



AGENDA

Regular Town Board Meeting

May 16, 2022 - 6:00 PM

TOWN HALL (101 Huntersville-Concord Road)

1. Pre-meeting (5:15 p.m.)

1.A. Discussion on Affordable Housing. *(Bobby Williams)*

2. Call to Order

3. Invocation/ Moment of Silence

4. Pledge of Allegiance

5. Staff Questions

6. Public Comments, Requests, or Presentations

6.A. Police Week Proclamation.

6.B. National Public Works Week Proclamation.

6.C. National Kids to Park Day Proclamation.

6.D. Non-discrimination Ordinance Discussion. *(Commissioners Stacy Phillips and Lance Munger)*

7. Agenda Changes/Adoption of Agenda

8. Consent Agenda

8.A. Approve contract with new underground contractor for installation of underground facilities for FY23. *(David Lucore)*

- 8.B. Approve increase in Returned Check Fee from \$25 to \$35 to match NC General Statutes. *(David Lucore)*
- 8.C. Appropriate Fund Balance in the Tourism fund in the amount of \$200,000 for the rental of air conditioning units. *(Pattie McGinnis)*
- 8.D. Accept portion of Ramah Church Road for Town maintenance. *(Kevin Fox)*
- 8.E. Accept streets in Bellington Subdivision Phase 1 for Town maintenance. *(Kevin Fox)*
- 8.F. Accept streets in Bellington Subdivision Phase 2 for Town maintenance. *(Kevin Fox)*
- 8.G. Accept streets in Farrington Subdivision Phase 1 for Town maintenance. *(Kevin Fox)*
- 8.H. Accept street segments constructed by the Town as part of the Holbrook Street Extension Project for Town maintenance. *(Kevin Fox)*
- 8.I. Accept Hunstad Boulevard for Town maintenance. *(Kevin Fox)*
- 8.J. Accept Jamesburg Drive for Town maintenance. *(Kevin Fox)*
- 8.K. Accept University City Church Drive for Town maintenance. *(Kevin Fox)*
- 8.L. Adopt Resolution to accept Carver Avenue from NCDOT for Town maintenance. *(Kevin Fox)*
- 8.M. Adopt Resolution to accept Overhill Road from NCDOT for Town maintenance. *(Kevin Fox)*

9. Public Hearings

- 9.A. Conduct public hearing to receive comments on the proposed budget for FY23. *(Anthony Roberts)*

10. Other Business

- 10.A. Consider decision on Petition #S22-01, Birkdale Landing Special Sign District, a request by Firebirds International, LLC to create a Special Sign District Overlay for Birkdale Landing located at 16641 Birkdale Commons Pkwy, Tax Parcel 00917184. *(Kayleigh Mielenz)*

10.B. Consider decision on Petition #TA22-03, a request by the Town of Huntersville Planning Department to amend Article 8.9.1 and 12.2.2 related to clear sight triangles in order to comply with HB 489. (*Nathan Farber*)

10.C. Consider decision on Petition #TA22-04, a request by the Town of Huntersville Planning Department to remove the special use requirement for street facing solar panels in Article 9.54.1 and to reorganize and clean up Article 9.54 to bring the ordinance into full compliance with State Statute 160D-914. (*Nathan Farber*)

11. Mayor and Commissioner Reports/Closing Comments

12. Adjourn

Special Accommodations: Anyone needing special accommodations when attending this meeting and/or if this information is needed in an alternative format please contact the Town Clerk. The Clerk can be reached by phone or fax: 704-875-6541, email: clerk@huntersville.org or at 101 Huntersville-Concord Rd, Huntersville, NC 28078. We request at least 72-hours' notice prior to the meeting to make the appropriate arrangements.

The Board reserves the right to deviate from the agenda.

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Bence Hoyle, Chief of Police

Date: May 16, 2022

Subject: Police Week Proclamation

EXPLAIN REQUEST:

May 15 – 21, 2022 has been designated as “National Police Week” to honor our police officers.

ACTION RECOMMENDED:

Proclaim May 15 – 21, 2022 as “National Police Week.”

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. Proclamation for Police Week 2022

Town of Huntersville

Proclamation

Whereas, every day across the Town of Huntersville, police officers bravely and courageously risk their well-being to protect and serve our community and preserve the peace and order to which every citizen is entitled; and

Whereas, May 15th – 21st, 2022 has been designated as “National Police Week” to honor the police officers who put their lives on the line to keep our communities safe; and

Whereas, the Huntersville Police Department consists of 102 full-time sworn police officers and 15 law enforcement support staff. The Police Department is responsible for 24-hour community wide law enforcement and responds to all requests for emergency services. The Police Department responds to an estimated 65,000 calls for service per year; and

Whereas, the members of the Huntersville Police Department are dedicated to ensuring public safety and enhancing the quality of life in the Town of Huntersville by serving as leaders and mentors, educating the community about the importance of public safety; and

Whereas, we appreciate the extraordinary efforts and sacrifices made by officers and their family members daily, to protect our schools, workplaces, roadways, and homes; and

Whereas, National Law Enforcement Appreciation Day is an opportunity to show our support for law enforcement.

Now, Therefore, I, Melinda Bales, Mayor of the Town of Huntersville, North Carolina, do hereby proclaim May 15th – 21st, 2022 as “National Police Week” in the Town of Huntersville and on behalf of the Huntersville Board of Commissioners do hereby honor and thank all the police officers in the Town of Huntersville during this week and commend those officers for their willingness and dedication to protect and serve our community.

In Witness Whereof, I do hereby set my hand and cause the Seal of the Town of Huntersville to be affixed, this the 16th day of May 2022.

Melinda Bales, Mayor

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: National Public Works Week Proclamation

EXPLAIN REQUEST:

The week of May 15-21, 2022 is the 62nd annual National Public Works Week sponsored by the American Public Works Association. In order to recognize this week on a local level, we request the Mayor proclaim May 15-21 as National Public Works Week in Huntersville.

ACTION RECOMMENDED:

Proclaim National Public Works Week.

FINANCIAL IMPLICATIONS:

None

ATTACHMENTS:

1. Proclamation for Public Works Week 2022

Town of Huntersville

Proclamation

Whereas, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Huntersville; and

Whereas, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

Whereas, it is in the public interest for the citizens, civic leaders and children in Huntersville to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and,

Whereas, the year 2022 marks the 62nd annual National Public Works Week sponsored by the American Public Works Association.

Now, Therefore, I, Mayor Melinda Bales, Mayor of the Town of Huntersville, do hereby proclaim May 15 – 21, 2022 as “***National Public Works Week***” in Huntersville and urge all citizens to join with representatives of the American Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

In Witness Whereof, I do hereby set my hand and cause the Seal of the Town of Huntersville to be affixed, this the 16th day of May 2022.

Melinda Bales, Mayor

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From:

Date: May 16, 2022

Subject: National Kids to Park Day Proclamation.

EXPLAIN REQUEST:

May 21, 2022, is the twelfth Kids to Parks Day organized and launched by the National Park Trust held annually on the third Saturday of May. In order to recognize this day on a local level, we request the Mayor proclaim May 21 as Kids to Parks Day in the Town of Huntersville.

ACTION RECOMMENDED:

Proclaim May 21, 2022 as Kids to Parks Day.

FINANCIAL IMPLICATIONS:

n/a

ATTACHMENTS:

1. KidsDayToPark-2022

Town of Huntersville Proclamation

Whereas, May 21, 2022, is the twelfth Kids to Parks Day organized and launched by the National Park Trust held annually on the third Saturday of May; and

Whereas, Kids to Parks Day empowers kids and encourages families to get outdoors and visit local parks, public lands, and waters; and

Whereas, we should encourage children to lead a more active lifestyle to combat issues of childhood obesity, diabetes, hypertension, and hypercholesterolemia; and

Whereas, Kids to Parks Day will broaden children's appreciation for nature and outdoors; and

Whereas, Kids to Parks Day will recognize the importance of recreating responsibly while enjoying the benefits of the outdoors; and

Whereas, American women have served our country courageously in the military; and

Whereas, American women have been leaders, not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements, which create a more fair and just society for all.

Now, Therefore, I, I, Melinda Bales, Mayor of the Town of Huntersville do hereby proclaim May 21, 2022, as Kids to Parks Day.

In Witness Whereof, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 16th day of May, 2022.

Melinda Bales, Mayor

ARTICLE II. CHARLOTTE-MECKLENBURG COMMUNITY RELATIONS COMMITTEE¹

¹State law reference(s)—Authority to appoint a community relations committee, G.S. 160A-492.

Sec. 12-26. Creation.

- (a) There is hereby created the Charlotte-Mecklenburg Community Relations Committee (referred to as "the committee") to consist of 45 members. The mayor shall appoint eight members of the committee, the city council shall appoint 16 members of the committee, and the county board of commissioners shall appoint 21 members of the committee. The mayor and the chairman of the board of commissioners shall designate one member as chairperson of the committee and one member as vice-chairperson.
- (b) The term of office for each member of the committee shall be three years, except that a member whose term has expired may remain a member until his successor is appointed. A member chosen to fill a vacancy created by any cause other than the expiration of a term shall be appointed for the unexpired term of the member whom he is to succeed. A member of the committee is eligible for reappointment; provided, however, no person shall serve in succession more than two full terms as a member.
- (c) Twenty-three members of the committee shall constitute a quorum for conducting all business of the committee, except as provided otherwise by law. Vacancies on the committee shall not impair the ability of the remaining members to exercise the powers of the committee, provided that the quorum requirement is met.
- (d) A member of the committee may be removed by the mayor and chairman of the board of county commissioners for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon.
- (e) Attendance of meetings and continued service on the committee by members appointed by the mayor shall be governed by the attendance policies established by the city council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided for in subsection (b) of this section.
- (f) The committee may appoint persons or organizations to assist it for such terms and purposes as the committee may determine and may take all other actions necessary to carry out the powers and responsibilities granted and imposed by this article.

(Code 1985, § 12-16)

Sec. 12-27. Powers.

Within the limitations provided by law, the community relations committee created under this article has the power to:

- (1) Maintain an office in the county;
- (2) Appoint an executive director and other necessary employees;
- (3) Cooperate or contract with individuals and state, local and other agencies, both private and public, including agencies of the federal government and of other states;
- (4) Accept public grants or private gifts, bequests, or other payments;
- (5) Study problems in the areas of human and community relations and make the results thereof available to the public;
- (6) Promote equality of opportunity for all citizens;
- (7) Promote understanding, respect and goodwill among all citizens;

- (8) Provide channels of communication among the various racial, religious and ethnic groups in the county; and
- (9) Render at least annually a written report to the mayor and to the city council and to the chairman and the board of county commissioners. The report may contain recommendations of the committee for legislation or other actions to eliminate or reduce discrimination with respect to protected class(es).

(Code 1985, § 12-17; Ord. No. 7056-X, § 2, 2-22-2016, eff. 4-1-2016 ; Ord. No. 8195 , § 2, 12-21-2016; Ord. No. 115 , § 2, 8-9-2021)

Sec. 12-28. Conciliation division created.

- (a) Seven members of the community relations committee created by this article shall be appointed by the mayor to serve as the conciliation division of the committee. One of the committee members shall be designated by the mayor as chairperson of the conciliation division and another as vice-chairperson.
- (b) The term of office of each member of the conciliation division is coterminous with his term as a member of the committee. A member of the conciliation division is eligible for reappointment.
- (c) Three members of the conciliation division constitute a quorum. A vacancy in the conciliation division does not impair the authority of the remaining members to exercise the powers of the conciliation division.

(Code 1985, § 12-18)

Sec. 12-29. Powers of conciliation division.

Within the limitations provided by law, the conciliation division of the community relations committee created by this article has the power to:

- (1) Use the facilities and staff of the committee created under this article, as authorized by the committee, to effectuate the purposes and policies of this chapter;
- (2) Receive, initiate, seek to conciliate, and hold hearings on complaints alleging violations of this chapter;
- (3) Provide information on alternate avenues and technical support for relief on complaints alleging violations of this chapter, including those provided under applicable federal and state law;
- (4) Approve or disapprove plans to eliminate or reduce discrimination with respect to a protected class;
- (5) Furnish technical assistance required by persons subject to this chapter to further compliance with this chapter;
- (6) Render at least annually a comprehensive written report to the committee created by this article and to the mayor and the city council.

(Code 1985, § 12-19; Ord. No. 7056-X, § 2, 2-22-2016, eff. 4-1-2016 ; Ord. No. 8195 , § 2, 12-21-2016; Ord. No. 115 , § 2, 8-9-2021)

Sec. 12-30. Complaint procedure.

- (a) Any person claiming a violation of article III or IV of this chapter may file with the conciliation division a sworn complaint stating that a violation has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the conciliation division to identify the person charged (referred to as "the respondent"). The conciliation division or a member of the conciliation division or the staff shall properly review the allegations of discriminatory practice set forth in the complaint and shall, within ten days, furnish the respondent with a copy of the complaint. The complaint must be filed

within one year after the alleged violation occurs. The conciliation division or a member of the conciliation division or the staff shall initiate a review of the complaint within a reasonable time.

- (b) Not later than 30 days after the complaint is filed, unless for good reason the time is extended for an additional 30 days by the conciliation division, the conciliation division shall determine whether there is reasonable cause to believe that the respondent has violated article III or IV of this chapter.
- (c) If the conciliation division finds that there is no reasonable cause to believe the respondent has violated article III or IV of this chapter, the chairperson shall, within a reasonable time, inform the complaining party, the city attorney, and the respondent of the conciliation division's findings.
- (d) If the conciliation division finds that there is reasonable cause to believe the respondent has violated article III or IV of this chapter, the conciliation division may endeavor, by conference and conciliation with the respondent, to reach a voluntary elimination of the alleged, unlawful practice. The conciliation division, or any of its employees, shall not make public, without the written consent of the complaining party and the respondent, information concerning efforts in a particular case to voluntarily eliminate an alleged and unlawful practice by conference and conciliation.
- (e) If there is reasonable cause to believe that the respondent has violated article III or IV of this chapter and the alleged violation has not been voluntarily eliminated by conference and conciliation within a period of 90 days from the filing of the complaint, the complaint shall be referred to the city attorney for appropriate action after the complainant and respondent shall be so notified.

(Code 1985, § 12-20; Ord. No. 115 , § 2, 8-9-2021)

Sec. 12-31. Other civil remedies.

An election to proceed by making a complaint with the conciliation division by a person alleging a violation of article III or IV of this chapter shall not foreclose the right to proceed with any civil remedies available. Violation of articles III or IV of this chapter shall not be punishable as a crime under G.S. 14-4 or any other law.

Nothing in articles III or IV of this chapter shall be interpreted or applied so as to create any unique requirement, power, or duty or liability in conflict with any existing federal or state law or either the federal or state constitutions. Other than an assertion that a respondent employer is not a covered employer due to the size of its employee workforce, any and all legal rights, remedies and defenses to a charge of discrimination recognized under applicable federal and state law shall also be applicable to a charge of discrimination under this chapter.

Nothing in the requirements of articles III and IV of this chapter shall deny the use of constitutionally or otherwise legally protected speech nor shall the requirements of articles III and IV of this chapter deny any entity or individual their constitutional or statutory protections against compelled speech or expression.

(Code 1985, § 12-21; Ord. No. 115 , § 2, 8-9-2021)

Sec. 12-32. No private cause of action.

Violations of articles III or IV of this chapter is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the City of Charlotte, its agencies, departments or any other entities, or any officers, elected officials, employees, or agents thereof, or against the Charlotte-Mecklenburg Community Relations Committee (as that term is defined in this chapter) or any other person, employer or respondent.

(Ord. No. 115 , § 2, 8-9-2021)

Secs. 12-33—12-55. Reserved.

ARTICLE III. PUBLIC ACCOMMODATIONS

Sec. 12-56. Declaration of policy.

It is hereby declared to be the policy of the city in the exercise of its licensing and police powers, and under the authority of section 6.41 of the Charter and state law for the preservation of the peace and protection of the health, safety and welfare of persons in the city, to prohibit discriminatory practices in places of public accommodations as defined in section 12-57.

(Code 1985, § 12-36; Ord. No. 8194 , § 2, 12-19-2016; Ord. No. 8195 , §§ 1, 2, 12-21-2016)

Sec. 12-57. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gender identity and gender expression means having or being perceived as having gender-related or being perceived as having gender-related identity, expression, appearance, or behavior, whether or not that identity, expression, appearance, or behavior is different from that traditionally associated with the sex assigned to that individual at birth.

Natural hairstyle means any hair texture, color, type or style of wear historically associated with race or national origin.

Protected class means a person's race, color, gender, religion, national origin, ethnicity, age, familial status, sex (including sexual orientation or gender identity), veteran status, pregnancy, natural hairstyle or disability.

Place of public accommodation means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available to the public. This term shall not include religious organizations.

Religious organization means a church, mosque, synagogue, temple, non-denominational ministry, interdenominational and ecumenical organization, religiously operated school, mission organization, faith-based social agency, association, society or other entity primarily devoted to the study, practice, or advancement of religion.

Sexual orientation means a person's actual or perceived emotional, romantic, or sexual attraction to other people which includes, but is not limited to, heterosexuality, homosexuality or bisexuality.

(Code 1985, § 12-37; Ord. No. 8194 , § 2, 12-19-2016; Ord. No. 8195 , §§ 1, 2, 12-21-2016; Ord. No. 115 , § 3, 8-9-2021)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 12-58. Prohibited acts.

- (a) It shall be unlawful to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of a protected class.
- (b) It shall be unlawful to make, print, circulate, post, mail or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be refused, withheld from, or denied any person because of a protected class, or that any person's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of a protected class; provided, however, this section does not apply to a private club or other establishment not, in fact, open to the public.

(Code 1985, § 12-38; Ord. No. 7056-X, § 3, 2-22-2016, eff. 4-1-2016 ; Ord. No. 8194 , § 2, 12-19-2016; Ord. No. 8195 , §§ 1, 2, 12-21-2016; Ord. No. 115 , § 3, 8-9-2021)

Sec. 12-59. Reserved.

Editor's note(s)—Ord. No. 115 , § 3, adopted Aug. 9, 2021, repealed § 12-59, which pertained to prohibited sex discrimination and derived from Code 1985, § 12-39; Ord. No. 7056-X, § 2, adopted Feb. 22, 2016, eff. April 1, 2016; and Ord. No. 8195 , § 2, adopted Dec. 21, 2016.

Secs. 12-60—12-80. Reserved.

ARTICLE IV. DISCRIMINATORY PRACTICES²

²State law reference(s)—Equal employment practices, G.S. 143-422.1 et seq.

Sec. 12-81. Unlawful acts.

It shall be unlawful for a person or for two or more persons to conspire to:

- (1) Discriminate against a person because he has opposed a discriminatory practice in a place of public accommodation, or because he has made a charge, filed a complaint, testified, assisted or participated in a proceeding or hearing under this chapter.
- (2) Aid, abet, incite, or coerce a person to engage in a discriminatory practice in a place of public accommodation.
- (3) Wilfully interfere with the performance of a duty or the exercise of a duty by the community relations committee created by article II of this chapter or one of its members or representatives.
- (4) Wilfully obstruct or prevent a person from complying with this chapter or an order issued under this chapter.

(Code 1985, § 12-51; Ord. No. 8194 , § 2, 12-19-2016; Ord. No. 8195 , § 1, 12-21-2016)

Sec. 12-82. Attempt to commit discriminatory practice.

An attempt to commit, directly or indirectly, a discriminatory practice in a place of public accommodation is a discriminatory practice.

(Code 1985, § 12-52; Ord. No. 8194 , § 2, 12-19-2016; Ord. No. 8195 , § 1, 12-21-2016)

Sec. 12-83. Prohibited employment discrimination.

It shall be unlawful for any employer because of the protected class of any person, to fail or refuse to hire, discharge or otherwise discriminate against that person with respect to hire, tenure, promotion, transfer, compensation, terms, conditions, position or privileges of employment, or any matter directly or indirectly related to employment.

- (a) All complaints of violation of this section shall be received by the conciliation division of the community relations committee.
- (b) In lieu of commencing its review of the complaint as set forth in section 12-31 of this chapter, the conciliation division may, at its discretion, require complaints alleging violation of this section, to first be submitted to the applicable federal or state authority for review and appropriate action. Should the applicable federal or state authority determine that it does not have jurisdiction or authority over the subject matter of the complaint, the conciliation division shall commence its review of the complaint as set forth in article II of this chapter.

(Ord. No. 115 , § 4, 8-9-2021)

Editor's note(s)—Ord. No. 115 , § 7, adopted Aug. 9, 2021, states Sections 12-83 and 12-84 "shall be effective on January 1, 2022."

Sec. 12-84. Exemptions to section 12-83.

Notwithstanding the foregoing the following are not discriminatory practices prohibited under article IV of this chapter:

-
- (a) A religious organization that employs an individual to perform work associated with the religious organization that insists employees adhere to the tenets of the religious organization as a condition of employment.

An employee may express the employee's sincerely held religious or moral beliefs and commitments in the workplace in a reasonable, non-disruptive and non-harassing way on equal terms with similar types of expression of beliefs or commitments allowed by the employer in the workplace, unless the expression is in direct conflict with the essential business related interests or needs of the employer.

- (b) Nothing in this article shall require an employer to hire or retain unqualified individuals or to retain employees when there is a legitimate non-discriminatory or non-retaliatory reason to terminate employment.
- (c) Nothing in this article shall prohibit an employer from requiring an employee during the employee's hours of work to adhere to reasonable dress or grooming standards that are due to a business necessity and that are not prohibited by federal, state or local law.
- (d) An employer that observes the conditions of bona fide seniority system or affirmative action plan that is not a pretext to evade the purposes of this article. An affirmative action plan is any plan devised to effectuate remedial or corrective action taken in response to past discriminatory practices against a historically marginalized group, or as otherwise required by federal or state law.

(Ord. No. 115 , § 4, 8-9-2021)

Editor's note(s)—See editor's note to § 12-83.

Secs. 12-85—12-105. Reserved.

ARTICLE V. FAIR HOUSING³

³Charter reference(s)—Fair housing, § 6-151 et seq.

Cross reference(s)—Housing, ch. 11.

State law reference(s)—State Fair Housing Act, G.S. 41A-1 et seq.

Sec. 12-106. Title.

This article shall be known and may be cited as the "Fair Housing Ordinance" of the city.

(Code 1985, § 12-66)

Sec. 12-107. Purpose.

The general purposes of this article are to:

- (1) Provide for execution within the city of the policies embodied in title VIII of the Federal Civil Rights Act of 1968, as amended.
- (2) Secure for all persons within the city freedom from discrimination because of race, color, religion, national origin, sex, handicap or familial status in real estate transactions.

(Code 1985, § 12-67)

Sec. 12-108. Effect of article on other ordinances.

Nothing contained in this article shall be deemed to repeal any other section of this Code or other city ordinance relating to discrimination because of race, color, religion, national origin, sex, handicap or familial status, but all such ordinances and portions thereof in conflict with this article are repealed to the extent of such conflict.

