLLOWING PARCELS OF LAND:

TRACT 1 (3.58 acres +/-, Deed Book 1723, Page 33): Beginning at a point, said point being the intersection of the center line of the Midas Springs Road and Hedrick Circle Road, and running thence with the center line of the said Hedrick Circle Road S. 34-30-10 W. passing an iron 764.99 feet to a point in the center of said road; thence continuing with the center of said Hedrick Circle Road S. 17-06-10 W. 43.15 feet to a point in the center of the said road in the line of M. L. Hedrick; running thence with Hedrick's Line S. 88-14-10 W. passing an iron, 200 feet to an iron in Hedrick's line J. Frank Houston's corner; thence with J. Frank Houston's line N. 31-15-20 E. 922.06 feet, passing an iron, to a point in the center of the Midas Springs Road; thence with the center line of the said Midas Springs Road 4 calls as follows: (1) N 83-37 E. 20.44 feet to a point; (2) S. 61-34 E. 53.60 feet to a point; (3) S. 55-04-30 E. 90.33 feet to a point; (4) S. 36-17-30 E. 44 feet to the Beginning, containing 3.58 acres, all as shown on survey of M. B. Seaver, Deputy County Surveyor, dated November 30, 1954.

TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:700-702
FEE:$26.00
INSTRUMENT # 2018001694

TAYLORD

2018001694

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that I, **Tate Campbell (unmarried),** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, my true and lawful attorney-in-fact, for me and in my name, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to my attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all my right, title and interest in the Property (including inchoate and marital rights), as I am giving and granting unto my said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as I might or could do with regard to the Property; and I hereby ratify and confirm all that my said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

I further specifically authorize my attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in my name as Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings,

judicial or administrative, including special proceedings, that relate in any way to the Property or require my involvement by virtue of my ownership interest in the Property. This specifically includes the power to petition on my behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq.*

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 16th day of December, 2017.

(SEAL)
Tate Campbell

STATE OF Mass
COUNTY OF Worcester

On this 16th day of December, 2017, personally appeared before me the said named MA DL was presented **Tate Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and ~~she~~ he acknowledged that ~~she~~ he executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 16th day of ~~November~~ December, 2017.

Notary Public

My commission expires:

May 28, 2021

MONIKA JOSHI
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
May 28, 2021

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

BEING ALL THAT CERTAIN PROPERTY LYING IN MECKLENBURG COUNTY, NORTH CAROLINA OWNED BY BARBARA CAMPBELL MCQUEEN AT THE TIME OF HER DEATH. SAID TRACTS SPECIFICALLY INCLUDING THE FOLLOWING PARCELS OF LAND:

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TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:707-710
FEE:$26.00
INSTRUMENT # 2018001696
TAYLORD

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **Jordan Campbell and spouse Janiel Campbell,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 14 day of ~~November~~ December, 2017.

Jordan Campbell (SEAL)

~~Janele~~ Janiel Campbell (SEAL)

STATE OF Virginia
COUNTY OF Prince William

On this 14th day of ~~November~~ December, 2017, personally appeared before me the said named **Jordan Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 14th day of ~~November~~ December, 2017.

Notary Public

SARA MICHELLE MULLINS
COMMONWEALTH OF VIRGINIA
REGISTRATION NO. 7681343
MY COMM. EXPIRES: 03/31/2020
NOTARY PUBLIC

My commission expires:
03/31/2020

STATE OF Virginia
COUNTY OF Prince William

Janiel On this 13th day of ~~November,~~ December 2017, personally appeared before me the said named ~~Janele~~ **Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 13th day of ~~November,~~ December 2017.

Notary Public

My commission expires:
03/31/2020

Rubab Fatema Raza
Commonwealth of Virginia
Notary Public
Commission No. 7703677
My Commission Expires 3/31/2020

EXHIBIT A

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FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:715-718
FEE:$26.00
INSTRUMENT # 2018001698
TAYLORD

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **Lorin C. White and spouse Elbert White,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 2 day of ~~November,~~ December 2017.

_____(SEAL)
Lorin C. White

_____(SEAL)
Elbert White

STATE OF Maine
COUNTY OF Androscoggin

On this 2 day of ~~November~~ December, 2017, personally appeared before me the said named **Lorin C. White**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 2 day of ~~November~~ December, 2017.

_____
Notary Public

My commission expires:

_____

WILLIAM H. JONES
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES
DECEMBER 22, 2023

STATE OF Maine
COUNTY OF Cumberland

On this 2 day of ~~November~~ December, 2017, personally appeared before me the said named **Elbert White**, to me known and known to me to be the person described in and who executed the foregoing instrument and ~~she~~ he acknowledged that ~~she~~ he executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 2 day of ~~November~~ December, 2017.

Notary Public

My commission expires:

~~WILLIAM H. JONES~~
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES
DECEMBER 22, 2023

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

BEING ALL THAT CERTAIN PROPERTY LYING IN MECKLENBURG COUNTY, NORTH CAROLINA OWNED BY BARBARA CAMPBELL MCQUEEN AT THE TIME OF HER DEATH. SAID TRACTS SPECIFICALLY INCLUDING THE FOLLOWING PARCELS OF LAND:

TRACT 1 (3.58 acres +/-, Deed Book 1723, Page 33): Beginning at a point, said point being the intersection of the center line of the Midas Springs Road and Hedrick Circle Road, and running thence with the center line of the said Hedrick Circle Road S. 34-30-10 W. passing an iron 764.99 feet to a point in the center of said road; thence continuing with the center of said Hedrick Circle Road S. 17-06-10 W. 43.15 feet to a point in the center of the said road in the line of M. L. Hedrick; running thence with Hedrick's Line S. 88-14-10 W. passing an iron, 200 feet to an iron in Hedrick's line J. Frank Houston's corner; thence with J. Frank Houston's line N. 31-15-20 E. 922.06 feet, passing an iron, to a point in the center of the Midas Springs Road; thence with the center line of the said Midas Springs Road 4 calls as follows: (1) N 83-37 E. 20.44 feet to a point; (2) S. 61-34 E. 53.60 feet to a point; (3) S. 55-04-30 E. 90.33 feet to a point; (4) S. 36-17-30 E. 44 feet to the Beginning, containing 3.58 acres, all as shown on survey of M. B. Seaver, Deputy County Surveyor, dated November 30, 1954.

TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:719-721
FEE:$26.00
INSTRUMENT # 2018001699

TAYLORD

2018001699

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that I, **Michael W. Campbell (unmarried),** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, my true and lawful attorney-in-fact, for me and in my name, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to my attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all my right, title and interest in the Property (including inchoate and marital rights), as I am giving and granting unto my said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as I might or could do with regard to the Property; and I hereby ratify and confirm all that my said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

I further specifically authorize my attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in my name as Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings,

judicial or administrative, including special proceedings, that relate in any way to the Property or require my involvement by virtue of my ownership interest in the Property. This specifically includes the power to petition on my behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 28 day of November, 2017.

(SEAL)
Michael W. Campbell

STATE OF South Carolina
COUNTY OF York

On this 28 day of November, 2017, personally appeared before me the said named **Michael W. Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 28 day of November, 2017.

Notary Public

My commission expires:

My Commission Expires January 17, 2023

ANGIE FOLSON NOTARY PUBLIC SOUTH CAROLINA

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

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TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

For Registration Fredrick Smith
Register of Deeds
Mecklenburg County, NC
Electronically Recorded
2018 Jan 03 10:14 AM RE Excise Tax: $ 0.00
Book: 32383 Page: 419 Fee: $ 26.00
Instrument Number: 2018000547

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that I, **John Campbell (unmarried),** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, my true and lawful attorney-in-fact, for me and in my name, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to my attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all my right, title and interest in the Property (including inchoate and marital rights), as I am giving and granting unto my said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as I might or could do with regard to the Property; and I hereby ratify and confirm all that my said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

I further specifically authorize my attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in my name as Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings,

Submitted electronically by "Jones, Childers, Donaldson & Webb, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Mecklenburg County Register of Deeds.

judicial or administrative, including special proceedings, that relate in any way to the Property or require my involvement by virtue of my ownership interest in the Property. This specifically includes the power to petition on my behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 25 day of November, 2017.

John Campbell (SEAL)
John Campbell

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

On this 25th day of November, 2017, personally appeared before me the said named **John Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 25th day of November, 2017.

Sandra F. Bayron
Notary Public

My commission expires:
4/4/2022

SANDRA F. BAYRON
Notary Public, State of South Carolina
My Commission Expires 4/4/2022

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

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FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:703-706
FEE:$26.00
INSTRUMENT # 2018001695

TAYLORD

2018001695

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **Melissa C. Woolery and spouse Joey Woolery,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq.*

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 28 day of November, 2017.

_____(SEAL)
Melissa C. Woolery

_____(SEAL)
Joey Woolery

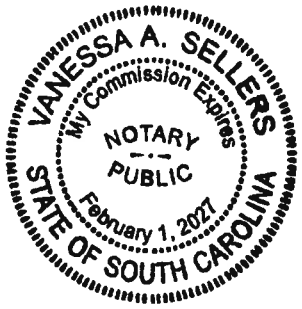
STATE OF South Carolina
COUNTY OF York

On this 28th day of November, 2017, personally appeared before me the said named **Melissa C. Woolery**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 28th day of November, 2017.

_____
Notary Public

My commission expires:
1/27/2027



STATE OF South Carolina
COUNTY OF York

On this 28th day of November, 2017, personally appeared before me the said named **Joey Woolery**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 28th day of November, 2017.

Vanessa A. Sellers
Notary Public

My commission expires:
1/27/2027

VANESSA A. SELLERS
My Commission Expires
NOTARY PUBLIC
February 1, 2027
STATE OF SOUTH CAROLINA

EXHIBIT A

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TRACT 1 (3.58 acres +/-, Deed Book 1723, Page 33): Beginning at a point, said point being the intersection of the center line of the Midas Springs Road and Hedrick Circle Road, and running thence with the center line of the said Hedrick Circle Road S. 34-30-10 W. passing an iron 764.99 feet to a point in the center of said road; thence continuing with the center of said Hedrick Circle Road S. 17-06-10 W. 43.15 feet to a point in the center of the said road in the line of M. L. Hedrick; running thence with Hedrick's Line S. 88-14-10 W. passing an iron, 200 feet to an iron in Hedrick's line J. Frank Houston's corner; thence with J. Frank Houston's line N. 31-15-20 E. 922.06 feet, passing an iron, to a point in the center of the Midas Springs Road; thence with the center line of the said Midas Springs Road 4 calls as follows: (1) N 83-37 E. 20.44 feet to a point; (2) S. 61-34 E. 53.60 feet to a point; (3) S. 55-04-30 E. 90.33 feet to a point; (4) S. 36-17-30 E. 44 feet to the Beginning, containing 3.58 acres, all as shown on survey of M. B. Seaver, Deputy County Surveyor, dated November 30, 1954.

TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

Exhibit 5 – Length from Hedrick Circle to Subject Lot
(Approximate via Polaris 3G)

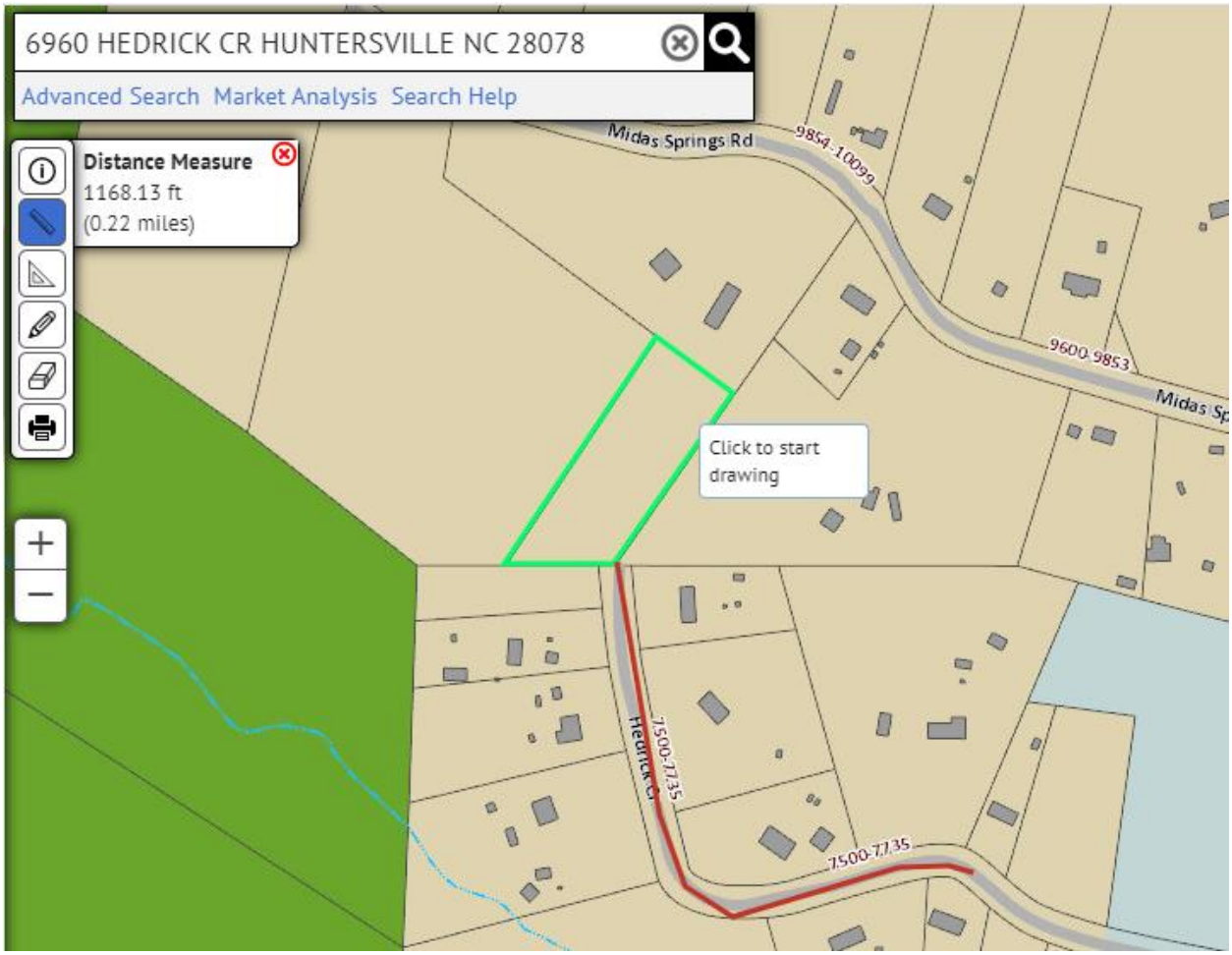
6960 HEDRICK CR HUNTERSVILLE NC 28078
Advanced Search
Market Analysis
Search Help
Distance Measure
1168.13 ft
(0.22 miles)
Midas Springs Rd
9854-10099
9600-9853
Midas Sp
Click to start drawing
Hedrick Ct
7500-7735
7500-7735

Exhibit 6 – Frontage of 6512 Robert Street, Huntersville, NC 28078 - Biltmore Park

6512 Robert Street, Huntersville, NC 28078

Exhibit 7 – Unbuilt Road Analysis Map by Planning Department

Powell Bill

- NCDOT
- Huntersville
- Huntersville Gravel
- Alley; Private Party
- Developer/Unknown

Properties Abutting Unknown Streets

34	Mecklenburg County Vacant Property on Unbuilt Public Street
8	Vacant on Apparent ROW
298	Vacant on Unbuilt Public Street

* Vacant Properties on Unbuilt Streets are recorded through a platted Right of Way

* Vacant Properties on Built or Unbuilt Apparent Right of Way are roads that are not platted or recorded for maitenance by NCDOT or the Town of Huntersville

Exhibit 8 – Correspondence with Randy Frazier, Mecklenburg County Fire Marshal

Lauren Speight

From: Lauren Speight
Sent: Wednesday, June 16, 2021 9:24 AM
To: Barbara Montgomery
Cc: Brian Richards; Frazier, Randy D.
Subject: RE: V 21-03 and V 21-04

Good morning,

Thank you! I have also clarified with Randy Frazier this morning. Please follow up if you have any questions!

