



**STATESVILLE CITY COUNCIL MEETING**

**June 05, 2023**

**City Hall - 227 S. Center Street, Statesville, NC**

**5:00 p.m. – Special Meeting - Move to Closed Session – City Hall 3<sup>rd</sup> Floor Conference Room**

**6:00 p.m. - Pre-Agenda Meeting – City Hall 2<sup>nd</sup> Floor Conference Room**

**7:00 p.m. - Regular Meeting - City Hall Council Chambers**

**I Call to Order**

**II Invocation**

**III Pledge of Allegiance**

**IV Adoption of the Agenda**

**V Code of Ethics *Pg. 3***

**VI Presentations & Recognitions *Pg. 6***

1. Proclamation – Juneteenth (June 19, 2023)

2. Proclamation – Waste & Recycling Workers Week (June 17-23, 2023)

**VII Presentation** – Darbah T. Skaf, Executive Director of the Statesville Housing Authority, will be reviewing a presentation on public housing in Statesville, providing an annual update, and providing an overview of the Housing Symposium that is currently scheduled for June 29<sup>th</sup> in conjunction with the Centralina Regional Council. *Pg. 8*

**VIII CONSENT AGENDA**

All items below are considered to be routine by City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member requests, in which event, the item will be removed from the Consent Agenda and considered with the other items listed in the Regular Agenda.

**A. Consider approving the May 15, 2023 Pre-Agenda and City Council meeting minutes. (*Fugett*) *Pg. 9***

**B. Consider renewing the Lake Norman Regional Transportation Commission Memorandum of Understanding (MOU) and adopting the second amendment to the MOU. (*Ashley*) *Pg. 26***

**C. Consider approving 2<sup>nd</sup> reading of AX23-07, an ordinance to annex PIN #4753-99-3612, a property located at 413 Twin Oaks Road submitted by Clayton Homes of Statesville. (*Ashley*) *Pg. 36***

**D. Consider approving 2<sup>nd</sup> reading of TA23-07, Text Amendments to the Unified Development Code to amend Article 3 Zoning, Section 3.04 Zoning District Regulations; Table 3-1 Use Matrix. Article 5. Supplemental Regulations Performance/Standards for Specific Uses, Section**

**5.04 Primary Uses and Structures, to include subsection III. Tobacco Shops; Article 6. Development Standards, Section 6.05 Lighting, 1-4; and amend definitions section for: Hookah, Vape, E-Cigarette, Cigar and Cigarette Shop/Lounge, Tobacco Paraphernalia and Tobacco Product to address the lighting standards and zoning districts pertaining to such uses. (Ashley) Pg. 37**

- E. Consider approving 2<sup>nd</sup> reading of rezoning request ZC23-05, Greenbriar Ridge, Tax Parcel #4754-23-6335; proposal for a major amendment to the concept plan for the rezoning of approximately 87.39 acres located on E. Greenbriar Road; zoned R-8CZ Cluster for the Greenbriar Ridge subdivision. (Ashley) Pg. 39**
- F. Consider approving 2<sup>nd</sup> reading of an ordinance to prohibit camping and improper use of City property. (Onley) Pg. 42**
- G. Consider authorizing a waiver to § 8.03 of the Unified Development Ordinance (UDO) to allow installation of a septic system. (Vaughan) Pg. 43**
- H. Consider approving the update of the City's Water Shortage Response Plan. (Vaughan) Pg. 45**
- I. Consider approving the semi-annual write-off of approximately \$119,798.19 in utility accounts. (Holman) Pg. 75**
- J. Consider approving Budget Amendment #2023-35 to transfer FY23 taxes collected for the Woods Drive Dam tax district to the General Capital Reserve fund and appropriate related expenditures. (Holman) Pg. 76**

## **REGULAR AGENDA**

- IX Conduct a public hearing on the proposed Fiscal Year 2023-2024 Budget. (Holman) Pg. 78**
- X Conduct a public hearing on the financing proposal for the Municipal Operations Center and Fire Station 1 and independently adopt two Resolutions in support of this issuance. (Smith) Pg. 79**
- XI Consider approving a Revised Resolution of Closure and Revised Declaration of Withdrawal to permanently close a portion of Wall Street. (The public hearing was held at the May 15<sup>th</sup> meeting) (Harrod) Pg. 88**
- XII Consider a request from Council Member Fred Foster and Council Member Doris Allison to create and distribute a Request for Proposals to develop a grocery store on the City owned property at 1809 Shelton Avenue (4743074191) and 1832 Amity Hill Road (4743064970). Pg.104**
- XIII City Manager's Report**
- XIV Advisory Boards Meeting Minutes – Pg. 105**
  - 04/05/2023 Technical Review Committee Meeting Minutes
  - 04/25/2023 Planning Board Meeting Minutes
  - 04/26/2023 Design Review Committee Called Meeting Minutes
  - 04/27/2023 Historic Preservation Commission Meeting Minutes
  - 05/02/2023 Board of Adjustment Meeting Minutes
  - 05/11/2023 Design Review Committee Meeting Minutes
- XV Other Business**
- XVI Closed Session**
- XVII Adjournment**

## **CODE OF ETHICS FOR THE CITY OF STATESVILLE**

### **PREAMBLE**

WHEREAS, the Constitution of North Carolina, Article 1, Section 35, reminds us that a “frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty”; and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina’s state motto *Esse quam videri*, “To be rather than to seem”; and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics; and

WHEREAS, as public officials we are charged with upholding the trust of the citizens of this city, and which obeying the law; and

NOW, THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the City of Statesville, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we, the Statesville City Council, do hereby adopt the following General Principles and Code of Ethics to guide the City Council in its lawful decision-making.

### **GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS**

- The stability and proper operation of democratic, representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- Board members must be able to act in a manner that maintains their integrity and independence yet is responsive to the interests and needs of those they represent.
- Board members must always remain aware that at various times they play different roles:
  - As advocates, who strive to advance the legitimate needs of their citizens
  - As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions
  - As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations
- Board members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- Board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

## **CODE OF ETHICS**

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for the City of Statesville and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a board member's best judgment.

**Section 1.** Board members should obey all laws applicable to their official actions as members of the board. Board members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that a board member is behaving unethically because one disagrees with that board member on a question of policy (and not because of the board member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Board members should endeavor to keep up to date, through the board's attorney and other sources, about new or ongoing and pertinent constitutional, statutory, or other legal requirements or ethical issues they may face in their official positions. This educational function is in addition to the day-to-day legal advice the board may receive concerning specific situations that arise.

**Section 2.** Board members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Behaving consistently and with respect toward everyone with whom they interact
- Exhibiting trustworthiness
- Living as if they are on duty as elected officials regardless of where they are or what they are doing
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- Disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves
- Treating other board members, staff and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Not reaching conclusions on issues until all sides have been heard
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that they are part of a larger group and acting accordingly
- Recognizing that individual board members are not generally allowed to act on behalf of the board but may only do so if the board specifically authorizes it, and that the board must take official action as a body.

**Section 3.** Board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this board will consider impropriety in terms of whether a reasonable person who

is aware of all of the relevant facts and circumstances surrounding the board member's action would conclude that the action was inappropriate.

If a board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the board's attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

**Section 4.** Board members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the board has authority.

Board members should be willing to bear their fair share of the board's workload. To the extent appropriate, they should be willing to put the board's interests ahead of their own,

**Section 5.** Board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to board members or their employees.

In order to ensure strict compliance with the laws concerning openness, board members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the board are lawfully conducted and that such sessions do not stray from the purposes for which they are called.


**Section 6.** This Code of Ethics should be re-executed by each sitting Council member during the first meeting in January each calendar year.

Accepted this the 1<sup>st</sup> day of February, 2021.

**I affirm that I have read and understand the City of Statesville Code of Ethics this the 19<sup>th</sup> day of September, 2022.**



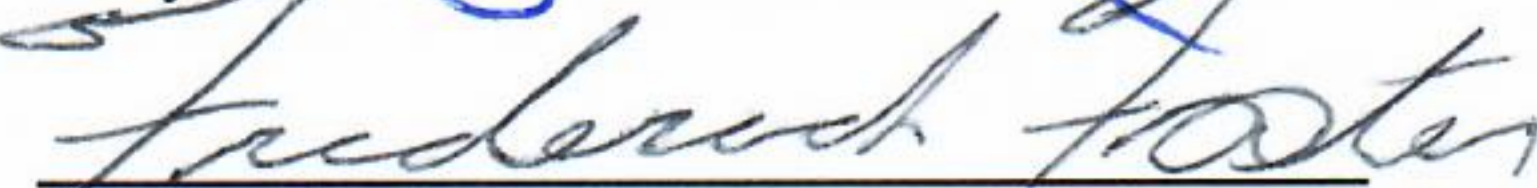
Constantine H. Kutteh, Mayor



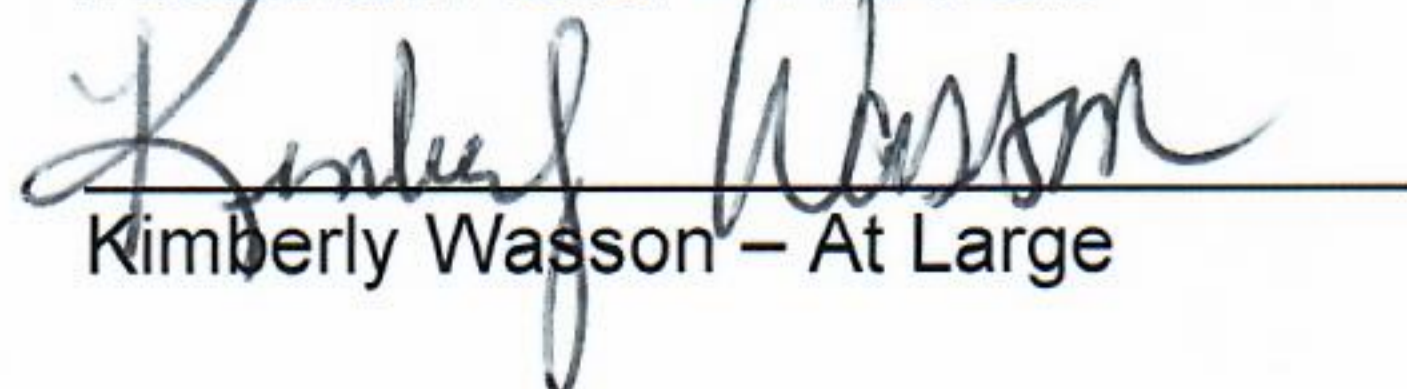
C.O. "Jap" Johnson – Ward Two



Amy Lawton – Ward Four



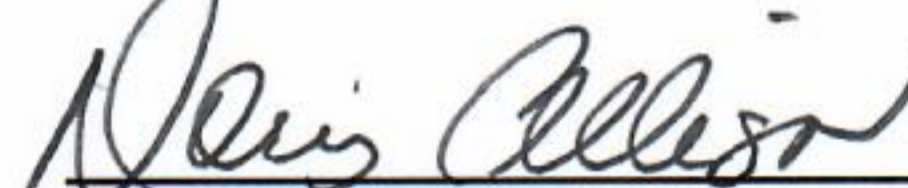
Frederick Foster – Ward Six



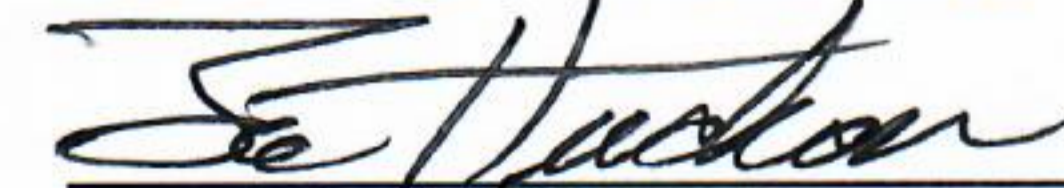
Kimberly Wasson – At Large



David Jones – Ward One



Doris Allison – Ward Three



Joe Hudson – Ward Five



Steve Johnson – At Large

# City of Statesville

North Carolina

Office of the Mayor

## Proclamation

JUNETEENTH 2023

**WHEREAS**, Juneteenth, also known as Freedom Day or Emancipation Day, is celebrated each year on June 19<sup>th</sup> in the United States to commemorate the end of slavery; and

**WHEREAS**, President Abraham Lincoln issued the Emancipation Proclamation on New Year's Day in 1863, which ordered the freeing of all slaves in states that were rebelling against Union forces; and

**WHEREAS**, the Emancipation Proclamation had little effect in Texas, where there were few Union troops to enforce the order; and

**WHEREAS**, the message of freedom finally reached African Americans in Texas on June 19, 1865, when Union General Gordon Granger, backed by nearly 2,000 troops, arrived in the city of Galveston, and made the announcement; and

**WHEREAS**, Statesville recognizes Juneteenth as the oldest known celebration commemorating the end of slavery; and

**WHEREAS**, on June 17, 2021, President Biden signed the Juneteenth National Independence Day Act, which established Juneteenth as an official federal holiday; and

**WHEREAS**, Juneteenth is an occasion to reflect on the unimaginable struggles of those who lived under slavery and to commemorate the sacrifices of those who fought to end it.

**NOW, THEREFORE, I, CONSTANTINE H. KUTTEH**, Mayor of Statesville, NC, do hereby proclaim June 19, 2023, as “**Juneteenth**”, and encourage all Statesville residents to participate in the celebration of this historic event.

**IN WITNESS WHEREOF** I have set my hand and caused the Great Seal of the City of Statesville to be affixed this 5<sup>th</sup> day of June, 2023.

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Constantine H. Kutteh, Mayor

# City of Statesville

## North Carolina

Office of the Mayor

## Proclamation

### Waste & Recycling Workers Week – June 17 - 23, 2023

**WHEREAS**, the nation celebrates the Week of June 17<sup>th</sup> – 23<sup>rd</sup> as Waste & Recycling Workers Week; and

**WHEREAS**, sanitation workers perform their jobs daily with excellence and in all weather conditions; and

**WHEREAS**, waste and recycling collection services are the foundation of keeping our community clean, and it is important to acknowledge the enormous environmental impacts of recycling programs and how our local sanitation workers are positively impacting the world's environment; and

**WHEREAS**, the City of Statesville values and celebrates the waste and recycling workers, and appreciates all others employed in the solid waste industry who serve residents and local businesses.

**NOW, THEREFORE I, CONSTANTINE H. KUTTEH**, by virtue of the authority vested in me as Mayor of Statesville, do hereby proclaim the Week of June 17 - 23, 2023 as

### ***“Waste & Recycling Workers Week”***

in Statesville and encourage all citizens and local businesses to thank the hardworking men and women who ensure our communities are kept safe, clean and healthy, especially those who are part of the impressive Statesville Sanitation Division.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Seal of the City of Statesville on this 5<sup>th</sup> day of June, 2023.

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Constantine H. Kutteh, Mayor

## **SPECIAL PRESENTATION**

**TO:** Mayor and City Council  
**FROM:** Ron Smith, City Manager  
**DATE:** May 25, 2023

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**TO BE REPORTED:** June 05, 2023  
(Date of Council Meeting)

Darbah T. Skaf, Executive Director of the Statesville Housing Authority, will be presenting on public housing in Statesville and providing an annual update. She will also be providing an overview of the Housing Symposium that is currently scheduled for June 29<sup>th</sup> in conjunction with the Centralina Regional Council.

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**MINUTE BOOK , PAGE**

**CITY OF STATESVILLE PRE-AGENDA MEETING MINUTES – MAY 15, 2023**

**CITY HALL – 227 S. CENTER STREET, STATESVILLE, NC – 6:00 P.M.**

**Council Present:** Mayor Kutteh presiding, J. Johnson, Wasson, Jones, Allison, Lawton, Hudson, S. Johnson, Foster

**Council Absent:** 0

**Staff Present:** Ron Smith, Fugett, Messick, Pierce, Harrell, E. Kurfees, Nesbit, Taylor, Ashley, Gregory, G. Kurfees, Onley, Griggs, Harrell, Holman, Ferguson, Harrod, Weatherman, Everette, Bridges

**I Call to Order**

Mayor Kutteh called the meeting to order and advised that a Closed Session would be held following the Pre-Agenda meeting to discuss an Economic Development matter and to consult with the City Attorney.

**II Invocation**

**III Pledge of Allegiance**

**IV Adoption of the Agenda**

**V Code of Ethics**

**VI Presentations & Recognitions**

1. Receive a presentation from representatives of the Mayor's Youth Advisory Council.

**VII Public Comment**

**VIII Consent Agenda** – All items below are considered to be routine by City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member requests, in which event, the item will be removed from the Consent Agenda and considered with the other items listed in the Regular Agenda.

Mayor Kutteh reviewed the following Consent Agenda items.

- A. Consider approving the May 01, 2023 Pre-Agenda and City Council meeting minutes.**
- B. Consider approving a request to demolish the existing structure located at 113 Garfield Street. (Ashley)**
- C. Consider approving 2<sup>nd</sup> reading of AX23-05, an ordinance to annex the property located at the corner of James Farm Road and Glenway Drive. PIN #4745-78-7821 Falls Park (James Glen Multi-Family) property. (Ashley)**
- D. Consider approving a contract with Samet Corporation for the construction of the Airport Terminal building. (Ferguson)**

- E. Consider approving Budget Amendment #2023-32 to move the interest accrued up to \$30,000 on a \$500,000 grant from the North Carolina SCIF Fund. (Ferguson)**  
Mayor Kutteh explained that per State policy, interest that accrues on SCIF funds must be used for the stated purpose of the grant. This grant was used for hangar improvements and land acquisition at the airport. This BA will move the interest that has accrued so that 100% of the funds can be expended. These funds were used to purchase property on Eldorado Road and hangar improvements to include LED lighting, replace hangar insulation, hangar door replacement, and concrete steps to a hangar.
- F. Consider approving a request to transfer an insurance reimbursement in the amount of \$32,500 to the Police Department and approval of Budget Amendment #2023-33. (Onley)**  
Mayor Kutteh stated that the City received an insurance reimbursement check in the amount of \$32,500 for police vehicle #199 that was totaled last year in a vehicle collision. The Police Department is requesting those funds be placed in account # 010-5100-74.00 for the purchase of a replacement vehicle.
- G. Consider approving Budget Amendment #2023-34 to increase the overall budget of the Fund 210 – Occupancy Tax. (Holman)**  
Mayor Kutteh reported that the Occupancy Tax Fund has exceeded its conservative revenue estimates during the fiscal year. The fund now needs appropriation in order to distribute that excess to the Civic Center, General Fund, and SCVB.

## **REGULAR AGENDA**

- IX Conduct a public hearing and consider approving first reading of AX23-07, an ordinance to annex PIN #4753-99-3612, a property located at 413 Twin Oaks Road submitted by Clayton Homes of Statesville. (Ashley)**  
Mayor Kutteh stated that the property being considered for annexation has been submitted by Clayton Homes of Statesville. The applicant requests voluntary annexation to utilize city electric and water services. The parcel is approximately .5 acres and is located at 413 Twin Oaks Road. The applicant has placed a manufactured home on the property. The parcel is located in the Iredell County zoning jurisdiction; and is currently zoned Iredell County RA (Residential Agricultural). A City-initiated rezoning request will follow the annexation process; staff and the property owner support a zoning designation of RA (Residential Agricultural) District, which mirrors the designation assigned to the neighboring lot located inside the City limits. The current tax value of the parcel requesting annexation is \$11,250. The applicant estimates that the project value would be approximately \$196,000. City of Statesville electric and water services are available, a private septic system will be installed. Without annexation the city would not collect property taxes. Without annexation, the property owner could still access water at 2½ times the rate. The Department and the City Manager both recommend approving first reading of the ordinance to annex the property.
- X Conduct a public hearing and consider approving first reading of rezoning request ZC23-05, Greenbriar Ridge, Tax Parcel #4754-23-6335; a proposal for a major amendment to the concept plan for the rezoning of approximately 87.39 acres located on E. Greenbriar Road; zoned R-8CZ Cluster for the Greenbriar Ridge subdivision.**  
Mayor Kutteh stated that D.R. Horton, Inc. (applicant), on behalf of Chelsea L. Sharpe Heirs & Bettye Tull (owners), is requesting significant changes (major amendment) to the Concept Plan for the Greenbriar Ridge development; an 87.39-acre parcel of property, which was

recently rezoned from R-A and R-8 MFM to R-8 CZ Cluster Subdivision on October 3, 2022 to provide a single-family residential development utilizing the Cluster Subdivision development pattern. The major significant changes are as follows:

1. Development Phasing Lines moved.
2. Units developed in phases changed:
  - Phase 1 - From 99 units to 150 units
  - Phase 2 - From 145 units to 90 units (Revised to 92 units) (loss of 4 lots, revised loss of 2 lots)
3. Shifted position of stormwater ponds
4. Public street layout changed
5. Creek crossing changed
6. Alteration to walking trail
7. Walking trail not showing in Phase 1
8. Portion of building lots have been repositioned or have a change in size

The concept plan still exceeds the required active open space and will provide a substantial amount of constructed greenway that will become part of a designated corridor between Kimbrough Park to the Fourth Creek Greenway and beyond. In addition, the project continues to meet the density requirements and lot standards of the Unified Development Code. Although some of the public roads and stormwater ponds have been slightly shifted or changed, they still meet the requirements. No Ingress or egress points were changed. The change to the greenway trail is minimal and should have no detrimental effect on the project. This is a procedural step per Section 2.07 (c) of the UDC, therefore substantial changes must be approved by the Planning Board and City Council. Staff recommends approval of the major amendment contingent upon the applicant meeting all the former conditions of the original rezoning.