(Code 1985, § 12-68)

Sec. 12-109. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Committee means the Charlotte-Mecklenburg Community Relations Committee.

Discriminatory practice means an act that is unlawful under this article.

Dwelling means any building, structure, manufactured home or mobile home, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single, habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Familial status means one or more individuals, who have not attained the age of 18 years, being domiciled with:

- (1) A parent or other person having legal custody of such individual; or
- (2) The designee of such parent or other person having such custody with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of 18 years.

Family includes a single individual.

Handicap means, with respect to a person:

- (1) A physical or mental impairment which substantially limits one or more major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having such an impairment;

but such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the Controlled Substances Act (21 USC 82).

National origin includes the national origin of an ancestor.

Person includes one or more individuals, political subdivisions of the state and instrumentalities thereof, including the city or any governmental entity or agency thereof, partnerships, associations, corporations, legal representatives, mutual companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or any other legal or commercial entity.

Real estate broker and *real estate salesperson* mean a person, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who, with the intention or expectation of receiving or collecting a fee, commission, salary, or other valuable consideration, lists, sells, purchases, exchanges, rents, or leases real property, or the improvements thereon, including options; who negotiates or attempts to negotiate on behalf of others such an activity or who advertises or holds himself out as engaged in such activities; who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon real property; who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.

Real estate transaction includes the sale, exchange, rental, or lease of real property, or of an interest therein.

Real property includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

(Code 1985, § 12-69)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Similar provisions, G.S. 41A-3.

Sec. 12-110. Discriminatory practices unlawful.

It is unlawful to commit or to attempt to commit, directly or indirectly, a discriminatory practice as defined in this article.

(Code 1985, § 12-70)

Sec. 12-111. Discrimination in real estate transactions.

Except where exempted pursuant to section 12-113 of this article, it shall be unlawful to:

- (1) Refuse to sell or rent or receive or fail to transmit a bona fide offer to engage in a real estate transaction because of race, color, religion, sex, familial status or national origin of a person or any other person residing with that person or of friends or associates of that person.
- (2) Refuse to negotiate or engage in a real estate transaction with a person because of race, color, religion, sex, familial status or national origin of a person or any other person residing with that person or of friends or associates of that person.
- (3) Otherwise make unavailable or deny a dwelling based on discrimination because of the race, color, religion, sex, familial status or national origin of a person or any other person residing with that person or of friends or associates of that person.

- (4) Discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the provision of services or facilities in connection therewith because of the race, color, religion, national origin, sex or familial status of a person or of any other person residing with that person or of friends or associates of that person.
- (5) Represent to any person that real property is not available for inspection, sale, rental or lease when, in fact, it is so available or fail to bring a property listing to a person's attention or refuse to permit a person to inspect real property because of the race, color, religion, national origin, sex, handicap or familial status of a person or of any other person residing with that person or of friends or associates of that person.
- (6) Make, print, circulate, post, mail or cause to be so published a statement, advertisement or sign or use a form of application for a real estate transaction or make a record or inquiry in connection with a prospective real estate transaction which indicates, directly or indirectly, an intent to make a limitation, preference or discrimination based on race, color, religion, national origin, sex, handicap or familial status of a person or of any other person residing with that person.
- (7) Offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the provision of facilities or services in connection therewith because of race, color, religion, sex, handicap, familial status or national origin of a person or any other person residing with that person or of friends or associates of that person.

(Code 1985, § 12-71)

Sec. 12-112. Discrimination based on disability.

- (a) For the purposes of this article, discrimination based on disability includes the following:
 - (1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, for a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
 - (2) A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
 - (3) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:
 - a. The dwellings have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site.
 - b. With respect to dwellings with a building entrance on an accessible route:
 1. The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
 2. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 3. All premises within such dwellings contain the following features of adaptive design with:
 - i. An accessible route into and through the dwelling;
 - ii. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

- iii. Reinforcements in the bathroom walls to allow later installation of grab bars; and
- iv. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

Compliance with requirement 1, section 5, Guidelines of Department of Housing and Urban Development Fair Housing Accessibility Guidelines (24 CFR 1) suffices to satisfy the requirements of subsection (a)(3)a of this section.

Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") or comparable standards suffices to satisfy the requirements of subsection (a)(3)b.3 of this section except where the city's building standards exceed those requirements.

For purposes of this subsection, covered multifamily dwellings shall be deemed to be designed and constructed for first occupancy on or before March 13, 1991, if they are occupied by that date or if the last building permit or renewal thereof for those dwellings is issued on or before January 13, 1990. As used in this subsection, the term "covered multifamily dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

(b) Except where exempted pursuant to section 12-113 of this article, it shall be unlawful to discriminate:

- (1) In the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:
 - a. That buyer or renter;
 - b. A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
 - c. Any person associated with that buyer or renter.
- (2) Against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with such dwelling because of a handicap of:
 - a. That person;
 - b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
 - c. Any person associated with that person.

(Code 1985, § 12-72)

Sec. 12-113. Exemptions.

(a) The provisions of section 12-111, other than subsection (6), do not apply:

- (1) To the rental of a dwelling unit in a building containing dwelling units for not more than four families living independently of each other if the lessor resides in one of those dwelling units.
- (2) To the rental of a room in a dwelling unit by an individual if the lessor resides therein.
- (3) With respect to discrimination based on sex, the rental or leasing of dwelling units in single-sex dormitory property.
- (4) With respect to discrimination based upon religion, dwelling units owned and operated for other than a commercial purpose by a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization,

association, or society; the sale, rental or occupancy of such dwelling unit being limited or preference being given to persons of the same religion unless membership in such religion is restricted because of race, color, national origin, sex, handicap or familial status.

- (5) To any person subject to this article who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to ensure equal opportunity in real estate transactions if the plan is part of a conciliation agreement entered into by that person under this article and is filed with the Charlotte-Mecklenburg Community Relations Committee under the rules of the committee and the committee has not disapproved the plan.
- (b) With respect to discrimination based upon familial status, nothing in this article limits the applicability of any reasonable city, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling unit, nor does any section in this article regarding familial status apply with respect to housing for older persons.
 - (1) As used in this subsection, housing for older persons means housing:
 - a. Provided under any local, state, or federal program that the United States Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the local, state, or federal program;
 - b. Intended for, and solely occupied by, persons 62 years of age or older; or
 - c. Intended and operated for occupancy by persons 55 years of age or older and:
 1. At least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;
 2. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subsection; and
 3. The housing facility or community complies with rules issued by the United States Secretary of Housing and Urban Development for verification of occupancy, which shall:
 - i. Provide for verification by reliable surveys and affidavits; and
 - ii. Include examples of the types of policies and procedures relevant to the determination of compliance with the requirement of subsection (b)(1)c.2 of this section. Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.
 - (2) Housing shall not fail to meet the requirements for housing for older persons by reason of:
 - a. Persons residing in such housing as of December 28, 1995, who do not meet the age requirements of subsection (b)(1)b or (b)(1)c of this section, provided that new occupants of such housing meet the age requirements of subsection (b)(1)b or (b)(1)c of this section; or
 - b. Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subsection (b)(1)b or (b)(1)c of this section.
 - (3) Nothing in this article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substance Act (21 USC 802).
 - (4)
 - a. A person shall not be held personally liable for monetary damages for a violation of this article if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.
 - b. For the purposes of this subsection, a person may show good-faith reliance on the application of the exemption only by showing that:

1. Such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and
2. The facility or community has stated formally, in writing, that the facility or community complies with the requirements of such exemption.

(Code 1985, § 12-73)

Sec. 12-114. Discrimination in residential real-estate-related transactions.

- (a) It shall be unlawful for any person whose business includes engaging in residential real-estate-related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction because of race, color, religion, national origin, sex, handicap or familial status.
- (b) As used in this section, the term "residential real-estate-related transaction" means:
 - (1) The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - b. Secured by residential real estate; or
 - (2) The selling, brokering or appraising of residential real property.

(Code 1985, § 12-74)

State law reference(s)—Similar provisions, G.S. 41A-4(b1).

Sec. 12-115. Discrimination in provision of brokerage services.

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

(Code 1985, § 12-75)

State law reference(s)—Similar provisions, G.S. 41A-4(d).

Sec. 12-116. Other unlawful practices.

- (a) It is an unlawful practice for any person against whom a complaint has been filed under this article to fail to preserve or to fail to make available to the Charlotte-Mecklenburg Community Relations Committee or its duly authorized representative any evidence or possible sources of evidence with regard to that complaint.
- (b) It is an unlawful practice for a person, for profit, to induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, national origin, sex, handicap or familial status.
- (c) Restrictive covenants and conditions are subject to the following:
 - (1) Every provision in an oral agreement or a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy or lease thereof to individuals of a specified race, color, religion, national origin, sex, handicap or familial status is a discriminatory practice and is void.

- (2) Every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, color, religion, national origin, sex, handicap or familial status is a discriminatory practice and is void, except a limitation of use on the basis of religion of real property held by a religious or charitable organization operated, supervised or controlled by a religious institution or organization and used for religious or charitable purposes.
- (3) It is an unlawful practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.
- (d) It is an unlawful practice for a person, as a party to a conciliation agreement made under this article, to violate the terms of the agreement.
- (e) It is an unlawful practice to:
 - (1) Retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this article or because he has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this article;
 - (2) Aid, abet, incite, compel or coerce a person to engage in any of the acts or practices declared unlawful by this article;
 - (3) Obstruct or prevent a person from complying with this article or any order issued under this article;
 - (4) Resist, prevent, impede, or interfere with the committee or any of its members or representatives in the lawful performance of duty under this article; or
 - (5) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this article.

(Code 1985, § 12-76)

Sec. 12-117. Acting for another person no defense.

It shall be no defense to a violation of this article by a person that the violation was requested, sought, or otherwise procured by another person.

(Code 1985, § 12-77)

Sec. 12-118. Enforcement, relief.

- (a) An action alleging a violation of this article may be filed in the superior court of the 26th judicial district of the state (referred to as "court") by the Charlotte-Mecklenburg Community Relations Committee. Such an action may also be filed by an aggrieved person not later than two years after the occurrence or termination of an alleged discriminatory practice. If the committee has filed an action, an aggrieved person's timely motion to intervene shall be granted.
- (b) If it shall be determined by the court that a discriminatory practice has occurred, an order shall issue granting relief to those persons who have suffered the effects of such discrimination. Before relief may be granted, it shall not be necessary for the court to find that intentional discrimination has occurred. It shall be sufficient that the respondent's action or failure to act was intentional and has resulted in unlawful discrimination.
- (c) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages, including compensation for humiliation and embarrassment, and punitive damages, together with court costs and reasonable attorney's fees in the case of a prevailing plaintiff.

(d) Any party aggrieved by a final order of the court may appeal to the state court of appeals.

(Code 1985, § 12-78)

Sec. 12-119. Additional powers of committee.

The Charlotte-Mecklenburg Community Relations Committee shall, in addition to its powers as set forth in article II of this chapter, have power to:

- (1) Receive, initiate, investigate, seek to conciliate and conduct hearings on complaints filed under this article; make recommendations to parties named in such complaints; and approve or disapprove plans to eliminate or reduce the effects of discriminatory practices and monitor compliance with such plans.
- (2) Require answers to interrogatories and the production of documents and other tangible things for the purpose of inspection, copying or translating; administer oaths and examine witnesses under oath or affirmation and compel the attendance of witnesses at hearings, depositions and other examinations by members of the committee or its agents and the production of documents and other tangible things. Witnesses whose depositions are taken or who are summoned before the committee or its agents shall be entitled to the same witness and mileage fees as are paid to witnesses in the courts of this state.
- (3) Submit to parties in a complaint requests for admission of the truth of any matter, not privileged, that is relevant to the complaint. A request for admission submitted under the authority of this subsection shall be governed, so far as practically possible, by the procedures for requests for admission provided in the North Carolina Rules of Civil Procedure, except that any admission made by a party under this subsection shall be for the purpose of the pending complaint, any subsequent public hearing by the committee upon the complaint, and any subsequent civil action, arising from the complaint, filed by the committee or by any aggrieved person pursuant to section 12-118 of this article.
- (4) Apply to the court, upon the failure of any person to respond to or comply with a lawful interrogatory, subpoena, request for admission, or request for the production of relevant evidence or possible sources of evidence, for an order requiring such person to respond to or comply with the interrogatory, subpoena, request for admission, or request for the production of relevant evidence or possible sources of evidence. The court shall have jurisdiction to issue such order after notice to all proper parties. On petition of the person to whom the subpoena is directed, the court may vacate or modify the subpoena.
- (5) Apply to the court for appropriate temporary or preliminary relief pending final disposition of a complaint if the committee concludes that such action is necessary to carry out the purposes of this article.
- (6) Adopt, promulgate, amend, and rescind such rules and regulations to effectuate the purposes and policies of this article and the policies and practices of the committee in connection therewith, including regulations requiring the posting or inclusion in advertising material of notices prepared or approved by the committee, and regulations as to filing, approval or disapproval of plans to eliminate or reduce the effects of discriminatory practices. The committee may authorize any member or member of its staff to exercise the powers of the committee set forth in this article in the performance of its official duties as specified in this article and the rules and regulations. Such rules and regulations shall be approved by the city council and shall only be adopted, amended or rescinded after holding a public hearing, notice of which shall be published once at least ten days before the date of the hearing in a newspaper published within the jurisdiction of the local governing body. A copy of the text of the proposed rule, amendment or rescission shall be available for public inspection and copying at the offices of the committee.

(Code 1985, § 12-79)

Sec. 12-120. Procedures for conciliation.

- (a) Under this article, a person claiming to be aggrieved by a discriminatory practice, his agent or a member of the Charlotte-Mecklenburg Community Relations Committee may file a written complaint with the committee within one year after the alleged violation occurred or terminated, setting forth the facts upon which the complaint is based and setting forth facts sufficient to enable the committee to identify the person charged (referred to as "respondent"). Upon the filing of a complaint, the committee shall:
 - (1) Serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law; and
 - (2) Promptly serve notice of the complaint on the respondent, advising the respondent of his procedural rights and obligations under this article, together with a copy of the complaint. The respondent may file an answer to the complaint.
- (b) The committee shall begin the investigation of a complaint within 30 days after receipt of the complaint and shall complete the investigation within 100 days after receipt unless it is impractical to do so. If the investigation is not completed within that time, the committee shall notify the complainant and respondent in writing of the reason for not doing so. The committee shall make final administrative disposition of a complaint within one year after the receipt of a complaint unless it is impractical to do so. If the committee is unable to do so, it shall notify the complainant and respondent, in writing, of the reasons for not doing so.
- (c) If it is decided by the committee that, based on the results of its investigation, there is not reasonable cause to believe the respondent has engaged in a discriminatory practice, the committee shall notify the complainant and the respondent in writing of its decision within ten days after such decision has been made. A finding of no reasonable cause by the committee shall not preclude the complainant's private right of action.
- (d) Unless the committee has notified the complainant and the respondent that there is not reasonable cause to believe the respondent has engaged in a discriminatory practice, the committee shall endeavor to eliminate the alleged discriminatory practice by conference, conciliation and persuasion. Any conciliation agreement arising out of conciliation efforts by the committee shall be an agreement between the respondent and the complainant and shall be subject to the approval of the committee. Each conciliation agreement shall be made public unless the complainant and the respondent otherwise agree and the committee determines that disclosure is not required to further the purposes of this article.
- (e) A conciliation agreement negotiated by the committee may include, but is not limited to, the following:
 - (1) Sale, exchange, lease, rental, assignment, or sublease of real property to a person.
 - (2) Extension to all persons of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent.
 - (3) Reporting as to the manner of compliance.
 - (4) Posting of notices in conspicuous places in the respondent's place of business in a form prescribed by the court or the committee.
 - (5) Payment to the complainant of actual damages, including compensation for humiliation and embarrassment, and reasonable attorney's fees.
- (f) At any time but not later than one year from the date of a conciliation agreement, the committee shall investigate whether the terms of the agreement are being complied with by the respondent. Upon deciding that the terms of the agreement are not being complied with by the respondent, the committee shall take appropriate action to ensure compliance.
- (g) Hearings shall be conducted as follows:

- (1) Unless the committee has decided that there is no reasonable cause to believe that a discriminatory practice has occurred, or unless it has negotiated a conciliation agreement, the committee shall hold a hearing, after proper notice and under rules and procedures adopted by the committee under this article, at which the presence of the complainant, the respondent, and any witnesses and records designated by the committee may be required.
 - (2) If the committee determines as a result of the hearing that the respondent has not engaged in a discriminatory practice, the committee shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint and furnish a copy of the order to the complainant, the respondent, the city attorney, and such other persons as the committee deems proper.
 - (3) If the committee determines that the respondent has engaged in a discriminatory practice, the committee shall state its findings of fact and conclusions of law and, if a conciliation agreement has not been negotiated, shall file an action alleging a violation of this article in the court. A copy of the findings and of any negotiated conciliation agreement shall be delivered to the complainant, the respondent, the city attorney, and such other persons as the committee deems proper.
- (h) After a finding is made by the committee following a hearing, the committee may publish or cause to be published the name of a person whom it has determined to be engaged in a discriminatory practice and the terms of any conciliation agreement.
 - (i) Every person subject to this article shall make, keep, and preserve records relevant to the determination of whether discriminatory practices have been or are being committed, such records being maintained and preserved in a manner and to the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder. Nothing in this article shall be interpreted to require the making, keeping, and preserving of records other than and except as required under the Civil Rights Acts of 1968 and any regulations promulgated thereunder.
 - (j) In connection with a complaint filed under this article, the committee or its designated representative shall have access at any reasonable time to premises, records and documents relevant to the complaint, and the right to examine, photograph, and copy evidence.
 - (k) Neither a complaint filed pursuant to this article nor the results of the committee's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under G.S. ch. 132.
 - (l) The provisions of G.S. 143-318.9 et seq. shall not be applicable to the activities of the committee to the extent that it is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to this article.
 - (m) No portion of this article shall be construed to authorize the committee to make a final determination concerning the allegations of a complaint. The committee's authority and power shall not exceed receiving, investigating and attempting to conciliate complaints, monitoring compliance with the terms of conciliation agreements, and, where warranted, commencing an action in the court alleging the violation of this article and any other powers granted in section 12-119 by this article.

(Code 1985, § 12-80)

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: David Lucore, Electric System Manager

Date: May 16, 2022

Subject: Electric UG Contract Services for FY23

EXPLAIN REQUEST:

Approve contract with new underground contractor for installation of underground facilities.

ACTION RECOMMENDED:

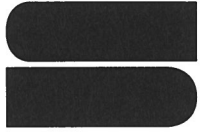
Approve contract and authorize the Town Manager to execute all documents necessary.

FINANCIAL IMPLICATIONS:

Formal bids were taken by Southeastern Consulting Engineers and a summary of the results are attached for review.

ATTACHMENTS:

1. 2022-04-26 Huntersvill Per Unit Bid Recommendation
2. 2022-04-26 Huntersvill Per Unit Bid Tab



Southeastern Consulting Engineers, Inc.

April 25, 2022

Mr. David Lucore
Electric Systems Manager
ElectriCities of North Carolina
11316 Sam Furr Road
Huntersville, North Carolina 28078

Ref.: Town of Huntersville Per Unit UG
Bid Results

Dear David:

We received bids in our office on April 21 from three of the fifteen companies solicited to provide contract crews on a per unit basis for labor and equipment to assist the Town of Huntersville with underground electric capital and expansion construction projects. A tabulation of bids received and corrected for mathematical errors is enclosed.

The most attractive bid was submitted by Lambert's Cable Splicing Company, LLC of Rocky Mount, North Carolina. Lambert's has been in the utility construction business since 1967. Although much of their experience has been in the telecommunications business they have recently added staff experienced in electric power distribution and have required license to perform electrical ahead of point of delivery work.

The bid amounts shown on the tabulation are based on very rough estimates of units that may be required for the 22/23 fiscal year, some of which have not been designed yet. In order to get competitive bids to cover all units that can be called on once detailed plans come together, we have likely included a number of units that won't be needed. In other words, if the Town has limitations that prevent entering a contract of this proportion, it will be simple to reduce the estimated quantity of some units less likely to be used to get within the intended budget.

Please let us know if you need additional information or if you would like for us to proceed with assembling and distributing contracts for execution.

Very truly yours,

SOUTHEASTERN CONSULTING ENGINEERS, INC.

By


A.J. Molnar, P.E.
Vice President

AJM/lc
Enclosure

600 MINUET LANE P.O. BOX 240436 CHARLOTTE, NC 28224
PHONE: (704) 523-6045 FAX: (704) 523-8317

BID TABULATION

Underground and Directional Boring Crews

Town of Huntersville
Huntersville, North Carolina

Date: April 21, 2022
Time: 2:00 PM, EDST

<u>Bidder</u>	<u>Lambert's Cable Rocky Mount, NC</u>	<u>Dynetek Solutions Fort Mill, SC</u>	<u>Lee Electrical Aberdeen, NC</u>	<u> </u>	<u> </u>
<u>Installation Units</u>					
Transformer Units	\$ <u>177,930.00</u>	\$ <u>441,114.29</u>	\$ <u>841,733.25</u>	\$ <u> </u>	\$ <u> </u>
Underground Conductor Units	\$ <u>330,000.00</u>	\$ <u>270,190.00</u>	\$ <u>382,018.25</u>	\$ <u> </u>	\$ <u> </u>
Directional Boring Units	\$ <u>1,965,250.00</u>	\$ <u>2,174,831.00</u>	\$ <u>3,352,312.50</u>	\$ <u> </u>	\$ <u> </u>
Underground Construction Units	\$ <u>1,083,546.00</u>	\$ <u>2,027,366.15</u>	\$ <u>2,295,863.25</u>	\$ <u> </u>	\$ <u> </u>
Lighting Units	\$ <u>127,250.00</u>	\$ <u>266,800.00</u>	\$ <u>292,316.43</u>	\$ <u> </u>	\$ <u> </u>
Total, Installation Cost	\$ <u>3,683,976.00</u>	\$ <u>5,180,301.44</u>	\$ <u>7,164,244.18</u>	\$ <u> </u>	\$ <u> </u>

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: David Lucore, Electric System Manager

Date: May 16, 2022

Subject: Increase Returned Check Fee

EXPLAIN REQUEST:

To match the NCGS fee for returned checks.

ACTION RECOMMENDED:

Approve Increased Fee Effective July 1, 2022

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. R-2022-18 Resolution to Approve Changes to the Town's Fee Schedule to Increase the Returned Check Fee



**RESOLUTION OF THE BOARD OF COMMISSIONERS
FOR THE TOWN OF HUNTERSVILLE
AUTHORIZING CHANGES TO THE TOWN'S FEE SCHEDULE**

WHEREAS, N.C.G.S. § 25-3-506 was amended by S.L. 2019-77 to increase the maximum processing fee for a returned check from \$25.00 to \$35.00 for checks dated on or after October 1, 2019; and

WHEREAS, the Board of Commissioners for the Town of Huntersville (the "Town Board") wishes to amend its Fee Schedule to reflect the legislative change set forth above by:

Changing the current fee for a returned check to \$35.00.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

1. The Town Board hereby authorizes the above-described changes to the Town's Fee Schedule.
2. The Town Board hereby authorizes Town staff to take any necessary actions to effectuate the changes to the Fee Schedule as approved.