- If the two lots were to be recombined to one lot for one home on one lot, no improvements would be required by the Fire Marshal's Office.
- For Parcel 02306231, the Fire Marshal's Office is not requiring any improvements. Though the current access does not meet Zoning Ordinance requirements for access, the current conditions meet the Fire Marshal Office's requirements for emergency access.
- For Parcel 02306232
    - As the lot is currently situated with the frontage off of the unmaintained apparent right of way of Midas Springs Road, improvements would be required by the Fire Marshal's Office for access to the lot.
    - **If this lot and Parcel 02306231 were to be recombined** such that the primary access for Parcel 02306232 is from the public drive that connects Midas Springs and Hedrick Circle, the Fire Marshal's Office would not require improvements.

Randy, if I missed anything please let me know!

Thank you everyone!

Lauren Speight, CZO
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: Barbara Montgomery <montgomerybc@yahoo.com>
Sent: Wednesday, June 16, 2021 8:45 AM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Brian Richards <brichards@huntersville.org>
Subject: RE: V 21-03 and V 21-04

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

Good Morning,

I spoke personally with Randy Frazier with the Mecklenburg County Fire Marshall's office this morning. He is familiar with the area and confirmed that the roads are graveled and sufficiently compacted to support a fire truck and meet the minimum fire safety requirements for emergency access. No improvements are necessary. He also stated he had conveyed similar information to you.

As per our conversation yesterday, access to the parcels 02306231 and 02306232 will be via the new public right of way and parcel 02306231.

Barbara Montgomery

Sent from Mail for Windows 10

From: Lauren Speight
Sent: Tuesday, June 15, 2021 4:00 PM
To: Yah.reps
Cc: Brian Richards
Subject: RE: V 21-03 and V 21-04

Good afternoon,

Thank you for meeting with us today!

Below are the safety requirements per the Fire Marshal's Office for emergency access. Of course, as we talked about, if the intent is for both lots to have access from the public drive that connects Midas Springs and Hedrick Circle then that drive is the only one that would need to be evaluated.

- 16 ft wide gravel road capable to support an 80,000 LB fire apparatus
- For Parcel 02306232 the unmaintained frontage of Midas Springs Road would need to be maintained in as the existing gravel portion of Midas Springs Road that begins before the intersection of Alton Street and Midas Springs Road to 9730 MIDAS SPRINGS RD HUNTERSVILLE NC 28078.
- The gravel road serving parcel 02306231 must be maintained as the existing gravel portion of Hedrick Circle that begins after Long Creek Elementary for approximately 100 ft.
- The gravel road must remain clear of debris and obstructions and provide free access for the fire department
- The gravel road must provide 13ft 6 in of clearance from overhead obstructions
- Jeff Tracey (980-314-3078) or Randy Frazier (980-314-3073) with the Mecklenburg County Fire Marshall's office shall be contacted to certify gravel road meets minimum fire safety requirements for access.

Please let me know if you have any questions!

Lauren Speight, CZO
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: Lauren Speight
Sent: Friday, June 11, 2021 12:39 PM
To: Yah.reps <montgomerybc@yahoo.com>
Cc: Brian Richards <brichards@huntersville.org>
Subject: RE: V 21-03 and V 21-04

Good afternoon,

Perfect! I will send a virtual meeting invitation this afternoon.

Lauren Speight, CZO
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: Yah.reps <montgomerybc@yahoo.com>
Sent: Friday, June 11, 2021 11:49 AM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Brian Richards <brichards@huntersville.org>
Subject: Re: V 21-03 and V 21-04

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Tuesday, June 15th at 2:00 pm will work for us.

Sent from Yahoo Mail for iPhone

On Friday, June 11, 2021, 11:45 AM, Lauren Speight <lspeight@huntersville.org> wrote:

Good morning,

We are available:

Monday 6/14 at 2pm

Tuesday 6/15 at 2pm

Wednesday 6/16 at 9am

Lauren Speight, CZO

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: Yah.reps <montgomerybc@yahoo.com>
Sent: Thursday, June 10, 2021 2:20 PM
To: Lauren Speight <lspeight@huntersville.org>

Cc: Brian Richards <brichards@huntersville.org>
Subject: Re: V 21-03 and V 21-04

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 would be available on Monday or Tuesday morning. Would 9:00 am work for you?

Sent from Yahoo Mail for iPhone

On Thursday, June 10, 2021, 1:54 PM, Lauren Speight <lspeight@huntersville.org> wrote:

> Good afternoon,
>
> Thank you for explaining. We would like to schedule a time next week to go over the staff analysis so far if you are available. If so, may you send us some times that work best for you?
>
> Thank you!
>
> Lauren Speight, CZO
>
> 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: Barbara Montgomery <montgomerybc@yahoo.com>
Sent: Wednesday, June 9, 2021 5:37 PM
To: Lauren Speight <lspeight@huntersville.org>
Subject: RE: V 21-03 and V 21-04

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 have always thought of these two lots as one because we are aware Parcel #02306232 would be land locked if it were not sold with Parcel #02306231. This is why we included both parcels in our initial Variance request. Our contracted buyer is proposing to build one single family home on the property. It is possible his house would straddle both parcels. However, should this contract fall through it is possible that someone may wish to build a house on each lot, making sure they retain access to Hedrick Circle over Parcel #02306231. We would like to retain this option if possible, however we do not want to do anything that would jeopardize our ability to obtain variances necessary to build one single family home.

Your guidance is appreciated,

Barbara Montgomery

Sent from Mail for Windows 10

From: Lauren Speight
Sent: Wednesday, June 9, 2021 4:24 PM
To: Barbara Montgomery
Subject: V 21-03 and V 21-04

Good afternoon,

I am completing the first draft of the staff report for these two variance applications and want to be sure I understand the proposed future development.

Is the idea that one single family home is proposed for parcel 02306231 and one single family home is proposed for parcel 02306232?

Thank you!

Lauren Speight, CZO

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.

Exhibit 9 – Image of Hedrick Circle near 7635 HEDRICK CR HUNTERSVILLE NC 28078

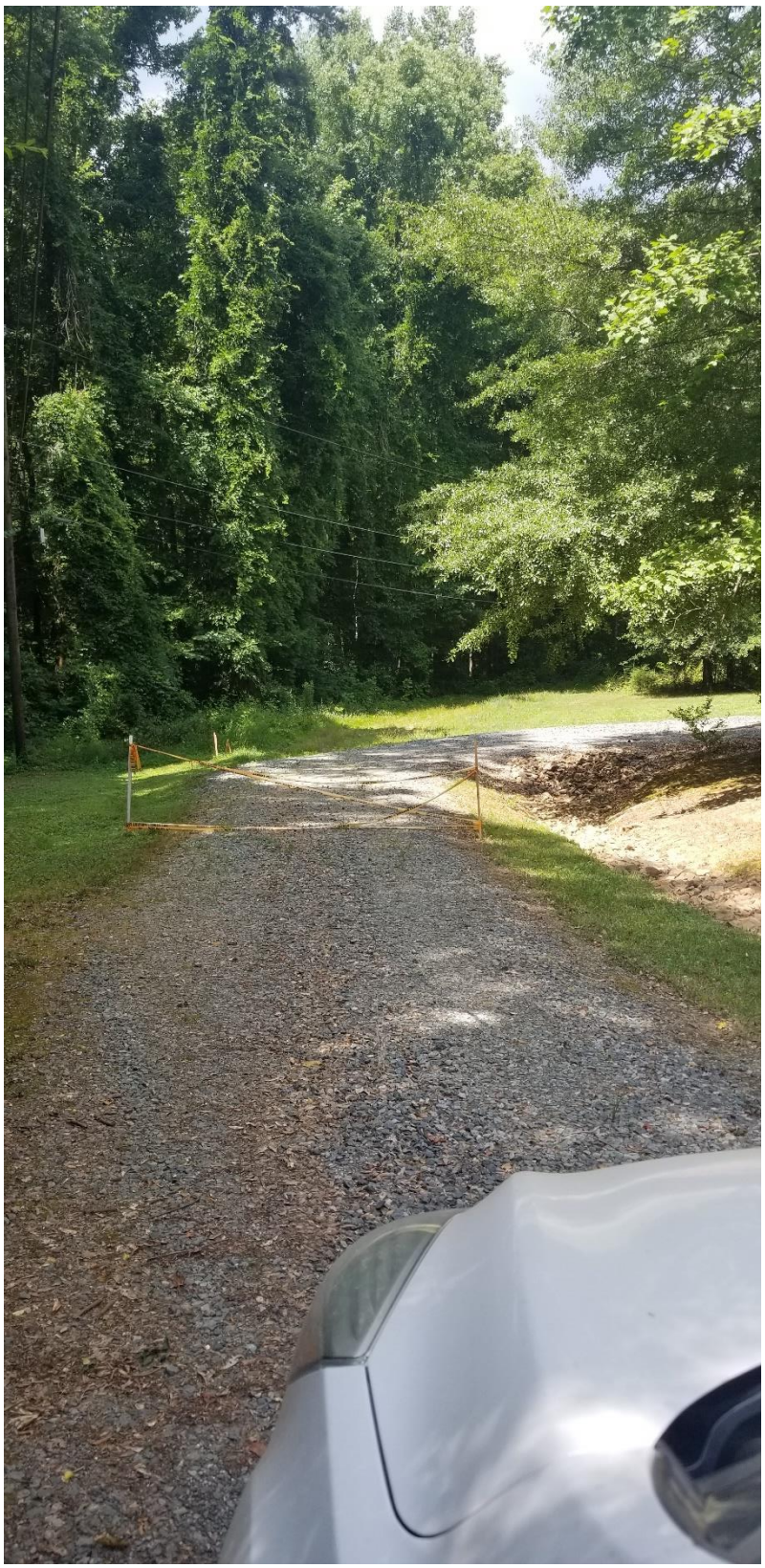


Photo by Staff June 30, 2021 near 7635 HEDRICK CR HUNTERSVILLE NC 28078. Gravel portion of Hedrick Circle Ends. Gravel turns right into drive for 7635 HEDRICK CR HUNTERSVILLE NC 28078.

Town of Huntersville
Board of Adjustment
July 13, 2021

To: Town Board

From: Lauren Speight, Planner 1

Date: July 13, 2021

Subject:

EXPLAIN REQUEST:
The applicant, Barbara C. Montgomery is 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.

ACTION RECOMMENDED:

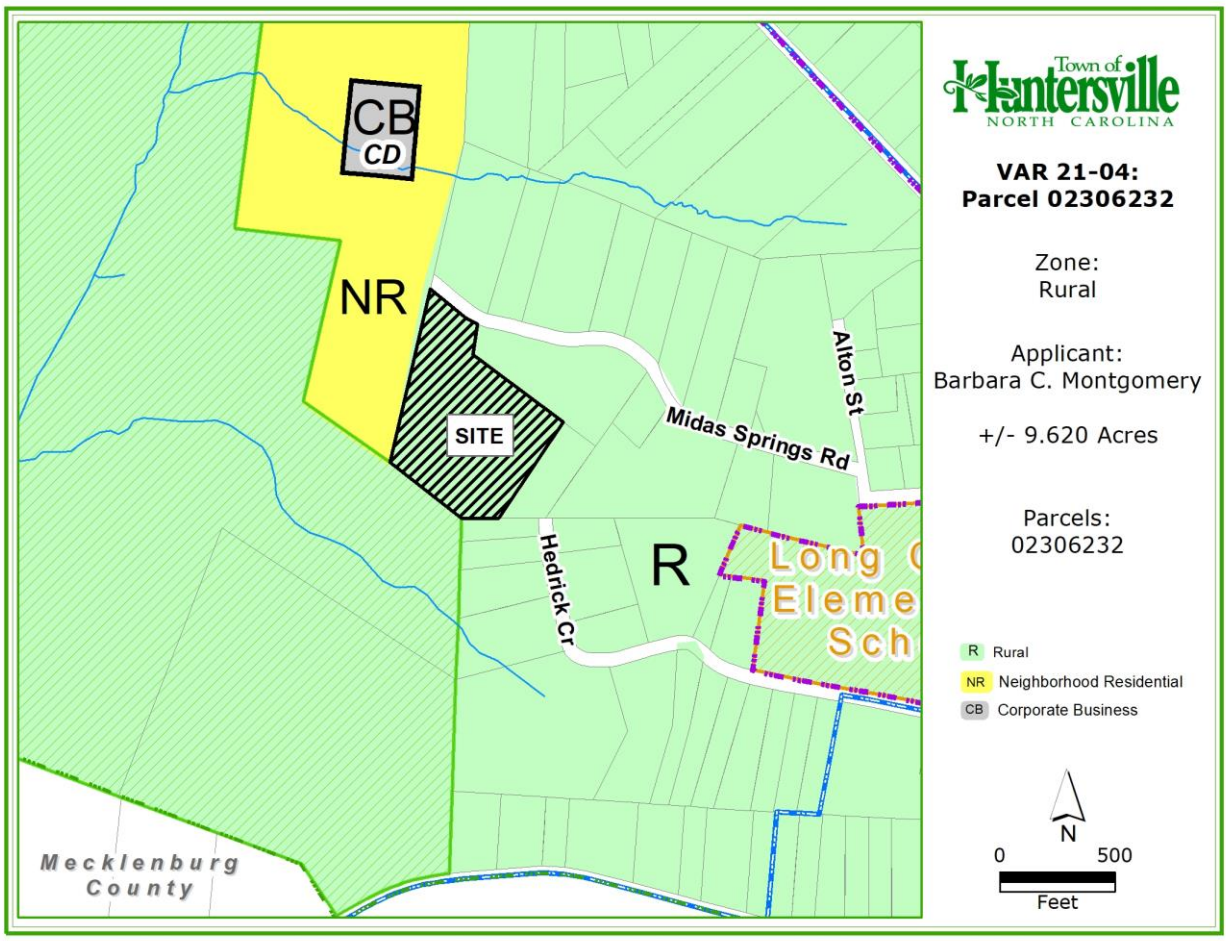
FINANCIAL IMPLICATIONS:

ATTACHMENTS:
1. V21-04 Staff Report_for web

V 21-04, Parcel ID 02306232

Case #:	V21-04
Address:	None
Parcel #:	023-062-32
Acreage:	9.62 acres
Property Owner/Applicant:	Barbara C. Montgomery on behalf of Barbara Simpson McQueen
Owner/Applicant Address:	205 Cherry Hills Drive Aiken, SC 29803
Staff:	Lauren Speight – Planner I

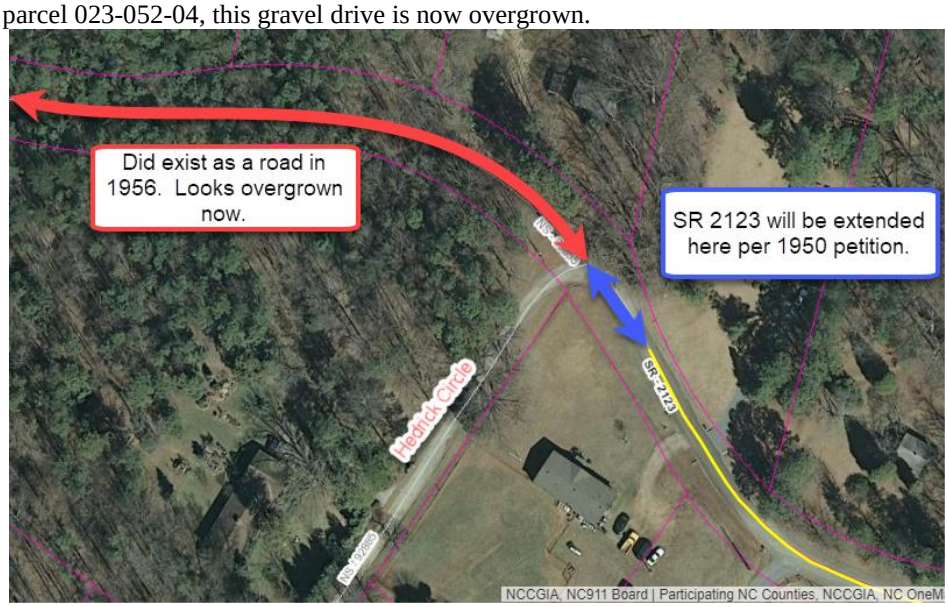
Currently a vacant lot, the 9.62 acre property is served by unmaintained apparent right-of-way that is not a public street accepted for maintenance by NCDOT. The applicant, Barbara C. Montgomery is requesting a variance from **Article 8.1 Street Frontage Required,** stated below, in order to obtain a building permit to construct a single-family dwelling.