**XI Conduct a public hearing and consider approving a Resolution of Closure and Declaration of Withdrawal to permanently close a portion of Wall Street. (Harrod)**

Mayor Kutteh explained that the abandonment of Wall Street officially began back on December 5, 2022. The process proceeded past its public hearing but was halted because the applicant did not give notice to a property owner. Therefore, the applicant must repeat the abandonment process to give due notice to all property owners as required by law.

**XII Conduct a public hearing and consider approving first reading of TA23-07 Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 3 Zoning, Section 3.04 Zoning District Regulations; Table 3-1 Use Matrix. Article 5. Supplemental Regulations Performance/Standards for Specific Uses, Section 5.04 Primary Uses and Structures, to include subsection III. Tobacco Shops; Article 6. Development Standards, Section 6.05 Lighting, 1-4; and amend definitions section for: Hookah, Vape, E-Cigarette, Cigar and Cigarette Shop/Lounge, Tobacco Paraphernalia and Tobacco Product to address the lighting standards and zoning districts pertaining to such uses. (Ashley)**

Sherry Ashley stated that the text amendment addresses vape shops, hookah bars and tobacco shops, including their intended use, which zoning districts to allow them and the lighting standards thereof. The amendment delineates between a “shop”, which is intended for its “primary” use to be the sale of such products and a “bar/lounge” whose “primary” use is to allow the consumption of such products. It is noted that state law does not permit the sale of food or alcohol in a business whose primary purpose is to allow the consumption of such products. The city already has several existing tobacco shops that sell these products,

and they are currently allowed in the B-2, B-3, B-4, CB, CBP, CB/H-115, B-5 and LI districts. The amendment would only allow them in the B-4 and B-5 districts with supplemental regulations. Lighting would not be allowed to define, outline, or highlight any architectural feature of the building such as windows, doors, roof lines, eaves, awnings, railings, etc. Neon and LED signs would be allowed in windows as long as they are consistent with applicable sign regulations.

**XIII Conduct a public hearing and consider approving first reading of TA23-08, Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 2. Development Review Process, Section 2.01 Application Process, Table 2-1: Summary of Application Procedures, Article 3. Zoning, Section 3.04 Zoning District Regulations, M. O-1-Office Single Lot District, N. O & I-2-Office and Institutional District, O-1 – Neighborhood Service District, P. B-2 – Neighborhood Business District, Article 5. Supplemental Regulations/Performance Standards for Specific Uses, Section 5.04 Primary Uses and Structures, Z. Dwellings, Planned Multi-family Dwellings and Article 6. Development Standards, Section 6.02 Density and Dimensional Standards, B. Residential Density, 2. to clarify regulations for Duplexes, Townhomes and Multi-family in O-1, O & I-2, B-1, and B-2 Zoning Districts.**

Ashley stated that due to continued growth within and around the city, additional requests for Townhomes and Multi-family Developments are being made. In reviewing several of these projects, staff has discovered there is some ambiguity in the language for Townhomes and Multi-family developments in the O-1, O & I-2, B-1, and B-2 Zoning Districts. In the City's UDO, Townhomes and Multi-family developments are uses allowed in these districts. However, the density is what is ambiguous. Staff thinks the intent may have been to allow the O-1, O & I-2, B-1, and B-2 districts to be considered a MF zone however the code does not indicate this. So, staff has consistently been interpreting the code to allow density as follows: Overall acreage divided by 5,000 sq. ft. to get number of units permitted. Staff used this interpretation based on the language in the code which allows the use and the language that states minimum lot size if used for residential purposes in 5,000 sq. ft. B-2 does not specify. In addition, another interpretation could be that there are no density limitations in these districts. However, after further discussion with management, I think the intent was to allow these districts to be MF zones. In staff's opinion, the best option is to remove any ambiguity by amending the code to allow the O-1, O & I-2, B-1 and B-2 to use the R-5MF Density calculations. Calculations in the R-5MF District are as follows: Townhomes- Overall acreage divided by 5,000 sq. ft. to get number of Townhome units permitted. May reduce lot size from 5,000 sq. ft. to 2,000 sq. ft. for open space trade-off.

Example - 10 acres = 435,600 divided by 5,000 sq. ft. = 87.12 or 87 Townhomes units  
87 units reduce from 5,000 sq. ft. to 2,000 sq. ft. = 261,000 sq. ft. of open space (5.99 acres)  
Multi-family - Minimum lot size 7,500 sq. ft. for units 1 and 2, plus 2,500 sq. ft. for each additional unit. Example - 100 units would require 5.79 acres.

**XIV Consider approving first reading of an ordinance to prohibit camping and improper use of City property.**

Police Chief David Onley stated that the City has seen a rise in the use of City properties to camp, store personal property and erect temporary shelters. To address this increase, surrounding cities have enacted ordinances prohibiting the misuse of city properties. The attached ordinance will allow officers to address the public safety concerns surrounding camping, creating campfires or bonfires, storing personal property and other prohibited activities. This will include people sleeping in cars in front of homes.

Council member Jones asked if “alleys” should be included in this. Chief Onley explained that unless the city owns and maintains the alley, then it would be private property and would have to be posted by the owner.

**XV Consider authorizing the upset bid procedure for 1203 Free Nancy Ave (PIN 4745-54-1924.000) and 1213 Free Nancy Ave (PIN 4745-43-9618.000). (Pierce)**

Mayor Kutteh stated that the City owns properties 1203 Free Nancy Ave (PIN 4745-54-1924.000) and 1213 Free Nancy Ave (PIN 4745-43-9618.000), located along Free Nancy Avenue. North Carolina General Statute §160a-269 permits the city to sell property by upset bid, after receipt of an offer for the property. The City has received an offer to purchase the property in the amount of \$650,000, submitted by Jai Amba Maa (JAM) Hospitality Statesville and they have paid the required five percent (5%, \$32,500) deposit on their offer. Council may authorize staff to proceed with the upset bid procedure or not. If Council decides to proceed with the sales process, then the City Clerk will advertise the sale of the property per NCGS § 160A-269 requirements, accepting bids until no further qualifying upset bids are received. Lane Construction currently has a lease on the properties until July 2024. City staff will also have the property posted on MLS. Sale of the properties is conditioned upon the following:

- retention of twelve (12) existing parking spots,
- addition of eight (8) additional parking spots,
- buyer must provide and install a minimum of six (06) directional signs to the greenway as well as hours of use (sunrise to sunset),
- City will retain an easement of approximately fifty feet from top of bank on the western portion of PIN 4745-54-1924.000, and
- the southern portion of 1213 Free Nancy Ave/PIN 4745-43-6918.000 will be separated from the remaining portion of the parcel and will be retained by the City as City property.

**XVI Receive the Fiscal Year 2023-2024 recommended budget from the City Manager and Staff and set a public hearing on the budget for June 5, 2023 at 7:00 p.m. Consider setting Board Workshop Sessions on June 6, 2023, June 7, 2023, and June 8, 2023 from 4:00 p.m. to 7:00 p.m. (Smith)**

Mayor Kutteh said that Smith will present the budget then the public hearing will be held at the next meeting.

**XVII City Manager’s Report**

**XVIII Advisory Boards and Commissions Meeting Minutes**

04/12/2023 Airport Commission Meeting Minutes

**XIX Other Business**

Council member Jones gave a report on the Charlotte Regional Transportation Planning Organization (CRTPO) and the Gaston Cleveland Lincoln Metropolitan Planning Organization (GCLMPO) Joint MPO Roundtable meeting that he attended. The Roundtable included speakers and a facilitated work session that focused on existing and potential funding opportunities and ways to work with adjoining municipalities to create a vision to make an impact 15 years down the road.

**XX Closed Session**

**Council member J. Johnson made a motion to move to Closed Session to discuss an Economic Development matter and to consult with the City Attorney, seconded by Council member Allison. The motion carried unanimously.**

Mayor Kutteh stated that while in Closed Session, City Council discussed an Economic Development matter and consulted with the Attorney and no action was taken.

**Council member J. Johnson made a motion to adjourn, seconded by Council member Allison. The motion carried unanimously.**

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Constantine H. Kutteh, Mayor

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Brenda Fugett, City Clerk

**MINUTE BOOK , PAGE**

**CITY OF STATESVILLE COUNCIL MEETING MINUTES – MAY 15, 2023**

**CITY HALL – 227 S. CENTER STREET, STATESVILLE, NC – 7:00 P.M.**

**Council Present:** Mayor Kutteh presiding, J. Johnson, Wasson, Jones, Allison, Lawton, Hudson, S. Johnson, Foster

**Council Absent:** 0

**Staff Present:** Ron Smith, Fugett, Messick, Pierce, Harrell, E. Kurfees, Nesbit, Taylor, Ashley, Gregory, G. Kurfees, Onley, Griggs, Harrell, Holman, Ferguson, Harrod, Weatherman, Everette, Bridges, Caulder

**I Call to Order**

Mayor Kutteh called the meeting to order.

**II Invocation**

The City Clerk gave the invocation.

**III Pledge of Allegiance**

Mayor Kutteh led the pledge of allegiance.

**IV Adoption of the Agenda**

**V Code of Ethics**

**VI Presentations & Recognitions**

**Receive a presentation from representatives of the Mayor's Youth Advisory Council.**

Ariyanna "Ace" Johnson, Oakwood IB Middle, Hannah Roseman, Oakwood IB Middle, Ben McMiller, ARS Middle, Mikayla Lenahan, ARS Middle gave background information on the group and their planned activities, one of which is a Teen Center. The group is hosting "Middle Schoolers Got Talent", on Thursday, May 18<sup>th</sup> at 7:00 p.m. at the Statesville Civic Center. This is a free event with donations accepted at the door. All proceeds will be presented to City Council towards the creation of a future Teen Center. It is the groups hope that the talent show will continue with future Youth Advisory Councils and that one day a downtown Teen Center will be a safe, fun place for the youth in the community.

Mayor Kutteh said it is very encouraging to him to see such fine young people who are going to be the future of our community.

Marlene Scott, Director of Community Engagement and Recruitment, stated that this is the second year that Mayor Kutteh has met with this group. She said they are great leaders who will impact their school and others. Those that participated last year are now becoming leaders in high school and want to join the Chamber of Commerce high school leadership group to continue this legacy.

**VII Public Comment**

Lisa Mozer, Falls Street, spoke about the Green Street cemetery. She expressed concern that it was taking a very long time for the GPR survey to be completed. Getting this data is a priority because they cannot apply for landmark designation without it.

Deloris Hobbs, 139 Broom Street, stated that there is a speeding problem on Broom Street. She asked for speed bumps to be installed stating that there are many children that live on this street and summer is coming. The residents have called the police numerous times and have put up speeding signs, none of which have worked.

Tyrone Phifer, 223 Trailway Drive, spoke about the recent rise in the homeless population in Statesville. He said help is needed from the City to alleviate this. He is part of the Boots on the Ground organization and saw many homeless that could not get into a shelter this winter. He said another shelter is needed.

Marlene Scott, 116 Natawest, thanked City Council for their time in collaborating with the school board to secure grant funds.

Chauntee Hardy, 204 Berry Street, expressed concern about the rise in crime. She said that students will be out of school soon. She asked Council for more parks, public transportation and for more things for youth to do.

Council member Allison advised that there are programs out there that are working together as well as with the City to improve this, and that the city now has a Community Coordinator that is working on this as well.

Council member Foster recognized the new Community Coordinator, NaKayla Griffin, in the audience, stating that she has several projects that she is working on. A list of these will be posted on the City website and Facebook. Foster thanked Lisa Mozer for her input on the Green Street Cemetery. He said this has been an issue for a while and asked his fellow Council members to work with him on this project because the south side of town has a rich history that contributes not only to African American history, but to the city's history as well. He wants the city to work on redeveloping and revitalizing the south side of the city. Foster stated that there will be input meetings on the Green Street Cemetery at the Iredell Public Library on May 16<sup>th</sup> and 30<sup>th</sup>.

Mike Kubiniec, 125 Huntington Ridge Place, Mooresville, expressed concern about businesses selling vaping equipment to minors and asked City Council to send a letter to businesses that sell this equipment to minors. He said it appears that the City is going to participate in funding assistance for additional pre-k classes at NB Mills school.

Betty Quintero, 198 Barnyard Lane, stated that she does genealogy searches and that the names in the Green Street cemetery represent the history of current citizens. She asked Council to press forward with this project.

## **VIII Consent Agenda**

Mayor Kutteh stated that all items below are considered to be routine by City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member requests, in which event, the item will be removed from the Consent Agenda and considered with the other items listed in the Regular Agenda.

Mayor Kutteh reviewed the following Consent Agenda items.

- A. Consider approving the May 01, 2023 Pre-Agenda and City Council meeting minutes.
- B. Consider approving a request to demolish the existing structure located at 113 Garfield Street. *(Ashley)*
- C. Consider approving 2<sup>nd</sup> reading of AX23-05, an ordinance to annex the property located at the corner of James Farm Road and Glenway Drive. PIN #4745-78-7821 Falls Park (James Glen Multi-Family) property. *(Ashley)*
- D. Consider approving a contract with Samet Corporation for the construction of the Airport Terminal building. *(Ferguson)*
- E. Consider approving Budget Amendment #2023-32 to move the interest accrued up to \$30,000 on a \$500,000 grant from the North Carolina SCIF Fund. *(Ferguson)*
- F. Consider approving a request to transfer an insurance reimbursement in the amount of \$32,500 to the Police Department and approval of Budget Amendment #2023-33. *(Onley)*
- G. Consider approving Budget Amendment #2023-34 to increase the overall budget of the Fund 210 – Occupancy Tax. *(Holman)*

Mayor Kutteh asked if any Council member wanted any of these items moved to the Regular Agenda. Hearing none, he asked for a motion to approve the Consent Agenda.

**Council member Jones made a motion to approve the Consent Agenda, seconded by Council member Hudson. The motion carried unanimously.**

## **REGULAR AGENDA**

- IX **Conduct a public hearing and consider approving first reading of AX23-07, an ordinance to annex PIN #4753-99-3612, a property located at 413 Twin Oaks Road submitted by Clayton Homes of Statesville. *(Ashley)***

Sherry Ashley stated that the property being considered for annexation has been submitted by Clayton Homes of Statesville. The applicant requests voluntary annexation to utilize city electric and water services. The parcel is approximately .5 acres and is located at 413 Twin Oaks Road. The applicant has placed a manufactured home on the property. The parcel is located in the Iredell County zoning jurisdiction; and is currently zoned Iredell County RA (Residential Agricultural). A City-initiated rezoning request will follow the annexation process; staff and the property owner support a zoning designation of RA (Residential Agricultural) District, which mirrors the designation assigned to the neighboring lot located inside the City limits. The current tax value of the parcel requesting annexation is \$11,250. The applicant estimates that the project value would be approximately \$196,000. City of Statesville electric and water services are available, a private septic system will be installed. Without annexation the city would not collect property taxes. Without annexation, the property owner could still access water at 2½ times the rate. The Department and the City Manager both recommend approving first reading of the ordinance to annex the property.

Mayor Kutteh declared the public hearing open and asked if anyone present wished to speak.

Adam Casstevens, 7026 Northside Drive, briefly described the project and explained that due to the size of the lot it makes it difficult to have a well on it.

There being no other speakers, Mayor Kutteh closed the public hearing.

**Council member S. Johnson made a motion to approve first reading of AX2307, seconded by Council member Hudson. The motion carried unanimously.**

**X Conduct a public hearing and consider approving first reading of rezoning request ZC23-05, Greenbriar Ridge, Tax Parcel #4754-23-6335; a proposal for a major amendment to the concept plan for the rezoning of approximately 87.39 acres located on E. Greenbriar Road; zoned R-8CZ Cluster for the Greenbriar Ridge subdivision.**

Sherry Ashley stated that D.R. Horton, Inc. (applicant), on behalf of Chelsea L. Sharpe Heirs & Bettye Tull (owners), is requesting significant changes (major amendment) to the concept map for Greenbriar Ridge development; an 87.39-acre parcel of property, which was recently rezoned from R-A and R-8 MFM to R-8 CZ Cluster Subdivision on October 3, 2022 to provide a single-family residential development utilizing the Cluster Subdivision development pattern.

The major significant changes are as follows:

1. Development Phasing Lines moved.
2. Units developed in phases changed:  
Phase 1 - From 99 units to 150 units  
Phase 2 - From 145 units to 90 units (Revised to 92 units) (loss of 4 lots, revised loss of 2 lots)
3. Shifted position of stormwater ponds
4. Public street layout changed
5. Creek crossing changed
6. Alteration to walking trail
7. Walking trail not showing in Phase 1
8. Portion of building lots have been repositioned or have a change in size

The proposed project site is on approximately 87.39 wooded acres primarily located along the north side of East Greenbriar Road, generally between Industrial Drive and South Greenbriar Road in southeast Statesville. The property was originally rezoned on October 3, 2022, and annexed on December 31, 2022. There are the remnants of an existing home and outbuilding on the property that will require demolition permits. The intent is to amend the concept plan (major amendment) that will allow them to make changes to Open Space location, Public Road layout, Walking Trail routing and relocation of Development Phasing Lines.

The significant changes are as follows:

1. Some of the Open Space areas were decreased while some were increased, but the applicant attests that the project still meets the open space requirements. Need to provide a table for open space on the plan. Table has been provided.
2. Some of the public streets inside the development have been moved, some removed, and some added. The creek crossing on the west side, near BMP A (sediment pond)

has been removed, while a new creek crossing has been added on the Northeast side, near Open Space C (on the concept plan). A new cul-de-sac has been added to the Northwest end of Road L, close to the entrance from Ora Drive. It is important to note that the entrance to Ora Drive has not been changed.

3. The creek crossing for the walking trail near BMP B has been removed and the trail will now continue along the West side of the creek to a new creek crossing where the new road crosses the creek due Northeast of the former location.
4. Building lots 72 thru 93 have been moved around to accommodate the revisions.
5. BMP C and BMP D (stormwater ponds) have been shifted.
6. Finally, the development phasing lines have been re-drawn, shifting most of phase 1 toward the Eastern part of the development. Phase 1 does not include the walking trail as specified in the conditions of approval and the buffer in Northwest corner near Ora Drive cannot be part of the lots. The concept plan has been revised since the Planning Board meeting. The walking trail is within Phase 1 and the 15 ft. buffer between lots 86, 97, 98 and the adjacent property is in compliance.

City Council approved the original rezoning request on October 3, 2022. The Planning Board at their April 25, 2023, meeting voted unanimously to approve the major amendment with the following conditions: Contingent upon the applicant meeting all the former conditions of the original rezoning along with providing a table for open space calculations, greenway must be constructed as part of Phase 1 and the buffer must be outside of lots. The applicant has since submitted a revised concept plan with these corrections.