Adopted this 16th day of May 2022.

ATTEST:

Janet Pierson, Town Clerk

Melinda Bales, Mayor

APPROVED AS TO FORM:

Emily Sloop, Town Attorney

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Pattie McGinnis, Finance Director

Date: May 16, 2022

Subject: Tourism Fund - HFFA Air Filtration

EXPLAIN REQUEST:

Appropriate Fund Balance in the Tourism fund (603890.9999) in the amount of \$200,000 for the rental of air conditioning units to improve air quality and decrease humidity in the 50M pool (607100.0430) at the HFFA facility during the summer and into the fall months.

ACTION RECOMMENDED:

Approve Budget Amendment

FINANCIAL IMPLICATIONS:

Decrease fund balance of \$200,000.

ATTACHMENTS:

None

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Accept portion of Ramah Church Road for Town maintenance.

EXPLAIN REQUEST:

It is recommended that the Town of Huntersville accept the street listed below for maintenance, which is located in Huntersville.

Street Name	From	To	Approx. Length
Ramah Church Rd. (Ext)	N Old Statesville Rd (115)	Dead End	215

ACTION RECOMMENDED:

Accept Street for Town Maintenance.

FINANCIAL IMPLICATIONS:

Powell Bill

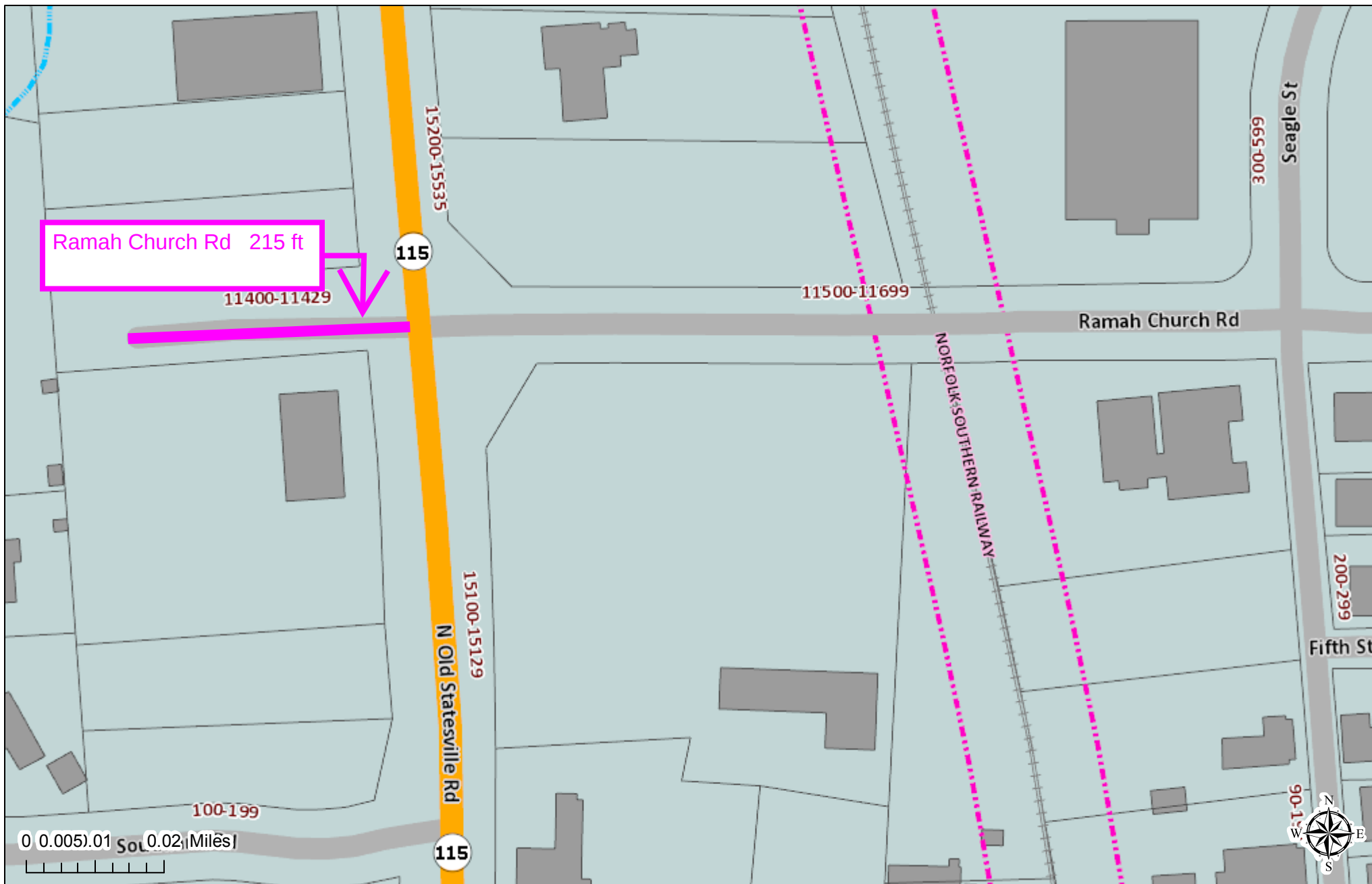
ATTACHMENTS:

1. 7Eleven Ramah Church Rd - Map
2. 7Eleven Ramah Church Rd - Aerial

Polaris 3G Map – Mecklenburg County, North Carolina

7Eleven - Ramah Church Rd

Date Printed: 2/18/2022 9:03:35 AM

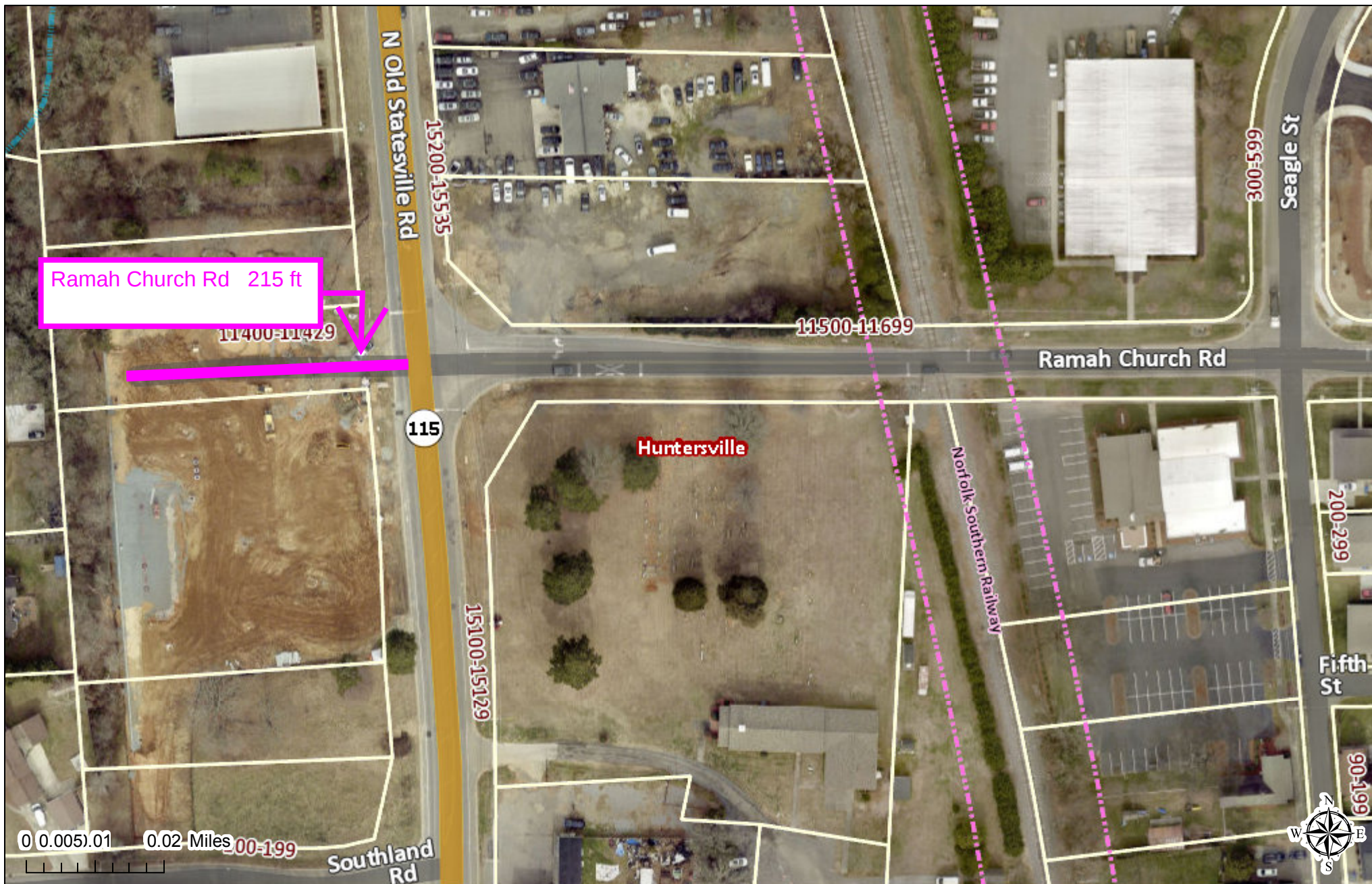


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Polaris 3G Map – Mecklenburg County, North Carolina

7Eleven - Ramah Church Rd

Date Printed: 2/18/2022 9:04:20 AM



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**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Acceptance of Streets - Bellington Phase 1

EXPLAIN REQUEST:

It is recommended that the Town of Huntersville accept the streets listed below for maintenance, which are located in the Bellington Subdivision, Phase 1.

Street Name	From	To	Approx. Length
Bellington Drive	Huntersville-Concord Rd	Union Square Dr	391
Union Square Drive	Tilesford Ln	100' E of Bellington Dr	367
Tilesford Lane	Oxford Glenn Dr	Union Square Dr	663
Rushwick Drive	Tilesford Ln	350' N of Tilesford Ln	350
Oxford Glen Drive	62' W of Caldeford Ln	273' N of Tilesford Ln	566
Caldeford Lane	Oxford Glenn Dr	Bellington Dr	665

ACTION RECOMMENDED:

Accept Streets for Town Maintenance

FINANCIAL IMPLICATIONS:

Powell Bill

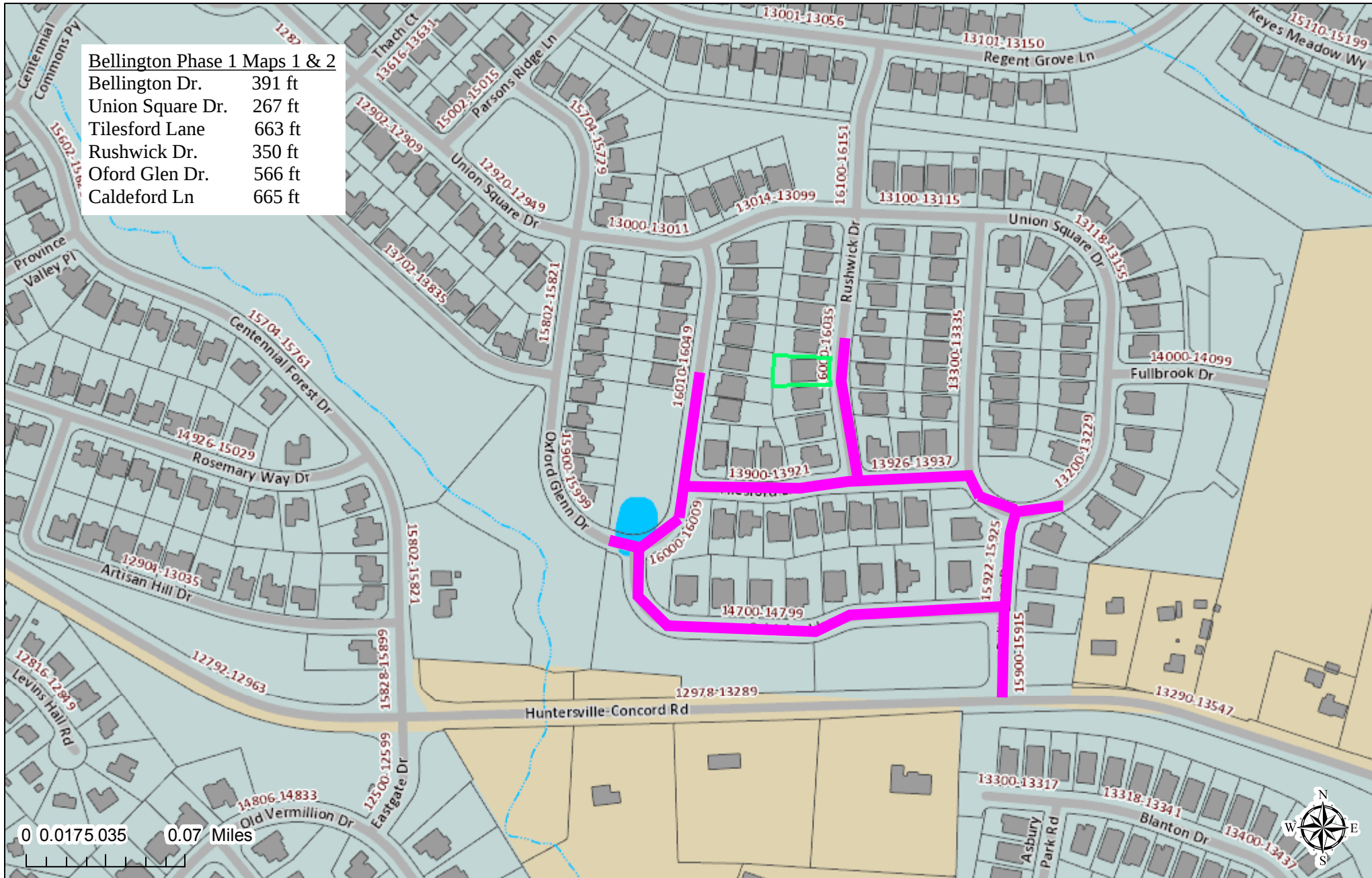
ATTACHMENTS:

1. Bellington Ph 1 Maps 1 & 2 Map
2. Bellington Ph 1 Maps 1 & 2 - Aerial

Polaris 3G Map – Mecklenburg County, North Carolina

Bellington Phase 1 Maps 1 & 2

Date Printed: 2/11/2022 3:23:45 PM



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Polaris 3G Map – Mecklenburg County, North Carolina

Bellington Phase 1 Maps 1 & 2

Date Printed: 2/16/2022 9:37:04 AM



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**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Acceptance of Streets - Bellington Phase 2

EXPLAIN REQUEST:

It is recommended that the Town of Huntersville accept the streets listed below for maintenance, which are located in the Bellington Subdivision, Phase 2.

Street Name	From	To	Approx. Length
Union Square Drive	130' W of Oxford Glenn Dr.	100' E of Bellington Drive	1718
Union Square Drive	300' W of Bellington Dr	Union Square Drive	469
Oxford Glenn Dr	Union Square Dr	289' S of Union Square Dr	289
Rushwick Dr	202' N of Union Square Dr	281' S of Union Square Dr	483
Fullbrokk Dr	Union Square Dr	End of Road	366

ACTION RECOMMENDED:

Accept Streets for Town Maintenance.

FINANCIAL IMPLICATIONS:

Powell Bill

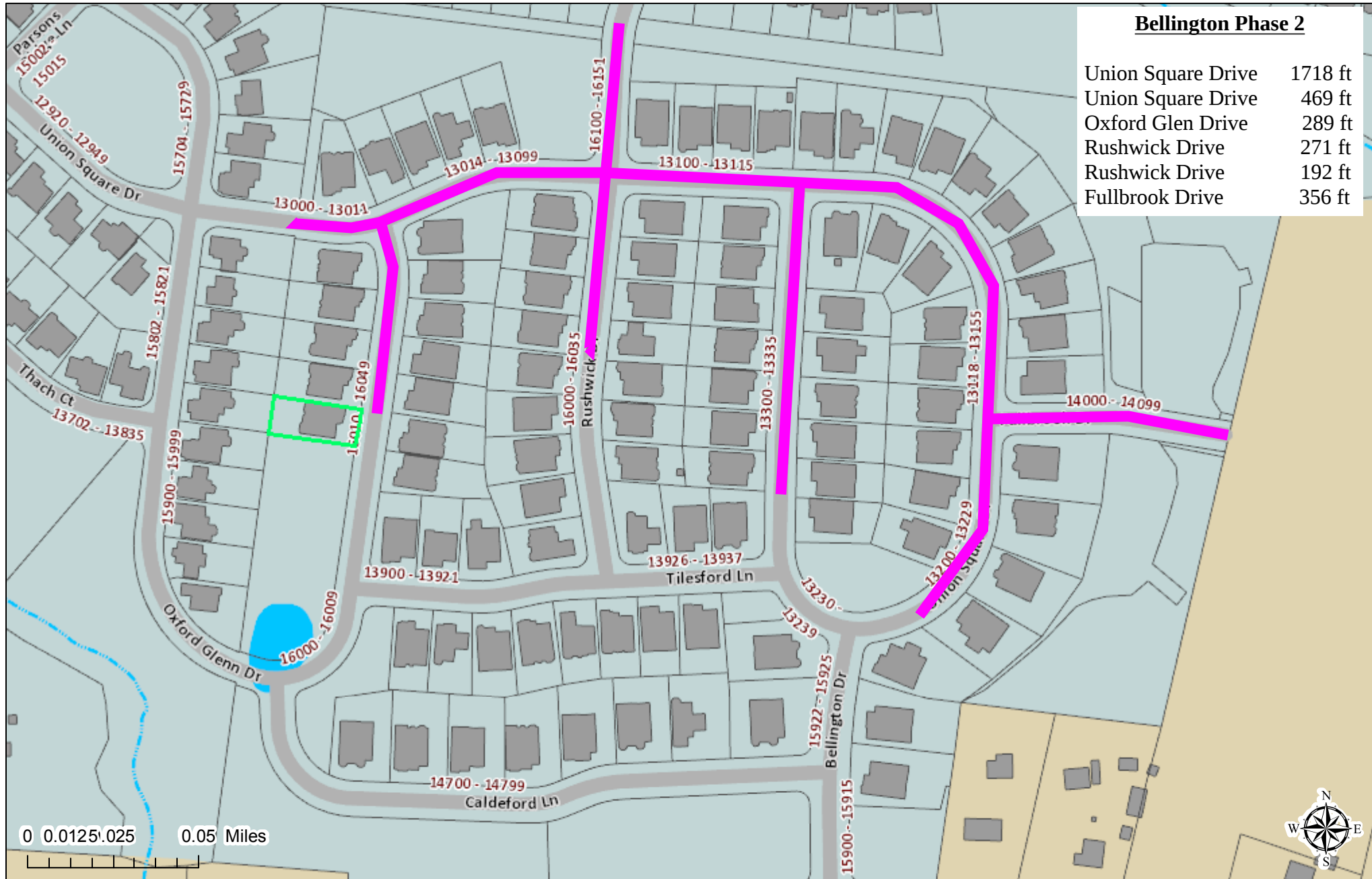
ATTACHMENTS:

1. Bellington Ph 2 Maps 1 & 2 - Map
2. Bellington Ph 2 Maps 1 & 2 - Aerial

Polaris 3G Map – Mecklenburg County, North Carolina

Bellington Phase 2

Date Printed: 4/22/2022 9:44:42 AM

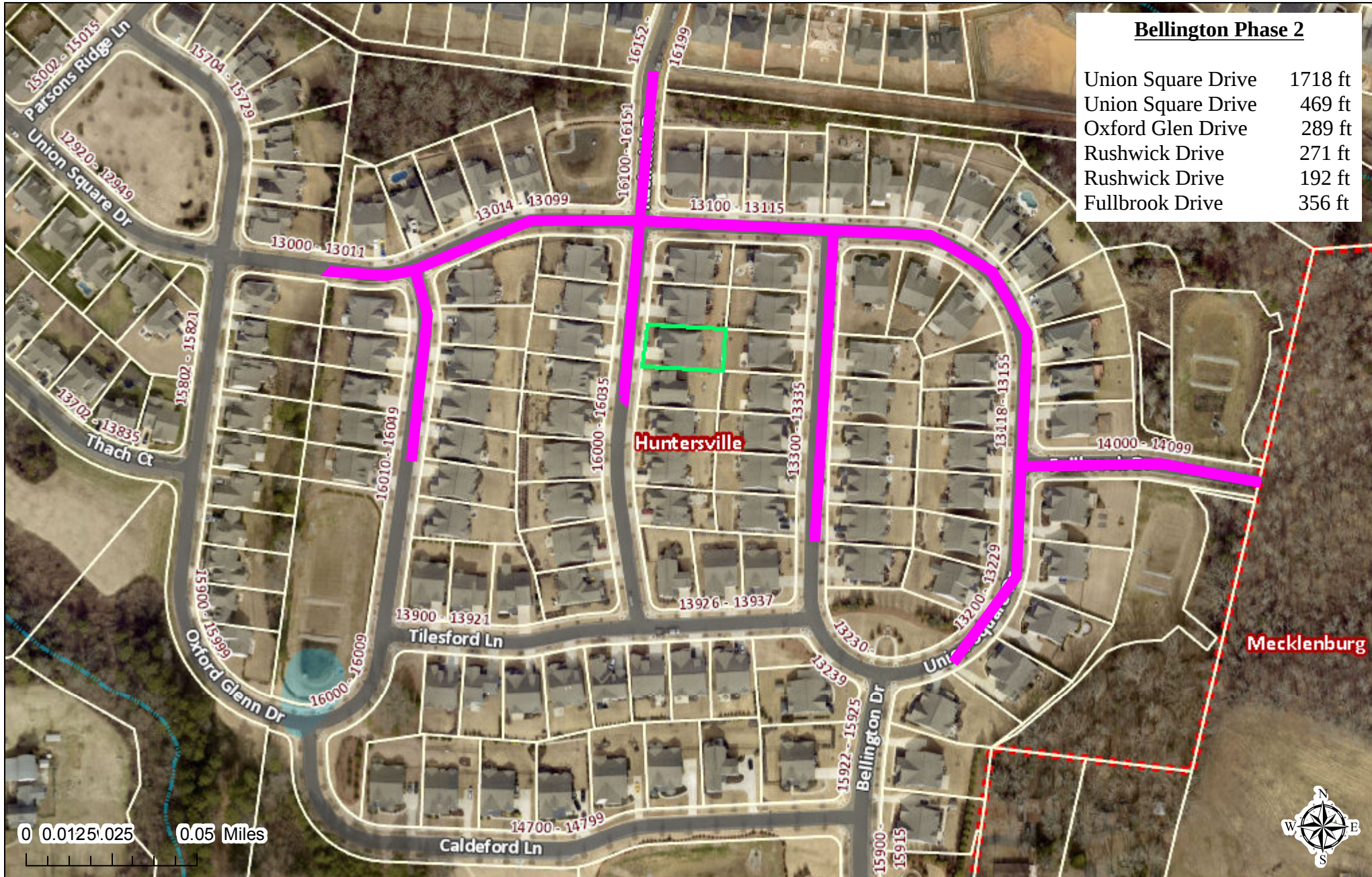


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Polaris 3G Map – Mecklenburg County, North Carolina

Bellington Phase 2

Date Printed: 4/22/2022 9:56:41 AM



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**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Acceptance of Streets - Farrington Phase 1

EXPLAIN REQUEST:

It is recommended that the Town of Huntersville accept the streets listed below for maintenance, which are located in the Farrington Subdivision, Phase 1.