BACKGROUND:

1. The subject property, Parcel ID 023-062-32 is zoned Rural (R) and located in Critical Area 1 (CA-1) of the Mountain Island Lake Watershed Overlay (MIL-O).
2. The subject property is located within the extraterritorial jurisdictional (ETJ) of the Town of Huntersville.
3. The subject property was last conveyed via deed to William H. and Barbara S.McQueen August 23, 1961 and Staff does not find any public record of a residential structure existing on the property. (Exhibit 1)

4. Staff have been in communication with the applicant for several years. Most recently, the applicant contacted Staff May 4, 2021 regarding requirements, specifically access requirements, for zoning approval of a building permit as the subject property and parcel 02306231 were under contract for sale. (Exhibit 2)
5. 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 3). 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. Beyond parcel 023-052-04, this gravel drive is now overgrown.



6. There is no structure listed with the tax information for the parcel and there is no aerial data showing the lot has ever been developed.
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 most recently contacted staff May 4, 2021 regarding zoning approval for a building permit for the subject property (Exhibit 2).
   B. More than approximately 1,055 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. 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 6). Currently, there are lots in Biltmore and Norman Park that would require road improvements before a building permit was issued for construction on the property.
   D. The strict application of the Ordinance includes the frontage of the subject property must be paved to the applicable standards (NCDOT).
   E. Staff finds the requirements for this lot similar with the requirements of lots with a similar history in the Town and Staff does not find this requirement has been met.

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 eight surrounding properties facing the same conditions (vacant lots on unmaintained apparent right-of-way) if the property owners wish to construct a building on their lot. (Exhibit 7)
   B. 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.
   C. Two variances were submitted April 2021 for 9808 Midas Springs Road (V21-01) and parcel 02305204 (V21-02) to relieve the requirement of Article 8.1 that lots shall abut a public street. The Huntersville Board of Adjustment approved V21-01 and V21-02.
   D. Staff finds this requirement has been met.

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:
   A. The applicant is an heir of the property owner of the subject lot. The subject lot was last conveyed by deed August 23, 1961. Staff does not know of any action by the property owner or applicant to create this hardship.
   B. Staff finds this requirement has been met.

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:

   A. Lots must abut a public street per Article 8.1 to provide public safety and essential services. Per confirmation from Randy Frazier, Mecklenburg County Fire Marshall existing conditions of the below highlighted unmaintained gravel road meet the minimum requirements for fire emergency access to the subject lot. (Exhibit 8)
   B. Because the frontage of the property along Midas Springs Road is currently wooded, Staff and the County Fire Marshal Office agree any immediate access should be via the public drive that connects Hedrick Circle and Midas Springs Road. This would require a recombination of the lots for the subject parcel to abut the gravel drive that connects Hedrick Circle and Midas Springs Road.

C. If this lot is recombined with parcel 023-062-31 such that access to the lot is via the right-of-way for public access that connects Midas Springs Road and Hedrick Circle and road conditions are satisfactory for emergency access, Staff finds this requirement is met.

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 three of the four requirements for granting a variance and therefore recommend denial of the request based on the below findings:

1. The subject property, Parcel ID 023-062-32 is zoned Rural (R) and located in Critical Area 1 (CA-1) of the Mountain Island Lake Watershed Overlay (MIL-O).
2. The subject property is located within the extraterritorial jurisdictional (ETJ) of the Town of Huntersville.
3. The subject property was last conveyed via deed to William H. and Barbara S.McQueen August 23, 1961 and Staff does not find any public record of a residential structure existing on the property. (Exhibit 1)
4. Staff have been in communication with the applicant for several years. Most recently, the applicant contacted Staff May 4, 2021 regarding requirements, specifically access requirements, for zoning approval of a building permit as the subject property and parcel 02306231 were under contract for sale. (Exhibit 2)
5. 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 3). 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. Beyond parcel 023-052-04, this gravel drive is now overgrown.
   a.

6. There is no structure listed with the tax information for the parcel and there is no aerial data showing the lot has ever been developed.
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)
   a. "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:
      i. 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…"

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

c. "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."

8. More than approximately 1,055 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).
9. 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 6). Currently, there are lots in Biltmore and Norman Park that would require road improvements before a building permit was issued for construction on the property.
10. The strict application of the Ordinance includes the frontage of the subject property must be paved to the applicable standards (NCDOT).
11. There are eight surrounding properties facing the same conditions (vacant lots on unmaintained apparent right-of-way) if the property owners wish to construct a building on their lot. (Exhibit 7)
12. 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.
13. Two variances were submitted April 2021 for 9808 Midas Springs Road (V21-01) and parcel 02305204 (V21-02) to relieve the requirement of Article 8.1 that lots shall abut a public street. The Huntersville Board of Adjustment approved V21-01 and V21-02.
14. The applicant is an heir of the property owner of the subject lot. The subject lot was last conveyed by deed August 23, 1961. Staff does not know of any action by the property owner or applicant to create this hardship.
15. Lots must abut a public street per Article 8.1 to provide public safety and essential services. Per confirmation from Randy Frazier, Mecklenburg County Fire Marshall existing conditions of the below highlighted unmaintained gravel road meet the minimum requirements for fire emergency access to the subject lot. (Exhibit 8)
16. Because the frontage of the property along Midas Springs Road is currently wooded, Staff and the County Fire Marshal Office agree any immediate access should be via the public drive that connects Hedrick Circle and Midas Springs Road. This would require a recombination of the lots for the subject parcel to abut the gravel drive that connects Hedrick Circle and Midas Springs Road.

EXAMPLE MOTION: V21-04, Parcel ID 023-062-32, Huntersville, NC 28078

Planning Department	Board of Adjustment
	APPROVAL: In considering the application for V21-04, a request by Barbara C. Montgomery on behalf of Barbara Simpson McQueen 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 ____ of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance. The Board of Adjustment finds the request meets ___ of the four criteria for granting a variance based on the following findings of fact: *(explain findings of fact)*
DENIAL: In considering Staff's position for V21-04, a request by Barbara C. Montgomery on behalf of Barbara Simpson McQueen 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 been met. Staff finds the 1st requirements for granting a variance has not been met.	**DENIAL**: In considering the application for V21-03, a request by Barbara C. Montgomery on behalf of Barbara Simpson McQueen 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 met the criteria for granting a variance based on the following findings of fact: *(explain findings of fact)*

Exhibit 1 –1961 Deed of Subject Property, DB 2239, P 61
Exhibit 2 – Correspondence Between Town Planning Staff and Applicant from May 4, 2021
Exhibit 3 – Correspondence with Wendy Taylor, NCDOT
Exhibit 4 – Variance Application
Exhibit 5 – Length from Midas Springs Toad to Subject Lot (Approximate via Polaris 3G)
Exhibit 6 – Frontage of 6512 Robert Street, Huntersville, NC 28078 - Biltmore Park
Exhibit 7 – Unbuilt Road Analysis Map by Planning Department
Exhibit 8 – Correspondence with Randy Frazier, Mecklenburg County Fire Marshal

Exhibit 1 –1961 Deed of Subject Property, DB 2239, P 61

84

BOOK NO. 2239

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

Revenue Stamps Affixed $.. 4.95

THIS DEED, Made this 23rd day of August, A.D., 19 61., by and between

Robert F. Ritchie and wife, Mary Ella Ritchie

of the County of Mecklenburg and State of North Carolina, part ies 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 part ies of the first part, in consideration of

One Hundred Dollars ($100.00) and other valuable considerations

to them paid by the part ies of the second part, the receipt of which is hereby acknowledged, ha ve bargained and sold, and by these presents do grant, bargain, sell and convey unto said part ies 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.

Signed, Sealed and Delivered in presence of

Mary Ella Ritchie (SEAL)

Robert F. Ritchie (SEAL)

(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

NOTARY SEAL PUBLIC

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 Stukes, 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

Exhibit 2 – Correspondence Between Town Planning Staff and Applicant from May 4, 2021

Lauren Speight

From: Lauren Speight
Sent: Tuesday, May 4, 2021 4:23 PM
To: Barbara Montgomery; Brian Richards
Cc: clintgandy@mvalaw.com; Trainum, Brian; Terry Montgomery
Subject: RE: Building Permit for 6960 Hedrick Circle

Good afternoon,

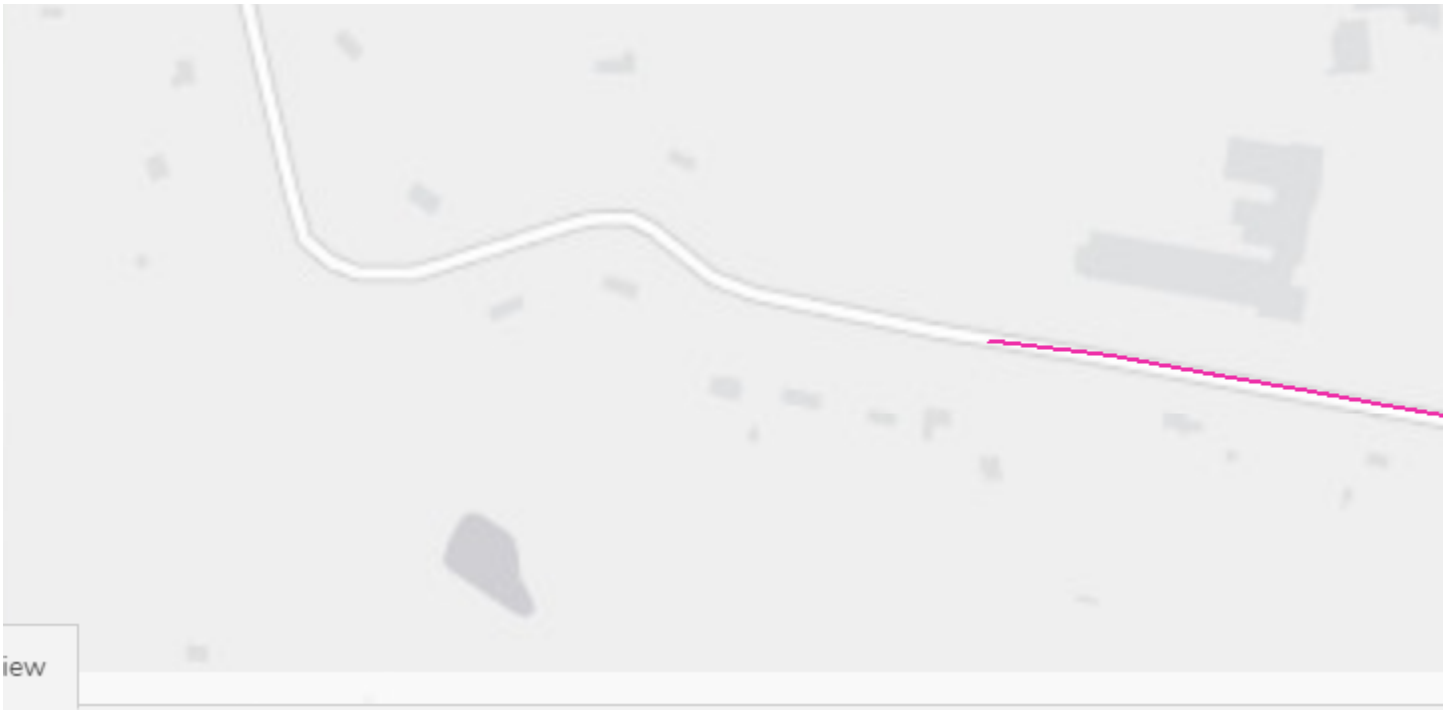
Sierra Saumenig is no longer with the Planning Department, but I recall this meeting actually have my research with Sierra and the Town Attorney at the time regarding these lots. The determination was the Superior Court ruling established the drive through the lots was for public use, unless I am mistaken. A drive/road for public use is not the same as recorded public right of way under the maintenance of Town/City/State.

6960 HEDRICK CR HUNTERSVILLE NC 28078 abuts Hedrick Circle, but it is not connected to the maintained portion of Hedrick Circle. A public street is defined by the Town Ordinance as indicated below. At the time, Staff established that access **could** be achieved for the lots, though difficult. Staff were told it would be up to any future buyer to go through the Town processes to achieve legal access for both lots. Staff did not guarantee zoning approval for any building permits based on existing conditions. As a practice Staff does not guarantee zoning approval for building permits until the permits are submitted with all required documents.

And, as shown in the map from NCDOT, the pink line indicates the section of road that is accepted for maintenance by NCDOT.

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 is happy to set up a time to further discuss this if you have any questions!



Lauren Speight, CZO
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: Barbara Montgomery <montgomerybc@yahoo.com>
Sent: Tuesday, May 4, 2021 4:06 PM
To: Lauren Speight <lspeight@huntersville.org>; Sierra Saumenig <ssaumenig@huntersville.org>; Brian Richards <brichards@huntersville.org>
Cc: clintgandy@mvalaw.com; Trainum, Brian <brian.trainum@cbcarolinas.com>; Terry Montgomery <tmontgomery922@yahoo.com>
Subject: Building Permit for 6960 Hedrick Circle

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Ms. Speight,

My name is Barbara C. Montgomery and I am the Personal Representative of my mother's estate. The estate includes parcels 02306231 and 32. The address is 6960 Hedrick Circle. My husband, Terry Montgomery and I met with you, Sierra Saumenig and Brian Richards of the Huntersville Planning Department on March 2, 2020 regarding these parcels. We had previously provided Superior Court Ruling 17-SP-001238 dated December 19, 2019. We were informed at this meeting that the Town of Huntersville would willingly grant a building permit for each of these lots. The decision

was clear and unanimous from you and the other two representatives addressed on this email from the town's Planning Department.