The current total taxable value of the subject parcel is approximately \$460,610. The applicant estimates that the current tax value plus estimated costs of land development construction is \$17.5 million. City water, sewer and electrical services are available. The city will need to provide sanitation, fire, and police services as requested.

The concept plan still exceeds the required active open space and will provide a substantial amount of constructed greenway that will become part of a designated corridor between Kimbrough Park to the Fourth Creek Greenway and beyond. In addition, the project continues to meet the density requirements and lot standards of the Unified Development Code. Although some of the public roads and stormwater ponds have been slightly shifted or changed, they still meet the requirements. No Ingress or egress points were changed. Finally, the change to the greenway trail is minimal and should have no detrimental effect on the project. This is a procedural step per Section 2.07 (c) of the UDC, therefore substantial changes must be approved by the Planning Board and City Council. Staff recommends approval of the major amendment contingent upon the applicant meeting all the former conditions of the original rezoning. The City Manager concurs with department's recommendation. If approved, the 2<sup>nd</sup> reading would be on June 5, 2023.

Council member S. Johnson asked if it is correct that traffic calming improvements will take place upon completion of 150 dwellings. He asked if these changes would impact that number. Ashley replied they will not.

Mayor Kutteh declared the public hearing open and asked if anyone present wished to speak.

Tim with D.R. Horton, Inc. explained what situation created the amended concept plan.

There being no other speakers, Mayor Kutteh declared the public hearing closed.

Council member Wasson made a motion to approve first reading of ZC23-05, seconded by Council member Allison. The motion carried unanimously.

Wasson read the following Consistency Statement:

The zoning amendment is approved and is consistent with the City's comprehensive land use plan, is reasonable, and in the public interest because: The major amendments meet the 2045 Land Development Plan which projects the parcel as suitable for Complete Neighborhood 2, which is intended primarily for residential development and recommends many of the features—gridded street network, connectivity between neighborhoods, pedestrian/bicycle facilities and planned open space—proposed in the requested Concept Plan. Additionally, with the major amendments, this project fills in a substantial gap between existing neighborhoods and provides beneficial improvements to both sides of E. Greenbriar Road that includes a portion of a multi-use path recommended in the Mobility + Development Plan. Finally, the concept plan exceeds the required active additional open space and will provide a substantial amount of constructed greenway that will become part of a designated corridor between Kimbrough Park to the Fourth Creek Greenway and beyond.

**XI Conduct a public hearing and consider approving a Resolution of Closure and Declaration of Withdrawal to permanently close a portion of Wall Street. (Harrod)**

Genesis Harrod explained that the abandonment of Wall Street officially began back on December 5, 2022. The process proceeded past its public hearing but was halted because the applicant did not give notice to a property owner. Therefore, the applicant must repeat the abandonment process to give due notice to all property owners as required by law. The abandonment process must follow the requirements of NCGS 160A-299.

Mr. Holden Sabato, on behalf of SL Statesville LLC, has petitioned for NCDOT, and now the City, to abandon a portion of Wall Street. The Silverman Group would like for maintenance to be abandoned for their industrial development off Wall Street and Landson Drive. Wall Street is in the process of being abandoned by the North Carolina Department of Transportation. The NCDOT supports the maintenance abandonment process and is transferring maintenance of a 2,074 LF portion of Wall Street over to the City.

On December 5, 2023, Council passed the *Resolution in Support* of the NCDOT maintenance abandonment process and the *Resolution of Intent to Close*, which began the public notification process and scheduled the public hearing on January 9, 2023. The hearing was held, and council approved the closing contingent upon the recombination of the two parcels to ensure access prior to closing. However, after the public hearing, staff was contacted by Mr. West Hunter (Iredell Partners, LLC) who owns property along Wall Street. Mr. Hunter did not get notification of the hearing. Therefore, the process must be started over. The applicant agreed to restart the abandonment process and give proper notice to all property owners.

Section 8.06 A.5. c. of the UDC states that “streets should connect with those already dedicated in adjoining or adjacent subdivisions”, thus Wall Street has a grade separation intersection recommended to connect to Barkley Road W., as stated in the 2019 Mobility + Development Plan. However, Landson Drive is proposed to be extended through the industrial development and stubbed for a future connection to Barkley Road. The review

criteria in Section 2.13 of the UDC are met by pursuing the maintenance abandonment process, as neighborhood access is not restricted nor is health and safety impacted, since the remaining portion of Wall Street will remain intact. It was brought to our attention that Mr. Hunter would not have access to his property abutting Wall Street, if the current portion of Wall Street indicated is abandoned as written. It is possible for the applicant to proceed with their abandonment farther down the roadway, to provide access to Wall Street to Mr. Hunter's property. Therefore, staff's recommendation is favorable to abandon a portion of Wall Street, but to what extent will depend upon the findings of the public hearing. The survey and extent of the abandonment may need to be revised. If the *Resolution to Close* and *Declaration of Withdrawal* documents are approved, they must be recorded by the applicant along with the fully signed abandonment plat at the Iredell County Register of Deeds.

Council member S. Johnson said he spoke with Mr. Hunter, who voiced concerns about this. He believes that these concerns should be considered. He pointed out that Mr. Hunter's property would essentially be isolated because of the creek if the road is closed, which would render it basically unmarketable. He said the road abandonment should be moved further to the south in order to avoid this.

Harrod pointed out that Mr. Hunter has access via another area of his property to different roadways.

Mayor Kutteh declared the public hearing open and asked if anyone wished to speak.

West Hunter, 165 Asbury Circle, Mooresville, representing Iredell Partners, stated that if he abandons the road at that point, he will lose access to 2-3 acres of his property. He is in favor of moving it up so he still has access, but it does not appear that would meet the criteria. He would abandon it to the south of his property. It would be financially prohibitive to cross the creek into that marsh land to access these 2-3 acres. Right now, he already has access via Wall Street.

Alan Guffy, attorney with Jones, Childers, Donaldson & Webb, PLLC, stated he represents the sellers. He said his clients all use this road. For two of them it would totally deprive them of access to not have it should the road be closed. His clients are asking that the closing of the road be contingent upon the sale of the property to S.L. Statesville. Previously they formally made it conditioned upon the recombination of the land into a single tract, which would not happen until after the closing on the property. They also asked that city maintenance continue until that point as well. Mayor Kutteh said he does not believe that Council will have a problem doing that.

Holden with the Silverman Group stated that their goal is not to remove access from Mr. Hunter's property. They are more than willing to reroute what they are showing right now. They would abandon the right-of-way as shown with the condition to reroute a new right-of-way. Mayor Kutteh asked if he would provide new access to the property and that Mr. Hunter's property had access from the east. Holden replied that was correct.

Sherry Ashley stated she is not sure how they plan to provide access and where. She would like to see it.

Council member S. Johnson said he is concerned how the alternative access is going to happen and who is going to pay for it. He does not understand why it cannot go south of where it is now.

Holden asked if Council could approve it contingent upon approval by the Technical Review Committee.

City Attorney Messick stated that the issue is the review criteria that the Council has in front of them to consider. There is an element that states: *The abandonment does not restrict access to any parcel or result in access that is unreasonable, economically prohibitive, or devalues any property.* She said that must be dealt with here, by the Council, not by the TRC.

Messick said that the contingency needs to be made very clear at this time, that the abandonment is only effective when another avenue is already plotted and constructed because if this gets abandoned on the contingency that someday he is going to build some other access to this point, the Council has no way to hold him to that except to say that the contingency is dependent upon access being in place at the time of the abandonment. Access is not in place right now at the time of the abandonment. The road needs to be closed and the new access constructed before it can be abandoned.

Council decided to postpone a decision on this until the revisions are made.

Mayor Kutteh declared the public hearing closed.

**Council member S. Johnson made a motion to postpone consideration of a Resolution of Closure and Declaration of Withdrawal to permanently close a portion of Wall Street to the June 5<sup>th</sup> City Council meeting, seconded by Council member J. Johnson. The motion carried unanimously.**

**XII Conduct a public hearing and consider approving first reading of TA23-07 Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 3 Zoning, Section 3.04 Zoning District Regulations; Table 3-1 Use Matrix. Article 5. Supplemental Regulations Performance/Standards for Specific Uses, Section 5.04 Primary Uses and Structures, to include subsection III. Tobacco Shops; Article 6. Development Standards, Section 6.05 Lighting, 1-4; and amend definitions section for: Hookah, Vape, E-Cigarette, Cigar and Cigarette Shop/Lounge, Tobacco Paraphernalia and Tobacco Product to address the lighting standards and zoning districts pertaining to such uses. (Ashley)**

Sherry Ashley stated that the text amendment addresses vape shops, hookah bars and tobacco shops, including their intended use, which zoning districts to allow them and the lighting standards thereof. The amendment delineates between a “shop”, which is intended for its “primary” use to be the sale of such products and a “bar/lounge” whose “primary” use is to allow the consumption of such products. It is noted that state law does not permit the sale of food or alcohol in a business whose primary purpose is to allow the consumption of such products. The city already has several existing tobacco shops that sell these products, and they are currently allowed in the B-2, B-3, B-4, CB, CBP, CB/H-115, B-5 and LI districts. The amendment would only allow them in the B-4 and B-5 districts with supplemental regulations. Lighting would not be allowed to define, outline, or highlight any architectural feature of the building such as windows, doors, roof lines, eaves, ownings, railings, etc. Neon

and LED signs would be allowed in windows as long as they are consistent with applicable sign regulations.

Mayor Kutteh declared the public hearing open and asked if anyone wished to speak. Hearing none, he declared the public hearing closed.

**Council member Foster made a motion to approve first reading of TA23-07, seconded by Council member Hudson. The motion carried unanimously.**

**XIII Conduct a public hearing and consider approving first reading of TA23-08, Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 2. Development Review Process, Section 2.01 Application Process, Table 2-1: Summary of Application Procedures, Article 3. Zoning, Section 3.04 Zoning District Regulations, M. O-1-Office Single Lot District, N. O & I-2-Office and Institutional District, O.-1 – Neighborhood Service District, P. B-2 – Neighborhood Business District, Article 5. Supplemental Regulations/Performance Standards for Specific Uses, Section 5.04 Primary Uses and Structures, Z. Dwellings, Planned Multi-family Dwellings and Article 6. Development Standards, Section 6.02 Density and Dimensional Standards, B. Residential Density, 2. to clarify regulations for Duplexes, Townhomes and Multi-family in O-1, O & I-2, B-1, and B-2 Zoning Districts.**

Ashley stated that due to continued growth within and around the city, additional requests for Townhomes and Multi-family Developments are being made. In reviewing several of these projects, staff has discovered there is some ambiguity in the language for Townhomes and Multi-family developments in the O-1, O & I-2, B-1, and B-2 Zoning Districts. In the City's UDO, Townhomes and Multi-family developments are uses allowed in these districts. However, the density is what is ambiguous. Staff thinks the intent may have been to allow the O-1, O & I-2, B-1, and B-2 districts to be considered a MF zone however the code does not indicate this. So, staff has consistently been interpreting the code to allow density as follows: Overall acreage divided by 5,000 sq. ft. to get number of units permitted. Staff used this interpretation based on the language in the code which allows the use and the language that states minimum lot size if used for residential purposes in 5,000 sq. ft. B-2 does not specify. In addition, another interpretation could be that there are no density limitations in these districts. However, after further discussion with management, I think the intent was to allow these districts to be MF zones. In staff's opinion, the best option is to remove any ambiguity by amending the code to allow the O-1, O & I-2, B-1 and B-2 to use the R-5MF Density calculations. Calculations in the R-5MF District are as follows: Townhomes- Overall acreage divided by 5,000 sq. ft. to get number of Townhome units permitted. May reduce lot size from 5,000 sq. ft. to 2,000 sq. ft. for open space trade-off.

Example - 10 acres = 435,600 divided by 5,000 sq. ft. = 87.12 or 87 Townhomes units  
87 units reduce from 5,000 sq. ft. to 2,000 sq. ft. = 261,000 sq. ft. of open space (5.99 acres)  
Multi-family - Minimum lot size 7,500 sq. ft. for units 1 and 2, plus 2,500 sq. ft. for each additional unit. Example - 100 units would require 5.79 acres.

Council member S. Johnson stated that he is still concerned about zoning residential on road frontage along highways. He asked if that is the highest and best use of this property. Council member Hudson agreed. S. Johnson emphasized that the city needs to protect its corridors.

Mayor Kutteh stated that is not what this text amendment is about.

Council member Wasson asked if the zoning map needs to be amended. Sherry Ashley replied that is up to Council what they want to do.

Mayor Kutteh declared the public hearing open.

Laury Brown, 420 Beverly Drive, stated that she lives in Beverly Heights and that this proposal to allow very dense development has the potential to destabilize some of the old nicer neighborhoods. She said this needs to be part of a larger conversation. She is not opposed to multi-family development, but a gross misuse of ??????. She asked Council to table this item and to place a moratorium on all new development in these areas.

There being no other speakers, Mayor Kutteh declared the public hearing closed.

**Council member Allison made a motion to postpone TA23-08 to the August 21<sup>st</sup> meeting, seconded by Council member Lawton. The motion carried unanimously.**

**XIV Consider approving first reading of an ordinance to prohibit camping and improper use of City property.**

Police Chief David Onley stated that the City has seen a rise in the use of City properties to camp, store personal property and erect temporary shelters. To address this increase, surrounding cities have enacted ordinances prohibiting the misuse of city properties. The attached ordinance will allow officers to address the public safety concerns surrounding camping, creating campfires or bonfires, storing personal property and other prohibited activities. This will include people sleeping in cars in front of homes.

**Council member S. Johnson made a motion to approve, seconded by Council member Hudson. The motion carried unanimously.**

**XV Consider authorizing the upset bid procedure for 1203 Free Nancy Ave (PIN 4745-54-1924.000) and 1213 Free Nancy Ave (PIN 4745-43-9618.000). (Pierce)**

Matthew Pierce stated that the City owns properties 1203 Free Nancy Ave (PIN 4745-54-1924.000) and 1213 Free Nancy Ave (PIN 4745-43-9618.000), located along Free Nancy Avenue. North Carolina General Statute §160a-269 permits the city to sell property by upset bid, after receipt of an offer for the property. The City has received an offer to purchase the property in the amount of \$650,000, submitted by Jai Amba Maa (JAM) Hospitality Statesville and they have paid the required five percent (5%, \$32,500) deposit on their offer. Council may authorize staff to proceed with the upset bid procedure or not. If Council decides to proceed with the sales process, then the City Clerk will advertise the sale of the property per NCGS § 160A-269 requirements, accepting bids until no further qualifying upset bids are received. Lane Construction currently has a lease on the properties until July 2024. City staff will also have the property posted on MLS. Sale of the properties is conditioned upon the following:

- retention of twelve (12) existing parking spots,
- addition of eight (8) additional parking spots,
- buyer must provide and install a minimum of six (06) directional signs to the greenway as well as hours of use (sunrise to sunset),
- City will retain an easement of approximately fifty feet from top of bank on the western portion of PIN 4745-54-1924.000, and

- the southern portion of 1213 Free Nancy Ave/PIN 4745-43-6918.000 will be separated from the remaining portion of the parcel and will be retained by the City as City property.

**Council member S. Johnson made a motion to authorize the upset bid procedure for 1203 Free Nancy Avenue, PIN #4745-54-1924.000 and 1213 Free Nancy Avenue, PIN #4745-43-9618.000, seconded by Council member Foster. The motion carried unanimously.**

- XVI Receive the Fiscal Year 2023-2024 recommended budget from the City Manager and Staff and set a public hearing on the budget for June 5, 2023 at 7:00 p.m. Consider setting Board Workshop Sessions on June 6, 2023, June 7, 2023, and June 8, 2023 from 4:00 p.m. to 7:00 p.m.**  
City Manager Ron Smith gave the attached budget message.

**XVII City Manager's Report**

Smith reported that staff was asked to report on the S. Yadkin intake project. He stated that the city has two intakes, High Rock Lake and S. Yadkin. The Yadkin intake has been down. The electrical must be tested and Council needs to determine at some point if they want to elevate this or it will happen again.

Council member J. Johnson asked if the city would lose it if it does not repair it. Smith replied that it could, but we do not want to do that.

Council member Hudson advised that the city definitely does not want to lose it because we would probably never get it back.

**XVIII Advisory Boards and Commissions Meeting Minutes**  
04/12/2023 Airport Commission Meeting Minutes

**XIX Other Business: None**

**XX Closed Session: None**

**Council member J. Johnson made a motion to adjourn, seconded by Council member Allison. The motion carried unanimously.**

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Constantine H. Kutteh, Mayor

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Brenda Fugett, City Clerk

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** Sherry Ashley, Planning Director  
**DATE:** May 16, 2023

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**ACTION NEEDED ON:** June 5, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Consider renewing the Lake Norman Regional Transportation Commission Memorandum of Understanding (MOU) and adopting the second amendment to the MOU.**

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1. **Summary of Information:** On June 6, 2016, the City Council approved joining the Lake Norman Regional Transportation Commission along with Iredell County, The Town of Mooresville, The Town of Troutman, and the Town of Davidson. The annual membership did not exceed \$10,000.

The MOU was renewed in 2017 for a two-year period at a cost of \$10,750 annually, renewed again on May 6, 2019, and the first amendment was adopted on May 17, 2021. It is time to consider renewing the MOU for 2023-2025. The cost remains \$10,750.

2. **Previous Council or Relevant Actions:** See above summary of information.
3. **Budget/Funding Implications:** \$10,750 is included in the Planning Department's budget.
4. **Consequences for Not Acting:** The city would not be a member of the Commission and would lose a valuable transportation voice and resource.
5. **Department Recommendation:** The department recommends renewing the MOU by adopting the second amendment.
6. **Manager Comments:** Concur with the department's recommendation.
7. **Next Steps:** If renewed, the MOU becomes effective on July 1, 2023.
8. **Attachments:**
  1. Original Memorandum of Understanding (MOU)
  2. 2023 Second Amendment to MOU

NORTH CAROLINA

IREDELL COUNTY

**AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF MOORESVILLE, THE  
TOWN OF DAVIDSON, THE TOWN OF TROUTMAN, THE CITY OF STATESVILLE,  
AND THE COUNTY OF IREDELL, CREATING THE LAKE NORMAN REGIONAL  
TRANSPORTATION COMMISSION**

This Interlocal Agreement is entered into the date and year of its last execution by and between the Town of Mooresville (hereinafter "Mooresville"), the Town of Davidson (hereinafter "Davidson"), the Town of Troutman (hereinafter "Troutman"), the City of Statesville (hereinafter "Statesville"), and the County of Iredell (hereinafter "County"), individually a Party or collectively referred to herein as the "Parties," all of which are municipal corporations or a body politic organized under the laws of the State of North Carolina.

**W I T N E S S E T H**

**Article 1. Authority**

- a. North Carolina General Statute § 160A-461 permits one or more units of local government to enter into contracts or agreements with each other in order to execute any undertaking. To this end, North Carolina General Statute § 160A-462 authorizes such units of local government to establish a joint agency charged with any or all of the responsibility for the undertaking.
- b. Mooresville, Davidson, Troutman, Davidson, and Statesville are each municipal corporations organized under the laws of the State of North Carolina, having the powers, duties, privileges, and immunities conferred by law on towns in North Carolina. The County of Iredell is a body politic organized under the laws of the State of North Carolina, having the powers, duties, privileges, and immunities conferred by law on counties in North Carolina.

**Article 2. Purpose**

- a. The purpose of this Agreement is to establish an interlocal agreement for the purposes as set forth herein.

**Article 3. Name**

- a. The name of the agency created under this Agreement shall be the "Lake Norman Regional Transportation Commission" (hereinafter "Commission").

**Article 4. Objectives**

- a. The objective of the Commission is to study, investigate, initiate, develop, and advocate transportation improvements in and around the area of Iredell County and North Mecklenburg County.