Street Name	From	To	Approx. Length
Longford Crossing Place	McIlwaine Road	Journeys End Trail	875
Slievroe Court	Longford Crossing Pl	Longford Crossing Pl	595
Journeys End Trail	121' W of Longford Crossing Pl	145' E of McDowell Crossing Pl	790
McDowell Crossing Place	Journeys End Trail	550' S of Journeys End Trail	550

ACTION RECOMMENDED:

Accept Streets for Town Maintenance.

FINANCIAL IMPLICATIONS:

Powell Bill

ATTACHMENTS:

1. Farrington Phase 1 Map
2. Farrington Phase 1 - Aerial

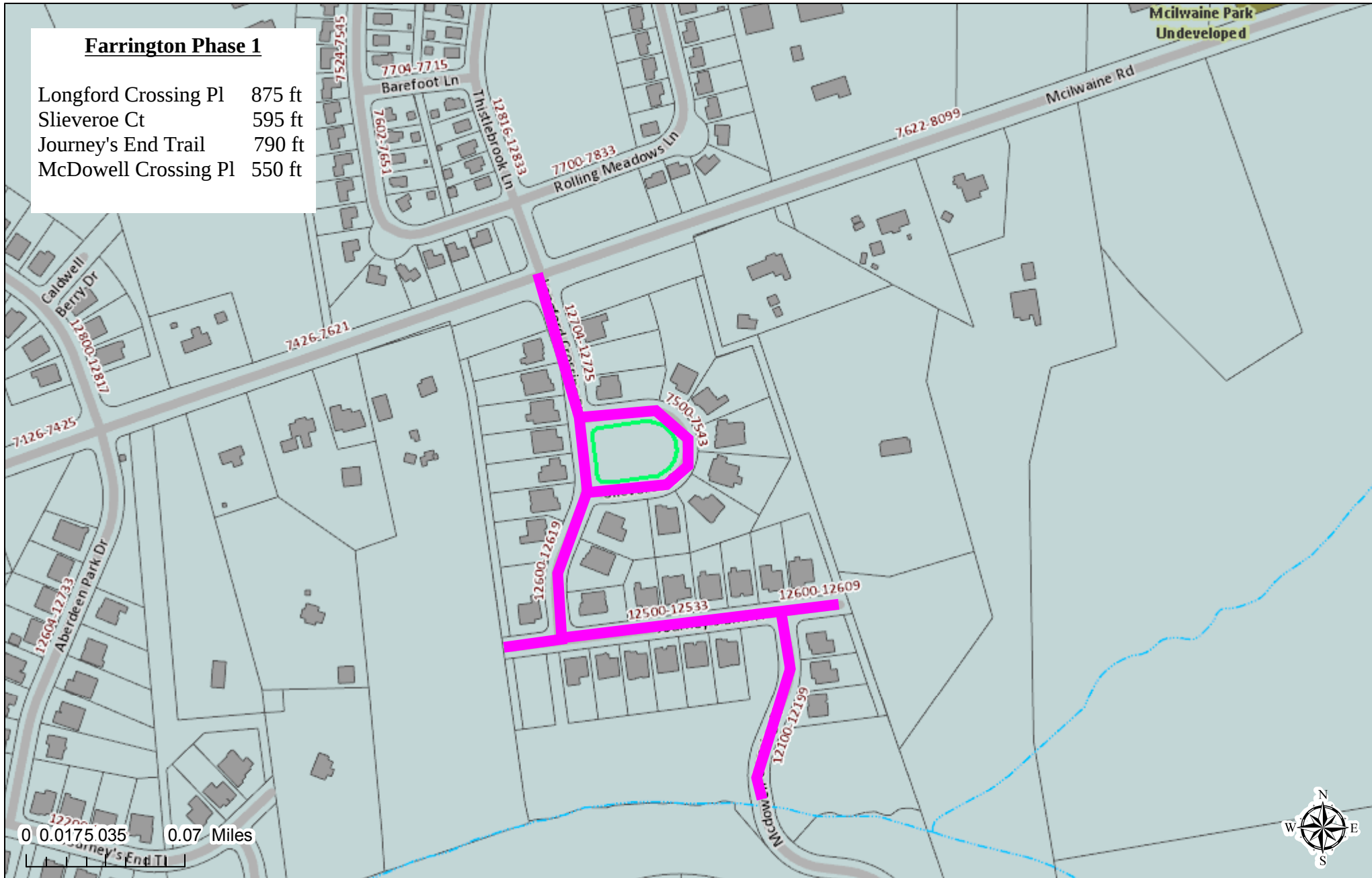
Polaris 3G Map – Mecklenburg County, North Carolina

Farrington Phase 1

Date Printed: 2/18/2022 8:38:07 AM

Farrington Phase 1

Longford Crossing Pl	875 ft
Slieveroe Ct	595 ft
Journey's End Trail	790 ft
McDowell Crossing Pl	550 ft



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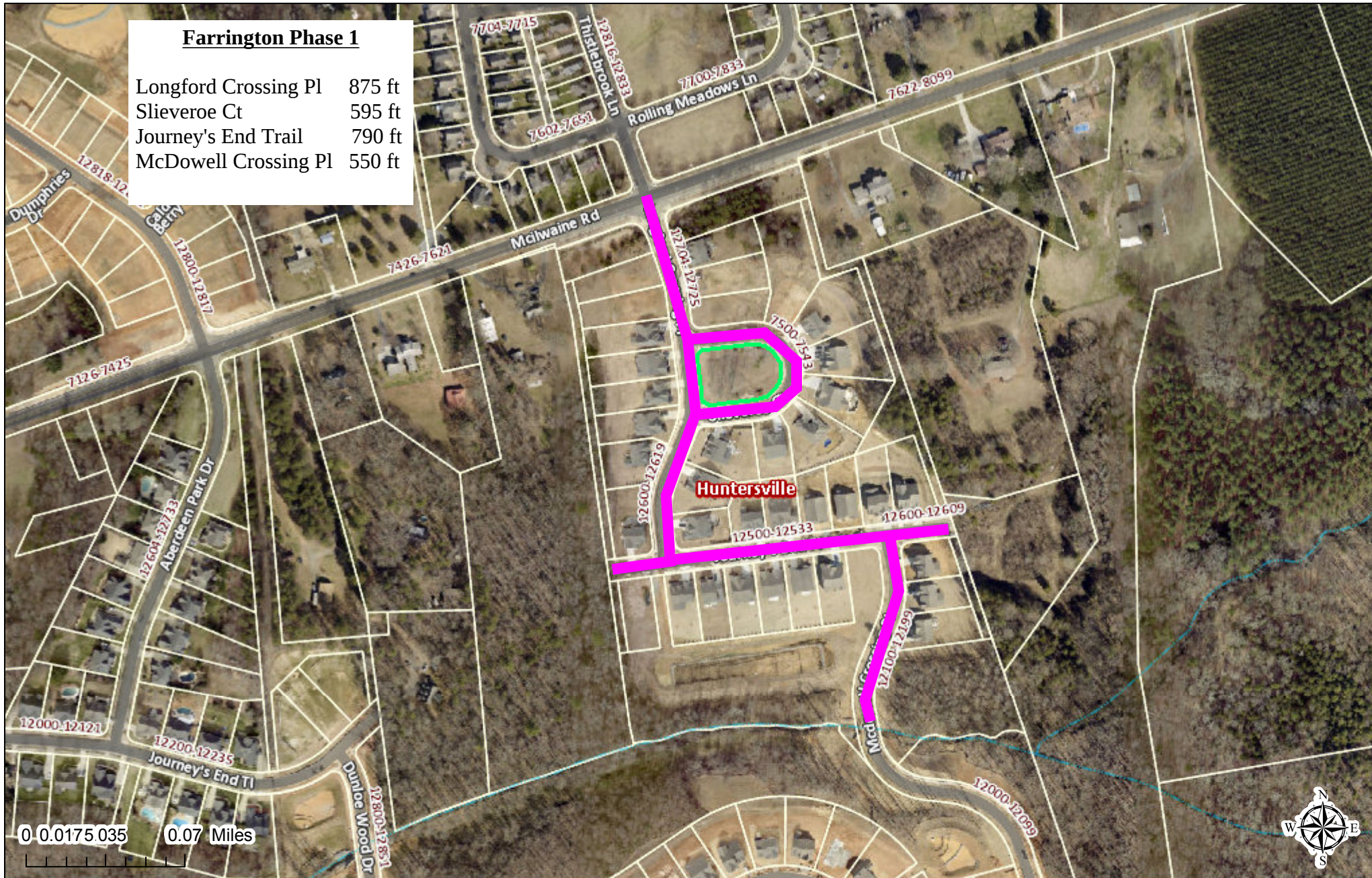
Polaris 3G Map – Mecklenburg County, North Carolina

Farrington Phase 1

Date Printed: 2/18/2022 9:13:28 AM

Farrington Phase 1

Longford Crossing Pl	875 ft
Slieveroe Ct	595 ft
Journey's End Trail	790 ft
McDowell Crossing Pl	550 ft



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**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Acceptance of Street - Segments Constructed as Part of Holbrook Street Ext. Project

EXPLAIN REQUEST:

It is recommended that the Town of Huntersville accept the streets listed below for maintenance. These streets segments were constructed by the Town as part of the recently completed Holbrook Street Extension Project.

Street Name	From	To	Approx. Length
Holbrook Street	179' E of Margurite Ln	856' W of Margurite Ln	1035
Margurite Lane	110' N of Holbrook St	Holbrook Street	110
Commerce Centre Drive	327' N of Holbrook St	Holbrook Street	327

ACTION RECOMMENDED:

Accept Streets for Town Maintenance

FINANCIAL IMPLICATIONS:

Powell Bill

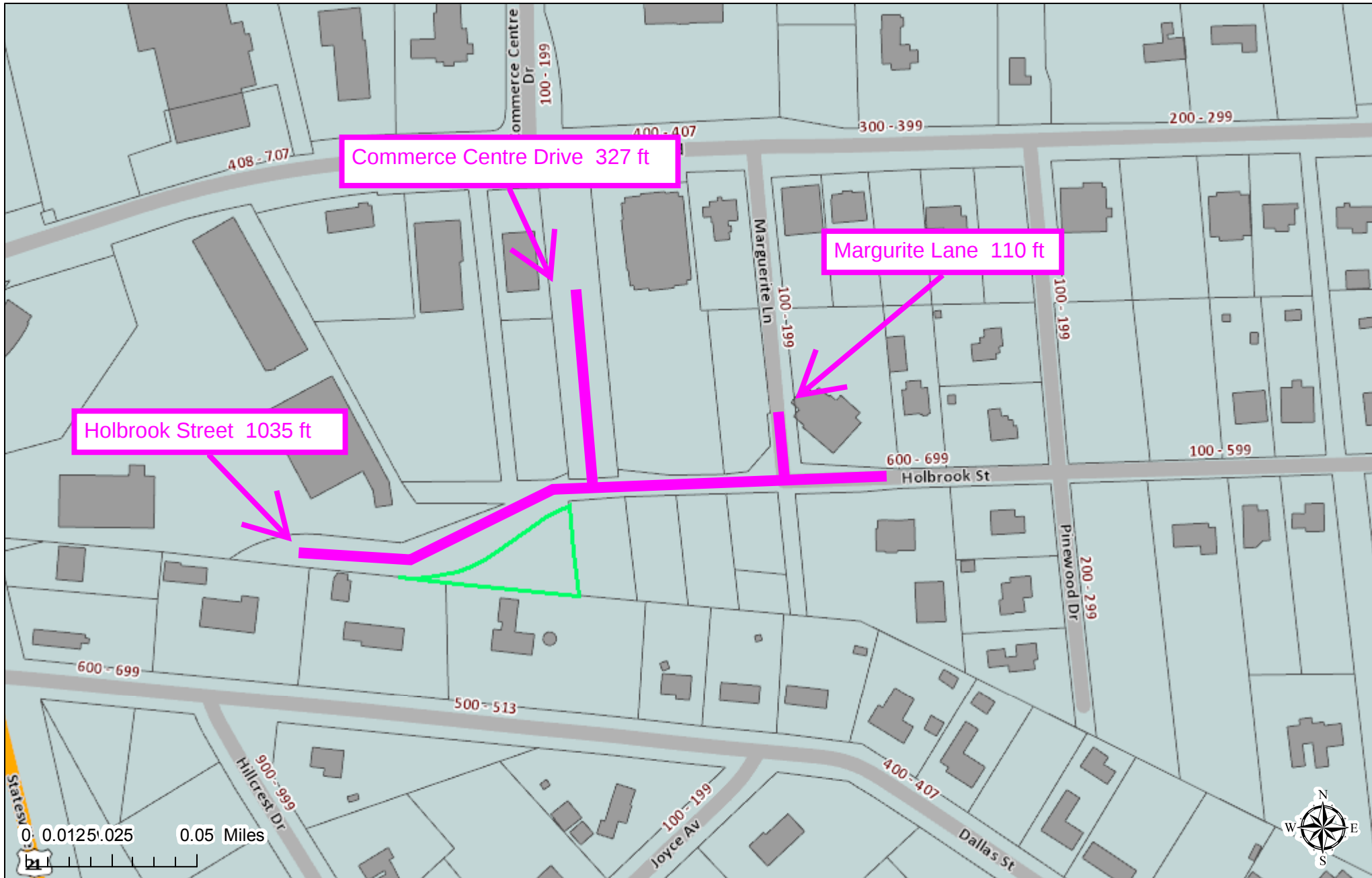
ATTACHMENTS:

1. Holbrook Street Extension - Map
2. Holbrook Street Extension - Aerial

Polaris 3G Map – Mecklenburg County, North Carolina

Holbrook Street Extension

Date Printed: 3/11/2022 1:01:00 PM

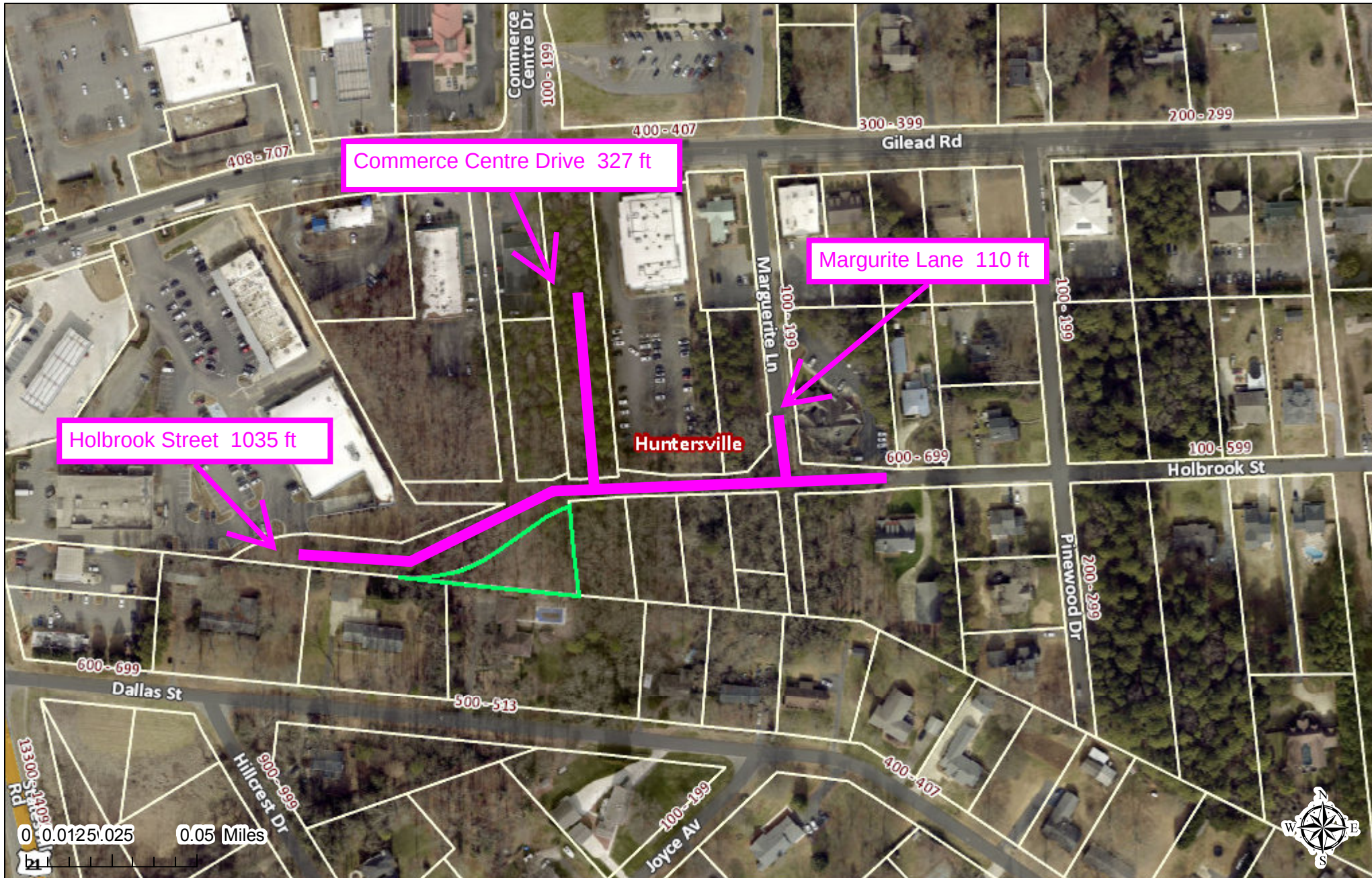


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Polaris 3G Map – Mecklenburg County, North Carolina

Holbrook Street Extension

Date Printed: 3/11/2022 1:02:03 PM



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**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Acceptance of Street - Hunstad Boulevard

EXPLAIN REQUEST:

It is recommended that the Town of Huntersville accept the street listed below for maintenance, which is located off of Statesville Road in Huntersville.

Street Name	From	To	Approx. Length
Hunstad Blvd	Statesville Rd / NC-21	465' E of Statesville Rd	465

ACTION RECOMMENDED:

Accept Street for Town Maintenance.

FINANCIAL IMPLICATIONS:

Powell Bill

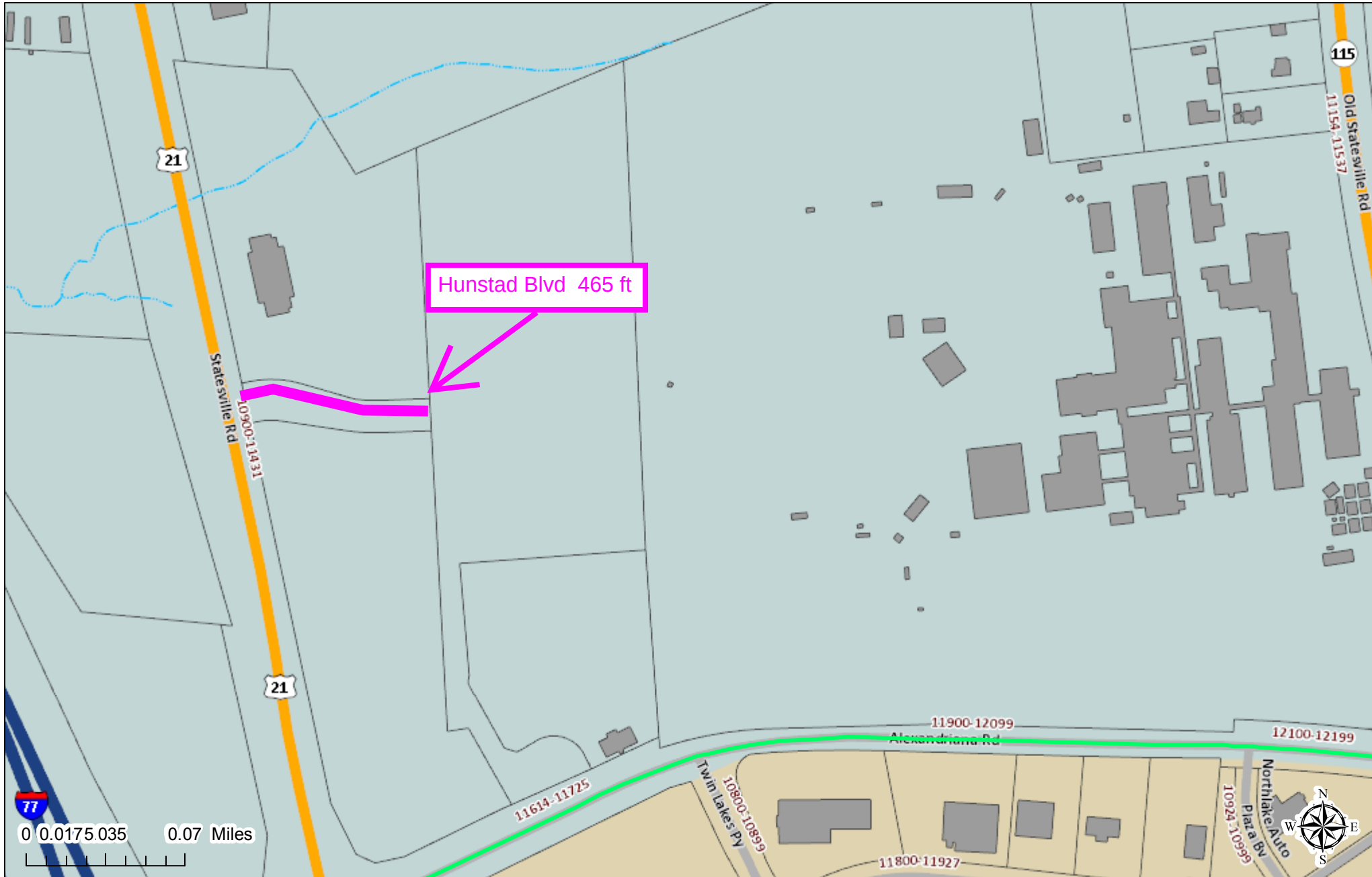
ATTACHMENTS:

1. Hunstad Blvd - Map
2. Hunstad Blvd - Aerial

Polaris 3G Map – Mecklenburg County, North Carolina

Hunstad Blvd

Date Printed: 3/11/2022 12:47:13 PM

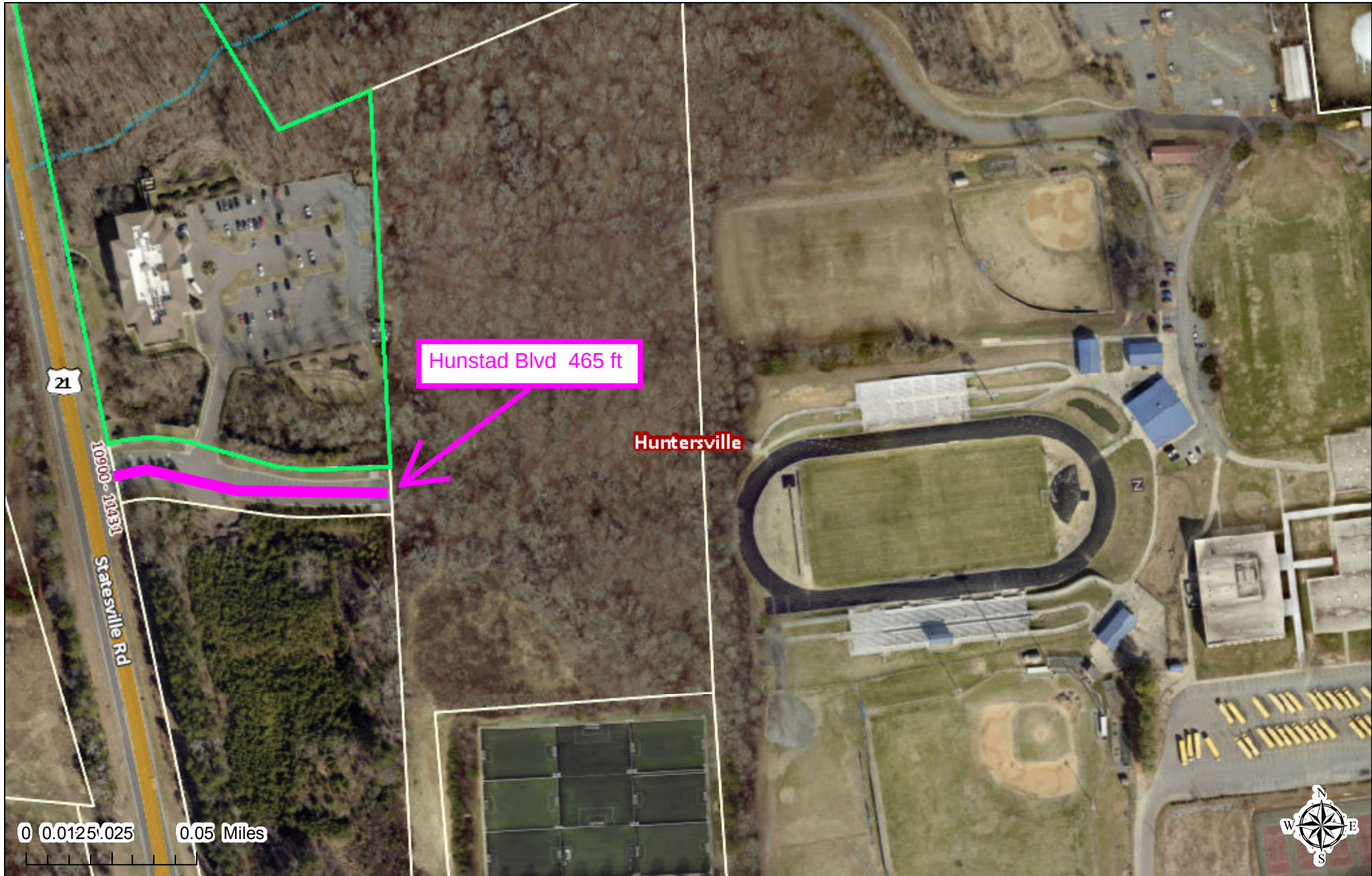


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Polaris 3G Map – Mecklenburg County, North Carolina

Hunstad Blvd

Date Printed: 3/11/2022 12:40:51 PM



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**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Acceptance of Street - Jamesburg Drive.

EXPLAIN REQUEST:

It is recommended that the Town of Huntersville accept the street listed below for maintenance, which is located off of NC73 in Huntersville.

Street Name	From	To	Approx. Length
Jamesburg Drive	Sam Furr Rd / NC-73	2,300' N of NC-73	2,300

ACTION RECOMMENDED:

Accept Street for Town Maintenance.

FINANCIAL IMPLICATIONS:

Powell Bill

ATTACHMENTS:

1. Jamesburg Drive - Map
2. Jamesburg Drive - Aerial

Polaris 3G Map – Mecklenburg County, North Carolina

Lot 2 of DSC Logistics - Jamesburg Dr.

Date Printed: 2/18/2022 8:48:11 AM



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Polaris 3G Map – Mecklenburg County, North Carolina

Lot 2 of DSC Logistics - Jamesburg Dr.

Date Printed: 2/18/2022 8:50:11 AM



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**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Acceptance of Street - University City Church Drive

EXPLAIN REQUEST:

It is recommended that the Town of Huntersville accept the street listed below for maintenance, which is located off of NC73 in Huntersville.

Street Name	From	To	Approx. Length
University City Church Dr	Sam Furr Rd / NC-73	765' N of NC-73	765

ACTION RECOMMENDED:

Accept Street for Town Maintenance.

FINANCIAL IMPLICATIONS:

Powell Bill

ATTACHMENTS:

1. University City Church Dr - Map
2. University City Church Dr - Aerial

Polaris 3G Map – Mecklenburg County, North Carolina

University City Church Dr.

Date Printed: 2/18/2022 8:55:14 AM

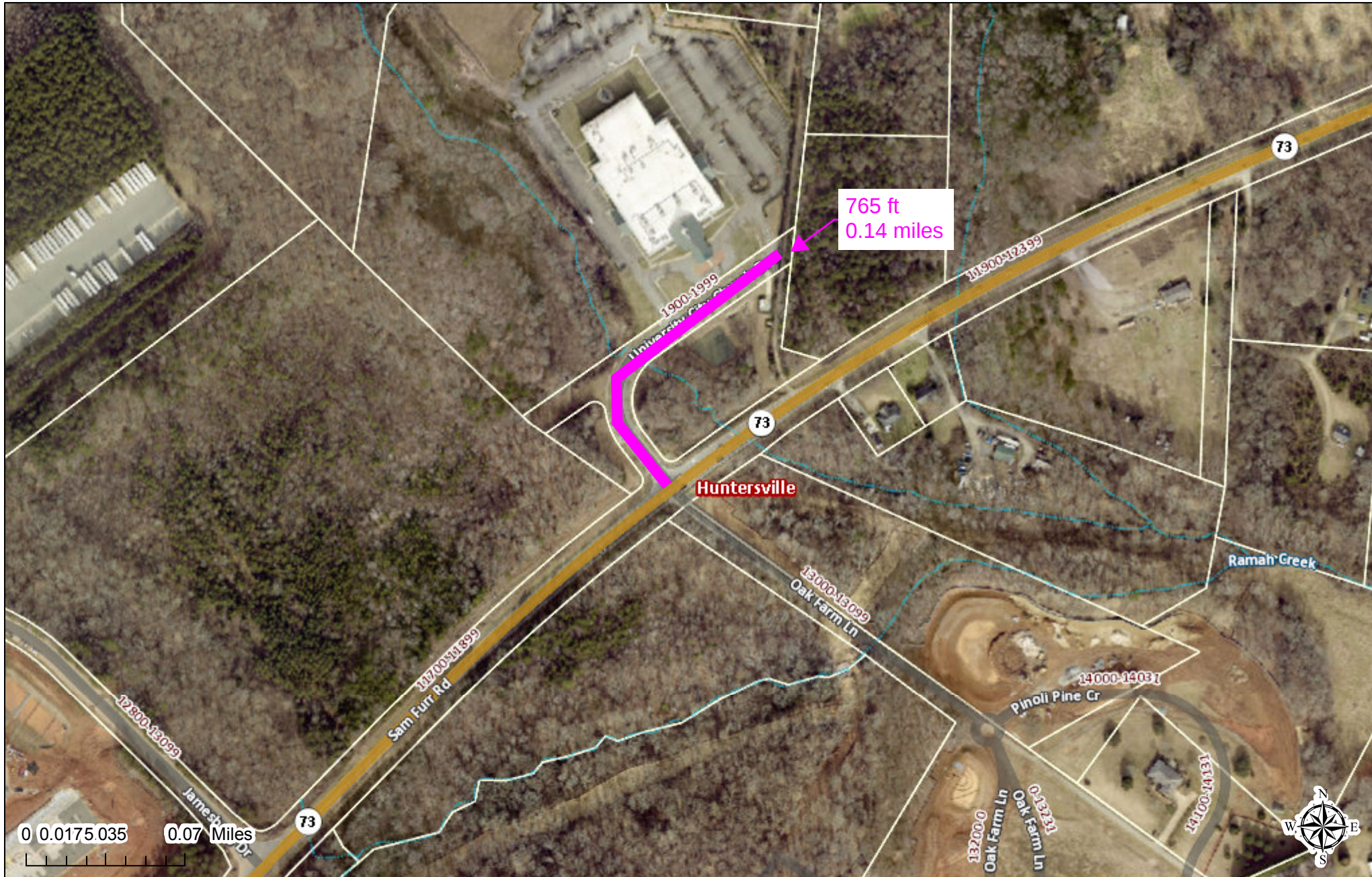


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Polaris 3G Map – Mecklenburg County, North Carolina

University City Church Dr.

Date Printed: 2/18/2022 8:59:24 AM



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**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Resolution - Accept Carver Avenue from NCDOT for Maintenance

EXPLAIN REQUEST:

Consider accepting Carver Avenue for Town Maintenance from NCDOT due to an approved development.

ACTION RECOMMENDED:

Adopt Resolutions

FINANCIAL IMPLICATIONS:

Powell Bill

ATTACHMENTS:

1. R-2022-16 CarverAveResolution



**RESOLUTION OF THE TOWN OF HUNTERSVILLE TO ACCEPT MAINTENANCE OF
CARVER AVENUE FROM NCDOT**

WHEREAS, Carver Avenue extend from Beatties Ford Road to the east a distance of approximately 1,110 feet; and

WHEREAS, Carver Avenue is currently maintained by the North Carolina Department of Transportation; and

WHEREAS, due to an approved development, Oak Grove Hill, the Town of Huntersville agreed to accept maintenance of Carver Avenue for the purpose of adding on-street parking as a condition of the development;

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town of Huntersville accepts Carver Avenue for Town Maintenance, approximately 1,110 feet, from Beatties Ford Road to the end of the public roadway.
2. The Board hereby authorizes the Town Manager, acting on advice of counsel, to take any actions necessary to affect the provisions of this Resolution, including signing a letter to the North Carolina Department of Transportation indicating the acceptance of maintenance of the roadway as may be required.
3. This Resolution shall be effective as of the date the North Carolina Department of Transportation abandons Carver Avenue to the Town of Huntersville.

Adopted this 16th day of May, 2022.

ATTEST:

Janet Pierson, Town Clerk

Melinda Bales, Mayor

APPROVED AS TO FORM:

Emily Sloop, Town Attorney

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kevin Fox, Director of Public Works

Date: May 16, 2022

Subject: Resolution - Accept Overhill Road from NCDOT for Maintenance

EXPLAIN REQUEST:

Consider accepting Overhill Road for Town Maintenance from NCDOT due to an approved development.

ACTION RECOMMENDED:

Adopt Resolutions

FINANCIAL IMPLICATIONS:

Powell Bill

ATTACHMENTS:

1. R-2022-17 OverhillRoadResolution



**RESOLUTION OF THE TOWN OF HUNTERSVILLE TO ACCEPT MAINTENANCE OF
OVERHILL ROAD FROM NCDOT**

WHEREAS, Overhill Road extends from Carver Avenue to Beatties Ford Road, a distance of approximately 1,005 feet; and

WHEREAS, Overhill Road is currently maintained by the North Carolina Department of Transportation; and

WHEREAS, due to an approved development, Oak Grove Hill, the Town of Huntersville agreed to accept maintenance of Overhill Road for the purpose of adding on-street parking as a condition of the development;

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town of Huntersville accepts Overhill Road for Town Maintenance, approximately 1,005 feet, from Carver Avenue to Beatties Ford Road.
2. The Board hereby authorizes the Town Manager, acting on advice of counsel, to take any actions necessary to affect the provisions of this Resolution, including signing a letter to the North Carolina Department of Transportation indicating the acceptance of maintenance of the roadway as may be required.
3. This Resolution shall be effective as of the date the North Carolina Department of Transportation abandons Overhill Road to the Town of Huntersville.

Adopted this 16th day of May, 2022.

ATTEST:

Janet Pierson, Town Clerk

Melinda Bales, Town Mayor

APPROVED AS TO FORM:

Emily Sloop, Town Attorney

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Anthony Roberts, Town Manager

Date: May 16, 2022

Subject: Public Hearing - Proposed Budget for FY23

EXPLAIN REQUEST:

Conduct public hearing to receive public comments on the proposed budget for FY23.

The Manager's Recommended Budget can be viewed online at [Manager's Recommended Budget](#).

ACTION RECOMMENDED:

Conduct Public Hearing

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

None

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Kayleigh Mielenz, Planner I

Date: May 16, 2022

Subject: Petition #S22-01, Birkdale Landing Special Sign District.

EXPLAIN REQUEST:

Consider final action on Petition #S22-01, Birkdale Landing Special Sign District, a request by Firebirds International, LLC to create a Special Sign District Overlay for Birkdale Landing located at 16641 Birkdale Commons Pkwy, Tax Parcel 00917184.

ACTION RECOMMENDED:

Consider Final Action

FINANCIAL IMPLICATIONS:

n/a

ATTACHMENTS:

1. Birkdale Landing SSD Staff Report
2. SSD Application
3. Minutes of Birkdale Landing Neighborhood Meeting
4. Article 10.11_Zoning Ordinance
5. Proposed SSD Birkdale Landing Master Signage Plan
6. Current Birkdale Landing Master Signage Program_11.02.21

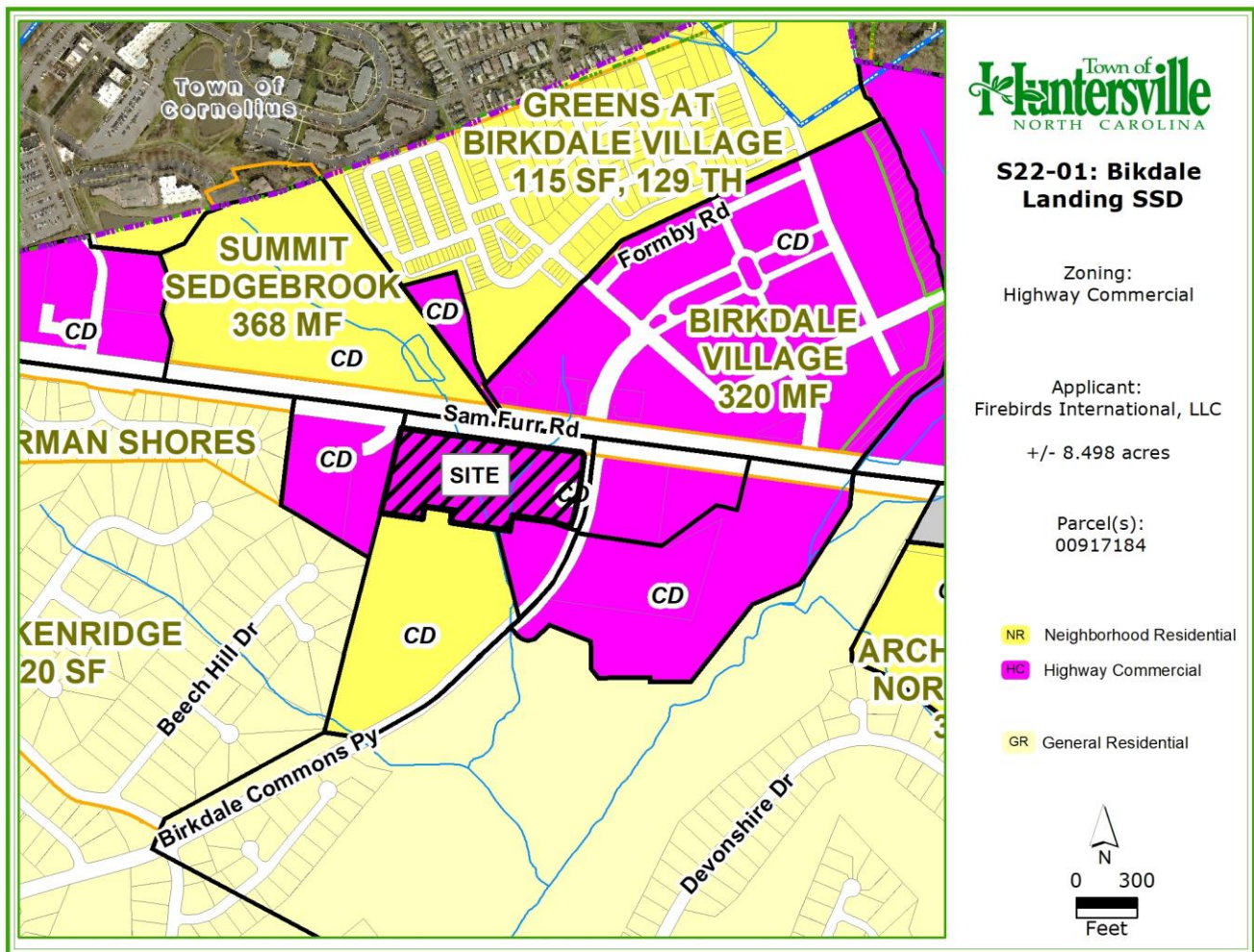
Birkdale Landing Special Sign District Overlay

PROJECT DESCRIPTION

Firebirds International, LLC is requesting on behalf of the property owner, Fairway Investments, LLC, to create a Special Sign District Overlay for the Birkdale Landing development. A Special Sign District is intended to impose sign regulations which provide greater latitude or more stringent limitations than those provided in Article 10 of the Zoning Ordinance.

There are two Master Sign Program options under Article 10.11, Planned Development Flexibility and Special Sign District. The Planned Development Flexibility option is administratively approved and allows a 25% increase in size for some sign types but otherwise offers minimal flexibility from town sign regulations. The Special Sign District requires Town Board approval and is a Zoning District Overlay that provides greater flexibility from Town sign regulations.

Birkdale Landing is currently utilizing the Planned Development Flexibility option, for which the master sign plan was approved in February 2020 and amended in January and November 2021. Firebirds International has petitioned to switch Birkdale Landing to a Special Sign District to benefit from the increased flexibility allowed.



Birkdale Landing is located at the intersection of Sam Furr Rd (Hwy 73) and Birkdale Commons Parkway. The subject property is zoned Highway Commercial Conditional District (HC-CD).

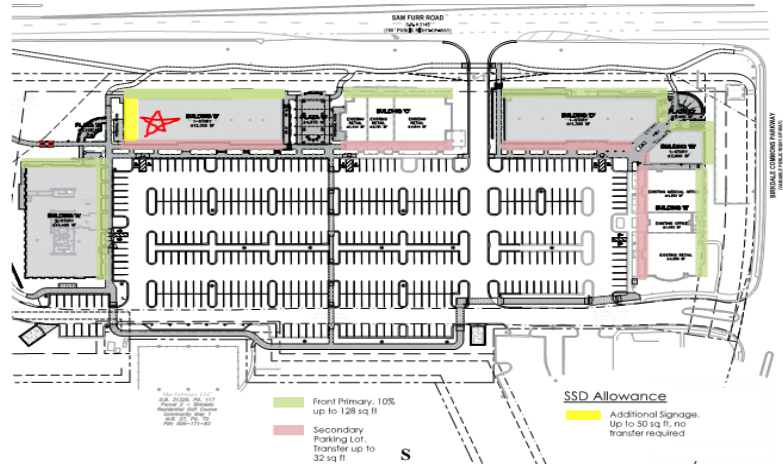
SPECIAL SIGN DISTRICT DETAILS

Below are the major highlights of the proposed Special Sign District.

Birkdale Landing non-street fronting wall sign. Firebirds International, LLC is requesting to designate an exterior wall of their tenant space that does not front on a public street as a wall eligible for an additional tenant wall sign, up to 50 square feet. The sign would be classified as an additional sign and would not be subject to primary or secondary sign regulations (a primary sign would be allowed 10% of the wall area, up to 128 SF & a secondary sign would be allowed up to 32 SF and require a square footage transfer). Firebirds is proposing a 42 SF additional wall sign.



Patio Elevation



STAFF RECOMMENDATION

Birkdale Landing non-street fronting wall sign. Staff supports the request to allow a non-street fronting wall on the Firebirds unit to be eligible for an additional tenant wall sign that's up to 50 square feet.

In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, Staff recommends approval based on the Master Sign Plan being consistent with the Huntersville 2040 Community Plan policies:

Policy LU-7: Require new development to follow design principles that reinforce the vision for the Town as expressed in this plan and other adopted plans. The town has committed to traditional town planning and urban design principles that are meant to preserve the character of the town. This commitment is noted in adopted plans and the zoning ordinance, and has been expressed in new development over the last 25 years.

LU 7.2: Consider updates to the Huntersville Design Guidebook and/or Zoning Ordinance as needed to improve the commercial and multi-family design.

Policy LU-8: Emphasize form and flexibility in Mixed-Use Centers, Employment Centers, the Town Core, and Activity Centers.

LU 8.1: Continue to emphasize form and flexibility in development regulations for these areas.

- The current zoning ordinance has basic form based standards with flexibility built-in. Key elements include allowing multiple types of land uses, a mix of uses, minimal setbacks, and parking requirements.

It is reasonable and in the public interest to approve the Special Sign District because it is consistent with the greater flexibility in form, style, and design desired by the 2040 Community Plan.

NEIGHBORHOOD MEETING

The Applicant held a virtual Neighborhood Meeting on 03/03/22 at 6 pm. No one from the public attended.

PUBLIC HEARING

The Public Hearing was held April 4, 2022. No one from the public commented.

PLANNING BOARD RECOMMENDATION

The Planning Board recommended approval (8-0) at the April 26, 2022 meeting.