I currently have a contract with a buyer, Clint Gandy, who wants to be assured that he can obtain a building permit to construct a house on these lots. Mr. Gandy has been in communication with you and is being given information that conflicts with what the Town of Huntersville provided us at the March 2, 2020 meeting. We have a closing date of May 20, 2021 and need to resolve this in a timely manner.

The Superior Court Order concerns approximately 800 feet of road that runs from the Sunrise Acres subdivision to Midas Springs Road. The court order clarifies that this section of road is dedicated for public use and also means Hedrick Circle is one public road from Beatties Ford Road to its intersection with Midas Springs Road (State Road #2123). Parcel 02306231 abuts this road and right of way for approximately 400 feet. As a result of this court ruling, Hedrick Circle Road, a public road, runs from Beatties Ford Road to its intersection with Midas Springs Road. As a result, Parcel 02306231 has access to Beatties Ford Road via Hedrick Circle Road and Midas Springs Road in one direction or via Hedrick Circle Road through Sunrise Acres in the opposite direction. At least five residences use the right of way designated by the Superior Court Order to access Midas Springs Road on a daily basis. The United States Postal Service, trash services, emergency vehicles and parcel delivery services utilize the right of way to access residences. Parcel 02306231 is approximately 400 feet from Midas Springs Road, a state maintained road. There are residences on both sides of Parcel 02306231 which use this right of way.

Based on the facts presented above, which are facts validated by an order from the Mecklenburg County Superior Court, the Town of Huntersville Planning Department is requested to honor its commitment to my husband and myself and agree to provide Mr. Gandy with a building permit.

Thank you for your cooperation,
Barbara Montgomery

Sent from Mail for Windows 10

Exhibit 3 – Correspondence with Wendy Taylor, NCDOT

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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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.

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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
    - Width
    - 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

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Exhibit 4 – Variance Application

Town of Huntersville
NORTH CAROLINA

Variance Application

Date of Application: June 7, 2021

Property/Building Address: 6960 Hedrick Circle Road Huntersville 28078 **Parcel Size (ac):** 9.62

Tax Parcel ID (PIN) Number(s): 02306232 (02306231 application filed 5-31-2021

Text of Ordinance to be varied

Ordinance: Zoning Article: 8.1 Street Frontage Section: 1

Description of Request:
See Attached

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

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.

   See Attached

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.

   See Attached

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.

   See Attached

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

   See Attached

Description of Request: The applicant requests a Variance to the ordinance requirement that the lots, intended to be a single family residential lots, through no fault of the applicant do not abut a public street as defined by the ordinance. Instead the lots abut a public right of way (ROW). Strict application of the ordinance would result in an unnecessary hardship to the applicant. The hardships are unique to the particular 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 maintained, and substantial justice and fairness achieved. Parcel 02306232 is contiguous with Parcel 02306231 and access to Parcel 02306232 is via Parcel 02306231.

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.**

In the absence of a Variance, the applicant would not be able to market and sell the property so that she can close out her mother's estate because the property would not qualify for a building permit. This property has been idle for decades and the hardship is due to regulations that have been promulgated during this period. The applicant has taken positive action in successfully obtaining Superior Court Order 17-SP-001238 issued in December 2019, attached, which clarified ROW issues by declaring approximately 800 feet of road that runs from Midas Springs Road to the Sunrise Acres platted subdivision road as a 30' ROW for public use. The Variance Application requests that the Town of Huntersville recognize that Hedrick Circle Road is highly unlikely to be taken over for maintenance by either the Town of Huntersville or NC Department of Transportation in the foreseeable future.

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 this hardship are peculiar and unique to this property. Properties adjacent to and across the road were all developed prior to promulgation of regulations by the Town of Huntersville and therefore escaped imposition of the regulations. These properties were developed with full knowledge that the road frontage would be privately maintained. Failure to obtain a Variance would impose restrictions on my property that are not imposed on adjacent properties creating a hardship and not resulting in substantial justice and fairness.

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 applicant did not purchase the property but inherited it. The hardship clearly did not result from actions taken by the applicant. The promulgation of regulations by the Town of Huntersville created the hardship. As stated above the applicant has taken positive actions to improve the situation.

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

The Superior Court Order, Paragraph 4 in the Conclusions of Law section states that residents on the south end of Hedrick Circle Road have chosen to use the right of way segment at issue for ingress and egress to their properties and that guests, garbage collectors, delivery people, service providers and mail collectors traverse the segment routinely. Additionally, residents along Hedrick Circle Road access their property daily using a similarly conditioned road. Adding one additional single family residence would not impact public safety and general welfare since the ROW is very lightly travelled and has been for over 60 years. Substantial justice would be done by allowing the applicant to sell the property, close her mother's estate and allow a buyer to establish a personal residence.

Applicant

Printed Name Barbara C. Montgomery Phone 803-522-0117

☐ Corporation ☐Limited Liability Company ☐ Trust☐ Partnership ☒ Other: Personal Representative of Barbara S. McQueen (deceased)

☒ 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 Barbara C. Montgomery Date June 7, 2021

Title Personal Representative Applicant Phone 803-522-0117

Applicant Email montgomerybc@yahoo.com

Address of Applicant 205 Cherry Hills Drive Aiken, S.C. 29803

Property Owner (if different than applicant)

* Printed Name POA's attached w/ May 31, 2021 application Phone _____

☐ Corporation ☐Limited Liability Company ☐ Trust☐ Partnership ☐ Other: _____

☐ 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 _____ Date _____

Title _____ Applicant Phone _____

Applicant Email _____

Address of Property Owner _____

* 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
Planning Department
PO Box 664
Huntersville, NC 28070

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

Received By Planning Department Staff: _____

Staff Initials: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF: AIKEN)
)
IN THE MATTER OF:)
BARBARA SIMPSON MCQUEEN)
(Decedent))

IN THE PROBATE COURT

CERTIFICATE OF APPOINTMENT

CASE NUMBER: 2014ES02-0601

This is to certify that

BARBARA C. MONTGOMERY

is/~~are~~ the duly qualified

- [X] PERSONAL REPRESENTATIVE
- [ ] SUCCESSOR PERSONAL REPRESENTATIVE
- [ ] SPECIAL ADMINISTRATOR

in the above matter and that this appointment, having been executed on the 18th day of JUNE, 20 15, is in full force and effect.

RESTRICTIONS:

NONE

Executed this 18th day of JUNE 2015.

Dee H. Roe
AIKEN COUNTY, Probate Court Judge

Do not accept a copy of this certificate without the raised seal of the Probate Court.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
18th DAY OF June 15
JUDGE OF PROBATE
BY

FORM #141ES (1/2014)
62-1-305, 62-3-103

List of Attachments

Attachment 1	Superior Court Order 17-SP-001238
Attachment 2	Supplemental Information Related to Variance Application
Attachment 3	November 30, 1954 Seaver Survey
Attachment 4	May 6, 1980 Turner Survey
Attachment 5	ROW Easement for Parcel 02306213 (then Thomas, now Ingram)
Attachment 6	Correspondence w/ Town of Huntersville Planning Department

Attachment 1

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.

MECKLENBURG COUNTY
FILED #64
DEC 19 2019
AT _____ O'CLOCK ___ M
BY _____
CLERK OF SUPERIOR COURT

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

Attachment 2

Supplemental Information Relevant to Variance Application

In 1954 and 1961 my mother and stepfather purchased property that constitutes the current Parcels 02306231, 02306232, 02306251 and 02305204. In 1980, the house and approximately 5 acres that constitutes Parcel 02306251 was sold (now identified as 9811 Midas Springs although the house faces and the driveway connects to Hedrick Circle Road). In December 2020, Parcel 02305204 was sold. Parcels 02306231 and 02306232, which I am selling together, are the subject of this Variance Application. The legal access to these parcels is from Beatties Ford Road via Midas Springs Road (State Road 2123) to the recently declared right of way (which extends Hedrick Circle Road) to Parcel 02306231. It not via Hedrick Circle Road through Sunrise Acres Subdivision. Parcel 02306232 abuts the non-maintained portion of Midas Springs Road and, although the recent Leach Variance application was approved, obtaining access via the non-maintained portion of Midas Springs Road would be very difficult and not something I am pursuing due to the rejection of Variance No. V15-01 for 9840 Midas Springs Road in 2015. Polaris 3G Maps are attached.

I first became aware of the right of way issue for Parcel 02306231 in 2016 when I attempted to sell it and Parcel 02306232. Meredith Miller, then with the Planning Department, informed me that I did not have legal right to use the 800' of road to access Midas Springs Road. Surveys are attached which show the road in existence on Nov. 30, 1954 and May 6, 1980 which are referenced in the Superior Court Order. In 1983, my mother, Stepfather and others had granted a 30' right of way to Parcel 02306314, then Thomas, now Ingram (the same as the right of way designated later by the Superior Court Order). A copy of the Right of Way Agreement and accompanying survey is attached. Only Parcel 02306314 was provided legal access in perpetuity even though the road had been used continuously since at least 1954.

Initially, I contacted the neighbors to get access to this right of way for my property. I soon realized this would be difficult due to one disagreeable neighbor who was evasive and uncooperative. Subsequently, I contacted an attorney and filed legal action to get a 15' easement to Midas Springs Road via Parcel 02306251. If successful, this would result in a 15' easement alongside a 30'right of way needlessly using up real estate and negatively impacting the aesthetics of the neighborhood. Also, it was concluded that it did not solve the problem for the other neighbors on Hedrick Circle Road who used this section of road as ingress and egress to Midas Springs Road.

One of the neighbors discovered North Carolina Statute 136-96.1 which fit our situation exactly. The statute provides for declaration of a right of way for public use if; 1) The landowners of tracts constituting two-thirds of the road frontage of the land abutting the right of way in question join in the action, 2) The right of way is depicted on an unrecorded map, plat, or survey, 3) The right of way has been actually open and used by the public, and, 4) Recorded deeds for at least three separate parcels abutting the right of way recite the existence of the right of way as a named street or road. That these criteria were met is evidenced and discussed in the Superior Court Order which is discussed in the next paragraph. The right of way dedicated by the Superior Court Order in 2019 is identical to the right of way established in 1983. In fact, Mr. Ingram, the current owner of Parcel 02306314 joined in our legal action. The declaration of the right of way maintained the access and character of the neighborhood as it has been for over 60 years.

Mecklenburg County Superior Court Order 17-SP-001238 issued in Dec. 2019, attached, dedicated the approximately 800 feet of road that runs from Midas Springs Road to the Sunrise Acres platted subdivision road as a 30' right of way for public use. Together, the right of way and subdivision road create a single connection from Beatties Ford Road to Midas Springs Road referred to as Hedrick Circle Road. With the exception of a short portion adjacent to Long Creek Elementary School, Hedrick Circle Road, including the portion recently dedicated for public use is maintained by the residents abutting the road. Egress for my property is via the newly designated right of way 420 feet to Midas Springs Road. It does not meet the definition in Article 12 as a Public Street since it is not maintained by the Town of Huntersville or NCDOT which is the reason for this Variance Application. It is not within the limits of the Town of Huntersville. The residents that I have spoken with are not interested in either the Town of Huntersville or NCDOT assuming maintenance since this would result in more traffic travelling at higher speeds. The residents wish to maintain the current character of the neighborhood.

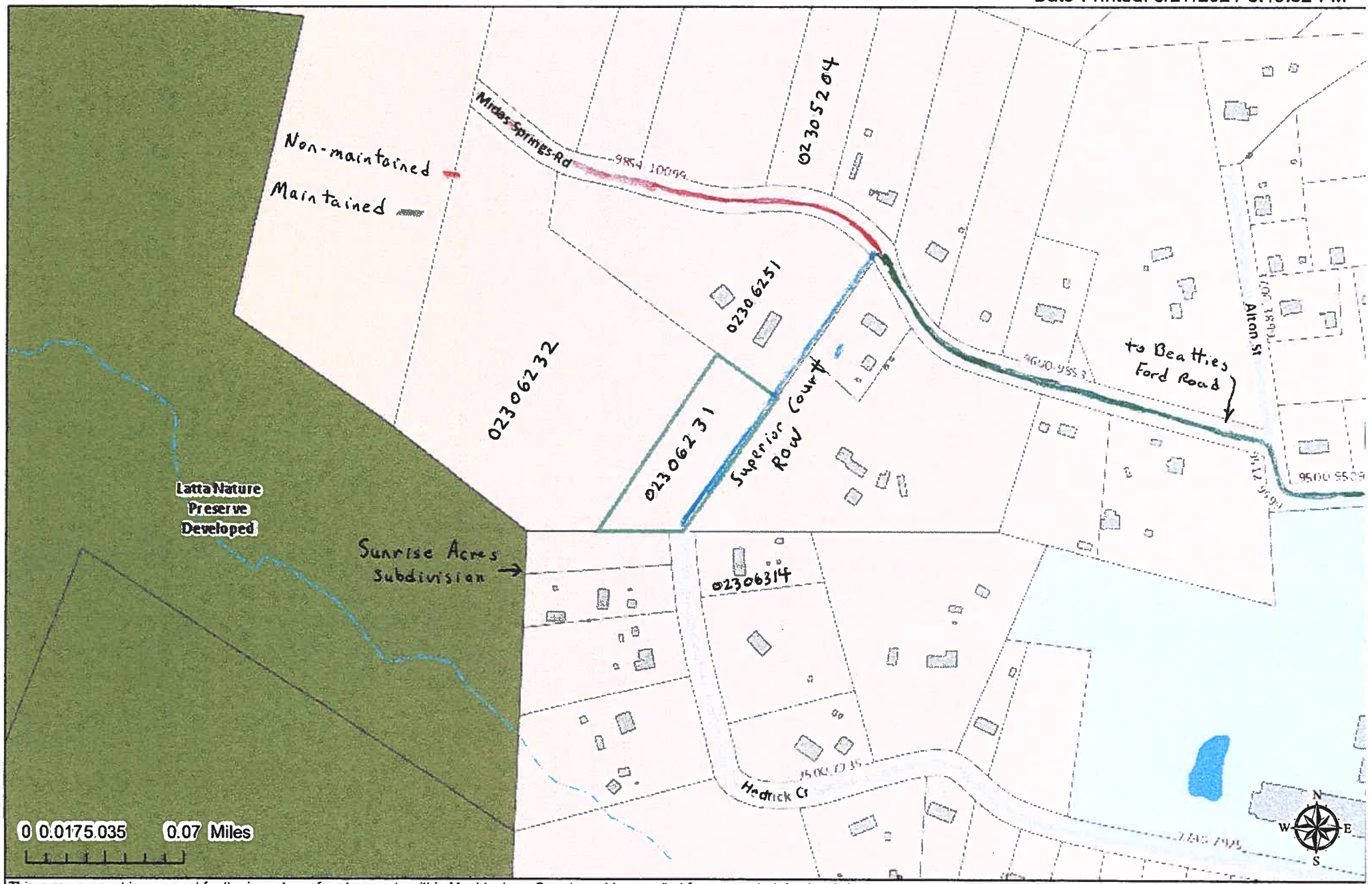
Article 8.1 includes an exception from the requirement to abut a public street stating "A lot of one (1) acre or more in area created through a division of land not subject to the subdivision ordinance shall be eligible for issuance of a permit to establish a single-family detached house, provided the 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 of lot projection.