## **Article 5. Governance**

- a. The Commission shall consist of two members from each Party to this Agreement for a total of ten (10) members. If other Parties are added to this Agreement, such Party shall have two members thereby increasing the membership of the Commission accordingly. Members will represent their town, city, or county, which is a party in Commission matters. Any actions required herein by the Parties shall be taken by the governing board of each Party.
  - i. Such members shall consist of one member of each Town's, City's, or County's Governing Board and the Town, City, or County Manager of each Party to this Agreement (or Manager's designee). Such Boards may appoint alternate members to attend Commission meetings and conduct Commission business in the event of the absence of a regular member.
- b. Meetings shall be held on the second Wednesday of each month, with a quorum of such members needed to hold a meeting of the Commission, a quorum consisting of at least six (6) members of the Commission. Such quorum shall be changed to reflect any additional members added pursuant to this Article, provided that a quorum is defined as one-half of the membership plus one.
- c. The Commission shall elect one of its members as chairperson of the Commission to serve on an annual basis, provided that only one member of each Party will serve as chairperson every five years.

## **Article 6. Voting**

- a. The Commission shall operate by majority vote of those members present and constituting a quorum as defined in Article 5 herein. In the case of a vote that results in a tie, the item shall be considered again at the next regularly scheduled meeting.
- b. Any recommendations made by the Commission to the Parties hereto shall only become effective if a majority of the Parties to this agreement vote in favor of such recommendations.
- c. Each jurisdiction that is a Party to this Agreement reserves the right to specifically not authorize the Commission to represent its interests before any legislative body, board, administrative hearing, or such other occasion in which the Commission is asked, invited, or required to attend or on any particular matter. Each jurisdiction also reserves the right to dissent or abstain from any positions or decisions made by the Commission.

## **Article 7. Staffing**

- a. The Commission shall contract for an executive director upon such terms and conditions as agreed to by the Commission. Such contract must contain specific objectives of the Commission including the specific priorities of each of the member Parties.

## **Article 8. Funding**

- a. Funding for the Commission shall come from the Parties to this Agreement in the amount of \$50,000.00.
- b. Funding for administration of the Commission shall be initially apportioned among the Parties for such Term as set out in Article 13 herein as follows:

County of Iredell	\$15,000.00
Town of Mooresville	\$13,000.00
City of Statesville	\$10,000.00
Town of Davidson	\$ 9,000.00
Town of Troutman	\$ 3,000.00

- c. All funds due and payable pursuant to this Article shall be delivered to the Town of Mooresville as further set out in Article 10 herein within ten business days from execution by such Party contributing the funds.

## **Article 9. Social Media**

- a. The Town of Mooresville shall serve as the administrator of any websites or other social media approved by the Commission and any charges associated with such administration shall be an expense of the Commission.

## **Article 10. Fiscal Agent**

- a. The Town of Mooresville shall serve as fiscal agent for the Commission for administrative and staffing purposes. Mooresville will collect and disperse all funds of the Commission; serve as the employer of record for all Commission employees, contractors, or subcontractors; arrange for office space for the staff as needed; report to the Parties on relevant financial matters involving the Commission; and conduct audits regarding such funds. The Commission shall reimburse the Town of Mooresville for performing these duties. The other Parties agree to indemnify and hold harmless the Town of Mooresville for any claims or damages arising from performance of its duties as fiscal agent for the Commission except where the claim or damage is a result of the gross negligent or willful acts of Mooresville, its officers, employees and agents. At the time a project is preparing to commence, the Commission shall determine which party is the most appropriate to act as fiscal agent for that specific project. A project fiscal agent is responsible for all duties stated above for that specific project.
- b. Any funds shall be delivered to the Town of Mooresville addressed as follows:

Ms. Deborah Hockett  
Finance Director  
Town of Mooresville  
PO Box 878  
413 N Main St  
Mooresville NC 28115

#### **Article 11. New Members**

- a. Additional parties may be added to the Commission based on their request and the approval of the Commission and approval by a unanimous vote of all the Parties. If a new member is added, this Agreement will be amended to reflect such new member and that member shall become a Party.

#### **Article 12. Advisory Committees**

- a. The Commission shall have the authority to form such committees with such members as it deems necessary to offer advice and provide recommendations to the Commission.

#### **Article 13. Term**

- a. This Commission shall terminate on June 30, 2017, unless the then current Parties shall by majority vote agree to extend its term.

#### **Article 13. Nonbinding Effect**

- a. Decisions made by the Commission are not intended to bind, be meant to bind, nor to be interpreted to bind the Parties, to this Agreement. It is understood that any actions taken by the Commission are recommendations only unless or until such recommended action is ratified by the Parties to this Agreement.

*[Signature Pages Follow]*

Adopted by each Party on the date and year as indicated below, to be effective on the date of its last adoption.

**TOWN OF MOORESVILLE**

By: \_\_\_\_\_  
Miles Atkins, Mayor

Date Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Janet O. Pope, Town Clerk

*[Town Seal]*

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of finance officer)

**TOWN OF TROUTMAN**

By: \_\_\_\_\_  
Ronald "Duck" Wyatt, Mayor

Date Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Kimberly H. Davis, Town Clerk

*[Town Seal]*

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of finance officer)

**TOWN OF DAVIDSON**

By: \_\_\_\_\_  
John Woods, Mayor

Date Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Heather James, Town Clerk

*[Town Seal]*

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of finance officer)

**CITY OF STATESVILLE**

By: \_\_\_\_\_  
Costi Kutteh, Mayor

Date Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Brenda Fugett, Town Clerk

*[City Seal]*

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of finance officer)

**COUNTY OF IREDELL**

By: \_\_\_\_\_  
James B. Mallory III, Chairman

Date Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Retha Gaither, Clerk to the Board

*[County Seal]*

This instrument has been preaudited in  
the manner required by the Local  
Government Budget and Fiscal Control  
Act.

\_\_\_\_\_  
(Signature of finance officer)

NORTH CAROLINA  
IREDELL COUNTY

**SECOND AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE TOWN OF MOORESVILLE, THE TOWN OF DAVIDSON, THE TOWN OF TROUTMAN, THE CITY OF STATESVILLE, AND THE COUNTY OF IREDELL, CREATING THE LAKE NORMAN REGIONAL TRANSPORTATION COMMISSION**

This SECOND AMENDMENT to the INTERLOCAL AGREEMENT BETWEEN THE TOWN OF MOORESVILLE, THE TOWN OF DAVIDSON, THE TOWN OF TROUTMAN, THE CITY OF STATESVILLE, AND THE COUNTY OF IREDELL, CREATING THE LAKE NORMAN REGIONAL TRANSPORTATION COMMISSION is entered into the date and year of its last execution by and between the Town of Mooresville (hereinafter “Mooresville”), the Town of Davidson (hereinafter “Davidson”), the Town of Troutman (hereinafter “Troutman”), the City of Statesville (hereinafter “Statesville”), and the County of Iredell (hereinafter “Iredell”), individually a Party or collectively referred to herein as the “Parties,” all of which are municipal corporations organized under the laws of the State of North Carolina.

W I T N E S S E T H:

WHEREAS, the governing boards of the Parties have heretofore approved the establishment of the Lake Norman Transportation Commission pursuant to an interlocal agreement; and

WHEREAS, pursuant to Article 13 of such agreement, the Commission is set to terminate on June 30, 2023 unless the then current Parties should by majority vote to agree to extend its term; and

WHEREAS, the Parties desire to extend the term of such agreement under the same terms and conditions as originally stated or contained in the interlocal agreement.

**NOW, THEREFORE, IT IS AGREED THAT** Article 13 of the Interlocal Agreement shall be amended to read as follows:

**Article 13. Term**

- a. This Commission shall terminate on June 30, 2025, unless the then current Parties shall by majority vote agree to extend its term.

**AND BE IT FURTHER AGREED THAT** the remaining terms and conditions of such interlocal agreement, and any amendments thereto, shall remain unchanged and continue with full force and effect.

*[Signature Page Follows]*

Adopted by each Party on the date and year as indicated below, to be effective on the date of last adoption.

**TOWN OF MOORESVILLE**

BY:

\_\_\_\_\_  
Miles Atkins, Mayor

Date adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Genevieve Glaser, Town Clerk

[*Town Seal*]

This instrument has been preaudited in  
the manner required by the Local Government  
Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of Finance Officer)

**TOWN OF TROUTMAN**

BY:

\_\_\_\_\_  
Teross W. Young, Jr., Mayor

Date adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Kimberly Davis, Town Clerk

[*Town Seal*]

This instrument has been preaudited in  
the manner required by the Local Government  
Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of Finance Officer)

**TOWN OF DAVIDSON**

BY:

\_\_\_\_\_  
Rusty Knox, Mayor

Date adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Betsy Shores, Town Clerk

[*Town Seal*]

This instrument has been preaudited in  
the manner required by the Local Government  
Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of Finance Officer)

**CITY OF STATESVILLE**

BY:

\_\_\_\_\_  
Constantine H. Kutteh, Mayor

Date adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Brenda Fugett, City Clerk

[*Town Seal*]

This instrument has been preaudited in  
the manner required by the Local Government  
Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of Finance Officer)

**COUNTY OF IREDELL**

BY:

\_\_\_\_\_  
Melissa Neader, Chairman

Date adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Amy Anderson, Clerk to the Board

*[County Seal]*

This instrument has been preaudited in  
the manner required by the Local Government  
Budget and Fiscal Control Act.

\_\_\_\_\_  
(Signature of Finance Officer)

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** Sherry Ashley, Planning Director  
**DATE:** May 16, 2023

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**ACTION NEEDED ON:** June 5, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Consider approving 2<sup>nd</sup> reading of AX23-07, an ordinance to annex PIN #4753-99-3612, a property located at 413 Twin Oaks Road submitted by Clayton Homes of Statesville.**

---

- 1. Summary of Information:** The property being considered for annexation has been submitted by Clayton Homes of Statesville. The parcel requesting annexation is approximately .5 acres and is located at 413 Twin Oaks Road.

The applicant has placed a manufactured home on the property. The parcel being requested for annexation is located in the Iredell County zoning jurisdiction; and is currently zoned Iredell County RA (Residential Agricultural).

A City-initiated rezoning request will follow the annexation process; staff and the property owner support a zoning designation of RA (Residential Agricultural) District, which mirrors the designation assigned to the neighboring lot located inside the City limits. The applicant requests voluntary annexation to utilize city electric and water services.

- 2. Previous Council or Relevant Actions:** The public hearing was held on May 15, 2023, and council approved the first reading with a unanimous vote. Mr. Adam Casstevens representing the applicant was the only person to speak at the hearing. As noted above, a city-initiated rezoning action will follow the annexation.
- 3. Budget/Funding Implications:** The current tax value of the parcel requesting annexation is \$11,250. The applicant estimates that the project value would be approximately \$196,000. City of Statesville electric and water services are available, a private septic system will be installed.
- 4. Consequences for Not Acting:** Without annexation the city would not collect property taxes. Without annexation, the property owner could still access water at 2½ times the rate.
- 5. Department Recommendation:** The department recommends approving the 2<sup>nd</sup> reading of the ordinance to annex the property at 413 Twin Oaks Road.
- 6. Manager Comments:** Concur with the department's recommendation.
- 7. Next Steps:** If the 2<sup>nd</sup> reading is approved, the annexation will become effective on June 30, 2023.
- 8. Attachments:** In previous packet, no changes.

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** Sherry Ashley, Planning Director  
**DATE:** May 16, 2023

---

**ACTION NEEDED ON:** June 5, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Consider approving 2<sup>nd</sup> reading of TA23-07, Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 3 Zoning, Section 3.04 Zoning District Regulations; Table 3-1 Use Matrix. Article 5. Supplemental Regulations Performance/Standards for Specific Uses, Section 5.04 Primary Uses and Structures, to include subsection III. Tobacco Shops; Article 6. Development Standards, Section 6.05 Lighting, 1-4; and amend definitions section for: Hookah, Vape, E-Cigarette, Cigar and Cigarette Shop/Lounge, Tobacco Paraphernalia and Tobacco Product to address the lighting standards and zoning districts pertaining to such uses.**

---

- 1. Summary of Information:** The City of Statesville Planning Department is recommending an amendment to the text of the Unified Development Code to address Hookah, Vape, E-Cigarette, Cigar and Cigarette shops and Bar/lounges as well as the lighting thereof. The proposed amendment to Article 3 Zoning, Section 3.04 Zoning District Regulations: Table 3-1 Use Matrix. Article 5. Supplemental Regulations Performance/Standards for Specific Uses, Section 5.04 Primary Uses and Structures, to include subsection III. Tobacco Shops; Article 6. Development Standards, Section 6.05 Lighting, 1-4; and amend definitions section for: Hookah, Vape, E-Cigarette, Cigar and Cigarette Bar/Lounge, Tobacco Paraphernalia and Tobacco Product limits the zoning districts and prohibits certain lighting.

This text amendment addresses vape shops, hookah bars and tobacco shops, including their intended use, which zoning districts to allow them and the lighting standards thereof. The amendment delineates between a “shop”, which is intended for its “primary” use to be the sell of such products and a “bar/lounge” whose “primary” use is to allow the consumption of such products. Definitions are provided for the following:

1. Hookah, Vape, E-Cigarette, Cigar and Cigarette Bar/Lounge
2. Tobacco Paraphernalia
3. Tobacco Product
4. Tobacco Store

It is noted that state law does not permit the sell of food or alcohol in a business whose primary purpose is to allow the consumption of such products. The city already has several existing tobacco shops that sell these products, and they are currently allowed in the B-2, B-3, B-4, CB, CBP, CB/H-115, B-5 and LI districts. The amendment would only allow them in

the B-4 and B-5 districts with supplemental regulations. Finally, lighting would not be allowed to define, outline, or highlight any architectural feature of the building such as windows, doors, roof lines, eaves, ownings, railings, etc. Neon and LED signs would be allowed in windows as long as they are consistent with applicable sign regulations. Changes/new text are highlighted and underlined and text to be removed in stricken through.

2. **Previous Council or Relevant Actions:** On April 25, 2023, the Planning Board voted unanimously to recommend approval. The public hearing was held on May 15, 2023, and council passed the first reading unanimously. No one from the public spoke.
3. **Budget/Funding Implications:** There are no budget implications based on this request other than the newspaper notice.
4. **Consequences for Not Acting:** The current UDC language would remain and vape shops, hookah bars and tobacco shops would be allowed in B-2, B-3, CB CBP/H-115 and LI Zoning Districts.
5. **Department Recommendation:** The department recommends approving the second reading of the text amendment as presented.
6. **Manager's Comments:** Concur with department's recommendations.
7. **Next Steps:** If 2<sup>nd</sup> reading is approved, it will become effective on June 5, 2023.
8. **Attachments:** In previous packet, no changes.

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** Sherry Ashley, Planning Director  
**DATE:** May 16, 2023

---

**ACTION NEEDED ON:** June 5, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Consider approving 2<sup>nd</sup> reading of rezoning request ZC23-05, Greenbriar Ridge, Tax Parcel #4754-23-6335; proposal for a major amendment to the concept plan for the rezoning of approximately 87.39 acres located on E. Greenbriar Road; zoned R-8CZ Cluster for the Greenbriar Ridge subdivision.**

---

#### **1. Summary of Information:**

##### **Rezoning Request**

D.R. Horton, Inc. (applicant), on behalf of Chelsea L. Sharpe Heirs & Bettye Tull (owners), is requesting significant changes (major amendment) to the concept map for Greenbriar Ridge development; an 87.39-acre parcel of property, which was recently rezoned from R-A and R-8 MFM to R-8 CZ Cluster Subdivision on October 3, 2022 to provide a single-family residential development utilizing the Cluster Subdivision development pattern.

The major significant changes are as follows:

1. Development Phasing Lines moved.
2. Units developed in phases changed:
  - Phase 1 - From 99 units to 150 units
  - Phase 2 - From 145 units to 90 units (Revised to 92 units)  
(loss of 4 lots, revised loss of 2 lots)
3. Shifted position of stormwater ponds
4. Public street layout changed
5. Creek crossing changed
6. Alteration to walking trail
7. Walking trail not showing in Phase 1
8. Portion of building lots have been repositioned or have a change in size

##### **Evaluation**

The proposed project site is on approximately 87.39 wooded acres primarily located along the north side of East Greenbriar Road, generally between Industrial Drive and South Greenbriar Road in southeast Statesville. The property was originally rezoned on October 3, 2022, and annexed on December 31, 2022. There are the remnants of an existing home and outbuilding on the property that will require demolition permits. The intent is to amend the concept plan (major amendment) that will allow them to make changes to Open Space location, Public Road layout, Walking Trail routing and relocation of Development Phasing Lines.

The significant changes are as follows:

1. Some of the Open Space areas were decreased while some were increased, but the applicant attests that the project still meets the open space requirements. ~~Need to provide a table for open space on the plan.~~ Table has been provided.
2. Some of the public streets inside the development have been moved, some removed, and some added. The creek crossing on the west side, near BMP A (sediment pond) has been removed, while a new creek crossing has been added on the Northeast side, near Open Space C (on the concept plan). A new cul-de-sac has been added to the Northwest end of Road L, close to the entrance from Ora Drive. It is important to note that the entrance to Ora Drive has not been changed.
3. The creek crossing for the walking trail near BMP B has been removed and the trail will now continue along the West side of the creek to a new creek crossing where the new road crosses the creek due Northeast of the former location.
4. Building lots 72 thru 93 have been moved around to accommodate the revisions.
5. BMP C and BMP D (stormwater ponds) have been shifted.
6. Finally, the development phasing lines have been re-drawn, shifting most of phase 1 toward the Eastern part of the development. ~~Phase 1 does not include the walking trail as specified in the conditions of approval and the buffer in Northwest corner near Ora Drive cannot be part of the lots.~~ The concept plan has been revised since the Planning Board meeting. The walking trail is within Phase 1 and the 15 ft. buffer between lots 86, 97, 98 and the adjacent property is in compliance.

2. **Previous Council/Relevant Actions:** City Council approved the original rezoning request on October 3, 2022 (see attached original conditions). The Planning Board at their April 25, 2023, meeting voted unanimously to approve the major amendment with the following conditions: Contingent upon the applicant meeting all the former conditions of the original rezoning (see original conditions) along with providing a table for open space calculations, greenway must be constructed as part of Phase 1 and the buffer must be outside of lots. The applicant has since submitted a revised concept plan with these corrections.

On May 15, 2023, the public hearing was held, and council passed the first reading unanimously. No one from the public spoke except for Mr. Tim Derylak representing the applicant.

3. **Budget/Funding Implications:** The current total taxable value of the subject parcel is approximately \$460,610. The applicant estimates that the current tax value plus estimated costs of land development construction is \$17.5 million. City water, sewer and electrical services are available. The city will need to provide sanitation, fire, and police services as requested.
4. **Consequences for Not Acting:** The original approval would remain in place and the site would have to be developed to the original plan.
5. **Department Recommendation:** Staff recommends approval of the major amendment contingent upon the applicant meeting all the former conditions of the original rezoning (see attached original conditions).
6. **Manager Comments:** Concur with department's recommendation.
7. **Next Steps:** If 2<sup>nd</sup> reading is approved, it becomes effective on June 5, 2023.
8. **Attachments:**
  1. Original Conditions

Original Conditions  
ZC 22-03

Revised Rezoning Conditions

1. Residential Density shall be a maximum of 2.79 units per acre and a maximum of 244 total residential units.
2. Exterior architectural materials will include vinyl siding fiber cement-type siding material and shutters, brick, and or stone.
3. Minimum 5' sidewalks will be provided on both sides of all internal streets.
4. Additional Opaque Landscape Buffer of Evergreen Trees and Shrubs will be Provided along East Greenbriar Road to Screen the Backs of lots from Traffic
5. 10' minimum greenway trail and 20' easement dedicated to the city for use by the public and will be open to the public following construction. The trail will meet the greenway standards of the City of Statesville.
6. A multi-use trail per the requirements of the City of Statesville Mobility & Development Plan.
7. Driveway and road improvements agreed to by the City and NCDOT per the Traffic Impact Analysis will be required by the developer at time of site plan approval.
8. Zoning buffer North of Ora Drive, adjacent to lots 176-183, to be increased from 8' to 15'
9. Greenway to be constructed as part of Phase One
10. Any item(s) not specifically addressed must meet the requirements of the Unified Development Code.
11. Each home will be provided a two-car garage
12. A community swimming pool will be provided.
13. Developer will install and maintain speed calming devices along Ora Drive with 70% of approval from the homeowners along Ora Drive. Speed calming devices will be approved by NCDOT.