TOWN BOARD DECISION

May 16, 2022

ATTACHMENTS

1. Application & Sign Example
2. Neighborhood Meeting Minutes
3. Zoning Ordinance Article 10.11
4. Birkdale Landing Sign Plan for SSD (Proposed)
5. Birkdale Landing Sign Plan for Flexibility Option (Current)

STATEMENT OF CONSISTENCY – S22-01

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, Staff recommends approval based on the Master Sign Plan being consistent with Huntersville 2040 Community Plan policies LU-7, LU 7.2, LU-8, and LU 8.1. It is reasonable and in the public interest to approve the Special Sign District because it is consistent with the greater flexibility in form, style, and design desired by the 2040 Community Plan.	APPROVAL: S. Hensley made a Motion to Approve S22-01 Birkdale Landing special sign district. The Planning Board recommends approval based on the master sign plan being consistent with the Huntersville 2040 Community Plan, specifically policies LU7, LU7.2, LU8 and LU8.1. It is reasonable and in the public interest to approve this special sign district because it is consistent with the greater flexibility, form style, and design desired by the 2040 Plan. T. Loomis seconded the motion. The motion passed unanimously (8-0).	APPROVAL: In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, the Town Board recommends approval based on the Master Sign Plan being consistent with <u>(insert applicable plan reference)</u>. <u>It is reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u>
		DENIAL: In considering the proposed rezoning petition S22-01, Birkdale Landing Special Sign District, the Town Board recommends denial based on the Master Sign Plan being <u>(consistent OR inconsistent) with (insert applicable plan reference)</u>. <u>It is not reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u>



General Application

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

1. Application Type

Please indicate the type of application you are submitting. In addition to the application, the submission process for each application type can be found at <https://www.huntersville.org/528/Permits-Process>

- ☐ Change of Use
- ☐ Commercial Site Plan
- ☐ Conditional Rezoning
- ☐ General Rezoning
- ☒ Master Signage Program
- ☐ Special Use Permit
- ☐ Revision to
Original Project # _____
- ☐ Other _____

- SUBDIVISION CATEGORIES:** Per the Huntersville Subdivision Ordinance
- ☐ Sketch Plan
 - ☐ Preliminary Plan
 - ☐ Final Plat (Includes Minor Subdivision)
 - ☐ Exempt Subdivision
 - ☐ Final Plat Revision
 - ☐ Farmhouse Cluster

2. Project Data

Date of Application January 20, 2022

Name of Project Birkdale Landing Phase # (if subdivision) _____

Project Address 16641 Birkdale Commons Parkway, Huntersville, NC 28078

Parcel Identification Number(s) (PIN) 00917184

Current Zoning District HC(CD) Proposed District (for rezoning only) HC(CD)

Property Size (acres) 8.48 Street Frontage (feet) 894.47 Hwy 73 (0.17 miles) 371.15 Birkdale Commons Pkwy

Current Land Use retail establishments – applicant being a polish casual restaurant

Proposed Land Use(s) same as above

Is the project within Huntersville's corporate limits?
Yes ☒ No ☐ If no, does the applicant intend to voluntarily annex? _____

3. Description of Request

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

Please see Exhibits A, B and C attached hereto and incorporated by reference for complete details.

4. Site Plan Submittals

Consult the particular type of *Review Process* for the application type selected above. These can be found at <https://www.huntersville.org/528/Permits-Process>.

5. Outside Agency Information

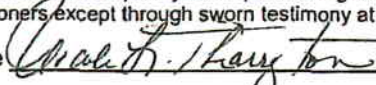
Other agencies may have applications and fees associated with the land development process. The *Review Process* list includes plan documents needed for most town and county reviewing agencies. For major subdivisions, commercial site plans, and rezoning petitions please enclose a copy of the Charlotte-Mecklenburg Utility *Willingness to Serve* letter for the subject property.

6. Applicant

Printed Name Firebirds International, LLC d/b/a Firebirds Wood Fired Grill Phone 704-944-5180

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

☒ 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 for Special Use Permits and Subdivisions)

Signature  Printed Name: Nicole Tharrington

Title VP and General Counsel Email Ntharrington@fbgrill.com

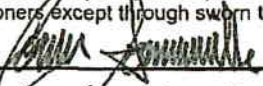
Address of Applicant 13850 Ballantyne Corporate Place, Suite 450, Charlotte, NC 28277

7. Property Owner (if different than applicant)

*Printed Name Fairway Investments, LLC Phone 205-802-7202

☐ 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 for Special Use Permits and Subdivisions)

Signature  Printed Name Connor Somerville

Title Development and Asset Manager Email connor@fairwayinvestments.com

Address of Property Owner 728 Shades Creek Parkway Suite 210, Birmingham, AL 35209

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

8. Development/Design Firm Contact Information

Development Firm	Name of Contact	Phone	Email
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Design Firm	Name of Contact	Phone	Email
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Contact Information

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

Adjacent property owners and addresses within 100 feet of 16623, 16627, 16633, 16639, 16641, and 16647 Birkdale Commons Parkway, Huntersville, NC 28078 (per the Polaris 3G) – designated as Mecklenburg County Tax Parcel Number 01917184:

TAX PARCEL NUMBER	OWNER	ADDRESS
00921118	Fairway – Birkdale, LLC, an Alabama limited liability company	728 Shades Creek Parkway, Suite 200 Birmingham, AL 35209-4453
00921116	Fairway – Birkdale, LLC, an Alabama limited liability company	728 Shades Creek Parkway, Suite 200 Birmingham, AL 35209-4453
00917183	Mar Fairways, LLC, a Delaware limited liability company, converted to NREA SE3 Fairways, DST, a Delaware statutory trust	5429 LBJ Freeway, Suite 800 Dallas, TX 75240
00917185	SmileVision, LLC, a North Carolina limited liability company	16525 Birkdale Commons Parkway Huntersville, NC 28078
00914136	Romspen Birkdale LLC, a Delaware limited liability company	162 Cumberland Street, Suite 300 Toronto, Ontario, XX M5R 3N5
00914137	BOBs, LLC, a North Carolina limited liability company	19824 W. Catawba Avenue, Suite G Cornelius, NC 28031
00914138	Gemini Investment Group, LLC, a North Carolina limited liability company	16600 Birkdale Commons Parkway, Suite A Huntersville, NC 28078-6181
00914139	BOBs, LLC, a North Carolina limited liability company	19824 W. Catawba Avenue, Suite G Cornelius, NC 28031

Tax maps:





Customer:
Firebirds - Huntersville, NC

16639 Birkdale Commons Pkwy
Huntersville, NC 28078

Drawing #:
300615

Date:
01/31/2020

Revision:
02/12/2020tn
11/03/2021DM
01/21/2022DM

Customer Approval:

Date:

Sales:
D. Martin

Design: Check by:
Darin M.

This design is the property of CASCO SIGNS, Inc. and remains our property until sign is purchased. Any attempt to reproduce this design or use by others for any purpose, without written consent is subject to prosecution to the fullest extent allowed by law.

All components & installations are approved & listed by UNDERWRITERS LABORATORIES

Drawing Type:
Sales



Patio Elevation

Scale: 3/32" = 1'-0"

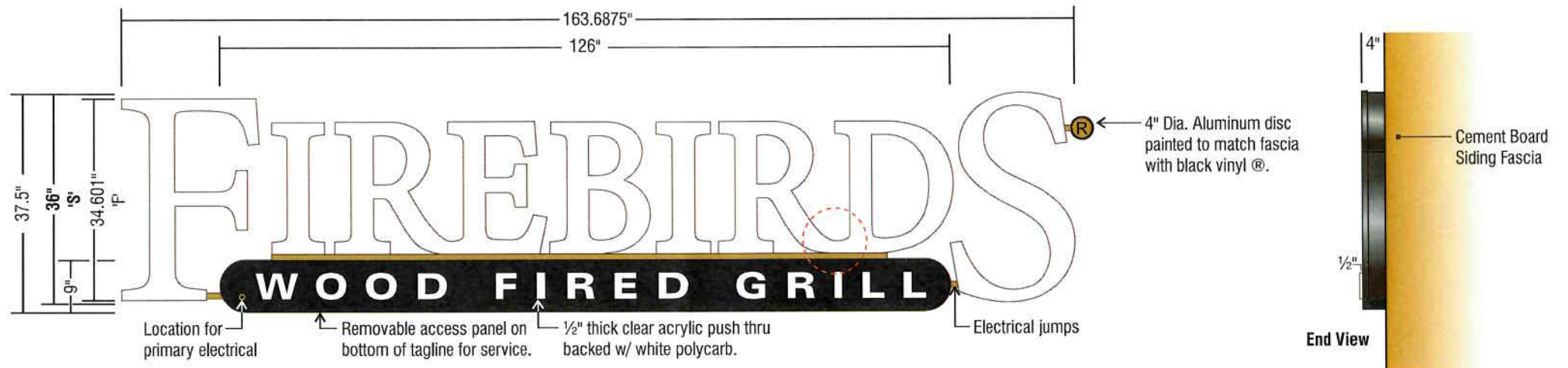
Sign Notes

Lighted channel letters fabricated from aluminum (.040" returns [4" deep], 3mm ACM backs) with returns finished Black. Letters to have 3/16" white acrylic faces secured to returns via 1" Black trim cap. Letters internally lighted via Samsung Luna White LEDs. 'IREBIRD' letters will mount on top of a 1" x 3" aluminum tube that will house wiring and is painted to match the fascia. 'F' & 'S' letters will be jumped from tagline via low voltage wiring and conduit.

Tagline cabinet fabricated from aluminum (.090" face, .063" welded returns [4" deep]), all painted black. Face to have routed out 1/2" clear acrylic push thru copy backed with 1/8" white polycarb. Cabinet internally lighted via Samsung Luna White LEDs. Cabinet & letters will mount flush to the fascia via approved hardware. All power supplies & secondary wiring will come from inside the tagline cabinet.

Color Notes

- 1/2" Clear acrylic - push thru copy (tagline)
- 2447 White acrylic - letter faces
- 7328 White polycarb - push thru backer panel (tagline)
- Black (vinyl) - ®
- Black coil stock - letter returns
- Black jewelrite - letter trim cap
- Black (gloss) - tagline cabinet
- SW 6356 Copper Mountain(satin) - ® disc, electrical jumps & connecting tube wireway



B2 (1) Readings of Flush Mounted Channel Letters (FB-FM-WT 36)
Scale: 1/2" = 1'-0" 37.5" x 163.6875" = 42.6 Sq. Ft.

**Minutes of Birkdale Landing Neighborhood Meeting
Held March 3, 2022 @ 6 pm
Submitted by Nicole Tharrington**

I. Individuals in Attendance:

On Behalf of Firebirds of Huntersville, LLC d/b/a Firebirds Wood Fired Grill:

- **Steve Kislow – Chief Executive Officer**
- **Marie Collins – Director of Administration and Licensing**
- **Nicole Tharrington – Vice President and General Counsel**

On Behalf of Huntersville:

- **Kayleigh Mielenz – Planner I, Town of Huntersville**
- **Brian Richards – Assistant Planning Director, Huntersville Planning Dept.**

On Behalf of the Developer/Landlord:

- **Sara Haight – Senior Property Manager, Fairway Management**

II. After introductions and rollcall, the meeting was called to order.

III. The attached PowerPoint was presented and discussed during which it was confirmed that all Birkdale Landing tenants were notified by Firebirds of its application for an amendment to the Birkdale Landing Master Sign Program in favor of a Special Sign District. It was further confirmed that no objections or other revisions were received. Additionally, Firebirds confirmed that Birkdale Landing tenants were invited to this meeting although none attended.

IV. Following the presentation and being there were no further questions, the meeting was adjourned at 6:20 pm.

10.11 Master Signage Programs

Master signage programs establish two alternatives in providing latitude to develop appropriate signage designs for new or existing areas with special unifying features. The alternatives are the Special Sign Districts and the Planned Development Flexibility option. Special Sign Districts require approval by the Board of Commissioners following review and recommendation by the Huntersville Planning Board.

10.11.1 Special Sign Districts

For the purpose of establishing, enhancing, preserving, and developing the character, quality, and property values of areas of unique character and special development potential, districts in which signs are regulated by special provisions may be established subject to the following conditions:

- .1 As a prerequisite to the establishment of such a special sign district, it must be determined that the modified rules established for said district shall:
 - a) Preserve and enhance the special character of the particular area; and
 - b) Not contravene the intent of this ordinance; and
 - c) Cause no disturbance to neighboring property lying outside the proposed district.
- .2 Without changing the basic structure of this ordinance, the modified rules for a special sign district may impose sign regulations which provide greater latitude or more stringent limitations than those provided elsewhere in this ordinance.
- .3 The special sign district constitutes an overlay district and shall conform to the procedures of Article 11 for purposes of adoption and administration. Districts for which special sign regulations may be imposed include, but shall not be limited to the Town Center District, the Neighborhood Center District, the TND-U and TND-R districts.

10.11.2 Planned Development Flexibility Option

For the purpose of providing flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this ordinance may be approved by the Zoning Administrator, subject to the following:

- .1 The development is: a planned residential, nonresidential, or mixed-use development, 10 acres or greater in size; a hospital or other large-scale institutional complex; a large-scale cultural, civic or recreational facility; or a similar large-scale development.
- .2 A Master Sign Program that includes the following information in booklet form is submitted:
 - a) Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.
 - b) Proposed number and location of signs.
 - c) Sign Illumination Plans.
 - d) Plans for landscaping or architectural features to be used in conjunction with such plans.
- .3 The proposed signs meet the following criteria:
 - a) All signs are coordinated in terms of design features.
 - b) The maximum amount of allowable wall mounted signage per individually constructed tenant space of one non-street fronting wall shall not exceed 25% of the area of the street fronting sign, up to a maximum of 32 square feet. This 25% increase may only be used on one non-street fronting wall.
 - c) Marquee and Hanging/Blade Signs may be increased by 25%, however they may project no more than 4 feet from the building wall, and no more than 3 feet over a sidewalk in a town-maintained right-of-way.
 - d) The maximum size of detached signs is not increased by more than 25%.
 - e) The number of detached signs along a street frontage does not exceed 3.
 - f) The maximum height of a detached sign does not exceed 12 feet.

- g) Multi-information directional signs are no greater than 16 square feet and are located in the interior of a development.

Birkdale Landing Special Sign District

Master Signage Program



March 2022

Master Signage Program
Birkdale Landing
Huntersville, NC

INTRODUCTION/OVERVIEW

In an effort to create a visual conformity for the shoppes at Birkdale Landing, an overall Master Signage Program is proposed to safely inform and direct visitors to and within the Shopping Center. Well designed, creative graphics are important elements for attracting customers. The goal is to promote consistent, high quality signage, while maintaining tenant freedom.

Tenants are required to select signage options from the indicated options and submit design drawings prepared by a sign manufacturer or signage designer for approval by the Developer.

Developer must approve all signage to insure consistency in style, scale, materials, colors and graphics as well as locations and quantities, while allowing for a varied, exciting and interesting streetscape.

Signage shall be limited to types and locations indicated in this manual or as other approved by the Developer as long as other options comply with the Town of Huntersville sign ordinance.

No exposed neon type tubing shall be permitted on outside signs. Neon signs may be used inside of windows. No sky-facing lighting is permitted on outdoor signs.

Permanent signs requiring a permit must have sign permit approved by Town of Huntersville and Mecklenburg County Land Use and Environmental Service Agency (LUESA).

CONTENTS/SUMMARY

- I. Directory Sign
- II. Tenants (less than 5,000 sf)
- III. Tenants (5,000 sf and greater)
- IV. Multi-Story Building
- V. ATM/Kiosk
- VI. Window and Door Graphics
- VII. Tenant Addresses
- VIII. Building Addresses
- IX. Other Signs
- X. Signage Criteria

SECTION I - DIRECTORY SIGN

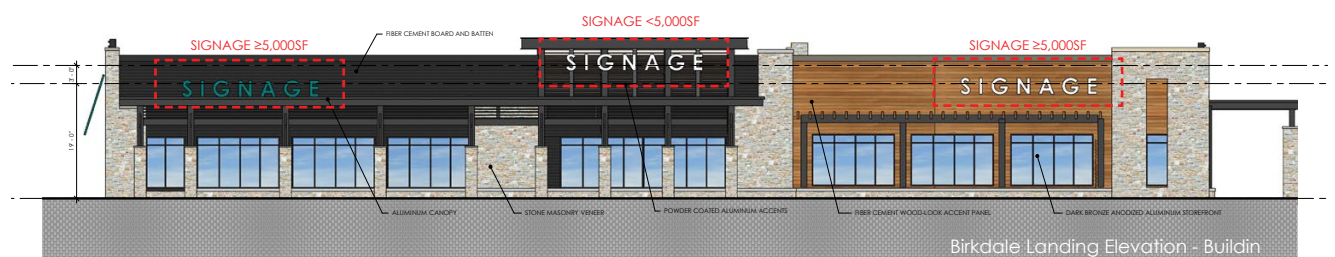
One directory sign will be allowed per street frontage. A total of two directory signs will be allowed as long as the separation distance exceeds 1000' and the signs are located within 50' of their primary street frontage. The exact placement of the directory sign has not been determined, however it will be located at least 5' behind the right-of-way and out of the intersection sight distance. The directory sign will have a maximum sign face area of 120 sq ft and a maximum height of 12' (excluding sign cap). The directory sign will be similar to the examples below, provided however the exact tenant panel layout, materials and color are subject to final Developer design and Town approval.



SECTION II - TENANTS (Less than 5,000 sq ft)

A. Primary Signs

- Primary tenant signs to be located on street side of lease space below the parapet.
- Individual channel letters (48" maximum for single line signs) mounted to wall on a raceway illuminated individually.
- If tenant desires more than one line, then the max letter height will be of the discretion of the Landlord
- Font style, color graphics and materials to be approved by Developer.
- Tenant's logo may be permitted on the signs subject to Developer's approval.
- Surface mounted raceway to be painted to match the color of the adjacent wall surface.
- The Maximum Signage area shall be 10% of the tenant's wall face fronting a street (not to exceed 128 sq ft).



B. Secondary Signs

Tenants may elect to use any of the following sign options:

- Where applicable and approved by the Developer, tenants may install a secondary sign at the back of the building (parking lot side). The maximum size of all parking lot secondary signs shall be up to 25% of the total square footage of the signage allowed on the street side (primary sign) of the building, and in no case shall the sign exceed 32 SF. A parking lot secondary sign requires a square footage transfer from the primary sign.
- Where applicable and approved by the Developer, tenants that occupy corner/end cap spaces that face a plaza space may have a sign on the side of the building, allowed in addition to parking lot secondary sign. The maximum size of all side secondary signs located on a corner/end cap space shall be up to 25% of the total square footage of the signage allowed on the street side (primary sign), and in no case shall the sign exceed 32 SF. A side secondary sign requires a square footage transfer from the primary sign.
- The combined SF of all secondary signs for an individual tenant shall not exceed 32 SF.
- All specifications including, but not limited to font style, color, graphics, materials, raceway, etc. shall be same as the "Primary Signs".



C. Blade Signs

- Each tenant may, subject to Developer's discretion, have one blade sign per business bay for pedestrian visibility.
- Tenant's double-faced blade sign is to attach beneath the canopy, on building columns and/or exterior horizontal ceilings
- Overall area of blade sign can not exceed 12 sq ft.
- A minimum 8' clearance between the bottom of the blade sign and the sidewalk must be maintained.
- Blade sign may project no more than 4' from the building wall.
- Blade sign may project up to 3' over a sidewalk to the R-O-W.
- Metal support elements and decorative metal framework, colors and materials to be approved by the Developer.
- Blade signed may be illuminated via a concealed lighting trough installed in the mounting bracket.
- External lighting is not allowed.



D. Shipping & Employee Entrance Identification

- Shipping and employee entrance identification signage at rear entrance to store - standard 24" x 24" painting 1/8" aluminum plate with 4" vinyl letters. Must be mounted conspicuously near rear door for easy identification.

SECTION III - TENANTS (5,000 sq ft and greater)

A. Primary Signs

- Primary tenant signs to be located on street side of lease space below the parapet.
- Individual channel letter (48" maximum for single line signs) mounted to wall on a raceway and illuminated individually. If tenant desires more than one line, then the max letter height will be of the discretion of the Developer.
- Font style, color, graphics and materials to be approved by Developer.
- Tenant's logo may be permitted on the sign subject to Developer's approval.
- Surface mounted raceway to be painted to match the color of the adjacent wall surface.
- The maximum signage area shall be 10% of tenant's wall face fronting a street (not to exceed 128 sq ft)



B. Secondary Signs

- Tenants may elect to use any of the following sign options. The combined SF of all secondary signs for an individual tenant shall not exceed 32 SF.
- Where applicable and approved by the Developer, tenants may install a secondary sign at the back of the building (parking lot side). The maximum size of all parking lot secondary signs shall be up to 25% of the total square footage of the signage allowed on the street side (primary sign) of the building, and in no case shall the sign exceed 32 SF. A parking lot secondary sign requires a square footage transfer from the primary sign.
- Where applicable and approved by the Developer, tenants that occupy corner/end cap spaces that face a plaza space may have a sign on the side of the building, allowed in addition to parking lot secondary sign. The maximum size of all side secondary signs located on a corner/end cap space shall be up to 25% of the total square footage of the signage allowed on the street side (primary sign), and in no case shall the sign exceed 32 SF. A side secondary sign requires a square footage transfer from the primary sign.
- All specifications including, but not limited to, font style, color, graphics, materials, raceway, etc. shall be the same as the "Primary Signs".
- Additional signage may display the names of other secondary tenants operating within this tenant's leased premises, such as, but not limited to, a bank or a coffee shop.



C. Blade Signs

- Each tenant may, subject to Developer's discretion, have one blade sign per business bay for pedestrian visibility.
- Tenant's double-faced blade sign is to attach beneath the canopy, on building columns and/or pedestrian visibility.
- Overall area of blade sign can not exceed 12 sq ft.
- A minimum 8' clearance between the bottom of the blade sign and the sidewalk must be maintained
- Blade sign may project no more than 4' from the building wall.
- Blade sign may project up to 3' over a sidewalk on the R-O-W.
- Metal support elements and decorative metal framework, colors and materials to be approved by Developer.
- Blade signs may be illuminated via a concealed lighting trough in the mounting bracket. External lighting is not allowed.



D. Shipping & Employee Entrance Identification

- Shipping and employee entrance identification signage at rear entrance to store - standard 24" x 24 " painted 1/8" aluminum plate with 4" vinyl letters. Must be mounted conspicuously near rear door for easy identification.

SECTION IV - MULTISTORY BUILDING

1. First Floor Tenants

- All first floor tenants are subject to the same signage requirements as outlined in Section II (A-D) and Section III (A-D) of this Master Signage Program.