The intent of the requirement for a 15' wide private and exclusive recorded easement appears primarily to be to ensure access to the lot by emergency equipment. The requirements do not anticipate the situation where a lot abuts a public right of way. The Superior Court Order, Paragraph 4 in the Conclusions of Law section states that residents on the south end of Hedrick Circle Road have chosen to use the right of way segment at issue for ingress and egress to their properties and that guests, garbage collectors, delivery people, service providers and mail collectors traverse the segment routinely. Our use of the statute to establish the 30' right of way in lieu of a 15'easement was intentional in that it served the best interests of the affected property owners and should not preclude our ability to obtain relief under Article 8.1. As stated above, we filed legal action to obtain a 15 feet exclusive easement but withdrew it when it was clear it did not meet the needs of all affected neighborhood property owners. The 30' right of way is double the 15' requirement. A Superior Court Order declaring a public right of way is as binding as a private and exclusive recorded easement or fee simple projection. The use of the right of way for over 60 years demonstrates its viability. This exceeds the requirements for an exception. Hedrick Circle Road and Midas Springs Road have houses over their lengths. Parcels 02306231 and 02306232 were established in 1980, prior to the establishment of the zoning ordinance. Residents travel this road daily including the portion of the newly designated right of way that is part of Parcel 02306231. I should not be punished for acting in the best interests of and protecting the character of the neighborhood. My conclusion is that this meets or exceeds the spirit and intent of the criteria and the facts and circumstances support Variance approval.

In summary, the ordnance contains exceptions to address unique situations in a timely and efficient manner. I have explained the actions taken in maintaining the character and best interests of the neighborhood.

Polaris 3G Map – Mecklenburg County, North Carolina

Date Printed: 5/27/2021 5:19:52 PM



This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

Polaris 3G Map – Mecklenburg County, North Carolina
BC Montgomery

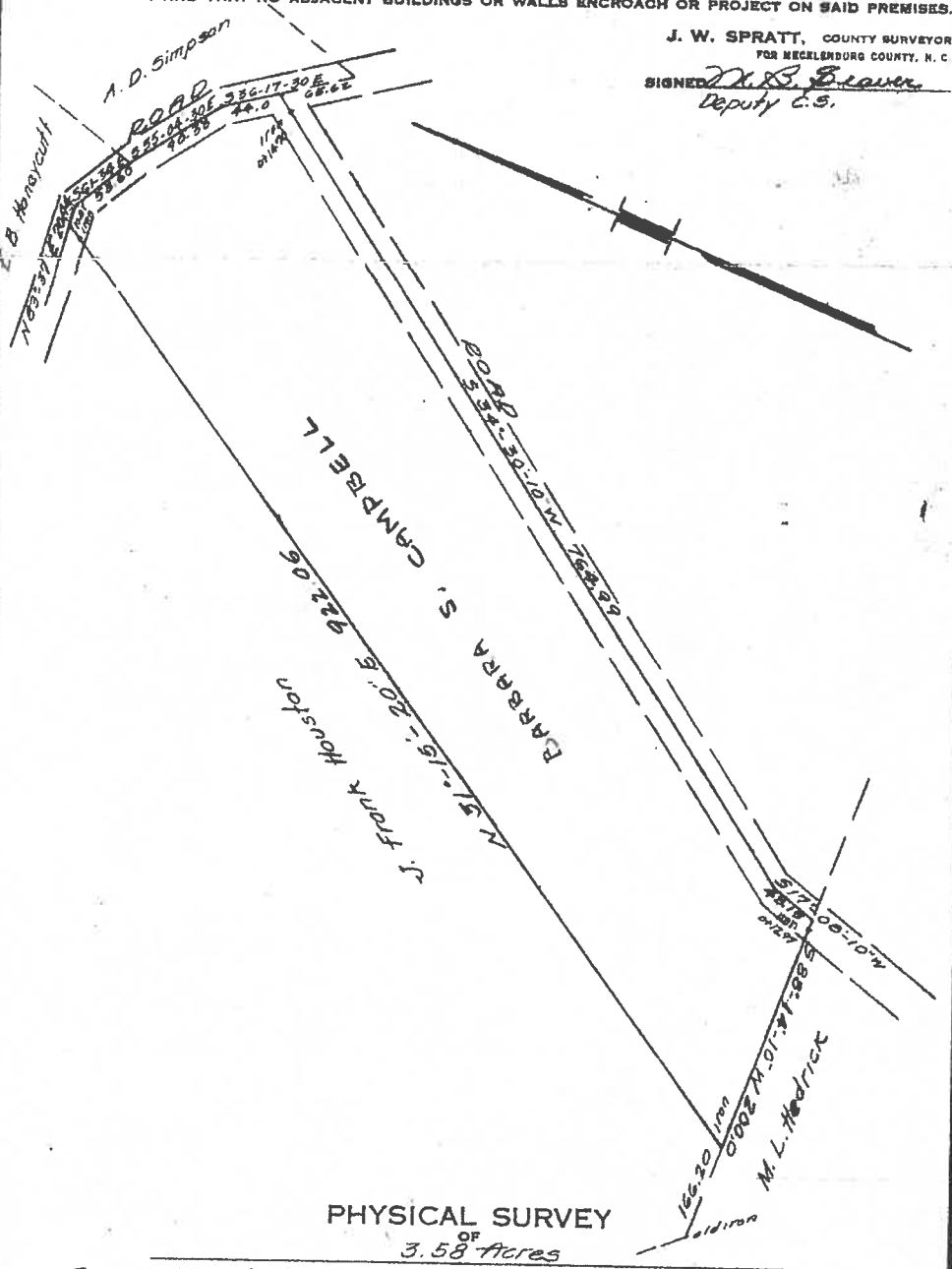
Date Printed: 2/23/2020 12:07:41 PM

This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

Attachment 3

THIS IS TO CERTIFY THAT ON THE 30TH DAY OF Nov 19 54 I SURVEYED THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE PROPERTY LINES, WALLS AND BUILDINGS ARE AS SHOWN HEREON: THAT THE BUILDINGS LOCATED ON SAID LOT DO NOT ENCROACH OR PROJECT ON ADJACENT STREETS OR PROPERTY: AND THAT NO ADJACENT BUILDINGS OR WALLS ENCROACH OR PROJECT ON SAID PREMISES.

J. W. SPRATT, COUNTY SURVEYOR
FOR MECKLENBURG COUNTY, N. C.
SIGNED W. B. Brewer
Deputy C.S.

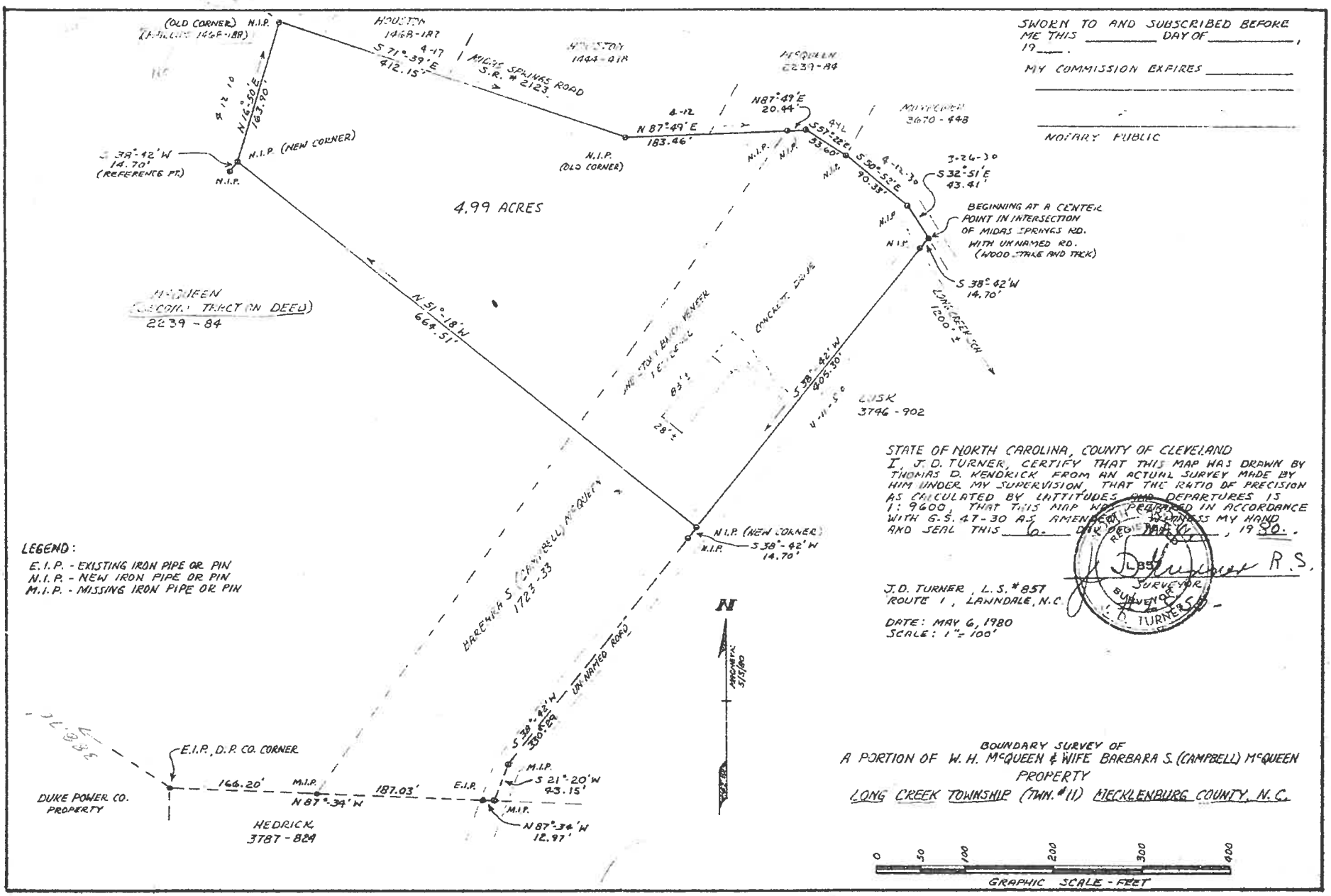


PHYSICAL SURVEY
OF
3.58 Acres

Long Creek Township CHARLOTTE, N. C. Mecklenburg County, N. C.
PROPERTY OF
J. FRANK HOUSTON

SCALE 1" = 100' DEED RECORDED MAP RECORDED

Attachment 4



SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 19___.

MY COMMISSION EXPIRES _____

_____

NOTARY PUBLIC

LEGEND:
E.I.P. - EXISTING IRON PIPE OR PIN
N.I.P. - NEW IRON PIPE OR PIN
M.I.P. - MISSING IRON PIPE OR PIN

STATE OF NORTH CAROLINA, COUNTY OF CLEVELAND

I, J. D. TURNER, CERTIFY THAT THIS MAP WAS DRAWN BY THOMAS D. KENDRICK FROM AN ACTUAL SURVEY MADE BY HIM UNDER MY SUPERVISION, THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:9600, THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY HAND AND SEAL THIS 6 DAY OF MAY, 1980.

J. D. TURNER R.S.

J.D. TURNER, L.S. #857
ROUTE 1, LAWNDALE, N.C.

DATE: MAY 6, 1980
SCALE: 1" = 100'

BOUNDARY SURVEY OF
A PORTION OF W. H. McQUEEN & WIFE BARBARA S. (CAMPBELL) McQUEEN PROPERTY
LONG CREEK TOWNSHIP (TWN. #11) MECKLENBURG COUNTY, N.C.

Attachment 5

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

RIGHT OF WAY EASEMENT

THIS EASEMENT made and entered into this 17th day of June, 1983 by and between BARBARA S. McQUEEN, JOHN J. CATUNA, JR., and JAMES F. LUSK hereinafter referred to as GRANTORS and GUY C. THOMAS, and wife MARY H. THOMAS, hereinafter referred to as GRANTEES:

WITNESSETH:

THAT WHEREAS GRANTORS are hereby seized of certain real property located in Long Creek Township, Mecklenburg County, North Carolina and whereas GRANTEES are seized of certain real property located adjacent to GRANTORS' property;

And whereas the GRANTORS and GRANTEES have come to a mutual agreement for the establishment of a Right of Way Easement;

NOW, THEREFORE, GRANTORS hereby convey to GRANTEES, their heirs, successors and assigns a perpetual easement of ingress and egress across their property located in Long Creek Township, Mecklenburg County, North Carolina, said easement being more completely described as follows:

BEGINNING at a point on the western edge of SR2123 (Midas Springs Road) in the corner common to the property of James F. Lusk and John J. Catuna, thence from said beginning point extends the center line of an existing road right of way as follows: South 34° 44' 40" West 770.11 feet to a point, thence South 5° 00' 05" East 15.00 feet to a point on the property line common to Mark R. Hedrick, Guy C. Thomas, James F. Lusk, and Barbara S. McQueen, and the end of the road right of way, as shown on map of Henry L. Parnell, R. L. S. dated May 27, 1983, to which map reference is hereby made.

The right of way herein granted to the GRANTEES shall consist of the following:

1. The right to enter and cross said existing road right of way, and on, in, and along said road to inspect, maintain and repair said road.

2. The right to clear and keep clear the said road of any hinderances to passage across said road and including the right to clear debris and rubble from said road.

3. GRANTORS reserve all other rights to said right of way not inconsistant with the rights and easements herein granted.

TO HAVE AND TO HOLD said tract or parcel of land with all privileges and appurtenances thereunto belonging for the use and purposes aforesaid, unto the GRANTEES, their heirs and assigns forever.

AND GRANTORS, for the GRANTORS and for the GRANTORS' heirs, executors, administrators, successors and assigns, covenant to and with the GRANTEES, their successors and assigns that GRANTORS are lawfully seized of the above described land in fee and have the right to convey

land is free and clear from any and all encumbrances and that the GRANTORS will forever warrant and defend the title to the said rights and easements against the lawful claims of all persons whomsoever.

This easement shall be deemed to run with the land of the GRANTORS and shall be appurtenant thereto.

IN WITNESS WHEREOF, the said GRANTORS do hereunto set their hands and seals the 17th day of June, 1983.