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** David Onley, Chief of Police  
**DATE:** May 04, 2023

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**ACTION NEEDED ON:** June 05, 2023.  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Consider approving 2<sup>nd</sup> reading of an ordinance to prohibit camping and improper use of City property.**

---

- 1. Summary of Information:** The City of Statesville has seen a rise in the use of City properties to camp, store personal property and erect temporary shelters. To address this increase, surrounding cities have enacted ordinances prohibiting the misuse of city properties. The attached ordinance will allow officers to address the public safety concerns surrounding camping, creating campfires or bonfires, storing personal property and other prohibited activities.  
The Statesville Police Department remains dedicated to working with community partners to assist individuals in need of temporary shelter. Passage of this ordinance will not diminish these efforts but will enhance our ability to address this growing issue.
- 2. Previous Council or Relevant Actions:** Council approved first reading at the May 15, 2023 Council meeting.
- 3. Budget/Funding Implications:** Costs associated with the posting of signage.
- 4. Consequences for Not Acting:** Failure to pass the ordinance will prevent city employees from removing individuals and items from city properties.
- 5. Department Recommendation:** Staff recommends approving the ordinance to prohibit camping and improper use of city properties.
- 6. Manager Comments:** Concur with the department's recommendation.
- 7. Next Steps:** If approved, staff will begin educating the public and notifying those in violation of the ordinance.
- 8. Attachments:**

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** William Vaughan, PE, Public Utilities Director  
**DATE:** May 14, 2023

---

**ACTION NEEDED ON:** June 5, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Consider authorizing a waiver to § 8.03 of the Unified Development Ordinance (UDO) to allow installation of a septic system.**

---

#### **1. Summary of Information.**

1SOURCEKITCHENS, LLC is proposing a project on a 12.785-acre parcel on Marble Road, PIN 4725212483. The property would receive water from the City (12-in line in Marble Road). Connecting to the City sewer will require construction of a 2,700 ft +/- force main that would require NC DOT and railroad encroachments. The sanitary facility requirement for the project requires only two restrooms (business office), for which the developer proposes to install a septic system. Section 8.03 of the UDO allows Council to waive the sewer connection requirement for new non-residential buildings based on the impracticality of location and/or any undue financial hardship imposed by requiring the connection in relation to the value of the property.

Additional information regarding this request:

- a. An adjacent business on Marble Road accesses City sewer with a 2,700 ft +/- private force main.
- b. The developer is investigating the feasibility of a site septic system.
- c. Costs for sewer force mains (4 to 18-inch diameter pipe, 4 to 16 feet deep) range between \$170 and \$525 per foot (not including lift station). The required alignment would also require sleeved crossings of state roads and railways. The pipeline component cost alone would be in the \$460,000 to \$500,000 range.

**2. Previous Council or Relevant Actions:** None.

**3. Budget/Funding Implications:** Current property value: \$107,390 (12.785 ac. Zoned R-A).

**4. Consequences for Not Acting:** Loss of water customer.

**5. Department Recommendation:** Grant conditional waiver to UDO §8.03.

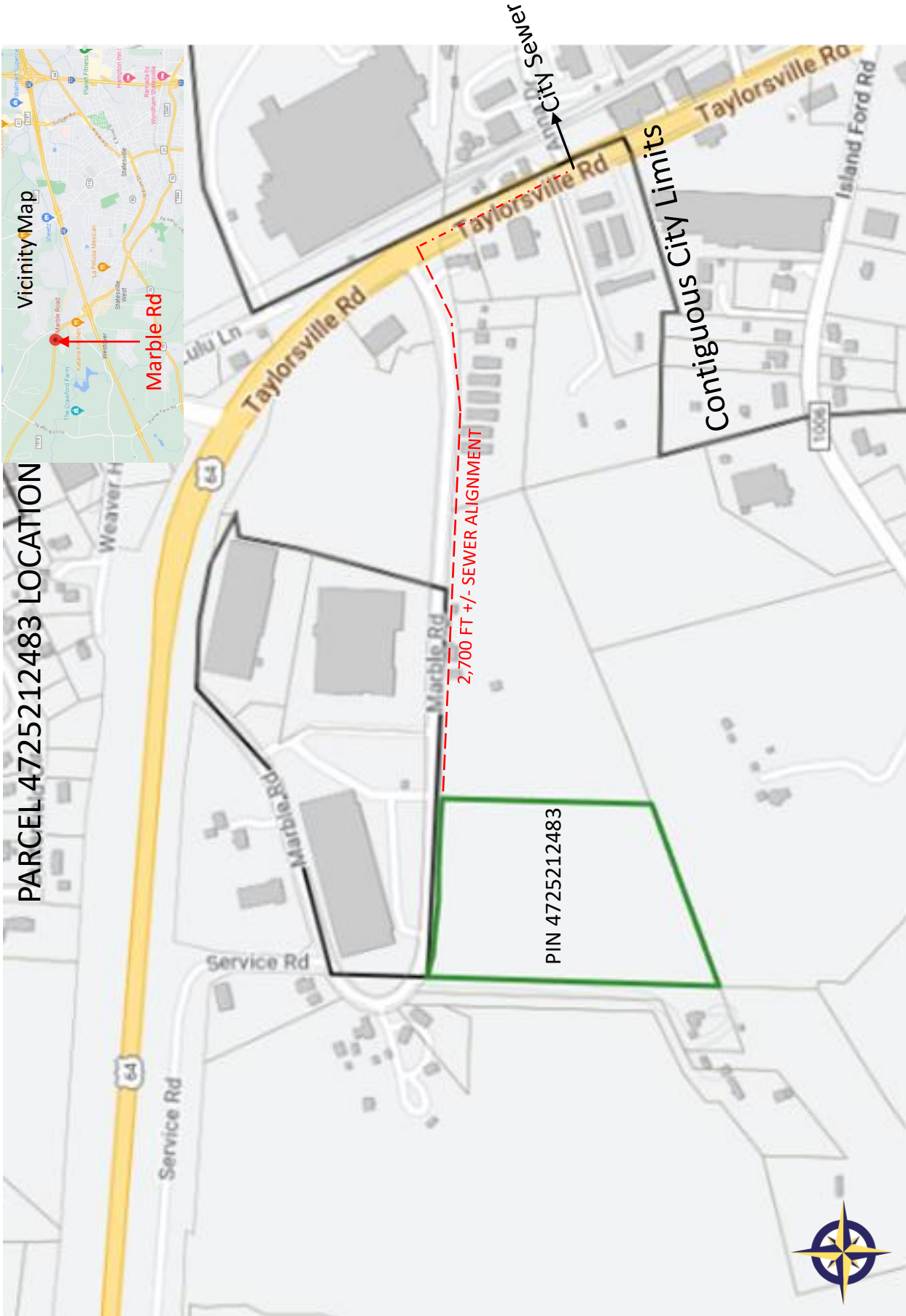
**6. Manager Comments:** Concur with Department recommendation.

#### **7. Next Steps:**

- a. Annexation.
- b. Iredell County Health Department septic permit approval.

**8. Attachment:** Parcel #4725212483 Location Plan

PARCEL 4725212483 LOCATION



## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** W<sup>m</sup> Vaughan, PE, Public Utilities Director  
**DATE:** May 19, 2023

---

**ACTION NEEDED ON:** June 05, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Consider approving the update of the City's Water Shortage Response Plan.**

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1. **Summary of Information:** All local government water systems subject to GS 143-355(l) are required to update their Water Shortage Response Plan (WSRP) every five years. City Ordinance Section 23 Division 2 (§ 23-67 - § 23-80) codifies the City's response to water shortages as required by 15A NCAC 02E.0607. The City's current plan review submittal due date is June 1, 2023. No changes to the current Ordinance are required. DEQ has reviewed and approved the April 2023 update.

The purpose of the Water Shortage Response Plan (WSRP) is to provide procedures to be utilized by City of Statesville staff in implementing the City's Ordinance for Water Shortage Response Procedures (City Ordinance Section 23, Division 2) as directed at Section 23-72 of the Ordinance. The update reformats the current plan and makes the use of the term "Public Utilities Director" in the Plan synonymous with the use of the term "Director of Water Resources" in the Ordinance.

### **2. Previous Council or Relevant Actions:**

- Ord. No. 9-08, § 1, adopted March 17, 2008, repealed Art. III, §§ 23-67.1—23-67.6 and §§ 23-68—23-78, and enacted new provisions as set out herein. The former Art. III pertained to the emergency water conservation and restriction plan and derived from Ord. No. 42-2000, §§ 23A-1—23A-6, adopted June 29, 2000; Ord. No. 33-02, adopted Aug. 9, 2002; Ord. No. 35-02, adopted Aug. 20, 2002; Ord. No. 39-02, adopted Sept. 20, 2002; Ord. No. 40-02, adopted Sept. 20, 2002; Ord. No. 41-02, adopted Sept. 26, 2002; Ord. No. 42-02, adopted Sept. 27, 2002; and Ord. No. 53-02, adopted Oct. 14, 2002.
- The City Local Water Supply Plan (LWSP) is compliant with the requirements of NCGS 143-355(1) for a quinquennial review by means of Council resolution on May 17, 2021.

### **3. Budget/Funding Implications:** N/A.

### **4. Consequences for Not Acting:** The City will be in violation of State statute.

### **5. Department Recommendation:** Approval of the April 2023 Water Shortage Response Plan.

### **6. Manager Comments:** Concur with the department's recommendation.

### **7. Next Steps:** Inform DEQ of Council approval of WSRP.

### **8. Attachments:**

1. April 2023 City of Statesville Water Shortage Response Plan



# CITY OF STATESVILLE

## WATER SHORTAGE RESPONSE PLAN

April 2023

City of Statesville  
Water Shortage Response Plan  
Table of Contents

Enclosure 1: Water Shortage Response Summary

Enclosure 2: Water Shortage Response Plan

Enclosure 3: City Council Minutes

Enclosure 4: City of Statesville Ordinance Section 23, Division 2

Enclosure 5: 15A NCAC 02E.0607

Enclosure 1

Water Shortage Response Summary



## Water Shortage Response Summary

City of Statesville Water Shortage Response Plan (April 2023)

<b>A. Who (Name and Title) is responsible for implementing the water shortage protocols?</b>
William Vaughan, PE, Public Utilities Director.
<b>B. How will water users and system employees be notified when the water shortage response protocols are activated?</b>
By Radio, TV, Local Newspaper, City Website, and any other available resources.
<b>C. How will water users be informed of required response measures?</b>
By Radio, TV, Local Newspaper, City Website, and any other available resources.
<b>D. What specific measurements of available supply, demand, and system conditions will be used to determine the severity of a drinking water shortage?</b>
Announcements by the Drought Management Advisory Groups (DMAG) will relay current basin information to its members and determine the Stage 0-5 the providers are to follow. Depending on the Stage the DMAG group can call for reductions in withdrawals and reducing of system use to maintain adequate river flow. The NCDMAC would also be a driver if reductions of 3-5% are triggered by Ordinance.
<b>E. What specific conditions will be used to trigger drinking water use reduction measures and the movement to more restrictive measures?</b>
Different levels of restrictions are triggered by any reductions requests generated by DMAG, NCDMAC, or as the result of a local supply shortage due to operational disruptions.
<b>F. What levels of response are required?</b>
Given at § 23-69 of City Ordinance.
<b>G. How will the provisions of the water shortage response protocols be enforced?</b>
Given at § 23-72 (monitoring) and § 23-76 (enforcement) of City Ordinance.

<b>H. How will your customers be given opportunities to review and comment on the water shortage response protocols before they are finalized?</b>
A public hearing was held before the Ordinance Water Shortage Response Procedures and the Water Shortage Response Plan was approved by City Council. Any changes in the Ordinance will require a public hearing.
<b>I. How will variance requests be processed?</b>
The Public Utilities Director may grant variances in certain circumstances per § 23-75 of the City Ordinance.
<b>J. What criteria will be used to decide if a variance will be granted?</b>
Per § 23-75 of the City Ordinance. A variance request form is included with the Water Shortage Response Plan.
<b>K. How will the effectiveness of the water shortage protocols be measured?</b>
Effectiveness will be monitored by daily water treatment demand. Specific data points will also be monitored that effect these restrictions when practical.
<b>L. How will the protocols be revised when needed?</b>
We will conduct Public Hearings and seek Council Action based on the results of the Hearings.
<b>M. Does the system depend on water storage in an impoundment not owned by the system?</b>
Yes X    No ____
<b>N. If yes, are the water shortage response protocols consistent with the Water Shortage Response Plan provisions established by the owner of the impoundment?</b>
Yes X No ____

Enclosure 2

Water Shortage Response Plan



## **Water Shortage Response Plan**

The purpose of the Water Shortage Response Plan (WSRP) is to provide procedures to be utilized by City of Statesville staff in implementing the City's Water Shortage Procedures (City Ordinance Section 23, Division 2) as directed at Section 23-72 of the Ordinance. Terms used in this plan follow the definitions provided in Section 23-68 of the City Ordinance. The Ordinance has primacy over this document if anything in this document conflicts in with the Ordinance.

### **Public Utilities Department Actions**

The City of Statesville Public Utilities Director (PUD) <sup>(1)</sup> shall monitor communications from the North Carolina Drought Management Council (NCDMAC), Drought Management Advisory Group (DMAG), and other pertinent data sources relative to water systems and sources that may indicate or predict water shortages to achieve consistency with the Catawba River Low-Inflow Protocol water use reduction goals and to achieve other objectives consistent with the City Ordinance. The PUD shall keep the CM advised of the occurrence of conditions that are indicative or predictive of water shortages.

The PUD may make operational adjustments in the water treatment system to include, but not be limited to the following:

- Increase the amount of water withdrawn from sources other than the Catawba basin and make corresponding decreases in the amount of water withdrawn through the intake on the Catawba River basin.
- Make water distribution available through hydrants that are equipped to dispense potable water.
- Make water available for fire suppression and protection where possible and through appropriate means.
- Ensure that Medical Facilities are placed at the highest priority to ensure adequate water supplies to maintain public health.
- Close valves in the distribution system to direct water to meet essential priority needs.

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(1) As used in this plan, the Public Utilities Director is the Director of Water Resources referenced in the City Ordinance.

## **Communications**

## **Communications**

### **Objective**

Maintain effective communications with the CM concerning water storage information. Also, maintain effective communications to the general public, customers, city personnel, NCDMAC, and DMAG resultant of any declaration of water shortages and any other related water conservation stages, goals, current conservation measures, and water usage trends affecting the City water system.

### **Actions and Assignments**

The PUD will provide the CM with regular updates on water shortage information. The PUD and Public Information Officer will complete the following when a water shortage declaration has been issued:

- Make notifications as required by City Ordinance or the declaration.
- Publish the water shortage declaration and current conditions through electronic media, local newspaper, mailings, television advertisements, and emails to all City Departments.
- Send a notice to Parks and Recreation Department regarding maintenance of athletic fields.
- Notify customers, wholesale Customers, and large customers of the water shortage declaration and current conditions.
- Publish water use goals and provide adequate explanation of goals.
- Provide updates on status, actual water withdrawals, and input for changing current stage to the DMAG.
- Issue any pertinent advisories to customers whenever required (e.g., boil water advisories).
- Convene a meeting with wholesale and bulk customers to request individual plans for water use consumption reduction.
- Convene and provide appropriate training for personnel in Water Resources, Electric, Planning, Parks and Recreation, Finance, Human Resources, Fire, Public Works, Police, and Administration departments.

## **Compliance, Monitoring, and Enforcement**

### **Objective**

Promote compliance with declarations and the City Ordinance by patrolling the system to monitor for compliance, directing violators to comply through the issuance of citations for violations, the assessment of civil penalties, and the recommendation of additional enforcement actions when appropriate.

### **Actions and Assignments**

City staff will take the following actions when a water shortage declaration has been issued.

### ***Public Utilities Director***

The PUD shall convene the initial meeting of the Water Shortage Leadership Team Steering Committee. The team consists of water and wastewater operations supervisors, the Public Information Officer, the Human Resources Director, the Finance Director, the Water Operations Manager, Water Treatment Plant Supervisor, and a representative from the Police and Fire Departments.

The PUD shall convene an initial meeting of the Water Shortage Leadership Enforcement Team. The Enforcement Team shall consist of representatives from Collections, meter readers, the Water Resources Department, and other City personnel as required. The purpose of this meeting is to provide training for, the equipping of, and the mobilization of the Enforcement Team members to facilitate compliance with the Water Shortage Response Plan (WSRP). The Enforcement Team directs violators to comply with the declaration and City Ordinance and issues citations for violations as applicable.

### ***Water Shortage Leadership Team***

The Water Shortage Leadership Team will direct Enforcement Team Members to perform the following after a Water Shortage Declaration has been issued:

- Establish monitoring teams for compliance and identifying violations of the declaration and City Ordinance.
- Direct violators to comply with the declaration and City Ordinance.
- Issue citations to violators.
- Conduct weekly meetings for training and updates.
- Apprise the CM of violations and make civil penalty and service suspension recommendations.

The Water Shortage Leadership Team shall convene weekly meetings to monitor and discuss the following:

- Schedule patrols to maximize compliance. Schedules may be changed to monitor the system during peak times and to monitor for irrigation violations.
- Update water shortage data.
- Create, modify, and distribute data and related forms to the Enforcement Team members.
- Train Enforcement Team Members on procedures for compliance monitoring, violator compliance with the declaration and City Ordinance, and citation issuance.
- Assessment applicable civil penalties and suspension of service recommendations for referral to the CM for implementation decision. Civil penalty assessment, including appeals, processes are outlined in the

### **Enforcement Procedures**

A citation for a violation is warranted when an Enforcement Team Member observes a violation (e.g., watering or sees that watering is evident during prohibited days or times, including

but not limited to, sprinkler spray pattern on driveway, sidewalk, street, or parking lot, runoff from sprinkler or hose use, and wet turf in the absence of rain).

Prior to issuing the citation the Enforcement Team member should review the data sheet containing the list of variances granted, previous citations issued, and if the location is a well water user. Well water is not subject to mandatory water conservation measures.

### ***Observed Violations***

When a violation is determined to have occurred the authorized employee should:

- Confirm all appropriate meter and street information.
- Leave a copy of the citation at the site of the violation which contains information about the mandatory water conservation measures and the violations.
- Maintain a copy of the citation and turn it into a team leader at the end of patrol shift.
- Offer the customer a brochure with conservation information.
- Employees are to refer to the provided information sheets if questioned about the mandatory water conservation measures or civil penalties.
- Refer all questions about the violation to the Water Operations Office.

### ***Enforcement Team Member Actions***

- If a customer refuses to stop the water usage after being informed of the violation, the Enforcement Team member or authorized employee should alert the Water Operations Office.
- City employees should not attempt to operate a customer's automatic sprinkler timer.
- In the event that a customer becomes hostile or threatening the employee should leave the customer's property and contact the Water Operations Office for further support and directions.
- Team members should turn in all violation notices and variance lists to their Team Leaders at the end of their shift.
- Team Leaders must submit all updated monitoring results to Water Operations Office at the end of their shift.

### **Appeals**

Appeals shall be considered as provided for in the Ordinance.

### **Variances**

A variance from the water conservations measures pursuant to a Water Shortage Declaration may be granted by the PUD as provided in the City Ordinance. In order to qualify for a variance, an applicant must apply in writing on a Variance Request Form provided by the PUD and

produce all necessary information for consideration. The Variance Form, once signed by the PUD, will be returned to the requester and must be prominently displayed onsite. Customers given a variance must comply with all stated conditions on the variance form. All variances expire as provided in the City Ordinance.

### **References**

North Carolina General Statute 143-355(1).

City of Statesville Ordinances Section 23, Division 2 (§ 23-67 - § 23-80).