2. Upper Floor Tenants

A. Primary Signs

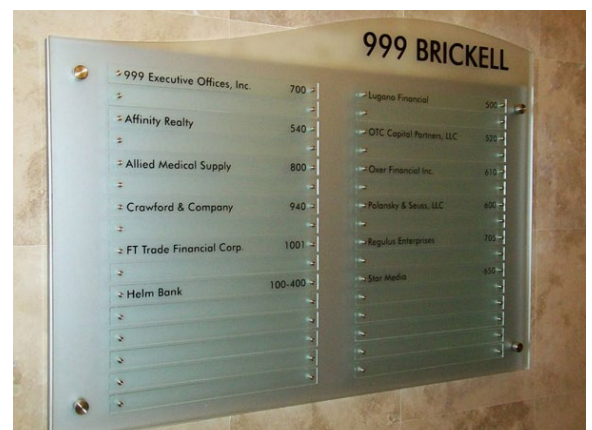
- Primary tenant signs must be on street side of lease space.
- Individual channel letters (48" maximum for single line signs) mounted to wall on a raceway and illuminated individually.
- If tenant desires more than one line, then the max letter height will be of the discretion of the Developer.
- Font style, color, graphics and materials to be approved by Developer.
- Tenant's logo may be permitted on the sign subject to Developer's approval.
- Surface mounted raceway to be painted the color of the adjacent wall surface.
- Sign to be located above windows of upper level lease space.
- The maximum signage area shall be 10% of any tenant's face fronting a street (not to exceed 128 sq ft).

B. Secondary Signs

- Tenants may elect to use any of the following sign options.
- Secondary sign at the back of building (parking lot side) is permitted subject to limitations described in this Master Signage Program.
- Tenants that occupy corner/end cap spaces may have, in addition to a secondary sign on the back of the building, a sign on the side of the building.
- The size of all secondary signs shall be the same as outlined in Section II (B) and Section III (B) of this Master Signage Program.
- Individual aluminum cut (pin) letter mounted on a metal frame. Metal frame color to match the adjacent wall surface. Signs will not be illuminated.

C. Internal Directory/Signage

- Developer will provide a tenant directory indicating each tenant name and suite number. The tenant directory sign will be located inside the main entrance on the first floor of the multi-story building.
- Developer will also have tenant names and suite numbers displayed outside of each individual upper level suite.
- All on premise directional signs shall comply with the Town of Huntersville zoning ordinance.



D. Blade Signs

- Each tenant may, subject to Developer's discretion, have one blade sign per business bay for pedestrian visibility.
- Tenant's double-faced blade sign is to attach beneath the canopy, on building columns and/or pedestrian visibility.
- Overall area of blade sign can not exceed 12 sq ft.
- A minimum 8' clearance between the bottom of the blade sign and the sidewalk must be maintained
- Blade sign may project no more than 4' from the building wall.
- Blade sign may project up to 3' over a sidewalk on the R-O-W.
- Metal support elements and decorative metal framework, colors and materials to be approved by Developer.
- Blade signs may be illuminated via a concealed lighting trough in the mounting bracket. External lighting is not allowed.

SECTION V - ATM/KIOSK

ATM/Kiosk tenants shall be allowed signage (not to exceed 16 square feet) that will be substantially similar to the examples shown.



SECTION VI - WINDOW AND DOOR GRAPHICS

- Permanent tenant identification information may appear on storefront windows and glass doors as additional signage.
- The overall dimensions of all graphics on storefront windows and doors must be less than 10% of area storefront glass area facing the street.
- Window graphics are to be made of cut vinyl applied to inside of window. Colors be approved by Developer.
- Temporary signage in window area to be approved by Developer.



SECTION VII- TENANT ADDRESSES

- The following Tenant Addressing criteria applies to all tenants occupying retail/office space. This signage is provided by the Developer
- Letters and/or Numerals must be the least of the height required by the Fire Marshal and be made of a reflective material (for easy nighttime viewing) and must appear on the front of the building in a location that is clearly visible from the street when traveling at the posted speed limit.
- Address information may appear directly on the front door as long as the door is not to remain ajar for any length of time.
- Address information must appear close to the front entrance but be as conspicuously visible as possible.
- Tenant address is limited to a maximum area of 3 sq ft, if not located in a window.

SECTION VIII- BUILDING ADDRESSES

- The following Building Addressing criteria applies to buildings within Shoppes at Birkdale Crossing, and are provided by Developer.
- Letters and/or Numerals must be the least of the height required by the Fire Marshal and be made of a reflective material (for easy nighttime viewing) and must appear on the front the building in a location that is clearly visible from the street when traveling at the posted speed limit.
- Address information must appear on the street side of the building and be as conspicuously visible as possible.
- Building address is limited to a maximum area of 3 sq ft.

SECTION IX - OTHER SIGNS

Any sign that is not mentioned in this Master Signage Program, must comply with the Town of Huntersville zoning ordinance.

SECTION X - SIGNAGE CRITERIA

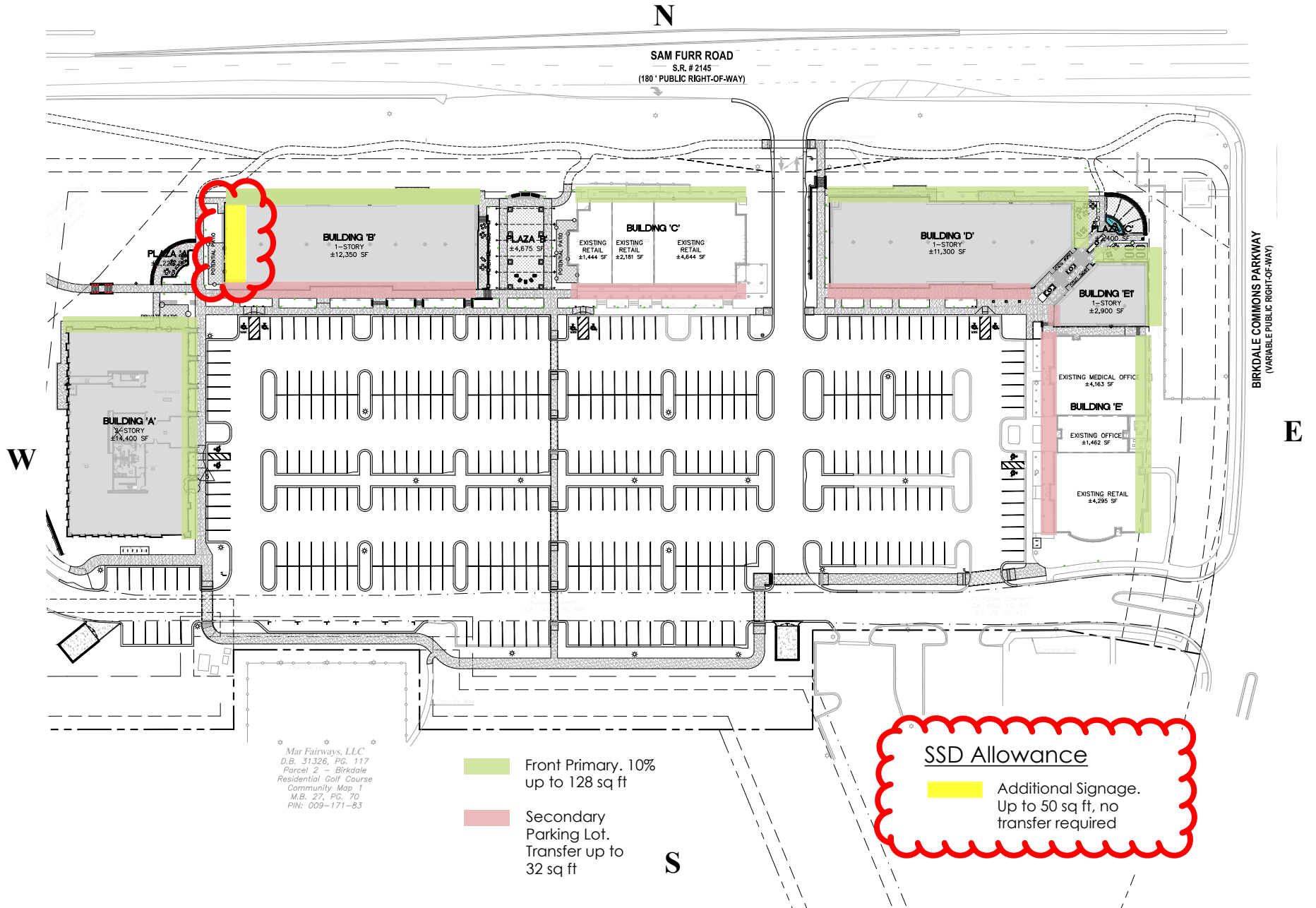
The purpose of the Graphic & Signage Criteria is to promote consistent, high quality signage, while allowing the Tenant freedom to create unique graphics that are consistent with the overall store design.

1. All signs and location of those signs are subject to the approval of the Landlord and all applicable codes and ordinances having jurisdiction over the Shopping Center, including but not limited to, Underwriters Laboratories' Standard for Electric Signs (UL 2161), the National Electric Code and local building codes. Landlord's approval does not constitute a warranty or representation that the sign is safe or otherwise in compliance any applicable codes or ordinances.
2. Tenant is solely responsible for any permits and/or fees, design, construction and installation required or otherwise associated with Tenant's signs.
3. Tenant's sign contractor shall provide Landlord a written Certificate of Liability Insurance with a minimum of \$1,000,000 coverage and Landlord named as the insured before installation of the sign. Tenant's sign contractor cannot work on the premises of the Shopping Center without proof of liability insurance.
4. Tenant is required to submit one set of shop drawings to the Landlord for approval prior to fabrication of sign work. Such drawing should include a section through letter as well as an elevation view of the storefront drawn to scale, indicating the proposed sign location. This drawing is to indicate size, design, color and construction of letters. Consideration of signs which do not conform to the above restrictions will be given only upon submittal of a sign shop drawing. No sign shall be erected without written approval of Landlord.
5. The advertising content of all signs shall be limited to letters designating the store name or type of store only. All designations of the store type shall be by general descriptive terms and shall not include any specification of the merchandise offered for sale therein.
6. All Tenant signs are to be individually lit channel letters, mounted on a single (or double) metal raceway, approved by Landlord, and shall consist of the store name/logo only. All letters are to be internally lit with neon, have no exposed neon. Exterior letter returns and trim caps shall be black.
7. Signage shall be structurally sound construction for its intended use as a fascia sign. All corners shall be fabricated, welded and ground smooth. Returns of letters shall be fabricated from .040 aluminum and .063 aluminum backs. Return depths shall be 4 ½". Attach letters to a raceway that shall be fabricated from .063 aluminum with angle iron headers. No exposed wiring, conduit or junction boxes are allowed. All primary electrical connections must be made behind the building. Raceway shall house all secondary wiring. Raceway shall not extend

more than 8" from the face of the building and be no taller than 8" without prior approval by Landlord. Color of the raceway shall be consistent with the EIFS system installed on the face of the Shopping Center.

8. The translucent colored acrylic shall be Plexiglass G sheet or equivalent. The acrylic shall be 3/16" thickness. No transparent letter faces are permitted.
9. Hardware for fabrication and installation shall be of non-corrosive type or plated.
10. Signage shall be centered above storefront, unless prior approval has been granted by landlord. The maximum length of tenants lettering may be 70% of the frontage width, projected from the sidewalls of each lease.
11. The sign contractor shall remove all debris accumulated due to his work from the Shopping Center. Any damage to the Landlord's premises during sign installation and/or maintenance shall be Tenant's sole responsibility. Sign contractor or Tenant shall promptly reimburse the Landlord for all expenses incurred as a result of such damage.
12. No rooftop or other signs will be permitted on the building
13. Tenant lettering on doors, windows, or show windows may not be illuminated and may not exceed 2" in height. Lettering to be black. No decal, symbol, etc shall be affixed to Tenant's doors, windows, or show windows except with special written permission of the Landlord.
14. Tenant shall not employ paper signs to be applied to the interior or exterior faces of the store front glass or other materials.
15. Tenant shall not employ any flashing action, moving action or audible signs.
16. Any sign, notice, or graphic, located within the interior of the Premises and easily legible from the storefront requires the prior written approval of Landlord.
17. Light leaks in sign letters will not be allowed and must be repaired promptly by the Tenant.
18. If the Tenant has a rear exit/service door, this doorway shall be identified with Tenant's name, per Landlord's specifications, using 2" high vinyl helevetic medium letters, indicating the Tenant's name and address.
19. Each Tenant shall be permitted to place upon each entrance not more than 144 square inches of gold leaf or decal lettering, indicating hours of business, emergency telephone numbers, etc. Size of letters not to exceed 1" in height.
20. Tenant shall be responsible for all work associated with the installation of the sign, including permits for sign, and shall execute such work in accordance with applicable codes and to the reasonable satisfaction of the Landlord.

BIRKDALE LANDING SIGNAGE LOCATIONS



Birkdale Landing

Master Signage Program



February 2020

MASTER SIGN PROGRAM APPROVED AS NOTED

11/02/2021

Agency: Town of Huntersville, Planning Department
Note: This review was completed based on the information provided by the applicant. This review was done using the minimum acceptable standards of the applicable Town Ordinances.



Kayleigh Hilary

B. Secondary Signs

Tenants may elect to use any of the following sign options:

- Tenants may install a secondary sign at the back of the building (parking lot side), subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the back of the buildings (where applicable and approved by the Developer) shall not be greater than 25% of the total square footage of the signage allowed on the street side (front) of the building or 16 square feet. The sign shall not exceed 32 square feet.
- Tenants that occupy corner/end cap spaces that face a parking lot or plaza space may have, in addition to a secondary sign on the back of the building, a sign on the side of the building subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the side of a building that faces a parking lot (where applicable and approved by the side of the building that faces a parking lot (where applicable and approved by the Developer) shall not be greater than 25% of the total square footage of the signage allowed on the street side (front) of the building or 16 square feet. The sign shall not exceed 32 square feet.
- All specifications including, but not limited to font style, color, graphics, materials, raceway, etc. shall be same as the "Primary Signs".



SECTION III - TENANTS (5,000 sq ft and greater)

A. Primary Signs

- Primary tenant signs to be located on street side of lease space below the parapet.
- Individual channel letter (48" maximum for single line signs) mounted to wall on a raceway and illuminated individually. If tenant desires more than one line, then the max letter height will be of the discretion of the Developer. Font style, color, graphics and materials to be approved by Developer.
- Tenant's logo may be permitted on the sign subject to Developer's approval.
- Surface mounted raceway to be painted to match the color of the adjacent wall surface.
- The maximum signage area shall be 10% of tenant's wall face fronting a street (not to exceed 128 sq ft)



B. Secondary Signs

- Tenants may elect to use any of the following sign options.
- Tenants may install a secondary sign at the back of the building (parking lot side), subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the back of the building (parking lot side), subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the back of the building (where applicable and approved by the Developer) shall not be greater than 25% of the total square footage of the signage allowed on the street side (front) of the building or 32 square feet. The sign shall not exceed 32 square feet.
- Tenants that occupy corner/end cap spaces that face a parking lot or plaza may have, in addition to a secondary sign on the back of the building, a sign on the side of the building subject to the requirements under "Primary Signs". The maximum size of all secondary signs located on the side of the building that faces a parking lot (where applicable and approved by the Developer) shall not be greater than 25% of the total square footage of the signage allowed on the street side (front) of the building or 16 square feet. The sign shall not exceed 32 square feet.
- All specifications including, but not limited to, font style, color, graphics, materials, raceway, etc. shall be the same as the "Primary Signs".
- Additional signage may display the names of other secondary tenants operating within this tenant's leased premises, such as, but not limited to, a bank or a coffee shop.



See emails between Staff and Fairway Investments between 1/18/2021 and 1/19/2021. This facade is allowed to receive a transfer of sign area for wall signs not exceeding 32 sf.



**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Nathan Farber, Planner I

Date: May 16, 2022

Subject: Petition #TA22-03 to amend Article 8.9.1 and 12.2.2 related to clear sight triangles

EXPLAIN REQUEST:

Consider decision on Petition #TA22-03, a request by the Town of Huntersville Planning Department to amend Article 8.9.1 and 12.2.2 related to clear sight triangles in order to comply with HB 489.

ACTION RECOMMENDED:

Consider decision

FINANCIAL IMPLICATIONS:

NA

ATTACHMENTS:

1. TA22-03 Staff Report TB
2. Attachment 2 Ordinance
3. Attachment 1 Text Amendment Application

TA 22-03 – Clear Sight Triangle at Street Intersection

PART 1: DESCRIPTION

TA 22-03 is a request by the Huntersville Planning Department to amend the Huntersville Zoning Ordinance Articles 8.9.1 and 12.2.2 relating to sight distance triangles. The purpose of the amendment is to comply with the state HB 489 changes to 160A-306 of the State Statutes.

PART 2: BACKGROUND

The North Carolina General Assembly passed House Bill 489 in 2021 amending Chapter 160A-306 Building Setback Lines which now reads as follows:

§ 160A-306. Building setback lines.

(b) Any setback line shall be designed:

(1) To promote the public safety by providing adequate sight distances for persons using the street and its sidewalks, lessening congestion in the street and sidewalks, facilitating the safe movement of vehicular and pedestrian traffic on the street and sidewalks and providing adequate fire lanes between buildings, and buildings.

(2) To protect the public health by keeping dwellings and other structures an adequate distance from the dust, noise, and fumes created by traffic on the street and by insuring an adequate supply of light and air.

(3) To provide that, notwithstanding subsection (a) of this section, measurements for sight distances at street intersections, including sight triangles, must begin within the roadway or edge of pavement of a proposed or existing street.

The updated language serves to define where sight distances at street intersections will be measured from. This language will not change the way the Town currently measures a sight triangle at intersections. To align with House Bill 489 Town Staff has included the new language

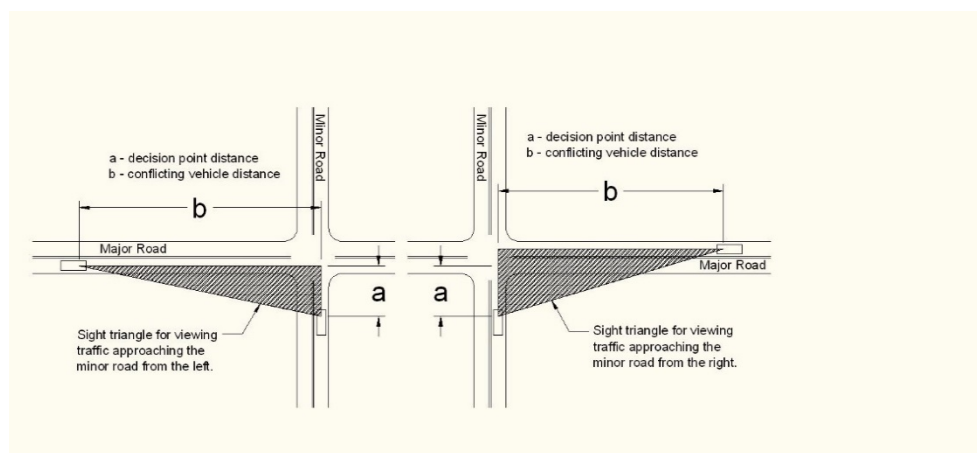


Figure 1 Example from Article 8.9.1

into Article 8.9.1-Clear Sight Triangle at Intersections and into the Sight Distance Triangle definition within Article 12.2.2- Sign Definitions.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

TA22-03 is consistent with Policy T-4 of the Huntersville 2040 Community Plan

Policy T-4: Improve safety for bicyclists, pedestrians, and motorists.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of TA22-03 (see Part 3).

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

The Huntersville Ordinances Advisory Board (HOAB) recommended the request on April 7, 2022 with a unanimous vote (7-0).

PART 6: PUBLIC HEARING

April 4, 2022

PART 7: PLANNING BOARD RECOMMENDATION

The Planning Board Recommended approval unanimously on April 26, 2022

PART 8: ATTACHMENTS

1. *Text Amendment Application*
2. *Ordinance Language*

PART 9: STATEMENT OF CONSISTENCY – TA22-03

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA22-03, Planning staff recommends approval based on the amendment being consistent Policy T-4 of the 2040 Huntersville Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it is necessary to maintain land development regulations in compliance with State Statutes.	APPROVAL: The Planning Board recommends approval based on the amendment being consistent with policy T-4 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because it aims to improve the safety of everyone on our roads and sidewalks. Furthermore, it makes the Towns language compliant with Chapter 160A-306 which was amended with the passing of House Bill 489 last year. The motion passed unanimously (8-0).	APPROVAL: In considering the proposed amendment TA22-03, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)
DENIAL: N/A	DENIAL:	DENIAL: In considering the proposed amendment TA22-03, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent) with (insert applicable plan reference).</u> It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)

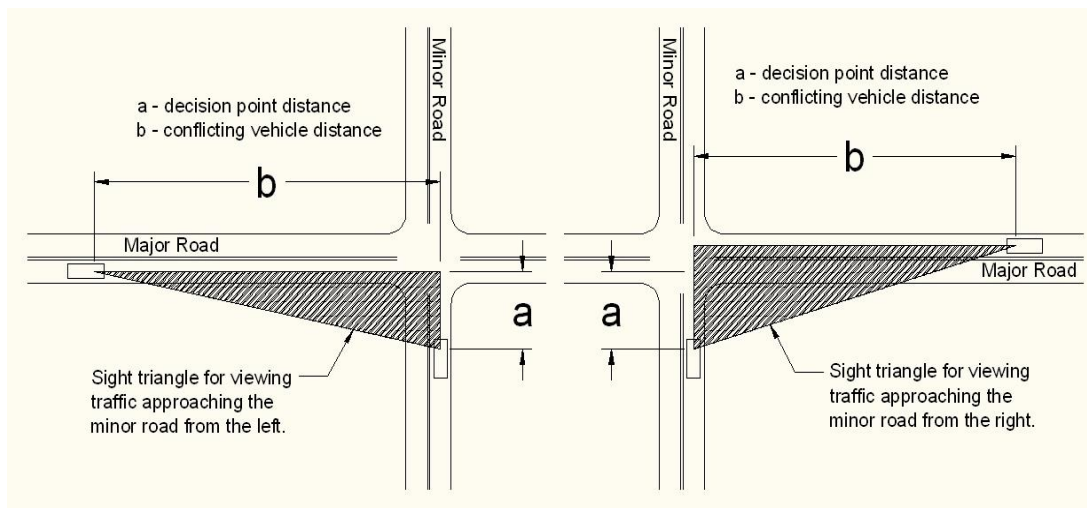
AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE

ZONING ORDINANCE

Section 1. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 8.9.1, Clear Sight Triangle at Street Intersection, is hereby amended as follows:

8.9 Clear Sight Triangle at Street Intersection

.1 A clear view at each corner of an intersection of public or private streets or driveways shall be maintained by establishing a “sight triangle” that is free of obstructions that may block a driver’s view. The extent of the required sight triangle varies according to the posted speed and traffic control device(s) of the streets forming the intersection. Below is a general figure from the American Association of State Highways and Transportation Officials (AASHTO) “A Policy on Geometric Design of Highways and Streets” which depicts the required sight triangle area to be free of obstructions at an intersection. **Measurements for sight distances at street intersections, including sight triangles, shall begin within the roadway or edge of pavement of a proposed or existing street as required by the Town’s Engineering Standards and Procedures Manual.**



A sight triangle easement may need to be recorded on the property plat if the sight triangle does not fall completely within the recorded right-of-way. Should the sight triangle cross private property, the developer shall secure permanent sight triangle easement or right-of-way from all private property owners within the sight triangle prior to preliminary/construction plan approval.