John J. Cattus Jr. (SEAL)

James F. Lusk (SEAL)

Barbara J. McCall (SEAL)

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

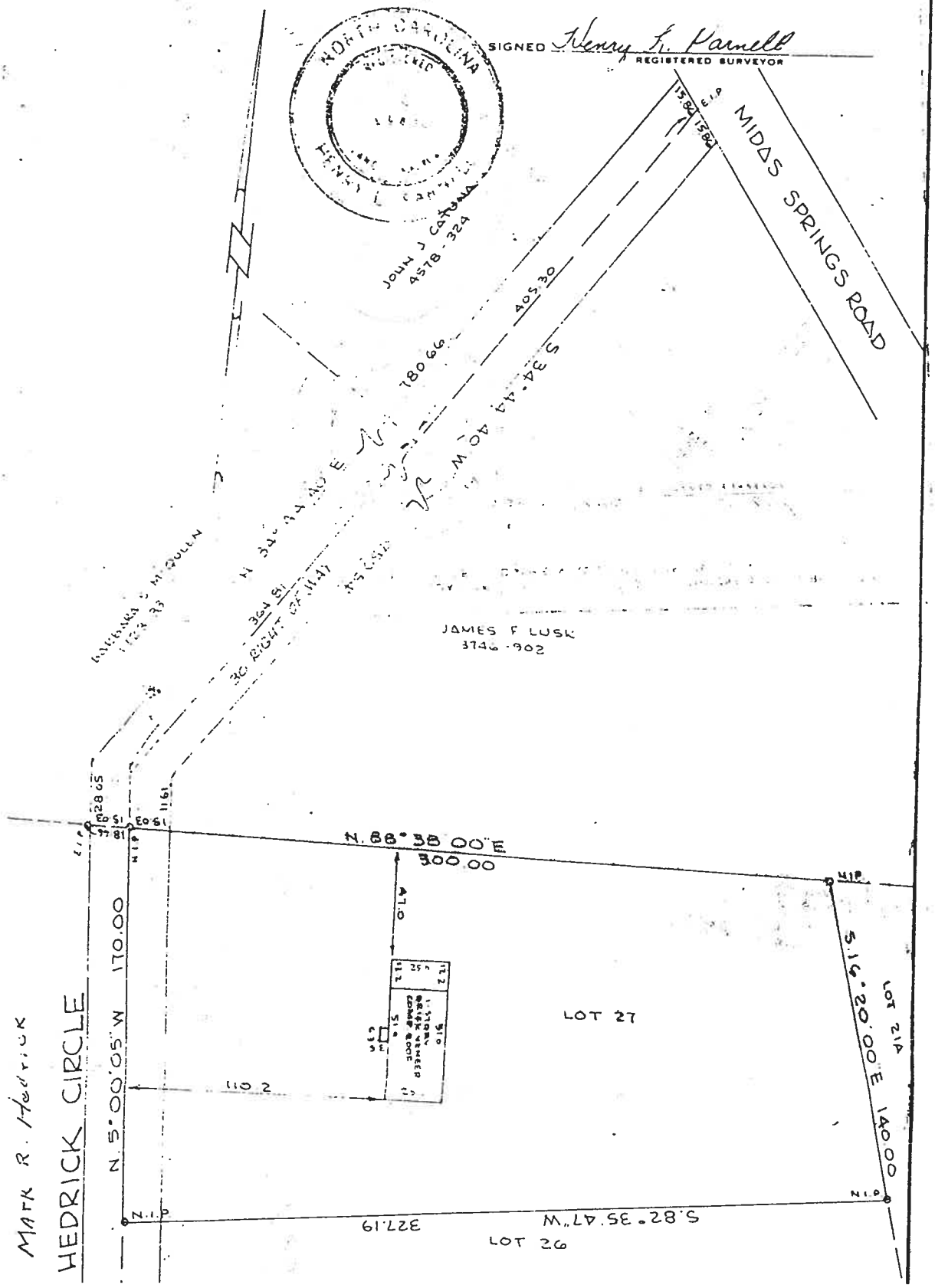
I, Ann Luckton a Notary Public for said County and State, do hereby certify that John J. Cattus Jr., James F. Lusk, Barbara J. McCall, and personally appeared before me this day, and acknowledged the due execution of the foregoing instrument. Witness my hand and notarial seal, this 17th day of June, 1983.

Ann Luckton
NOTARY PUBLIC

My Commission Expires: May 27, 1986

THIS IS TO CERTIFY THAT ON THE 27th DAY OF MAY 1983 I, SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS IF ANY ARE SHOWN HEREON

SIGNED Henry L. Parnell
REGISTERED SURVEYOR



From: Lauren Speight
Sent: Tuesday, May 25, 2021 10:47 AM
To: Terry Montgomery; Yah. reps; Brian Richards
Cc: Trainum Brian; clintgandy@mvalaw.com; Jack Simoneau
Subject: RE: Building Permit for 6960 Hedrick Circle

Good morning,

I apologize for the delay. Please see below and let us know if you have any questions!

Context: Staff received an email from Barbara Montgomery Monday, May 17, 2021 requesting a review of the email sent Sunday, May 16, 2021 detailing the history of the subject lot (6960 Hedrick Circle) with regard to Article 8.1. Staff was requested if an exception could be made for the subject property from Article 8.1 based on the information outlined in their email sent May 16, 2021.

Article 8.1 states, "Any lot on which a building (or buildings) is to be erected or use is to be established shall abut a public street 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."

As far as Staff is aware, a residential use was not legally established prior to the effective date of the Zoning Ordinance at 6960 Hedrick Circle and there is no private and exclusive recorded easement of at least 15 feet in width connecting the subject lot to a public street.

The Court Order previously referenced establishes that the right-of-way in question is for public use. The Court Order does not establish the right-of-way in question meets the standards of a public street per the Town Zoning Ordinance.

Right-of-way is defined in the Zoning Ordinance as, "...any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Huntersville or Mecklenburg County, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Huntersville; or has otherwise been established as a public street prior to the adoption of this ordinance."

A public street is defined in the Zoning Ordinance as, "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."

The below image from the NCDOT database of state-maintained road shows the section of Hedrick Circle that is maintained by NCDOT. The portion of Hedrick Circle that is maintained by NCDOT is considered a public street per the Town Zoning Ordinance. The section that is not maintained by NCDOT is un-maintained right-of-way.

From the information currently available to Staff, 6960 HEDRICK CR HUNTERSVILLE NC 28078 does not meet the minimum access requirements. Staff does not have the flexibility to administratively grant an exception to Article 8.1 for the subject property to receive zoning approval for a building permit.

Options for the subject property to be eligible to receive zoning approval for building permit include:

- Request a variance from the Board of Adjustment
- Appeal Staff's zoning determination to the Board of Adjustment
- Propose a text amendment to Article 8.1 regarding the street frontage requirement

Respectfully,

Lauren Speight, CZO
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

Town of Huntersville
NORTH CAROLINA

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: Terry Montgomery <tmontgomery922@yahoo.com>
Sent: Monday, May 17, 2021 12:47 PM
To: Lauren Speight <lspeight@huntersville.org>; Yah. reps <montgomerybc@yahoo.com>; Brian Richards <brichards@huntersville.org>
Cc: Trainum Brian <brian.trainum@cbcarolinas.com>; clintgandy@mvalaw.com
Subject: Re: Building Permit for 6960 Hedrick Circle

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,

The purpose of the email was to provide the history of our efforts to obtain adequate and legal access to our property in order to qualify for a Building Permit. I am requesting review of our property meeting the requirements for an exception without automatically jumping to a Variance. In the email I explain the reasons for getting the right of way order from Superior Court, why this meets or exceeds the requirements for an exception, and why it was necessary and in the best interests of the neighborhood. I am requesting review at a level within the Planning Department where discretion, judgement and common sense can be exercised. I would expect this to take several days since I request full and thorough consideration of my request for an exception. We believe we have made the case for why we meet the exception requirements.

Terry Montgomery

Sent from Yahoo Mail for iPad

On Monday, May 17, 2021, 8:59 AM, Lauren Speight <lspeight@huntersville.org> wrote:

> Good morning,
>
> If you would not like to submit a variance, Staff will evaluate and provide a response. This may take several days, but we will follow up as soon as possible.
>
> Thank you!

Lauren Speight, CZO

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: Yah.reps <montgomerybc@yahoo.com>
Sent: Sunday, May 16, 2021 12:36 PM
To: Lauren Speight <lspeight@huntersville.org>; Brian Richards <brichards@huntersville.org>
Cc: Trainum Brian <brian.trainum@cbcarolinas.com>; clintgandy@mvalaw.com; Terry Montgomery <tmontgomery922@yahoo.com>
Subject: Building Permit for 6960 Hedrick Circle

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.

Ms. Speight,

Thank you for your quick response. You state that Staff established that access could be achieved, though difficult. I would like to make the

process as simple and straight forward a possible. There is some history associated with Parcels 02306231 and 02306232 that I would like to provide that impacts the decision of whether a Variance is necessary. I would appreciate the appropriate Planning Department personnel reviewing the information presented below very carefully.

In 1954 and 1961 my mother and stepfather purchased property that constitutes the current Parcels 02306231, 02306232, 02306251 and 02305204. In 1980, the house and approximately 5 acres that constitutes Parcel 02306251 was sold. In December 2020, Parcel 02305204 was sold. I am left with Parcels 02306231 and 02306232 which I am selling together. The logical access is along Hedrick Circle Road via parcel 02306231. Parcel 02306232 abuts the non-maintained portion of Midas Springs Road and, although the Leach Variance application was approved, obtaining access via Midas Springs Road would be very difficult and not something I wish to pursue given the Estrada situation.

The Mecklenburg County Superior Court Order 17-SP-001238 dedicated the approximately 800 feet of road that runs from Midas Springs Road to the Sunrise Acres platted subdivision road as a 30' right of way for public use. Also, together the right of way and subdivision road create a single connection from Beatties Ford Road to Midas Springs Road referred to as Hedrick Circle Road. With the exception of a short portion adjacent to Long Creek Elementary School, Hedrick Circle Road is maintained by the residents abutting the road. It does not meet the definition in Article 12 as a public street. It is also not within the limits of the Town of Huntersville. The residents that I have spoken with are not interested in either the Town of Huntersville or NCDOT assuming maintenance since this would result in more traffic travelling at higher speeds. The residents wish to maintain the current character of the neighborhood.

I became aware of the right of way issue for Parcel 02306231 in 2016 when I attempted to sell it and Parcel 02306232. Meredith Miller of the Planning Department informed me that I did not have legal right to use the 800' of road to access Midas Springs Road. In 1983, my mother, Stepfather and others had granted a 30' right of way to Parcel 02306314, then Thomas, now Ingram (the same as the right of way designated later by the Superior Court Order). I have a copy of the Right of Way Agreement and accompanying survey. Only Parcel 02306314 was provided legal access.

I contacted the neighbors to get access to this right of way for my property and realized this would be difficult due to one neighbor who was evasive and uncooperative. I contacted an attorney and filed legal action to get a 15' easement to Midas Springs Road via Parcel 02306251. If successful, this would result in a 15' easement alongside a 30'right of way which

doesn't make sense. Also, it was concluded that it did not solve the problem for the other neighbors on Hedrick Circle Road who used this section of road to access Midas Springs Road.

One of the neighbors discovered North Carolina Statute 136-96.1 which fit our situation exactly. The statute provides for declaration of a right of way for public use if 1) The landowners of tracts constituting two-thirds of the road frontage of the land abutting the right of way in question join in the action, 2) The right of way is depicted on an unrecorded map, plat, or survey, 3) The right of way has been actually open and used by the public, and, 4) Recorded deeds for at least three separate parcels abutting the right of way recite the existence of the right of way as a named street or road. That these criteria were met is evidenced and discussed in the Superior Court Order. The right of way dedicated by the Superior Court Order is identical to the right of way established in 1983. In fact, Mr. Ingram, the current owner of Parcel 02306314 joined in our legal action. The declaration of the right of way maintained the access and character of the neighborhood as it had been for over 60 years.

Article 8.1 includes an exception stating "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 of lot projection.

The intent of the requirement for a 15' wide private and exclusive recorded easement appears primarily to be to ensure access to the lot by emergency equipment. The requirements do not anticipate the situation where a lot abuts a public right of way. The Superior Court Order, Paragraph 4 in the Conclusions of Law section states that residents on the south end of Hedrick Circle Road have chosen to use the right of way segment at issue for ingress and egress to their properties and that guests, garbage collectors, delivery people, service providers and mail collectors traverse the segment routinely. Our use of the statute to establish the 30' right of way in lieu of a 15'easement was intentional in that it served the best interests of the affected property owners and should not preclude our ability to obtain relief under Article 8.1. The 30' right of way is double the 15' requirement. A Superior Court Order declaring a public right of way is as binding as a private and exclusive recorded easement or fee simple projection. The use of the right of way for over 60 years demonstrates its viability.

The ordnance contains exceptions to address unusual situations in a timely and efficient manner. I have explained the actions taken were to maintain the character of the neighborhood. My conclusion is that this meets or exceeds the spirit and intent of the criteria for getting an exception and no Variance would be necessary.

Barbara Montgomery

From: Lauren Speight
Sent: Tuesday, May 4, 2021 4:23 PM
To: Barbara Montgomery; Brian Richards
Cc: clintgandy@mvalaw.com; Trainum, Brian; Terry Montgomery
Subject: RE: Building Permit for 6960 Hedrick Circle

Good afternoon,

Sierra Saumenig is no longer with the Planning Department, but I recall this meeting actually have my research with Sierra and the Town Attorney at the time regarding these lots. The determination was the Superior Court ruling established the drive through the lots was for public use, unless I am mistaken. A drive/road for public use is not the same as recorded public right of way under the maintenance of Town/City/State.

6960 HEDRICK CR HUNTERSVILLE NC 28078 abuts Hedrick Circle, but it is not connected to the maintained portion of Hedrick Circle. A public street is defined by the Town Ordinance as indicated below. At the time, Staff established that access could be achieved for the lots, though difficult. Staff were told it would be up to any future buyer to go through the Town processes to achieve legal access for both lots. Staff did not guarantee zoning approval for any building permits based on existing conditions. As a practice Staff does not guarantee zoning approval for building permits until the permits are submitted with all required documents.

And, as shown in the map from NCDOT, the pink line indicates the section of road that is accepted for maintenance by NCDOT.

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 is happy to set up a time to further discuss this if you have any questions!

Lauren Speight, CZO
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: Barbara Montgomery <montgomerybc@yahoo.com>
Sent: Tuesday, May 4, 2021 4:06 PM
To: Lauren Speight <lspeight@huntersville.org>; Sierra Saumenig <ssaumenig@huntersville.org>; Brian Richards <brichards@huntersville.org>
Cc: clintgandy@mvalaw.com; Trainum, Brian <brian.trainum@cbcarolinas.com>; Terry Montgomery <tmontgomery922@yahoo.com>
Subject: Building Permit for 6960 Hedrick Circle

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.

Ms. Speight,

My name is Barbara C. Montgomery and I am the Personal Representative of my mother's estate. The estate includes parcels 02306231 and 32. The address is 6960 Hedrick Circle. My husband, Terry Montgomery and I met with you, Sierra Saumenig and Brian Richards of the Huntersville Planning Department on March 2, 2020 regarding these parcels. We had previously provided Superior Court Ruling 17-SP-001238 dated December 19, 2019. We were informed at this meeting that the Town of Huntersville would willingly grant a building permit for each of these lots. The decision was clear and unanimous from you and the other two representatives addressed on this email from the town's Planning Department.

I currently have a contract with a buyer, Clint Gandy, who wants to be assured that he can obtain a building permit to construct a house on these lots. Mr. Gandy has been in communication with you and is being given information that conflicts with what the Town of Huntersville provided us at the March 2, 2020 meeting. We have a closing date of May 20, 2021 and need to resolve this in a timely manner.