**MANDATORY WATER CONSERVATION VARIANCE REQUEST FORM**

**APPLICANTS NAME:** \_\_\_\_\_

**APPLICANTS ADDRESS:** \_\_\_\_\_

**APPLICANTS PHONE NUMBER:** \_\_\_\_\_

**APPLICANTS ACCOUNT NUMBER:** \_\_\_\_\_

**DATE SUBMITTED TO PUBLIC UTILITIES DIRECTOR:** \_\_\_\_\_

**GROUND FOR VARIANCE TO ALLOW WATER USE IN A MANNER THAT WOULD OTHERWISE BE PROHIBITED**

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**DECISION BY PUBLIC UTILITIES DIRECTOR:** \_\_\_\_\_ **DENIED** \_\_\_\_\_ **GRANTED**

**CONDITIONS OF VARIANCE ONCE GRANTED**

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**PUBLIC UTILITY DIRECTOR'S SIGNATURE:**

\_\_\_\_\_

**DATE:** \_\_\_\_\_

**IF VARIANCE IS GRANTED THIS FORM MUST PROMINENTLY DISPLAYED DURING WATER USE THAT IS AUTHORIZED BY SUCH VARIANCE**

Enclosure 3  
City Council Minutes

Enclosure 4

City of Statesville Ordinance Section 23, Division 2

## DIVISION 2. - WATER SHORTAGE RESPONSE PROCEDURES

*Footnotes:*

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**Editor's note—** Ord. No. 9-08, § 1, adopted March 17, 2008, repealed Art. III, §§ 23-67.1—23-67.6 and §§ 23-68—23-78, and enacted new provisions as set out herein. The former Art. III pertained to the emergency water conservation and restriction plan and derived from Ord. No. 42-2000, §§ 23A-1—23A-6, adopted June 29, 2000; Ord. No. 33-02, adopted Aug. 9, 2002; Ord. No. 35-02, adopted Aug. 20, 2002; Ord. No. 39-02, adopted Sept. 20, 2002; Ord. No. 40-02, adopted Sept. 20, 2002; Ord. No. 41-02, adopted Sept. 26, 2002; Ord. No. 42-02, adopted Sept. 27, 2002; and Ord. No. 53-02, adopted Oct. 14, 2002.

## Sec. 23-67. - Purpose.

The purpose of Division 2 of Article III of Chapter 23 (referred to herein as "this division") is to provide sufficient authority to the city manager and director of water resources under the supervision of the city manager to develop and implement measures that respond to water shortages in a manner that is reasonably expected to: minimize harmful impacts on the public health, safety, and welfare, including the local economy; be consistent with state law and guidance from state drought management authorities; and, when appropriate, reduce Statesville's Catawba River water use consistent with the Catawba LIP. This division shall be liberally construed to effect such purpose.

(Ord. No. 9-08, § 1, 3-17-08)

## Sec. 23-68. - Definitions.

For the purpose of this division, the following terms, phrases, words and their derivations shall have the meanings stated herein; and words not defined in this division shall have the meanings stated in Chapter 1 of this Code.

*Catawba River Low Inflow Protocol* or *Catawba LIP* shall mean the written set of procedures for reductions in water use during periods of drought or other emergency conditions published by the DMAG.

*Customer* shall mean any person in whose name the city maintains an account for water use.

*Director* shall mean the director of water resources of the City of Statesville.

*Drought advisory* shall mean an advisory issued by the NCDMAC that delineates the geographic extent and severity of a water as follows: abnormally dry, moderate drought, severe drought, extreme drought, or exceptional drought.

*Drought management advisory group* or *DMAG* shall mean the team of owners of large water intakes in the Catawba-Wateree River basin, state and federal agencies and Duke Energy Carolinas, LLC, that has formulated a basin-wide, shared response for low inflow conditions that may affect the reservoirs of the

hydropower developments operated by Duke Energy Carolinas, LLC on the Catawba River basin.

*Enforcement team member* shall mean a city employee or other person authorized by the manager to monitor compliance, issue citations to users and other persons for violations, and direct users and other persons to cease violations.

*Manager* shall mean the city manager of the City of Statesville, North Carolina.

*NCDMAC* shall mean the North Carolina Drought Management Advisory Council.

*Noncompliant water use* shall mean any use or release of water from the water system in a manner that does not comply with a mandatory water conservation measure in a water shortage declaration or with a variance granted pursuant to this division.

*User* shall mean any person, including a customer, who, with or without the city's knowledge: receives or releases or is capable of receiving or releasing water from the water system; or owns, controls, or is otherwise responsible for, personal or real property that receives or releases or is capable of receiving or releasing water from the water system.

*Water shortage factors* shall mean relevant water quantity and quality information; the water conservation stages, water use goals, water shortage criteria, and water conservation measures listed in Table 1 and Table 2 of this division; recommendations from the director of water resources; available pressures at various points in the water system; the water system's ability to maintain adequate storage tank water levels; downstream conditions including water shortages for other public water suppliers; and other relevant factors.

*Water sources* shall mean the multiple water sources that supply the water system, including but not limited to the intake on the Catawba River, the intake on the South Yadkin River, and the Statesville-Salisbury water supply interconnection.

*Water system* shall mean the city's potable water treatment and distribution system.

(Ord. No. 9-08, § 1, 3-17-08)

#### Sec. 23-69. - Operational adjustments by director.

The director shall have authority to make operational adjustments in the water system, including but not limited to adjusting the relative amounts of water being received by the water system from the water sources in order to achieve consistency of the water system with the Catawba LIP, a drought advisory, or for other appropriate purposes consistent with this division. Operational adjustments may be made without a declaration of water shortage pursuant to section 23-70.

(Ord. No. 9-08, § 1, 3-17-08)

#### Sec. 23-70. - Declaration of water shortage.

The manager, or in the absence of the manager, the director, after careful consideration of the water shortage factors, may declare a water shortage for the entire water system or for a portion of the water system by signing a declaration of water shortage ("declaration"). Upon signing the declaration, the water conservation measures identified in Table 1 and Table 2, and any additional measures or modifications of measures stated in the declaration, shall be in effect. A declaration shall include the following information:

- (1) The date and time the declaration is to take effect;
- (2) The expiration date and time, if any;
- (3) Facts supporting the declaration;
- (4) A statement that the area served by the entire water system is affected by the declaration or, alternatively, that an area served by a portion of the water system is affected by the declaration;
- (5) The water conservation stage and water use goal;
- (6) Any voluntary conservation measures;
- (7) Any mandatory water conservation measures;
- (8) Notice that violations of mandatory water conservation measures are subject to civil penalty assessments and other enforcement actions; and
- (9) Notice that a procedure is available for requesting a waiver of requirements under some limited circumstances.

Table 1. Water Use Goals, Water Shortage Criteria, and Water Conservation Measures

Water Use Goal	Water Shortage Criteria	Water Conservation Measures
1A: Reduce Catawba River water use 3% to 5% (below normal use)	DMAG declares Stage 1 and water use goal not achieved through use of non-Catawba River sources	Stage 1 conservation measures, as specified in Table 2 of this Division, except as otherwise provided in a declaration
1B: Reduce system or portion of system water use 3% to 5% (below normal use)	NCDMAC drought advisory, water system operational disruption, or other factor warrants reduction of use by 3% to 5%	

2A: Reduce Catawba River water use 5% to 10% (below normal use)	DMAG declares Stage 2 and water use goal not achieved through use of non-Catawba River sources	Stage 2 conservation measures, as specified in Table 2 of this Division, except as otherwise provided in a declaration
2B: Reduce system or portion of system water use 5% to 10% (below normal use)	NCDMAC drought advisory, water system operational disruption, or other factor warrants reduction of use by 5% to 10%	
3A: Reduce Catawba River water use 10% to 20% (below normal use)	DMAG declares Stage 3 and water use goal not achieved through use of non-Catawba River sources	Stage 3 conservation measures, as specified in Table 2 of this Division, except as otherwise provided in a declaration
3B: Reduce system or portion of system water use 10% to 20% (below normal use)	NCDMAC drought advisory, water system operational disruption, or other factor warrants reduction of use by 10% to 20%	
4A: Reduce Catawba River water use 20% to 30% (below normal use)	DMAG declares Stage 4 and water use goal not achieved through use of non-Catawba River sources	Stage 4 conservation measures, as specified in Table 2 of this Division, except as otherwise provided in a declaration
4B: Reduce system or portion of system water use 20% to 30% (below normal use) or other reduction as specified in a declaration	NCDMAC drought advisory, water system operational disruption, or other factor warrants reduction of use by 20% to 30%	

Table 2. Stage 1, Stage 2, Stage 3, and Stage 4 Water Conservation Measures

Water Conservation Stage	Water Conservation Measures
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Stage 1	Voluntary limitation of lawn and landscape irrigation to the following times and locations:	
		- At odd-numbered street addresses from Tuesday 8 p.m. to Wednesday 8 a.m. and Saturday 8 p.m. to Sunday 8 a.m.
		- At even-numbered street addresses and unnumbered addresses from Thursday 8 p.m. to Friday 8 a.m. and Sunday 8 p.m. to Monday 8 a.m.
	Voluntary reduction in residential vehicle washing	
	If the director determines the need for additional measures to better achieve the water use goal, the director may publish additional voluntary water conservation measures and may impose mandatory water conservation measures at city facilities.	
Stage 2	Irrigation is prohibited except as follows:	
		- Lawn and landscape irrigation at the following times and locations:
		• At odd-numbered street addresses from Tuesday 8 p.m. to Wednesday 8 a.m. and Saturday 8 p.m. to Sunday 8 a.m.
		• At even-numbered street addresses and unnumbered addresses from Thursday 8 p.m. to Friday 8 a.m. and Sunday 8 p.m. to Monday 8 a.m.
		- Tree and bed irrigation by bubble, drip, or hand irrigation only
		- Watering of athletic fields and golf course fairways in compliance with an alternative watering plan approved by the director
	Residential vehicle washing is prohibited	
	Voluntary reduction of all water consumption and deferral of non-essential water uses to early morning or late evening hours	
	The washing of public buildings, sidewalks, and streets is prohibited except as required for safety and for compliance with safety and health regulations.	
	If the director determines the need for additional measures to better achieve the water use goal, the director may publish additional voluntary water conservation measures and may impose mandatory water conservation measures at city facilities.	

Stage 3	Irrigation is prohibited except as follows:	
		- Tree and bed irrigation by bubble, drip, or hand irrigation methods only at the following times and locations:
		• At odd-numbered street addresses from Saturday 8 p.m. to Sunday 8 a.m.
		• At even-numbered street addresses and unnumbered addresses from Sunday 8 p.m. to Monday 8 a.m.
		- Watering of athletic fields and golf course fairways in compliance with an alternative watering plan approved by the director
	Residential vehicle washing is prohibited	
	Voluntary reduction of all water consumption and deferral of non-essential water uses to early morning or late evening hours	
	The washing of public buildings, sidewalks, and streets is prohibited except as required for safety and for compliance with safety and health regulations.	
	Outdoor ornamental water use (fountains and ponds without fish) is prohibited.	
	Filling or refilling swimming pools is prohibited (top-offs allowed)	
	Dust suppression, street washing and hydrant flushing are prohibited except to maintain safety, water quality and regulatory compliance.	
	Voluntary industrial water use reductions through process changes; employers are asked to educate their employees about water conservation.	
	If the director determines the need for additional measures to better achieve the water use goal, the director may publish additional voluntary water conservation measures and may impose mandatory water conservation measures at city facilities.	

Stage 4	All irrigation is prohibited.
	Residential vehicle washing is prohibited.
	Outdoor ornamental water use (fountains and ponds) is prohibited.
	Filling, refilling, and topping-off swimming pools, hot tubs, and similar uses are prohibited.
	Voluntary reduction of all water consumption and deferral of non-essential water uses to early morning or late evening hours.
	The washing of public buildings, sidewalks, and streets is prohibited except as required for safety and for compliance with safety and health regulations.
	Dust suppression, street washing and hydrant flushing are prohibited except to maintains safety, water quality and regulatory compliance.
	Voluntary industrial water use reductions through process changes: employers are asked to educate their employees about water conservation.
	Users who have essential water uses (hospitals, nursing homes, emergency care providers, etc.) are asked to monitor their water use and implement measures to conserve water.
	If the director determines the need for additional measures to better achieve the water use goal, the director may publish additional voluntary water conservation measures and may impose mandatory water conservation measures at city facilities.

(Ord. No. 9-08, § 1, 3-17-08)

Sec. 23-71. - Declaration amendment, suspension, and termination.

The manager, or in the absence of the manager, the director, after consideration of water shortage factors, may amend, suspend, or terminate a declaration at any time by signing a written instrument stating such action. City council may issue, amend, suspend, or terminate a declaration.

(Ord. No. 9-08, § 1, 3-17-08)

Sec. 23-72. - Water shortage monitoring and management plan.

The manager shall develop and implement a water shortage monitoring and management plan that includes, but is not limited to, plans for the following city actions to anticipate and respond to water shortages:

- (a) Monitor the water system and water sources in order to identify and anticipate circumstances that may make a declaration appropriate, to evaluate water shortage factors, to determine the need for operational adjustments, to address the appropriateness of a declaration or the appropriateness of amending, suspending, or terminating a declaration, to review or

determine compliance with a declaration, to assess the need to revise or amend this division or the water shortage monitoring and management plan, or for other purposes consistent with this division.

- (b) Communications to city personnel, customers, users, the public, NCDMAC, DMAG, city of Salisbury and any other water supply interconnection partners, and other appropriate parties identified by the manager.
- (c) Monitoring, including enforcement team members patrolling the water system, to identify violations of water conservation measures while a declaration is in effect.
- (d) Issuance by enforcement team members of citations to users and other persons for violations of mandatory water conservation measures, assessment of civil penalties by the director, and recommendation by the director to the manager of cases for additional enforcement actions.
- (e) Other management needs identified by the manager.

(Ord. No. 9-08, § 1, 3-17-08)

#### Sec. 23-73. - Suspension of issuance of other permits/approvals.

After consideration of the water shortage factors, the manager, or in the absence of the manager, the director, may suspend, or direct the appropriate city official to suspend, the issuance of zoning permits and other approvals that involve waterline connections or extensions or any upgrade in capacity for water usage, for the period or a portion of the period that a declaration imposes mandatory water conservation measures.

(Ord. No. 9-08, § 1, 3-17-08)

#### Sec. 23-74. - Suspension of water service.

After consideration of the water shortage factors, the manager, or in the absence of the manager, the director, may suspend service to a specific user connected to the water system, including a bulk user, for the period or a portion of the period that a declaration imposes mandatory water conservation measures. Whenever circumstances allow, the user shall be provided notice of suspension twenty-four (24) hours in advance of the suspension of service. Approval of city council is required before suspending service to a public school satisfying compulsory education requirements of the state, a public facility for police, sheriff, fire or other emergency medical services, or a hospital.

(Ord. No. 9-08, § 1, 3-17-08)

#### Sec. 23-75. - Variances.

- (a) *General.* After considering the stage of water conservation, the type of mandatory limitations required for that stage, the anticipated quantity of water to be used and any other appropriate factors, the director may grant a variance that permits a user to use water in a manner that

would otherwise be prohibited by a declaration then in effect, in the following circumstances:

- (1) A public or volunteer fire department during any training exercise reasonably necessary to maintain effective fire fighting capabilities.
  - (2) A user undertaking an activity required by law.
  - (3) Any user or other person proposing to eliminate or reduce unsanitary or unsafe conditions that pose a substantial risk of injury or disease.
  - (4) During Stage 2, a user seeking to water, during specified hours and under special conditions for outdoor water use, a new lawn and/or newly landscaped area on the day of installation and thirty (30) days thereafter; and if requested and warranted, an additional thirty (30) days.
  - (5) During Stage 3, a user seeking to water, during specified hours and under special conditions for outdoor water use, a new lawn and/or newly landscaped area that was installed prior to Stage 3, for a period of thirty (30) days. No new landscape installations installed after a Stage 3 declaration takes effect will be granted a variance.
  - (6) Unusually severe circumstances that make it both appropriate and necessary to allow a water use that is otherwise prohibited.
- (b) *Variance conditions.* In granting a variance, the director may impose such conditions as the director determines are reasonably necessary to minimize any adverse effect the variance may have on the purposes or effects of the declaration.
- (c) *Variance expiration.* Any variance shall contain an expiration date at which time the variance shall no longer apply. In the event a variance is limited to a particular water conservation stage, then such variance shall automatically expire when the stage expires.

(Ord. No. 9-08, § 1, 3-17-08)

#### Sec. 23-76. - Enforcement.

- (a) *Violations.* During the period that a declaration is in effect each of the following shall constitute a separate violation of this division and shall be unlawful:
- (1) Causing or contributing to a noncompliant water use;
  - (2) Failure by any person causing or contributing to a noncompliant water use to immediately cause such noncompliant water use to cease upon notification by an enforcement team member that the noncompliant water use is prohibited; and
  - (3) Failure by any person who owns, operates, or otherwise controls pipes, fixtures, or other plumbing to repair a leak in such pipes, fixtures, or other plumbing within five (5) calendar days of receiving notice from the director to repair the leak.
- (b)

*Separate violations.* Each day that a violation of this division occurs shall constitute a separate violation. In addition, if a person, after receiving a citation pursuant to this division and ceasing such violation, resumes the violation on the same day, the resumption of the violation shall constitute an additional, separate violation.

- (c) *Issuance of citations for violations.* The director and enforcement team members, under the direction and supervision of the director, shall monitor compliance with a declaration and this division and shall issue written citations to any person who commits a violation identified by section 23-76(a)—(b). The manager is authorized to approve citation forms that may be used by enforcement team members for the issuance of citations. Citations may be issued without the use of such forms, but citations must be in writing and must reasonably identify the violation.
- (d) *Enforcement actions.* Any violation of this division may be enforced by the assessment of a civil penalty by the director as provided in this division, suspension of service, an action for injunction, order of abatement or other equitable relief, and by any and all other remedies authorized by law for noncompliance with municipal ordinances.
- (e) *Civil penalties.* Any person who commits a violation identified by section 23-76(a)—(b) or any person who otherwise causes or contributes to a violation of this division shall be subject to assessment by the director of a civil penalty and shall be required to pay to the city the amount of the civil penalty. Civil penalties shall be assessed and paid according to the following schedule of penalties:

Penalties for Violation of Stages 2A and 2B Mandatory Water Conservation Measures or Variances and for Other Violations of a Declaration or This Division Except Violation of Stages 3A, 3B, 4A, and 4B Mandatory Water Conservation Measures or Variances:

First violation .....\$100.00

Second violation .....200.00

Third or subsequent violation .....300.00

Penalties for Violation of Stages 3A, 3B, 4A, and 4B Mandatory Water Conservation Measures or Variances:

First violation .....\$200.00

Second violation .....400.00

Third or subsequent violation .....600.00

- (f) *Assessment of civil penalties.* A civil penalty assessment shall be in writing and shall describe the appeal rights of the person against whom the civil penalty is assessed.

(g)

*Collection of civil penalty assessed against customers.* No sooner than ten (10) days after receipt by a customer of written notice of a civil penalty assessment, or at the conclusion of any appeals, whichever is later, the assessment shall be added to the customer's water bill, shall be paid in the same manner as set forth in this chapter for the payment of water bills, and shall be subject to the same remedies available to the city for failure to timely pay a water bill.

- (h) *Collection of civil penalty assessed against persons other than customers.* No later than thirty (30) days after receipt by a person other than a customer of written notice of a civil penalty assessment or at the conclusion of any appeals, whichever is later, the amount assessed shall be paid to the city by the person responsible for payment of the civil penalty. If payment is not timely made, the city may use any and all of the remedies available to it pursuant to ordinance, statute, and common law for collection of the amount of the assessment.

(Ord. No. 9-08, § 1, 3-17-08)

Sec. 23-77. - Appeal of civil penalty assessment.

- (a) *Based on erroneous citation.* A person assessed a civil penalty may appeal the assessment on the grounds that the citation on which the assessment was based was issued for circumstances that did not constitute an actual violation by delivering to the manager, no later than ten (10) days after receiving notice of the assessment, a completed notice of appeal of civil penalty assessment, which attaches a copy of the citation and provides all of the information indicated in a notice of appeal of civil penalty assessment form, as follows:

#### NOTICE OF APPEAL OF CIVIL PENALTY ASSESSMENT

Your Name: \_\_\_\_

Date of citation for violating Water Shortage Response Procedures ordinance: \_\_\_\_

Is a copy of the citation attached as required for this appeal? \_\_\_\_

Date that you received notice of the civil penalty assessment: \_\_\_\_

State your grounds for asserting that you did not violate the Water Shortage Response Procedures

Ordinance: \_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Attach pages if additional space needed)

Once an appeal is filed, the manager may modify or rescind the citation and the assessment if the manager determines that the citation on which the assessment was based was issued for circumstances that did not constitute an actual violation.