Section 2. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that 12.2.2, Sign Definitions, is hereby amended as follows:

Sight Distance Triangle. The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection. **Measurements for sight distances at street intersections, including sight triangles, shall**

begin within the roadway or edge of pavement of a proposed or existing street as required by the Town's Engineering Standards and Procedures Manual.

Section 3. Effective Date.

This ordinance shall become effective upon the date of adoption.

TA 22-03 – Clear Sight Triangle at Street Intersection

PART 1: DESCRIPTION

TA 22-03 is a request by the Huntersville Planning Department to amend the Huntersville Zoning Ordinance Articles 8.9.1 and 12.2.2 relating to sight distance triangles. The purpose of the amendment is to comply with the state HB 489 changes to 160A-306 of the State Statutes.

PART 2: BACKGROUND

The North Carolina General Assembly passed House Bill 489 in 2021 amending Chapter 160A-306 Building Setback Lines which now reads as follows:

§ 160A-306. Building setback lines.

(b) Any setback line shall be designed:

- (1) To promote the public safety by providing adequate sight distances for persons using the street and its sidewalks, lessening congestion in the street and sidewalks, facilitating the safe movement of vehicular and pedestrian traffic on the street and sidewalks and providing adequate fire lanes between buildings, and buildings.*
- (2) To protect the public health by keeping dwellings and other structures an adequate distance from the dust, noise, and fumes created by traffic on the street and by insuring an adequate supply of light and air.*
- (3) To provide that, notwithstanding subsection (a) of this section, measurements for sight distances at street intersections, including sight triangles, must begin within the roadway or edge of pavement of a proposed or existing street.**

The updated language serves to define where sight distances at street intersections will be measured from. This language will not change the way the Town currently measures a sight triangle at intersections. To align with House Bill 489 Town Staff has included the new language into Article 8.9.1-Clear Sight Triangle at Intersections and into the Sight Distance Triangle definition within Article 12.2.2- Sign Definitions.

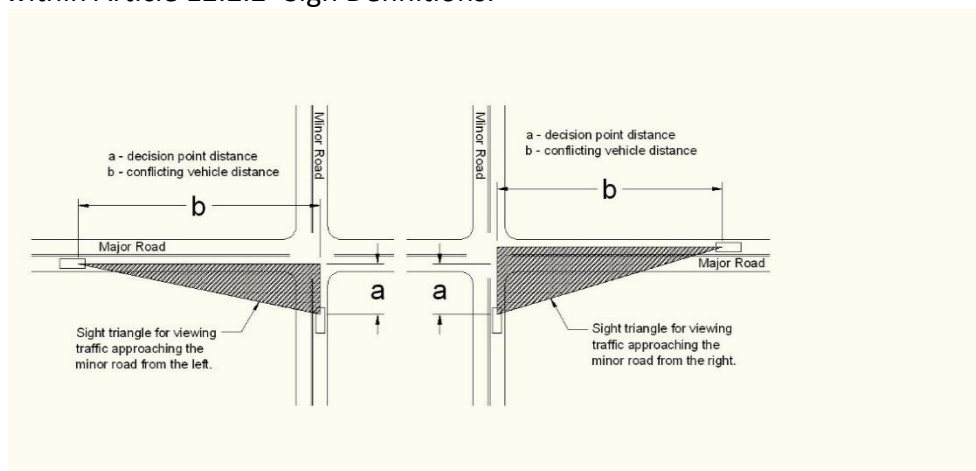


Figure 1 Example from Article 8.9.1

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

TA22-03 is consistent with Policy T-4 of the Huntersville 2040 Community Plan

Policy T-4: Improve safety for bicyclists, pedestrians, and motorists.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of TA22-03 (see Part 3).

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

The Huntersville Ordinances Advisory Board (HOAB) recommended the request on April 7, 2022 with a unanimous vote (7-0).

PART 6: PUBLIC HEARING

April 4, 2022

PART 7: PLANNING BOARD RECOMMENDATION

April 26, 2022

PART 8: ATTACHMENTS

1. Text Amendment Application
2. Ordinance Language

PART 9: STATEMENT OF CONSISTENCY – TA22-03

<i>Planning Department</i>	<i>Planning Board</i>	<i>Board of Commissioners</i>
APPROVAL: In considering the proposed amendment TA22-03, Planning staff recommends approval based on the amendment being consistent Policy T-4 of the 2040 Huntersville Community Plan. <i>It is reasonable and in the public interest to amend the Zoning Ordinance because it is necessary to maintain land development regulations in compliance with State Statutes.</i>	APPROVAL: In considering the proposed amendment TA22-03, Planning Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> <i>It is reasonable and in the public interest to amend the Zoning Ordinance because... (Explain)</i>	APPROVAL: In considering the proposed amendment TA22-03, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> <i>It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)</i>
DENIAL: N/A	DENIAL: N/A In considering the proposed amendment TA22-03, the Planning Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. <i>It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)</i>	DENIAL: In considering the proposed amendment TA22-03, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. <i>It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)</i>



Text Amendment Application

Date of Application 2/1/2022

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

____ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

____ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 8.9 & 12.2 Section(s): 8.9.1 & 12.2.2

Please see attached

Current Ordinance

Please see attached

Proposed Text

**Reason for Proposed
Change**

To update article 8.9.1 and 12.2.2 to comply with HB 489. HB 489 has added
new language to state statutes 160A-306 Building setback lines.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Jack Simoneau

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

Signature Jack Simoneau Date 2-1-22

Title Planning Director Email jsimoneau@huntersville.org

Address of Applicant PO Box 664 Huntersville NC 28070

Property Owner (if different than applicant)

* Printed Name _____

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

Signature _____ Date _____

Title _____ 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>

Date Received By Planning Department: _____

Staff Initials: _____

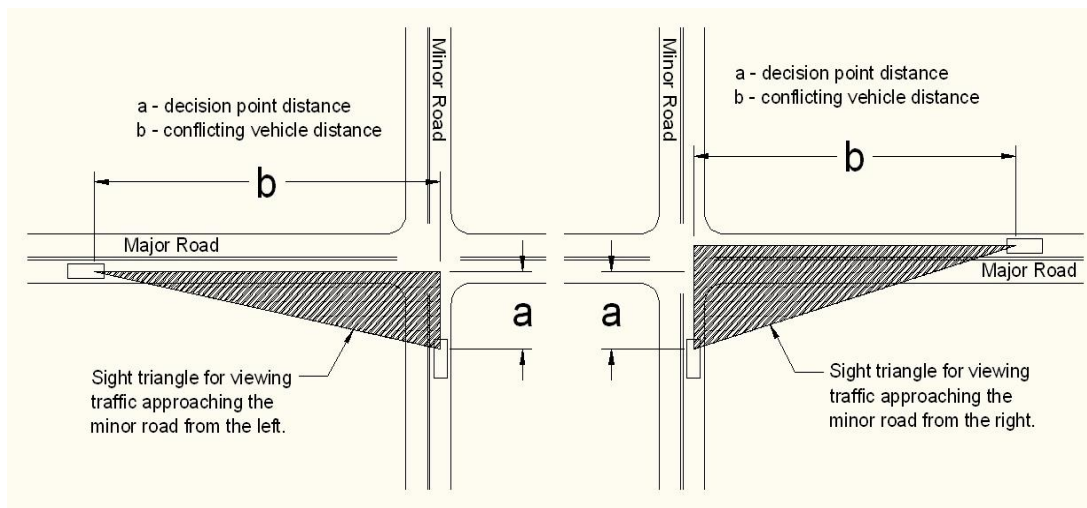
AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE

ZONING ORDINANCE

Section 1. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Section 8.9.1, Clear Sight Triangle at Street Intersection, is hereby amended as follows:

8.9 Clear Sight Triangle at Street Intersection

.1 A clear view at each corner of an intersection of public or private streets or driveways shall be maintained by establishing a “sight triangle” that is free of obstructions that may block a driver’s view. The extent of the required sight triangle varies according to the posted speed and traffic control device(s) of the streets forming the intersection. Below is a general figure from the American Association of State Highways and Transportation Officials (AASHTO) “A Policy on Geometric Design of Highways and Streets” which depicts the required sight triangle area to be free of obstructions at an intersection. **Measurements for sight distances at street intersections, including sight triangles, shall begin within the roadway or edge of pavement of a proposed or existing street as required by the Town’s Engineering Standards and Procedures Manual.**



A sight triangle easement may need to be recorded on the property plat if the sight triangle does not fall completely within the recorded right-of-way. Should the sight triangle cross private property, the developer shall secure permanent sight triangle easement or right-of-way from all private property owners within the sight triangle prior to preliminary/construction plan approval.

Section 2. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that 12.2.2, Sign Definitions, is hereby amended as follows:

Sight Distance Triangle. The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection. **Measurements for sight distances at street intersections, including sight triangles, shall**

begin within the roadway or edge of pavement of a proposed or existing street as required by the Town's Engineering Standards and Procedures Manual.

Section 3. Effective Date.

This ordinance shall become effective upon the date of adoption.

**Town of Huntersville
Town Board
May 16, 2022**

To: Town Board

From: Nathan Farber, Planner I

Date: May 16, 2022

Subject: Petition #TA22-04 to remove the special use requirement for street facing solar panels

EXPLAIN REQUEST:

Consider decision on petition #TA22-04, a request by the Town of Huntersville Planning Department to remove the special use requirement for street facing solar panels in Article 9.54.1 and to reorganize and clean up Article 9.54 to bring the ordinance into full compliance with State Statute 160D-914.

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

Consider decision

ATTACHMENTS:

1. TA22-04 Staff Report Town Board
2. Attachment 1 Amendment Application
3. Attachment 3 160D-914
4. Attachment 2 TA22-04 Article 9.54 Ordinance Amendments Final

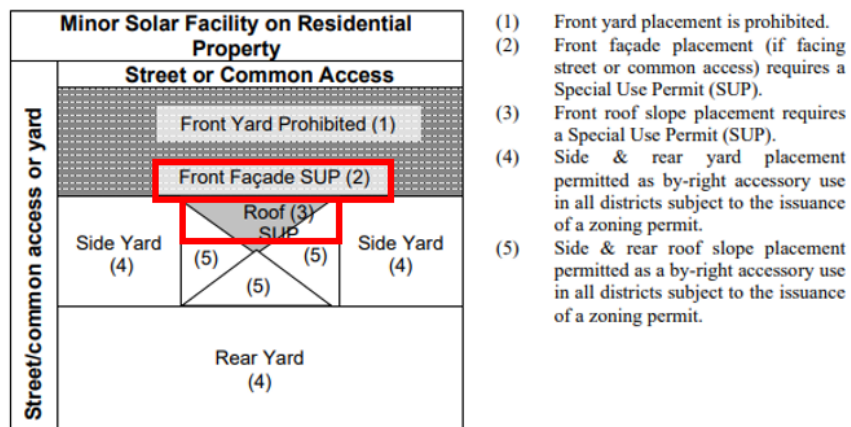
TA 22-04 – Article 9.54 Solar Energy Facilities

PART 1: DESCRIPTION

TA 22-04 is a request by the Huntersville Planning Department to amend the Huntersville Zoning Ordinance Articles 9.54. The purpose of the amendment is to remove all special use permit requirements from Article 9.54.1 Minor Solar Energy facilities. Town staff has also worked with the Town Attorneys to reorganize and clean up language while also bringing language into full compliance with 160D-914.

PART 2: BACKGROUND

Minor solar energy facilities/solar panels **fronting a public street for both residential and commercial properties** require a Special Use Permit approved by the Huntersville Town Board with a recommendation from the Planning Board. Other minor solar facilities, such as those that are built on the side or rear of the home, are approved administratively by staff (below). Since adoption of solar energy provisions in 2013, only three special use permits have been applied for, though two of those have occurred within the past three months (all approved). Staff has seen an increased interest in solar panels that will likely continue.



In addition to more interest in solar panel installations, there can be situations where one house has solar panels placed on side facing roofs (approved by staff) AND front facing roofs (requires special use permit) as can be seen in the photo below. Changing the special use permit requirement to an administrative staff approval will remove the unnecessary burden that the special use permit process places on applicants (three-month approval process for a special use permit; three-business days approval for zoning permit).



Town staff has also worked with the Town Attorney to reorganize and clean up language while also bringing language into full compliance with State Statute 160D-914. The requirements of Article 9.54.2 Major Solar Energy Facilities will stay the same, keeping the special use permits requirement, while reorganizing the section to separate residential and commercial facilities.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

EOS-9.1: Promote the use of energy efficient building design and neighborhood design.

Comment: The proposed text amendment would make it easier on applicants to apply for minor solar energy facilities within the Town of Huntersville.

PART 4: STAFF RECOMMENDATION

Planning Staff recommends approval of the proposed text amendment TA22-04 (see Part 9).

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

The Huntersville Ordinances Advisory Board (HOAB) recommended approval on March 3rd with a unanimous vote (8-0).

PART 6: PUBLIC HEARING

Public Hearing occurred on April 4, 2022

PART 7: PLANNING BOARD RECOMMENDATION

The Planning Board recommended approval on April 26, 2022 with a unanimous vote.

PART 8: ATTACHMENTS

1. Text Amendment Application
2. Ordinance Language
3. State Statutes 160D-914

PART 9: STATEMENT OF CONSISTENCY – TA22-04

<i>Planning Department</i>	<i>Planning Board</i>	<i>Board of Commissioners</i>
APPROVAL: In considering the proposed amendment TA22-04, Planning Staff recommends approval based on the amendment being consistent with EOS-9.1 of the Huntersville 2040 plan and bringing the ordinance into full compliance with 160D-914. <i>It is reasonable and in the public interest to amend the Article 9.54 because it removes the unnecessary burden that the special use permit places on the applicant.</i>	APPROVAL: The Planning Board recommends approval as it is consistent with policy EOS 9.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning ordinance because the proposed text amendment would make it easier on the applications to apply for minor solar facilities within the Town of Huntersville. <i>The motion passed unanimously (8-0).</i>	APPROVAL: In considering the proposed amendment TA22-04, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> <i>It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)</i>
DENIAL: N/A		DENIAL: In considering the proposed amendment TA22-04, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>. <i>It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)</i>



Text Amendment Application

Date of Application 2/1/2022

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 9.54 Section(s): .1 & .2

Current Ordinance

Please see attached

Proposed Text

Please see attached

Reason for Proposed Change

To remove all special use permit requirements from Article 9.54.1 Minor Solar Energy facilities. Town Staff has also worked with the Town Attorneys to reorganize and clean up language while also bring the language into full compliance with 160D-914.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Jack Simoneau

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

Signature Jack Simoneau Date 2-1-22

Title Planning Director Email jsimoneau@huntersville.org

Address of Applicant PO Box 664 Huntersville NC 28070

Property Owner (if different than applicant)

* Printed Name _____

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

Signature _____ Date _____

Title _____ 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>

Date Received By Planning Department: _____

Staff Initials: _____

§ 160D-914. Solar collectors.

(a) Except as provided in subsection (c) of this section, no local government development regulation shall prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property, and no person shall be denied permission by a local government to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. As used in this section, the term "residential property" means property where the predominant use is for residential purposes.

(b) This section does not prohibit a development regulation regulating the location or screening of solar collectors as described in subsection (a) of this section, provided the regulation does not have the effect of preventing the reasonable use of a solar collector for a residential property.

(c) This section does not prohibit a development regulation that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground and that are any of the following:

- (1) On the facade of a structure that faces areas open to common or public access.
- (2) On a roof surface that slopes downward toward the same areas open to common or public access that the facade of the structure faces.
- (3) Within the area set off by a line running across the facade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

(d) In any civil action arising under this section, the court may award costs and reasonable attorneys' fees to the prevailing party. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

**AN ORDINANCE TO AMEND ARTICLE 9.54 OF THE ZONING ORDINANCE TO
REMOVE SUP REQUIREMENTS FROM MINOR SOLAR ENERGY FACILITIES AND TO
BRING THE ARTICLES LANGUAGE INTO COMPLIANCE WITH 160D-914**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that article 9.54 of the Zoning Ordinance is hereby amended as follows:

Any major or minor solar energy facility shall require approval from all applicable state and federal agencies as well as the affected energy provider.

.1 Minor Solar Energy Facilities:

a. Residential Property (refer to illustration):-

1. Residential Property (refer to illustration): Minor solar facilities shall be allowed in accordance with the provisions below. However, these conditions will be waived if they prevent reasonable use of solar collectors as provided in GS 160D-914.

(1) Front yard placement is prohibited.

(2) Front façade placement (if facing street or common access) requires a Special Use Permit (SUP).

(3) Front roof slope placement requires a Special Use Permit (SUP)

(4) Side and rear yard placement permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.

(5) Side and rear roof slope placement permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.

b. Non-Residential Property:

(1) Minor free-standing solar facilities on non-residential property shall require a Special Use Permit (SUP).

(2) Minor rooftop solar facilities on non-residential property: Facilities on flat roofs, facilities on roof slopes not facing a street and building integrated solar panels on roof slopes facing the street that are not noticeable are permitted by right in any zoning district. All other roof-mounted solar panels facing street shall require a Special Use Permit (SUP).

c. Minor free-standing facilities must comply with accessory structure setbacks and spacing.

d. Minor free-standing facilities shall be a maximum of 5 feet in height as measured from the grade at the base of the structure to the apex of the structure.

e. Minor rooftop solar energy facilities shall not be considered as rooftop equipment on any building type and therefore, do not require screening and are not subject to any architectural standards that would prohibit reflective materials.

.2 Major Solar Energy Facilities

a. Shall require the issuance of a Special Use Permit and in addition to the Special Use Permit requirements found in [Article 11.4.10](#) shall include the following:

(1) An existing features plan as described in the Subdivision Ordinance [Article 6.300.1.14](#) is required. Placement of solar panels shall be based on preserving existing features to the extent practical.

(2) Major solar energy facilities are exempt from any parking requirements in the Huntersville Zoning Ordinance if there is no commercial or office building component.

(3) Setbacks:

i. Shall meet the minimum required setbacks for the underlying zoning district for installations in the R and TR zoning districts.

ii. Shall be a minimum of 20 feet from any property line in the SP zoning district.

(4) Height:

i. Free standing major solar facilities shall be a maximum of 8 feet in height as measured from the grade at the base of the structure to the apex of the structure.

(5) The minimum lot size requirement for major solar facilities is 10 acres.

b. Town of Huntersville to be given copies of any lease agreement and plan for removal of facility/equipment.

c. Glare resistant solar panels shall be used if the solar facility is adjacent to any airport.

.1 Minor Solar Energy Facilities (refer to illustration).

1. All minor free-standing facilities must comply with accessory structure setbacks and spacing as set forth in Article 8.8.
2. All minor free-standing facilities shall be a maximum of five (5) feet in height as measured from the grade at the base of the structure to the apex of the structure. This provision shall be waived for minor-free standing facilities on residential property if its application would prevent the reasonable use of a solar collector for the residential property.

All minor rooftop solar energy facilities shall not be considered as rooftop equipment on any building type, and therefore, do not require screening and are not subject to any architectural standards that would prohibit reflective materials.

b. Residential Property.

1. Front yard placement is prohibited pursuant to N.C.G.S. § 160D-914(c)(3)) when the placement would cause the solar facility to be visible by a person on the ground.
2. Placement on the façade of a structure that faces areas open to common or public access is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.
3. Placement on the roof is permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.
4. Side and rear yard placement is permitted as by-right accessory use in all districts subject to the issuance of a zoning permit.

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c. Non-Residential Property.

1. Front yard placement is prohibited pursuant to N.C.G.S. § 160D-914(c)(3) when the placement would cause the solar facility to be visible by a person on the ground.
2. Placement of minor free-standing solar facilities on non-residential property in locations other than the front is permitted as a by-right accessory use in all districts subject to the issuance of a zoning permit.
3. Minor rooftop solar facilities on non-residential property are allowed on all roof slopes.

.2 Major Solar Energy Facilities (refer to illustration).

a. General Requirements for Major Solar Energy Facilities.

1. The minimum lot size requirement for major solar facilities is 10 acres.
2. Setbacks for major solar energy facilities shall:
 - (1) meet the minimum required setbacks for the underlying zoning district for installations in the R and TR zoning districts.
 - (2) be a minimum of 20 feet from any property line in the SP zoning district.
3. Free standing major solar facilities shall be a maximum of eight (8) feet in height as measured from the grade at the base of the structure to the apex of the structure. This provision shall be waived for major-free standing facilities on residential property if its application would prevent the reasonable use of a solar collector for the residential property.
4. Town of Huntersville to be given copies of any lease agreement and plan for removal of facility/equipment.

Major Solar Energy Facilities shall be exempt from any parking requirements in the Huntersville Zoning Ordinance if there is no commercial or office building component.

b. Residential Property

Major solar energy facilities on residential property shall require the issuance of a Special Use Permit in accordance with the requirements set forth in Article 11.4.10.

1. An existing features plan as described in Article 6.300.1.14 of the Subdivision Ordinance must be submitted with the application for the above-described Special Use Permit. Placement of solar panels shall be based on preserving existing features to the extent practical. Front yard placement is prohibited pursuant to N.C.G.S. § 160D-914(c)(3) when the placement would cause the solar facility to be visible by a person on the ground.
2. Placement on the façade of a structure that faces areas open to common or public access is prohibited pursuant to N.C.G.S. § 160D-914(c)(1) when the placement would cause the solar facility to be visible by a person on the ground.
3. Front roof slope placement that slopes downward is prohibited pursuant to N.C.G.S. § 160D-914(c)(2) when the placement would cause the solar facility to be visible by a person on the ground.

Notwithstanding this subsection, a Special Use Permit shall be granted if the regulations have the effect of preventing the reasonable use of a major solar energy facility on a residential property, except as provided in N.C.G.S. § 160D-914.

c. Non-Residential Property.

Major solar energy facilities on non-residential property shall require the issuance of a Special Use Permit in accordance with the requirements set forth in Article 11.4.10.

An existing features plan as described in Article 6.300.1.14 of the Subdivision Ordinance must be submitted with the application for the above-described Special Use Permit. Placement of solar panels shall be based on preserving existing features to the extent practical.

Section 2. Be it ordained by the Board of Commissioners of the Town of Huntersville that the applicable uses tables in Article 3 are to be modified to match the provisions within section 1.

Section 3. That these amendments shall become effective upon approval by the Town Board of Commissioners.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: January 6, 2021

PUBLIC HEARING DATE: April 4, 2022

HUNTERSVILLE ORDINANCES ADVISORY BOARD: Approval March 3, 2022 (8-0)

PLANNING BOARD MEETING: Approval recommended on April 26, 2022

TOWN BOARD DECISION: May 16, 2022