The Superior Court Order concerns approximately 800 feet of road that runs from the Sunrise Acres subdivision to Midas Springs Road. The court order clarifies that this section of road is dedicated for public use and also means Hedrick Circle is one public road from Beatties Ford Road to its intersection with Midas Springs Road (State Road #2123). Parcel 02306231 abuts this road and right of way for approximately 400 feet. As a result of this court ruling, Hedrick Circle Road, a public road, runs from Beatties Ford Road to its intersection with Midas Springs Road. As a result, Parcel 02306231 has access to Beatties Ford Road via Hedrick Circle Road and Midas Springs Road in one direction or via Hedrick Circle Road through Sunrise Acres in the opposite direction. At least five residences use the right of way designated by the Superior Court Order to access Midas Springs Road on a daily basis. The United States Postal Service, trash services, emergency vehicles and parcel delivery services utilize the right of way to access residences. Parcel 02306231 is approximately 400 feet from Midas Springs Road, a state maintained road. There are residences on both sides of Parcel 02306231 which use this right of way.

Based on the facts presented above, which are facts validated by an order from the Mecklenburg County Superior Court, the Town of Huntersville Planning Department is requested to honor its commitment to my husband and myself and agree to provide Mr. Gandy with a building permit.

Thank you for your cooperation,
Barbara Montgomery

Sent from Mail for Windows 10

LIST OF Heirs of Barbara Simpson McQueen

Barbara Campbell Montgomery

David Lawrence Campbell

Cori Campbell O'Rourke

Tate Durant Campbell

Jordan Ross Campbell

Lorin Campbell White

Michael William Campbell

John Campbell

Melissa Woolery

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:696-699
FEE:$26.00
INSTRUMENT # 2018001693
TAYLORD

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **David L. Campbell and wife Kathy Campbell,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

4

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 27th day of November, 2017.

David L Campbell (SEAL)
David L. Campbell

Kathy Campbell (SEAL)
Kathy Campbell

STATE OF South Carolina
COUNTY OF Horry

On this 27th day of November, 2017, personally appeared before me the said named **David L. Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 27th day of November, 2017.

Notary Public

My commission expires:
12/15/21

Clark Crist
Commission Expires
Notary
Public
12-15-2021
State of South Carolina

STATE OF South Carolina
COUNTY OF Horry

On this 27th day of November, 2017, personally appeared before me the said named **Kathy Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 27 day of November, 2017.

Notary Public

My commission expires:
12/15/21

Clark Crist
Commission Expires
Notary Public
12-15-2021
State of South Carolina

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

BEING ALL THAT CERTAIN PROPERTY LYING IN MECKLENBURG COUNTY, NORTH CAROLINA OWNED BY BARBARA CAMPBELL MCQUEEN AT THE TIME OF HER DEATH. SAID TRACTS SPECIFICALLY INCLUDING THE FOLLOWING PARCELS OF LAND:

TRACT 1 (3.58 acres +/-, Deed Book 1723, Page 33): Beginning at a point, said point being the intersection of the center line of the Midas Springs Road and Hedrick Circle Road, and running thence with the center line of the said Hedrick Circle Road S. 34-30-10 W. passing an iron 764.99 feet to a point in the center of said road; thence continuing with the center of said Hedrick Circle Road S. 17-06-10 W. 43.15 feet to a point in the center of the said road in the line of M. L. Hedrick; running thence with Hedrick's Line S. 88-14-10 W. passing an iron, 200 feet to an iron in Hedrick's line J. Frank Houston's corner; thence with J. Frank Houston's line N. 31-15-20 E. 922.06 feet, passing an iron, to a point in the center of the Midas Springs Road; thence with the center line of the said Midas Springs Road 4 calls as follows: (1) N 83-37 E. 20.44 feet to a point; (2) S. 61-34 E. 53.60 feet to a point; (3) S. 55-04-30 E. 90.33 feet to a point; (4) S. 36-17-30 E. 44 feet to the Beginning, containing 3.58 acres, all as shown on survey of M. B. Seaver, Deputy County Surveyor, dated November 30, 1954.

TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:711-714
FEE:$26.00
INSTRUMENT # 2018001697

TAYLORD

2018001697

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **Cori C. O'Rourke and spouse Liam O'Rourke,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 11th day of November, 2017.

December

_____(SEAL)
Cori C. O'Rourke

_____(SEAL)
Liam O'Rourke

STATE OF Massachusetts
COUNTY OF Worcester

December Inc

On this 12th day of ~~November~~, 2017, personally appeared before me the said named **Cori C. O'Rourke**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

December Inc

WITNESS MY HAND AND NOTARIAL SEAL, this the 12th day of ~~November,~~ 2017.

_____
Notary Public

My commission expires: March 9, 2018

JILL M. CODERRE NOTARY PUBLIC COMMONWEALTH OF MASSACHUSETTS MY COMMISSION EXPIRES MAR. 9, 2018

STATE OF Massachusetts
COUNTY OF Worcester

On this 12th day of ~~November,~~ December 2017, personally appeared before me the said named **Liam O'Rourke**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 12 day of ~~November~~ December, 2017.

Julie M. Coderre
Notary Public

My commission expires:
March 9, 2018

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

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TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:700-702
FEE:$26.00
INSTRUMENT # 2018001694

TAYLORD

2018001694

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that I, **Tate Campbell (unmarried),** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, my true and lawful attorney-in-fact, for me and in my name, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to my attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all my right, title and interest in the Property (including inchoate and marital rights), as I am giving and granting unto my said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as I might or could do with regard to the Property; and I hereby ratify and confirm all that my said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

I further specifically authorize my attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in my name as Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings,

judicial or administrative, including special proceedings, that relate in any way to the Property or require my involvement by virtue of my ownership interest in the Property. This specifically includes the power to petition on my behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq.*

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 16th day of December, 2017.

(SEAL)
Tate Campbell

STATE OF Mass
COUNTY OF Worcester

On this 16th day of December, 2017, personally appeared before me the said named MA DL was presented **Tate Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and ~~she~~ he acknowledged that ~~she~~ he executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 16th day of ~~November~~ December, 2017.

Notary Public

My commission expires:

May 28, 2021

MONIKA JOSHI
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
May 28, 2021

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

BEING ALL THAT CERTAIN PROPERTY LYING IN MECKLENBURG COUNTY, NORTH CAROLINA OWNED BY BARBARA CAMPBELL MCQUEEN AT THE TIME OF HER DEATH. SAID TRACTS SPECIFICALLY INCLUDING THE FOLLOWING PARCELS OF LAND:

TRACT 1 (3.58 acres +/-, Deed Book 1723, Page 33): Beginning at a point, said point being the intersection of the center line of the Midas Springs Road and Hedrick Circle Road, and running thence with the center line of the said Hedrick Circle Road S. 34-30-10 W. passing an iron 764.99 feet to a point in the center of said road; thence continuing with the center of said Hedrick Circle Road S. 17-06-10 W. 43.15 feet to a point in the center of the said road in the line of M. L. Hedrick; running thence with Hedrick's Line S. 88-14-10 W. passing an iron, 200 feet to an iron in Hedrick's line J. Frank Houston's corner; thence with J. Frank Houston's line N. 31-15-20 E. 922.06 feet, passing an iron, to a point in the center of the Midas Springs Road; thence with the center line of the said Midas Springs Road 4 calls as follows: (1) N 83-37 E. 20.44 feet to a point; (2) S. 61-34 E. 53.60 feet to a point; (3) S. 55-04-30 E. 90.33 feet to a point; (4) S. 36-17-30 E. 44 feet to the Beginning, containing 3.58 acres, all as shown on survey of M. B. Seaver, Deputy County Surveyor, dated November 30, 1954.

TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:707-710
FEE:$26.00
INSTRUMENT # 2018001696
TAYLORD

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **Jordan Campbell and spouse Janiel Campbell,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 14 day of ~~November~~ December, 2017.

Jordan Campbell (SEAL)

~~Janele~~ Janiel Campbell (SEAL)

STATE OF Virginia
COUNTY OF Prince William

On this 14th day of ~~November~~ December, 2017, personally appeared before me the said named **Jordan Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 14th day of ~~November~~ December, 2017.

Notary Public

SARA MICHELLE MULLINS
COMMONWEALTH OF VIRGINIA
REGISTRATION NO. 7681343
MY COMM. EXPIRES: 03/31/2020
NOTARY PUBLIC

My commission expires:
03/31/2020

STATE OF Virginia
COUNTY OF Prince William

Janiel On this 13th day of ~~November,~~ December 2017, personally appeared before me the said named ~~Janele~~ **Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 13th day of ~~November,~~ December 2017.

Notary Public

My commission expires:
03/31/2020

Rubab Fatema Raza
Commonwealth of Virginia
Notary Public
Commission No. 7703677
My Commission Expires 3/31/2020

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

BEING ALL THAT CERTAIN PROPERTY LYING IN MECKLENBURG COUNTY, NORTH CAROLINA OWNED BY BARBARA CAMPBELL MCQUEEN AT THE TIME OF HER DEATH. SAID TRACTS SPECIFICALLY INCLUDING THE FOLLOWING PARCELS OF LAND:

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ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:715-718
FEE:$26.00
INSTRUMENT # 2018001698
TAYLORD

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **Lorin C. White and spouse Elbert White,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 2 day of ~~November,~~ December 2017.

_____(SEAL)
Lorin C. White

_____(SEAL)
Elbert White

STATE OF Maine
COUNTY OF Androscoggin

On this 2 day of ~~November~~ December, 2017, personally appeared before me the said named **Lorin C. White**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 2 day of ~~November~~ December, 2017.

_____
Notary Public

My commission expires:

_____

WILLIAM H. JONES
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES
DECEMBER 22, 2023

STATE OF Maine
COUNTY OF Cumberland

On this 2 day of ~~November~~ December, 2017, personally appeared before me the said named **Elbert White**, to me known and known to me to be the person described in and who executed the foregoing instrument and ~~she~~ he acknowledged that ~~she~~ he executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 2 day of ~~November~~ December, 2017.

Notary Public

My commission expires:

~~WILLIAM H. JONES~~
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES
DECEMBER 22, 2023

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

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ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:719-721
FEE:$26.00
INSTRUMENT # 2018001699

TAYLORD

2018001699

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that I, **Michael W. Campbell (unmarried),** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, my true and lawful attorney-in-fact, for me and in my name, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to my attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all my right, title and interest in the Property (including inchoate and marital rights), as I am giving and granting unto my said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as I might or could do with regard to the Property; and I hereby ratify and confirm all that my said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

I further specifically authorize my attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in my name as Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings,

judicial or administrative, including special proceedings, that relate in any way to the Property or require my involvement by virtue of my ownership interest in the Property. This specifically includes the power to petition on my behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 28 day of November, 2017.

(SEAL)
Michael W. Campbell

STATE OF South Carolina
COUNTY OF York

On this 28 day of November, 2017, personally appeared before me the said named **Michael W. Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 28 day of November, 2017.

Notary Public

My commission expires:

My Commission Expires January 17, 2023

ANGIE FOLSON NOTARY PUBLIC SOUTH CAROLINA

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

BEING ALL THAT CERTAIN PROPERTY LYING IN MECKLENBURG COUNTY, NORTH CAROLINA OWNED BY BARBARA CAMPBELL MCQUEEN AT THE TIME OF HER DEATH. SAID TRACTS SPECIFICALLY INCLUDING THE FOLLOWING PARCELS OF LAND:

TRACT 1 (3.58 acres +/-, Deed Book 1723, Page 33): Beginning at a point, said point being the intersection of the center line of the Midas Springs Road and Hedrick Circle Road, and running thence with the center line of the said Hedrick Circle Road S. 34-30-10 W. passing an iron 764.99 feet to a point in the center of said road; thence continuing with the center of said Hedrick Circle Road S. 17-06-10 W. 43.15 feet to a point in the center of the said road in the line of M. L. Hedrick; running thence with Hedrick's Line S. 88-14-10 W. passing an iron, 200 feet to an iron in Hedrick's line J. Frank Houston's corner; thence with J. Frank Houston's line N. 31-15-20 E. 922.06 feet, passing an iron, to a point in the center of the Midas Springs Road; thence with the center line of the said Midas Springs Road 4 calls as follows: (1) N 83-37 E. 20.44 feet to a point; (2) S. 61-34 E. 53.60 feet to a point; (3) S. 55-04-30 E. 90.33 feet to a point; (4) S. 36-17-30 E. 44 feet to the Beginning, containing 3.58 acres, all as shown on survey of M. B. Seaver, Deputy County Surveyor, dated November 30, 1954.

TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

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ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

For Registration Fredrick Smith
Register of Deeds
Mecklenburg County, NC
Electronically Recorded
2018 Jan 03 10:14 AM RE Excise Tax: $ 0.00
Book: 32383 Page: 419 Fee: $ 26.00
Instrument Number: 2018000547

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that I, **John Campbell (unmarried),** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, my true and lawful attorney-in-fact, for me and in my name, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to my attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all my right, title and interest in the Property (including inchoate and marital rights), as I am giving and granting unto my said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as I might or could do with regard to the Property; and I hereby ratify and confirm all that my said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

I further specifically authorize my attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in my name as Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings,

Submitted electronically by "Jones, Childers, Donaldson & Webb, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Mecklenburg County Register of Deeds.

judicial or administrative, including special proceedings, that relate in any way to the Property or require my involvement by virtue of my ownership interest in the Property. This specifically includes the power to petition on my behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq*.

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 25 day of November, 2017.

John Campbell (SEAL)
John Campbell

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

On this 25th day of November, 2017, personally appeared before me the said named **John Campbell**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 25th day of November, 2017.

Sandra F. Bayron
Notary Public

My commission expires:
4/4/2022

SANDRA F. BAYRON
Notary Public, State of South Carolina
My Commission Expires 4/4/2022

EXHIBIT A

LEGAL DESCRIPTION OF MCQUEEN TRACTS

BEING ALL THAT CERTAIN PROPERTY LYING IN MECKLENBURG COUNTY, NORTH CAROLINA OWNED BY BARBARA CAMPBELL MCQUEEN AT THE TIME OF HER DEATH. SAID TRACTS SPECIFICALLY INCLUDING THE FOLLOWING PARCELS OF LAND:

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FOR REGISTRATION
Fredrick Smith
REGISTER OF DEEDS
Mecklenburg County, NC
2018 JAN 05 01:00:31 PM
BK:32388 PG:703-706
FEE:$26.00
INSTRUMENT # 2018001695

TAYLORD

2018001695

Prepared by and return to:
Alan W. Guffy
Jones, Childers, Donaldson & Webb, PLLC
P. O. Box 3010
Mooresville, NC 28117

STATE OF NORTH CAROLINA

LIMITED POWER OF ATTORNEY

COUNTY OF MECKLENBURG

KNOW ALL MEN BY THESE PRESENTS that we, **Melissa C. Woolery and spouse Joey Woolery,** have made, constituted and appointed and by these presents, do make, constitute and appoint **Barbara C. Montgomery,** legal resident of the State of South Carolina, our true and lawful attorney-in-fact, for us and in our names, places and stead to do all things necessary to litigate the rights of, and sell, the following described real property ("Property") located in Mecklenburg County, North Carolina:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

The powers granted herewith to our attorney-in-fact with regard to the sale of the said Property shall include, but not be limited to, the following: the negotiation, completion and execution of any and all documents to accomplish the sale, including contracts of sale, deeds, escrow instructions, receipts, deeds, closing statements, certifications, affidavits, lien waivers, receiving and depositing of the proceeds of sale; releasing and conveying of all our right, title and interest in the Property (including inchoate and marital rights), as we are giving and granting unto our said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever requisite, necessary and proper to be done in and about the premises, as fully, to all intents and purposes, as we might or could do with regard to the Property; and we hereby ratify and confirm all that our said attorney-in-fact shall, in her sole discretion, do, or cause to be done, by virtue hereof.