- (b) *Based on other grounds.* An appeal of a denial of an appeal pursuant to section 23-77(a) or an appeal of a civil penalty assessment on grounds other than the grounds provided in section 23-77(a) may only be made pursuant to section 5-1 of this Code.

(Ord. No. 9-08, § 1, 3-17-08)

#### Sec. 23-78. - Appeal of service suspension.

A user whose service is suspended or who receives notice of suspension may appeal the suspension or notice of suspension pursuant to section 5-1 of this Code.

(Ord. No. 9-08, § 1, 3-17-08)

#### Sec. 23-79. - Use of water from sources other than the water system.

The use of water from sources other than the water system shall be subject to this division in the same manner as the use of water from the water system, except as follows:

- (a) *Private wells.* The use of water from private wells shall be subject to this division unless the use satisfies all of the following requirements:
- (1) *Posting of sign.* During the period that a declaration is in effect, there shall be conspicuously posted at the location of the private well water use a sign provided by the director for that purpose.
  - (2) *Verification.* Upon request by an enforcement team member, any person claiming to be using water that is from a private well and not the water system shall demonstrate to the satisfaction of the enforcement team member that the water being used is from a private well and not the water system and shall fully cooperate with any enforcement team member in the sampling and analysis of the water being used.
  - (3) *Further restrictions.* The manager may impose additional and further restrictions if the manager determines that conditions warrant such restrictions and provides to the private well user a written statement of the additional or further restrictions and of reasons for such restrictions.
- (b) *Tanker service.* The use of water delivered by a tanker service from a source other than the water system shall be subject to this division unless the use satisfies all of the following requirements:
- (1)

*Posting of sign.* During the period that a declaration is in effect, there shall be conspicuously posted at the location of the water use a sign provided by the director for that purpose.

(2) *Verification.* Upon request by an enforcement team member, any person claiming to be using water delivered by a tanker service from a source other than the water system shall provide documentation that demonstrates to the satisfaction of the enforcement team member all of the following regarding such water:

- a. Source other than the water system;
- b. Location, date, time, and volume of loading of tanker;
- c. Identity, street address, and telephone number of the tanker service that loaded and delivered the water and the identity of the tanker driver involved in the delivery; and
- d. Location, date, time, and volume of delivery.

(3) *Further restrictions.* The manager may impose additional and further restrictions if the manager determines that conditions warrant such restrictions.

(Ord. No. 9-08, § 1, 3-17-08)

#### Sec. 23-80. - Applicability.

This division shall be binding upon and enforceable against, among others, all customers and users. This division shall be deemed to be incorporated in any and all contracts for water service to which the City of Statesville is a party. Compliance with this division and compliance with declarations pursuant to this division are and shall be a condition of service inside and outside the municipal limits for all customers, water corporations and units of government purchasing water from the city, and any other persons supplied water by the city. This section shall not narrow or limit and shall not be interpreted as narrowing or limiting the applicability of any section or provision of this division or any declaration pursuant to this division.

(Ord. No. 9-08, § 1, 3-17-08)

Secs. 23-81—23-150. - Reserved.

Enclosure 5

15A NCAC 02E.0607

**15A NCAC 02E .0607 PUBLICLY AND PRIVATELY OWNED WATER SYSTEM WATER SHORTAGE RESPONSE PLANNING REQUIREMENTS**

(a) Units of local governments and large community water systems that are required to prepare a Local Water Supply Plan under G.S. 143-355(l) shall include the following information in their local Water Shortage Response Plans for review by the Division of Water Resources:

- (1) The designation of a staff position or organizational unit responsible for the implementation of their Water Shortage Response Plan;
- (2) Notification procedures that will be used to inform employees and water users about the implementation of the plan and required water conservation response measures;
- (3) Tiered levels of response actions to be taken to reduce water use based on the severity of water shortage conditions;
- (4) Specific measurements of available water supply, water demand, and system conditions that will be used to determine the severity of water shortage conditions and to initiate water use reduction measures and the movement between various levels;
- (5) Procedures that will be used to regulate compliance with the provisions of the plan;
- (6) Procedures for affected parties to review and comment on the plan prior to final adoption;
- (7) Procedures to receive and review applications for variances from specific requirements of the plan and the criteria that will be considered in the determination to issue a variance;
- (8) An evaluation method to determine the actual water savings accomplished and the effectiveness of the Water Shortage Response Plan when implemented; and
- (9) Procedures for revising and updating Water Shortage Response Plans to improve plan effectiveness and adapt to new circumstances.

(b) Units of local governments and large community water systems that are required to prepare a Local Water Supply Plan shall submit a copy of their Water Shortage Response Plan and any subsequent revisions of the plan to the Division of Water Resources for review every five years with the full Local Water Supply Plan, as required by G.S. 143-355(l).

(c) Publicly and privately owned water systems not required to prepare a Local Water Supply Plan shall:

- (1) Assess their vulnerability to drought and water shortage emergencies; and
- (2) Prepare a written plan for responding to water shortage emergencies and drought using the provisions of Paragraph (a) of this Rule.

(d) Publicly and privately owned water systems that depend on the water storage in a private or public impoundment that they do not own and operate under a contract for the withdrawal of water issued by the owner of an impoundment shall prepare a written plan for responding to water shortages that is consistent with the provisions of the contract and shall comply with all Water Shortage Response Plan provisions established by the owner of the impoundment.

(e) Water Shortage Response Plans shall provide for water users who have made improvements to maximize water use efficiency in their daily operations and may face hardships when making further water use reductions. Water Shortage Response Plans shall avoid restricting efficient water users in ways that would undermine incentives for water users to seek continued improvements in water use efficiency and shall honor locally approved certification programs that recognize efficient water users who meet industry standards for water use efficiency and water conservation.

(f) When the NCDMAC issues a drought advisory designating an area of the state as currently suffering from drought, publicly and privately owned water systems that depend on water from the designated area shall for the duration of the designation:

- (1) Implement the provisions of their Water Shortage Response Plan, as determined by the specific indicators established in the plan for initiating response measures;
- (2) Monitor and document water supply conditions;
- (3) Educate customers and employees on the need to conserve water and how to prepare for potential drought conditions;
- (4) Inspect water delivery system components and ensure that existing equipment is operating as efficiently as possible;
- (5) Stay informed on drought and water shortage emergency conditions and participate in regional coordination for the management of water resources; and
- (6) Evaluate the feasibility of reclaiming and recycling water to meet water needs. *Authority*

*History Note:* G.S. 143-354(a)(1); 143-355(l); S.L. 2002-167; Eff. March 19, 2007; Readopted Eff. January 1,

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** Michelle Holman, Interim Chief Finance Officer  
**DATE:** May 16, 2023

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**ACTION NEEDED ON:** June 5, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Consider approving the semi-annual write-off of approximately \$119,798.19 in utility accounts.**

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#### **1. Summary of Information:**

Since December 1994 the City has performed a semi-annual write-off of utility accounts that had been placed for collection eighteen to twenty-four months prior to the write-off date. These accounts were returned to the City by the collection agency after no significant progress had been made on the accounts and they had ceased collection activity.

Staff is presenting for your consideration, the write-off of utility accounts that had been placed for collection between July 01, 2021 and December 31, 2021 in the amount of \$119,798.19. The gross billing for this period was \$32,763,221.81. The write-off percentage is .37%. The City recovered \$21,171.75 in utility bad debts during the period referenced above.

These accounts will still show in our Customer Information System for a minimum of three years after the write-off, with a zero balance and a notation of the amount we have written off.

**2. Previous Council or Relevant Actions:** Council performed its last write-off of \$95,467.71 on December 5, 2022 via consent agenda.

**3. Budget/Funding Implications:** The write-off will hit the funds where the charges originate as bad debt expenditures.

**4. Consequences for Not Acting:** The City's Accounts Receivable (Asset) balance will be stated higher than what is reasonably collectable.

**5. Department Recommendation:** Approve as presented.

**6. Manager Comments:** Concur with Department Recommendation.

**7. Next Steps:** Collections staff will move accounts into a write-off status. Finance will expend the bad debt amount.

**8. Attachments:** None

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** Michelle Holman, Interim Chief Finance Officer  
**DATE:** May 17, 2023

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**ACTION NEEDED ON:** June 5, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Consider approving Budget Amendment #2023-35 to establish a budget to transfer FY23 taxes collected for the Woods Drive Dam tax district to the General Capital Reserve fund and appropriate related expenditures.**

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- 1. Summary of Information:** This is an end of the year Finance entry to transfer tax collections for the Woods Drive Dam Municipal District to the General Capital Reserve. In April 2015, City Council approved the creation of the Woods Drive Dam Municipal Service District effective July 1, 2015 for the purpose of providing funds for routine maintenance and periodic repair of the dam. This transfer is the mechanism to move funds for future maintenance and repairs.

If approved, staff will transfer all FY23 Woods Drive Dam Service District tax collections once received from the County.

- 2. Previous Council or Relevant Actions:** N/A
- 3. Budget/Funding Implications:** None
- 4. Consequences for Not Acting:** The City will not have a mechanism to transfers funds and will not be in compliance with the purpose of the district's creation.
- 5. Department Recommendation:** Approve as presented.
- 6. Manager Comments:** Recommend for approval.
- 7. Next Steps:**
- 8. Attachments:**
  - Budget Amendment #2023-35

**CITY OF STATESVILLE**  
**BUDGET AMENDMENT #2023-35**

June 5, 2023

FISCAL YEAR 2022-2023

FUND / ACCOUNT #	ACCOUNT TYPE	DESCRIPTION	CURRENT BUDGET	CHANGE (+ / -)	AMENDED BUDGET
<b>General Fund</b>					
010.0000.399.00.00	Revenue	Appropriated Fund Balance	13,802,491	5,000	13,807,491
Total Revenues			<u>62,975,044</u>	<u>5,000</u>	<u>62,980,044</u>
010.6600	Expenditure	General Expense	50,095,769	5,000	50,100,769
Total Expenditures			<u>62,975,044</u>	<u>5,000</u>	<u>62,980,044</u>
<b>General Capital Reserve Fund</b>					
200.0000.350.76.01	Revenue	Transfers from GF - Woods Dam	29,686	5,000	34,686
Total Revenues			<u>14,589,288</u>	<u>5,000</u>	<u>14,594,288</u>
200.7400	Expenditure	Capital Reserve	14,589,288	5,000	14,594,288
Total Expenditures			<u>14,589,288</u>	<u>5,000</u>	<u>14,594,288</u>

*DESCRIPTION: To transfer Woods Dam tax collections to General Capital Reserve and appropriate for future expenditures.*

\_\_\_\_\_  
 Budget Officer

*Michelle Holman*

\_\_\_\_\_  
 Interim Chief Finance Officer

APPROVED BY CITY COUNCIL:

\_\_\_\_\_  
 City Clerk

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** Michelle Holman, Assistant Finance Director  
**DATE:** May 24, 2023

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**ACTION NEEDED ON:** June 05, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Conduct a public hearing on the proposed Fiscal Year 2023-2024 Budget.**

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- 1. Summary of Information:** As required by NC General Statutes, the Council must hold a public hearing before adopting its annual budget. This public hearing was duly advertised 10 days prior by the City Clerk.
- 2. Previous Council or Relevant Actions:** City Council received the Fiscal Year 2023-2024 Manager's recommended Budget at the May 15, 2023 meeting. The Council took the action of setting this public hearing.
- 3. Budget/Funding Implications:** The annual budget sets forth the expected revenues balanced against expected expenditures for the City's operating funds.
- 4. Consequences for Not Acting:** Violation of General Statutes or begin path to interim budget.
- 5. Department Recommendation:**
- 6. Manager Comments:**
- 7. Next Steps:** Hold workshop sessions on June 06, June 07, and June 08, 2023, if needed. Adopt the budget at the June 19, 2023 Council meeting, or any time before July 01, 2022.
- 8. Attachments:** None

## **CITY COUNCIL ACTION REQUEST**

**TO:** Mayor and City Council  
**FROM:** Ron Smith, City Manager  
**DATE:** May 25, 2023

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**ACTION NEEDED ON:** June 5, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

**Conduct a public hearing on the financing proposal for the Municipal Operations Center and Fire Station 1 and independently adopt two Resolutions in support of this issuance.**

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- 1. Summary of Information:** This is the next step in the process of financing the construction of Fire Station 1 and the Municipal Operations Center/Warehouse. The public hearing must be held to gather input on the financing issue, and there are two resolutions that must be adopted.

The first resolution will make certain findings and determinations regarding this financing. The second resolution authorizes the execution and delivery of an installment financing agreement, deed of trust, escrow agreement and related documents in connection with financing the two projects. ***The attached resolutions must be adopted separately.***

- 2. Previous Council or Relevant Actions:** City Council approved financing \$2,000,000 for Fire Station 1 as well as up to \$10,000,000 for the Operations Center.
- 3. Budget/Funding Implications:** The City will take on debt service, beginning in FY2024 for the life of the loan, or until the amount is called. The first-year amount has been budgeted at \$1,000,000 but will be dependent upon the final amount of the borrowing. As this is an “up-to” amount, the debt service should only go down.
- 4. Consequences for Not Acting:** The City would lose the proposed rate of 4.04% and would need to look for other options to finance the project.
- 5. Department Recommendation:** This project has been discussed several times, and this is the next step in the financing process. Recommend for approval of the two required resolutions.
- 6. Manager Comments:** Recommend for approval.
- 7. Next Steps:** By June 6, 2023, the City must submit the application for financing to the Local Government Commission.
- 8. Attachments:**
1. Resolution Making Certain Findings and Determinations Regarding the Financing of a Fire Station and a New Municipal Operations Center for the City of Statesville, North Carolina Pursuant to an Installment Financing Agreement and Requesting the Local Government Commission to Approve the Financing Arrangement
  2. Resolution Authorizing the Execution and Delivery of an Installment Financing Agreement, a Deed of Trust, an Escrow Agreement and Related Documents in Connection with the Financing of a Fire Station and a New Municipal Operations Center for the City of Statesville, North Carolina
  3. Letter of Notification of Public Hearing

**RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS REGARDING THE FINANCING OF A FIRE STATION AND A NEW MUNICIPAL OPERATIONS CENTER FOR THE CITY OF STATESVILLE, NORTH CAROLINA PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT AND REQUESTING THE LOCAL GOVERNMENT COMMISSION TO APPROVE THE FINANCING ARRANGEMENT**

BE IT RESOLVED by the City Council (the “City Council”) of the City of Statesville, North Carolina (the “City”) as follows:

Section 1. The City Council does hereby find and determine as follows:

(a) There exists in the City a need to finance the costs of acquiring, constructing and equipping (i) a Fire Station in the City and (ii) a new Municipal Operations Center for the City (collectively, the “Project”).

(b) After due consideration, the City has determined to enter into an installment financing agreement (the “Agreement”) in an aggregate principal amount not to exceed \$12,000,000 to provide funds, together with any other available funds, to (i) pay the costs of the Project and (ii) pay certain financing costs in connection therewith.

(c) The City will enter into the Agreement with Truist Commercial Equity, Inc. (the “Lender”), pursuant to which the Lender will advance to the City amounts sufficient to pay the costs of the Project and pay the related financing costs, and the City will repay the advancement with interest (the “Installment Payments”).

(d) In order to secure its obligations under the Agreement, the City will execute and deliver a deed of trust (the “Deed of Trust”), granting a lien on all or a portion of the Project, together with any improvements and fixtures located or to be located thereon.

(e) It is in the best interest of the City to enter into the Agreement and the Deed of Trust in that such transaction will result in the financing of the Project in an efficient and cost-effective manner.

(f) Entering into the Agreement is preferable to a general obligation bond and revenue bond issue in that (i) the City does not have the constitutional authority to issue non-voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution because the

City has not retired a sufficient amount of debt in the preceding fiscal year to issue a sufficient amount of general obligation bonds for the financing of the Project without an election; (ii) the nature of the Project does not allow for the issuance of revenue bonds to finance the costs of the Project; (iii) the costs of the Project exceeds the amount to be prudently provided from currently available appropriations and unappropriated fund balances; (iv) the circumstances existing require that funds be available to commence acquisition, construction and equipping of the Project as soon as practicable and the time required for holding an election for the issuance of voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution and the Local Government Bond Act will delay the commencement of acquisition and construction of the Project by several months; and (v) there can be no assurances that the Project would be approved by the voters and the necessity of the Project dictates that the Project be financed by a method that assures that the Project will be acquired, constructed and equipped in an expedient manner.

(g) It has been determined by the City Council that the financing of the Project through the Agreement is reasonably comparable to the costs of issuing general obligation bonds or notes or other available methods of financing and is acceptable to the City Council.

(h) Counsel to the City will render an opinion to the effect that the proposed Agreement is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina.

(i) The debt management policies of the City have been carried out in strict compliance with law, and the City is not in default under any obligation for repayment of borrowed money.

(j) Any increase in taxes necessary to meet the sums to fall due with respect to the Agreement will not be excessive.

Section 2. The City Council hereby authorizes, ratifies and approves the filing of an application with the Local Government Commission for approval of the Agreement and requests the Local Government Commission to approve the Agreement and the proposed financing in

connection therewith. All actions heretofore taken by the City or its officers or employees in regard to the Agreement are hereby authorized, ratified and approved.

Section 3. The law firm of Womble Bond Dickinson (US) LLP is hereby appointed to serve, but solely at the pleasure of the City, as bond counsel to the City in connection with the Agreement. Davenport & Company LLC is hereby appointed to serve, but solely at the pleasure of the City, as financial advisor to the City in connection with the Agreement.

Section 4. This resolution shall take effect immediately upon its adoption.

Upon motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing resolution entitled "RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS REGARDING THE FINANCING OF A FIRE STATION AND A NEW MUNICIPAL OPERATIONS CENTER FOR THE CITY OF STATESVILLE, NORTH CAROLINA PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT AND REQUESTING THE LOCAL GOVERNMENT COMMISSION TO APPROVE THE FINANCING ARRANGEMENT" was adopted by the following vote:

Ayes: \_\_\_\_\_

\_\_\_\_\_  
Noes: \_\_\_\_\_

\_\_\_\_\_

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING AGREEMENT, A DEED OF TRUST, AN ESCROW AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH THE FINANCING OF A FIRE STATION AND A NEW MUNICIPAL OPERATIONS CENTER FOR THE CITY OF STATESVILLE, NORTH CAROLINA**

BE IT RESOLVED by the City Council (the “City Council”) of the City of Statesville, North Carolina (the “City”) as follows:

Section 1. The City Council does hereby find and determine as follows:

(a) There exists in the City a need to finance the costs of acquiring, constructing and equipping (i) a Fire Station in the City and (ii) a new Municipal Operations Center for the City (collectively, the “Project”).

(b) After a public hearing and due consideration, the City Council has determined that the most efficient manner of financing the Project will be through entering into an Installment Financing Agreement, to be dated as of the date of delivery thereof (the “Agreement”), with Truist Commercial Equity, Inc. (the “Lender”) pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended. Pursuant to the Agreement, the Lender will advance moneys to the City in an amount sufficient to pay the costs of the Project and the financing costs relating thereto, and the City will repay the advancement in installments, with interest (the “Installment Payments”).

(c) In order to secure its obligations under the Agreement, the City will execute and deliver a Deed of Trust, to be dated as of the date of delivery thereof (the “Deed of Trust”), granting a lien on all or a portion of the Project, together with all improvements and fixtures located or to be located thereon.

(d) In order to provide for the deposit and investment of amounts advanced by the Lender to the City pending disbursement thereof to pay costs of the Project and related financing expenses, the City will execute and deliver an Escrow Agreement, to be dated the date of delivery thereof (the “Escrow Agreement”), among the City, the Lender and Truist Bank, as escrow agent.

(e) There has been presented to the City Council at this meeting drafts of the Agreement, the Deed of Trust and the Escrow Agreement.