We further specifically authorize our attorney-in-fact to cause to be commenced, prosecuted, defended, appealed, compromised, settled, arbitrated, or discontinued in our names as

Plaintiff or Defendant, Petitioner or Respondent, as the case may be, any legal or equitable proceedings, judicial or administrative, including special proceedings, that relate in any way to the Property or require our involvement by virtue of our ownership interest in the Property. This specifically includes the power to petition on our behalf under N.C.G.S. § 136-96.1 to declare a right-of-way dedicated to public use.

This Power of Attorney is durable and continuing in nature and shall not be affected by the disability of the principal and is executed pursuant to the provisions of North Carolina General Statute 32A-8, *et seq.*

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the 28 day of November, 2017.

_____(SEAL)
Melissa C. Woolery

_____(SEAL)
Joey Woolery

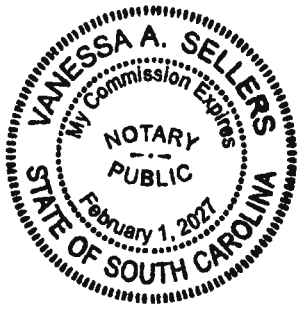
STATE OF South Carolina
COUNTY OF York

On this 28th day of November, 2017, personally appeared before me the said named **Melissa C. Woolery**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 28th day of November, 2017.

_____
Notary Public

My commission expires:
1/27/2027



STATE OF South Carolina
COUNTY OF York

On this 28th day of November, 2017, personally appeared before me the said named **Joey Woolery**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledged that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

WITNESS MY HAND AND NOTARIAL SEAL, this the 28th day of November, 2017.

Vanessa A. Sellers
Notary Public

My commission expires:
1/27/2027

VANESSA A. SELLERS
My Commission Expires
NOTARY PUBLIC
February 1, 2027
STATE OF SOUTH CAROLINA

EXHIBIT A

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TRACT 2 (1.97 acres +/-, Deed Book 2239, Page 84): 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 County 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.

TRACT 3 (12.61 acres, +/-, Deed Book 2239, Page 84): 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. 338.70 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.

ALL TRACTS BEING LESS AND EXCEPT that portion of the aforementioned Tracts conveyed to John J. Cattuna and De Leslie Smith by Deed Book 4303, Page 597 of the Mecklenburg County Registry, said portion being described as follows: BEGINNING as a point, said point being the intersection of the center line of Midas Springs Road and Hedrick Circle Road, and running thence with the center line of Hedrick Circle Road S 38-42 W (passing a N.I.P. at 14.70 feet) a distance of 420.00 feet to a N.I.P. (new corner); thence a new line, N 51-18 W 664.51 feet to a N.I.P. (new corner); thence N 16-50 E 153.90 feet to a N.I.P. (old corner) in the center of Midas Springs Road; thence with the center of Midas Springs Road six calls: (1) S 71-39 E 412.15 feet; (2) N 87-49 E 183.46 feet to a N.I.P., (3) N 87-49 E 20.44 feet to a N.I.P., (4) S 57-22 E 53.60 feet to a N.I.P., (5) S 50-52 E 90.33 feet to a N.I.P., and (6) S 32.51 E 43.41 feet to the point of Beginning; being shown on plat of boundary survey of a portion of the W. H. McQueen & wife Barbara S. (Campbell) McQueen Property in Long Creek Township (Twn #11) Mecklenburg County, N.C. by J. D. Turner, L.S. #857 Route 1, Lawndale, N.C., dated May 6, 1980; and according to said plat, containing 4.99 acres.

Exhibit 5 – Length from Midas Springs Toad to Subject Lot (Approximate via Polaris 3G)

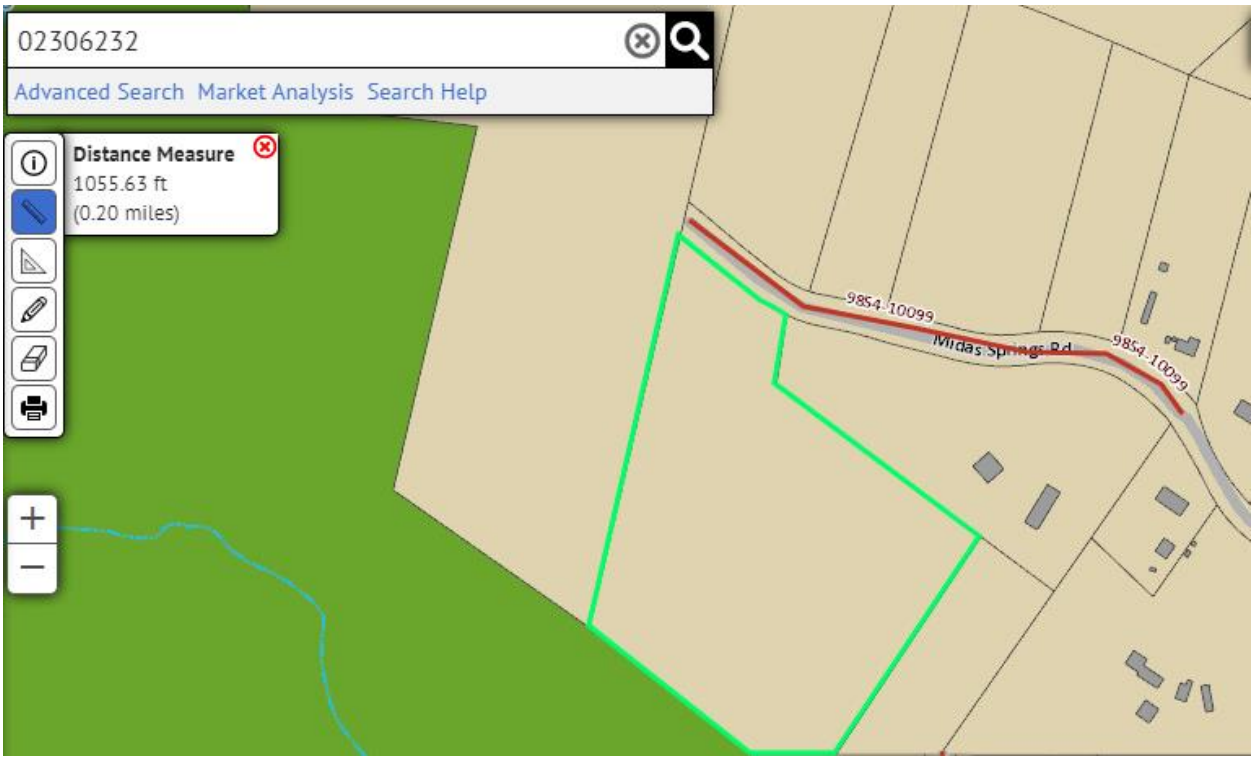
02306232
Advanced Search
Market Analysis
Search Help
Distance Measure
1055.63 ft
(0.20 miles)
9854-10099
Midas Springs Rd
9854-10099

Exhibit 6 – Frontage of 6512 Robert Street, Huntersville, NC 28078 - Biltmore Park

6512 Robert Street, Huntersville, NC 28078

Exhibit 7 – Unbuilt Road Analysis Map by Planning Department

Powell Bill

- NCDOT
- Huntersville
- Huntersville Gravel
- Alley; Private Party
- Developer/Unknown

Properties Abutting Unknown Streets

34	Mecklenburg County Vacant Property on Unbuilt Public Street
8	Vacant on Apparent ROW
298	Vacant on Unbuilt Public Street

* Vacant Properties on Unbuilt Streets are recorded through a platted Right of Way

* Vacant Properties on Built or Unbuilt Apparent Right of Way are roads that are not platted or recorded for maitenance by NCDOT or the Town of Huntersville

Exhibit 8 – Correspondence with Randy Frazier, Mecklenburg County Fire Marshal

Lauren Speight

From: Lauren Speight
Sent: Wednesday, June 16, 2021 9:24 AM
To: Barbara Montgomery
Cc: Brian Richards; Frazier, Randy D.
Subject: RE: V 21-03 and V 21-04

Good morning,

Thank you! I have also clarified with Randy Frazier this morning. Please follow up if you have any questions!

- If the two lots were to be recombined to one lot for one home on one lot, no improvements would be required by the Fire Marshal's Office.
- For Parcel 02306231, the Fire Marshal's Office is not requiring any improvements. Though the current access does not meet Zoning Ordinance requirements for access, the current conditions meet the Fire Marshal Office's requirements for emergency access.
- For Parcel 02306232
    - As the lot is currently situated with the frontage off of the unmaintained apparent right of way of Midas Springs Road, improvements would be required by the Fire Marshal's Office for access to the lot.
    - **If this lot and Parcel 02306231 were to be recombined** such that the primary access for Parcel 02306232 is from the public drive that connects Midas Springs and Hedrick Circle, the Fire Marshal's Office would not require improvements.

Randy, if I missed anything please let me know!

Thank you everyone!

Lauren Speight, CZO
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: Barbara Montgomery <montgomerybc@yahoo.com>
Sent: Wednesday, June 16, 2021 8:45 AM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Brian Richards <brichards@huntersville.org>
Subject: RE: V 21-03 and V 21-04

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Good Morning,

I spoke personally with Randy Frazier with the Mecklenburg County Fire Marshall's office this morning. He is familiar with the area and confirmed that the roads are graveled and sufficiently compacted to support a fire truck and meet the minimum fire safety requirements for emergency access. No improvements are necessary. He also stated he had conveyed similar information to you.

As per our conversation yesterday, access to the parcels 02306231 and 02306232 will be via the new public right of way and parcel 02306231.

Barbara Montgomery

Sent from Mail for Windows 10

From: Lauren Speight
Sent: Tuesday, June 15, 2021 4:00 PM
To: Yah.reps
Cc: Brian Richards
Subject: RE: V 21-03 and V 21-04

Good afternoon,

Thank you for meeting with us today!

Below are the safety requirements per the Fire Marshal's Office for emergency access. Of course, as we talked about, if the intent is for both lots to have access from the public drive that connects Midas Springs and Hedrick Circle then that drive is the only one that would need to be evaluated.

- 16 ft wide gravel road capable to support an 80,000 LB fire apparatus
- For Parcel 02306232 the unmaintained frontage of Midas Springs Road would need to be maintained in as the existing gravel portion of Midas Springs Road that begins before the intersection of Alton Street and Midas Springs Road to 9730 MIDAS SPRINGS RD HUNTERSVILLE NC 28078.
- The gravel road serving parcel 02306231 must be maintained as the existing gravel portion of Hedrick Circle that begins after Long Creek Elementary for approximately 100 ft.
- The gravel road must remain clear of debris and obstructions and provide free access for the fire department
- The gravel road must provide 13ft 6 in of clearance from overhead obstructions
- Jeff Tracey (980-314-3078) or Randy Frazier (980-314-3073) with the Mecklenburg County Fire Marshall's office shall be contacted to certify gravel road meets minimum fire safety requirements for access.

Please let me know if you have any questions!

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

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From: Lauren Speight
Sent: Friday, June 11, 2021 12:39 PM
To: Yah.reps <montgomerybc@yahoo.com>
Cc: Brian Richards <brichards@huntersville.org>
Subject: RE: V 21-03 and V 21-04

Good afternoon,

Perfect! I will send a virtual meeting invitation this afternoon.

Lauren Speight, CZO
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: Yah.reps <montgomerybc@yahoo.com>
Sent: Friday, June 11, 2021 11:49 AM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Brian Richards <brichards@huntersville.org>
Subject: Re: V 21-03 and V 21-04

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Tuesday, June 15th at 2:00 pm will work for us.

Sent from Yahoo Mail for iPhone

On Friday, June 11, 2021, 11:45 AM, Lauren Speight <lspeight@huntersville.org> wrote:

Good morning,

We are available:

Monday 6/14 at 2pm

Tuesday 6/15 at 2pm

Wednesday 6/16 at 9am

Lauren Speight, CZO

Planner I | Town of Huntersville

105 Gilead Road | Third Floor

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Web: www.huntersville.org

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From: Yah.reps <montgomerybc@yahoo.com>
Sent: Thursday, June 10, 2021 2:20 PM
To: Lauren Speight <lspeight@huntersville.org>

Cc: Brian Richards <brichards@huntersville.org>
Subject: Re: V 21-03 and V 21-04

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Good Afternoon,

We would be available on Monday or Tuesday morning. Would 9:00 am work for you?

Sent from Yahoo Mail for iPhone

On Thursday, June 10, 2021, 1:54 PM, Lauren Speight <lspeight@huntersville.org> wrote:

> Good afternoon,
>
> Thank you for explaining. We would like to schedule a time next week to go over the staff analysis so far if you are available. If so, may you send us some times that work best for you?
>
> Thank you!
>
> Lauren Speight, CZO
>
> Planner I | Town of Huntersville
>
> 105 Gilead Road | Third Floor
>
> P.O. Box 664 | Huntersville, North Carolina 28070
>
> PH: 704-766-2254 | FX: 704-992-5528
>
> Email: lspeight@huntersville.org
>
> Web: www.huntersville.org

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From: Barbara Montgomery <montgomerybc@yahoo.com>
Sent: Wednesday, June 9, 2021 5:37 PM
To: Lauren Speight <lspeight@huntersville.org>
Subject: RE: V 21-03 and V 21-04

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Good Afternoon,

We have always thought of these two lots as one because we are aware Parcel #02306232 would be land locked if it were not sold with Parcel #02306231. This is why we included both parcels in our initial Variance request. Our contracted buyer is proposing to build one single family home on the property. It is possible his house would straddle both parcels. However, should this contract fall through it is possible that someone may wish to build a house on each lot, making sure they retain access to Hedrick Circle over Parcel #02306231. We would like to retain this option if possible, however we do not want to do anything that would jeopardize our ability to obtain variances necessary to build one single family home.

Your guidance is appreciated,

Barbara Montgomery

Sent from Mail for Windows 10

From: Lauren Speight
Sent: Wednesday, June 9, 2021 4:24 PM
To: Barbara Montgomery
Subject: V 21-03 and V 21-04

Good afternoon,

I am completing the first draft of the staff report for these two variance applications and want to be sure I understand the proposed future development.

Is the idea that one single family home is proposed for parcel 02306231 and one single family home is proposed for parcel 02306232?

Thank you!

Lauren Speight, CZO

Planner I | Town of Huntersville

105 Gilead Road | Third Floor

P.O. Box 664 | Huntersville, North Carolina 28070

PH: 704-766-2254 | FX: 704-992-5528

Email: lspeight@huntersville.org

Web: www.huntersville.org

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Town of Huntersville
Board of Adjustment
July 13, 2021

To: Town Board

From: Tracy Barron, Exec Asst

Date: July 13, 2021

Subject:

EXPLAIN REQUEST:

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

ATTACHMENTS:
None