Section 2. In order to provide for the financing of the Project, the City is hereby authorized to enter into the Agreement and receive an advancement pursuant thereto in a principal amount not to exceed \$12,000,000. The City shall repay the advancement in installments due in the amounts and at the times set forth in the Agreement. The payments of the installment payments shall be designated as principal and interest as provided in the Agreement. The interest rate payable under the Agreement shall be 4.04% per annum (subject to adjustment as provided in the Agreement) and the final maturity shall not exceed June 1, 2038.

Section 3. The City Council hereby approves the Agreement, the Deed of Trust and the Escrow Agreement in substantially the forms presented at this meeting. The Mayor or the Mayor Pro Tem, the City Manager and the Interim Finance Director of the City are each hereby authorized to execute and deliver on behalf of the City said documents in substantially the forms presented at this meeting, containing such modifications as the person executing such documents shall approve, such execution to be conclusive evidence of approval by the City Council of any such changes. The City Clerk or any Deputy or Assistant City Clerk of the City is hereby authorized and directed to affix the official seal of the City to said documents and to attest the same as may be required.

Section 4. No deficiency judgment may be rendered against the City in any action for breach of any contractual obligation authorized pursuant to this resolution and the taxing power of the City is not and may not be pledged directly or indirectly to secure any moneys due under any contract herein authorized.

Section 5. The Mayor or the Mayor Pro Tem, the City Manager, the Interim Finance Director and the City Clerk of the City, and any other officers, agents and employees of the City, are hereby authorized and directed to execute and deliver such closing certificates, opinions, agreements and other items of evidence as shall be deemed necessary to consummate the transactions described above.

Section 6. The officers, agents and employees of the City are hereby authorized and directed to do all acts and things required of them by the provisions of this resolution, the Agreement, the Deed of Trust and the Escrow Agreement for the full, punctual and complete performance of the terms, covenants, provisions and agreements of the same.

Section 7. This resolution shall take effect immediately upon its adoption.

Upon motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing resolution entitled "RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING AGREEMENT, A DEED OF TRUST, AN ESCROW AGREEMENT AND RELATED DOCUMENTS IN CONNECTION WITH THE FINANCING OF A FIRE STATION AND A NEW MUNICIPAL OPERATIONS CENTER FOR THE CITY OF STATESVILLE, NORTH CAROLINA" was adopted by the following vote:

Ayes: \_\_\_\_\_

\_\_\_\_\_

Noes: \_\_\_\_\_

\_\_\_\_\_

**TO THE PUBLISHER OF THE STATESVILLE RECORD & LANDMARK:**

**Please publish the following once in the Statesville Record & Landmark on Friday, May 26, 2023:**

**NOTICE OF PUBLIC HEARING**

The City Council for the City of Statesville, North Carolina (the “City”) has determined to consider whether to enter into an installment financing agreement (the “Agreement”), pursuant to Section 160A-20 of the General Statutes of North Carolina obligating the City to make installment payments thereunder in a principal amount not to exceed \$12,000,000, plus interest thereon. The Agreement is for the purpose of providing funds to pay a portion of the costs of acquiring, constructing and equipping (i) a Fire Station to be located at the intersection of Charlotte Avenue and Wilson W. Lee Boulevard in the City and (ii) a new Municipal Operations Center for the City (collectively, the “Project”). To secure its obligations under the Agreement, the City will grant a lien on all or a portion of the Project, together with any improvements or fixtures located or to be located thereon.

Section 160A-20(g) of the General Statutes of North Carolina requires that the City hold a public hearing prior to entering into the Agreement. If the City Council for the City so determines, an application will be submitted to the Local Government Commission of North Carolina for approval of the Agreement.

Please take notice that the City Council for the City will conduct a public hearing in the Council Chambers of the City Hall located at 227 S. Center Street in Statesville, North Carolina at 7:00 p.m. on June 5, 2023 at which time any person may be heard regarding the proposed Agreement.

Any person wishing to comment in writing regarding the proposed Agreement should do so prior to June 5, 2023 to the City of Statesville; 227 S. Center Street; Statesville, North Carolina North Carolina 28687; Attention: Brenda Fugett, City Clerk.

Brenda Fugett  
City Clerk  
City of Statesville, North Carolina

**VIA E-MAIL TRANSMISSION**

Statesville Record & Landmark

*aboan@carolinaclassifiedmarketplace.com*

Attn.: Amanda Boan, Legal Advertising Department

Re: Publication of Notice of Public Hearing for the City of Statesville, North Carolina

Dear Amanda:

Please publish the attached Notice of Public Hearing once in the Statesville Record & Landmark on Friday, May 26, 2023.

Please scan and e-mail a copy of the proof of the Notice of Public Hearing to me after the type has been set, but prior to publication, for my review.

After the Notice of Public Hearing has been published, please provide me with four publisher's affidavits, with printed clippings attached, evidencing such publication.

The invoice for such publication should be forwarded to:

Michelle Holman  
Interim Finance Director  
City of Statesville  
227 S. Center Street  
Statesville, North Carolina 28687  
Telephone: (704) 878-3592

Thank you for your assistance and please do not hesitate to contact me if you have any questions.

Very truly yours,

WOMBLE BOND DICKINSON (US) LLP

Jennifer Distefano

Attachment

cc: Michelle Holman (via e-mail)

## **CITY COUNCIL ACTION REQUEST**

**TO:** Ron Smith, City Manager  
**FROM:** Genesis Harrod, Senior Planner  
**DATE:** May 31, 2023

---

**ACTION NEEDED ON:** June 5, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

Consider approving a **Revised** Resolution of Closure and **Revised** Declaration of Withdrawal to permanently close a portion of Wall Street.

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- 1. Summary of Information:** Mr. Holden Sabato, on behalf of SL Statesville LLC, had petitioned for NCDOT, and now the city, to abandon a portion of Wall Street (see GIS Vicinity Map and Abandonment Survey attached). The Silverman Group would like maintenance to be abandoned for their industrial development off Wall Street and Landson Drive.

Wall Street is in the process of being abandoned by the North Carolina Department of Transportation. The NCDOT supports the maintenance abandonment process and is transferring maintenance of a 2,074 LF portion of Wall Street over to the city.

The abandonment of Wall Street officially began back on December 5, 2022. The process proceeded past its public hearing but was halted because the applicant did not give notice to a property owner. Therefore, the applicant must repeat the abandonment process to give due notice to all property owners as required by law.

The abandonment process must follow the requirements of NCGS 160A-299.

- 2. Previous Council or Relevant Actions:** On December 5, 2023, Council passed the *Resolution in Support* of the NCDOT maintenance abandonment process and the *Resolution of Intent to Close*, which began the public notification process and scheduled the public hearing on January 9, 2023. The hearing was held, and council approved the closing contingent upon the recombination of the two parcels to ensure access prior to closing. However, after the public hearing, staff was contacted by Mr. West Hunter (Iredell Partners, LLC) who owns property along Wall Street. Mr. Hunter did not get notification of the hearing. Therefore, the process must be started over. The applicant agreed to restarting the abandonment process and giving proper notice to all property owners. On May 15, 2023, the public hearing was held and was postponed until June 5, 2023, due to lack of access to property owned by Iredell Partners LLC. Both parties were recommended to work together for a solution. A revised Resolution, Withdrawal, and survey have been provided that reduces the length of the abandonment by 750 feet (to be confirmed by Engineering and the Developer), just beyond the property owned by Iredell Partners LLC (see revised survey).

3. **Budget/Funding Implications:** N/A
4. **Consequences for Not Acting:** Wall Street would remain and be maintained by the city. The city would not abandon the portion of Wall Street, which in turn would affect the proposed layout of the proposed industrial development along Wall Street.
5. **Department Recommendation:** The review criteria in Section 2.13 of the UDC (see attached) are met by pursuing the maintenance abandonment process. Neighborhood access is not restricted nor is health and safety impacted, since the remaining portion of Wall Street will remain intact beyond Mr. Hunter's property (Iredell Partners, LLC). Therefore, the staff's recommendation is favorable to abandon a portion of Wall Street as revised.
6. **Manager Comments:** Concur with staff's recommendation.
7. **Next Steps:** If the revised *Resolution to Close* and *Declaration of Withdrawal* documents are approved, they must be recorded by the applicant along with the fully signed abandonment plat at the Iredell County Register of Deeds.
8. **Attachments:**
  1. Revised Resolution to Close (with metes and bounds descriptions & survey)
  2. Revised Declaration of Withdrawal (with metes and bounds descriptions & survey)
  3. GIS Vicinity Map
  4. Revised Survey
  5. Original Survey
  6. a. Collector Street: Mobility + Development Recommendations, 3.10  
b. Intersection and Interchange: Mobility + Development Recommendations, 3.12b
  7. Section 2.13 of the UDC

**RESOLUTION NO. \_\_\_\_\_**  
**RESOLUTION OF STREET CLOSING**

**RESOLUTION BY THE CITY COUNCIL OF STATESVILLE, NORTH CAROLINA OFFICIALLY CLOSING WALL STREET AS MORE FULLY DESCRIBED ON THE ATTACHED EXHIBIT A AND SHOWN ON THE ATTACHED SURVEY PREPARED BY BOHLER ENGINEERING NC, PLLC DATED MAY 31, 2023.**

WHEREAS, the City Council by Resolution No. 52-XX, at its regular meeting on the 5th day of June, 2023, gave notice of its intention to close those certain portions of Wall Street as more fully described on the attached Exhibit A and shown on the attached survey prepared by Bohler Engineering NC, PLLC dated May 31, 2023, Exhibit B, and called for a public hearing thereon. The portion of the street described is not necessary for the reasonable means of ingress, egress or regress for property owners in the vicinity of the affected street and the closing of said street is not contrary to the public interest.

WHEREAS, such Resolution of intention was published in the Statesville Record & Landmark on April 21, 2023, April 28, 2023, May 5, 2023, May 12, 2023; and

WHEREAS, a copy of said Resolution of Intention was delivered by certified mail to the adjoining property owners; and

WHEREAS, a notice of the closing and public hearing was prominently posted in at least two places along the street; and

WHEREAS, the public hearing was held on June 5, 2023 concerning the closing and no opposition to the closing was heard; and

WHEREAS, abandonment of the portion of the street is consistent with the Comprehensive Land Use Plan, Comprehensive Transportation Plan, and other adopted plans and policies of the City; and

WHEREAS, it appears to the satisfaction of the City Council that closing the portion of the street is not contrary to the public interest and no individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress and egress to their property; and

WHEREAS, this street abandonment does not adversely impact the health, safety, or welfare of the community, nor reduce the quality of public services provided to any parcel of land; and

NOW, THEREFORE, BE IT RESOLVED that Wall Street as more fully described in Exhibit A and shown on the attached survey prepared by Bohler Engineering NC, PLLC dated May 31, 2023 be closed to the general public use.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
Brenda Fugett, City Clerk

CITY OF STATESVILLE

By: \_\_\_\_\_  
Constantine H. Kutteh, Mayor

**EXHIBIT A: LEGAL DESCRIPTION**  
**WALL STREET**

Lying and being located in Iredell County, North Carolina, and being described as follows.

Commencing from NCGS Ramada, having Grid Coordinates, Northing=742,379.98

Easting=1,447,173.67, thence S 07° 05' 15" W, 5,051.94' (ground) to the POINT OF BEGINNING, being a point west right-of-way of Wall Street, said point being on the common line of Josephus N. Sherrill and Susan Sherrill as recorded in deed book 153, page 48 and Iredell Partners, LLC as recorded in deed book 2822, page 679, said point also being located S 89° 34' 56" E, 1,114.17' of and existing 1 ½" pipe, thence from said point S 89° 34' 56" E, 60.00' across Wall street to a point on the east right-of-way, and thence with the right-of-way of Wall Street the following courses and distances,

thence, with a curve to the left, having a radius of 295.47', an arc length of 46.87' and a chord bearing and distance of S 07° 47' 24" W, 46.82' to a point,

thence, S 17° 32' 12" E, 185.50' to point,

thence, with a curve to the left, having a radius of 121.94', an arc length of 120.15' and a chord bearing and distance of S 44° 49' 31" E, 115.35' to point.

thence, with a curve to the left, having a radius of 805.32', an arc length of 138.74' and a chord bearing and distance of S 78° 16' 59" E, 138.57' to a point,

thence, S 84° 06' 50" E, 135.20' to point,

thence, with a curve to the right, having a radius of 527.33', an arc length of 241.25' and a chord bearing and distance of S 70° 50' 36" E, 239.15' to a point,

thence, S 57° 53' 40" E, 369.49' to a point,

thence, S 12° 55' 40" W, 63.53' to a point on the south right-of-way of Wall Street,

thence, N 57° 53' 40" W, 390.44' to point,

thence, with a curve to the left, having a radius of 467.33', an arc length of 213.80' and a chord bearing and distance of N 70° 50' 00" W, 211.94' to a point,

thence, N 84° 06' 50" W, 135.57' to point,

thence, with a curve to the right, having a radius of 865.32', an arc length of 149.70' and a chord bearing and distance of N 78° 17' 39" W, 149.51' to point,

thence, with a curve to the right, having a radius of 181.94', an arc length of 178.90' and a chord bearing and distance of N 44° 56' 12" W, 171.78' to a point,

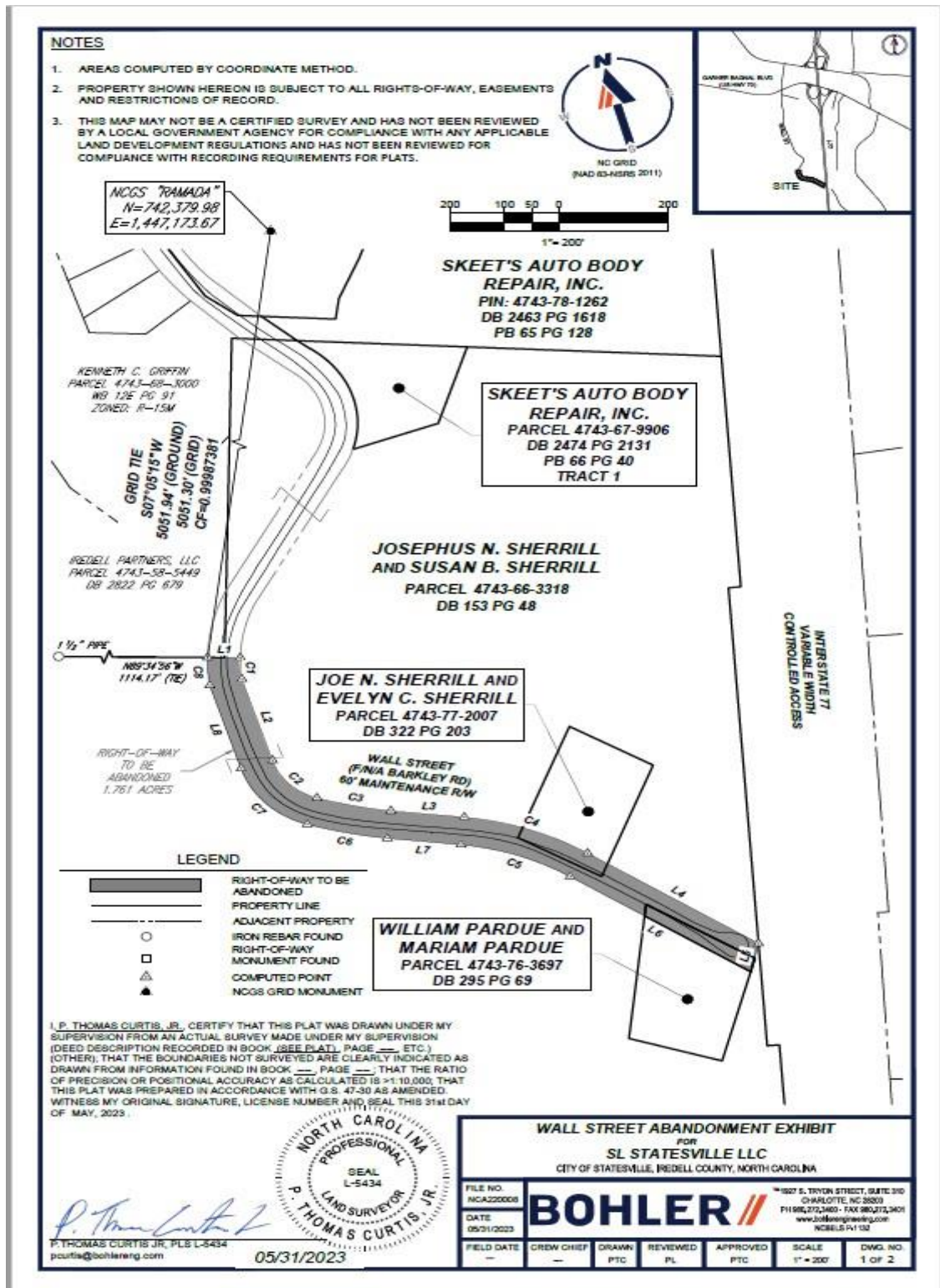
thence, N 17° 32' 12" W, 189.74' to point,

thence, with a curve to the right, having a radius of 355.47', an arc length of 61.02' and a chord bearing and distance of N 04° 05' 48" W, 60.94' to the POINT AND PLACE OF BEGINNING.

Containing 1.761 acres.

The property described hereon is subject to all easements, rights-of-way and restrictions of record.

# **EXHIBIT B** **Wall Street**





LINE TABLE		
LINE	BEARING	DISTANCE
L1	N89° 34' 56"W	60.00'
L2	S17° 32' 12"E	185.50'
L3	S84° 06' 50"E	135.20'
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C5	467.33'	213.80'	N70°50'00"W	211.94'
C6	865.32'	149.70'	N78°17'39"W	149.51'
C7	181.94'	178.90'	N44°56'12"W	171.78'
C8	355.47'	61.02'	N04°05'48"W	60.94'

*P. Thomas Curtis, Jr.*



05/31/2023

# WALL STREET ABANDONMENT EXHIBIT

FOR  
SL STATESVILLE LLC

CITY OF STATESVILLE, IREDELL COUNTY, NORTH CAROLINA

FILE NO.  
NCA220008

DATE  
05/31/2023

FIELD DATE

**BOHLER**

1627 S. TRYON STREET, SUITE 210  
CHARLOTTE, NC 28203  
PH 800.272.1400 • FAX 800.272.1401  
www.bohlerengineering.com  
NCBLS 041152

CREW CHIEF

PTC

DRAWN

PTC

REVIEWED

PL

APPROVED

PTC

SCALE

N/A

DWG. NO.

2 OF 2

**STATE OF NORTH CAROLINA  
COUNTY OF IREDELL**

**DECLARATION OF WITHDRAWAL**

THIS DECLARATION OF WITHDRAWAL was made and entered this 5th day of June, 2023 by the City of Statesville, a municipal corporation duly chartered with its principal office in Statesville, Iredell Couty, North Carolina.

**W I T N E S S E T H:**

WHEREAS, SL Statesville LLC has requested that a portion of Wall Street located in the City of Statesville be closed; and

WHEREAS, a full description of the streets to be closed is highlighted on the attached Exhibit "A" and shown on a survey prepared by Bohler Engineering NC, PLLC, dated May 31, 2023, which is attached hereto as Exhibit "B" and the portions to be closed are not necessary for other property owners in the vicinity of the affected streets to have ingress, egress or regress to their property and are not contrary to the public interest; and

WHEREAS, neither the City of Statesville nor any division of the state or county government will be required to maintain the street for the public use and the City of Statesville hereby does execute this withdrawal for the sole purpose of withdrawing the street affected from public dedication.

NOW, THEREFORE, BE IT RESOLVED and in consideration of the premises and for the purpose set forth above and under and by virtue of the provisions of North Carolina General Statute 160A-299, the City of Statesville by this instrument declares that certain portion of Wall Street highlighted on Exhibit "A" and shown on a survey prepared by Bohler Engineering NC, PLLC dated April 12, 2023, which is attached hereto as Exhibit "B", hereby closed and the same is hereby withdrawn from public use to which it was heretofore dedicated.

IN WITNESS WHEREOF, the City of Statesville has caused this instrument to be executed in its corporate name by its duly authorized officers and its corporate seal to be affixed hereto all by authority duly given on the date and year first above written.

CITY OF STATESVILLE

By: \_\_\_\_\_  
Constantine H. Kutteh, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Fugett, City Clerk

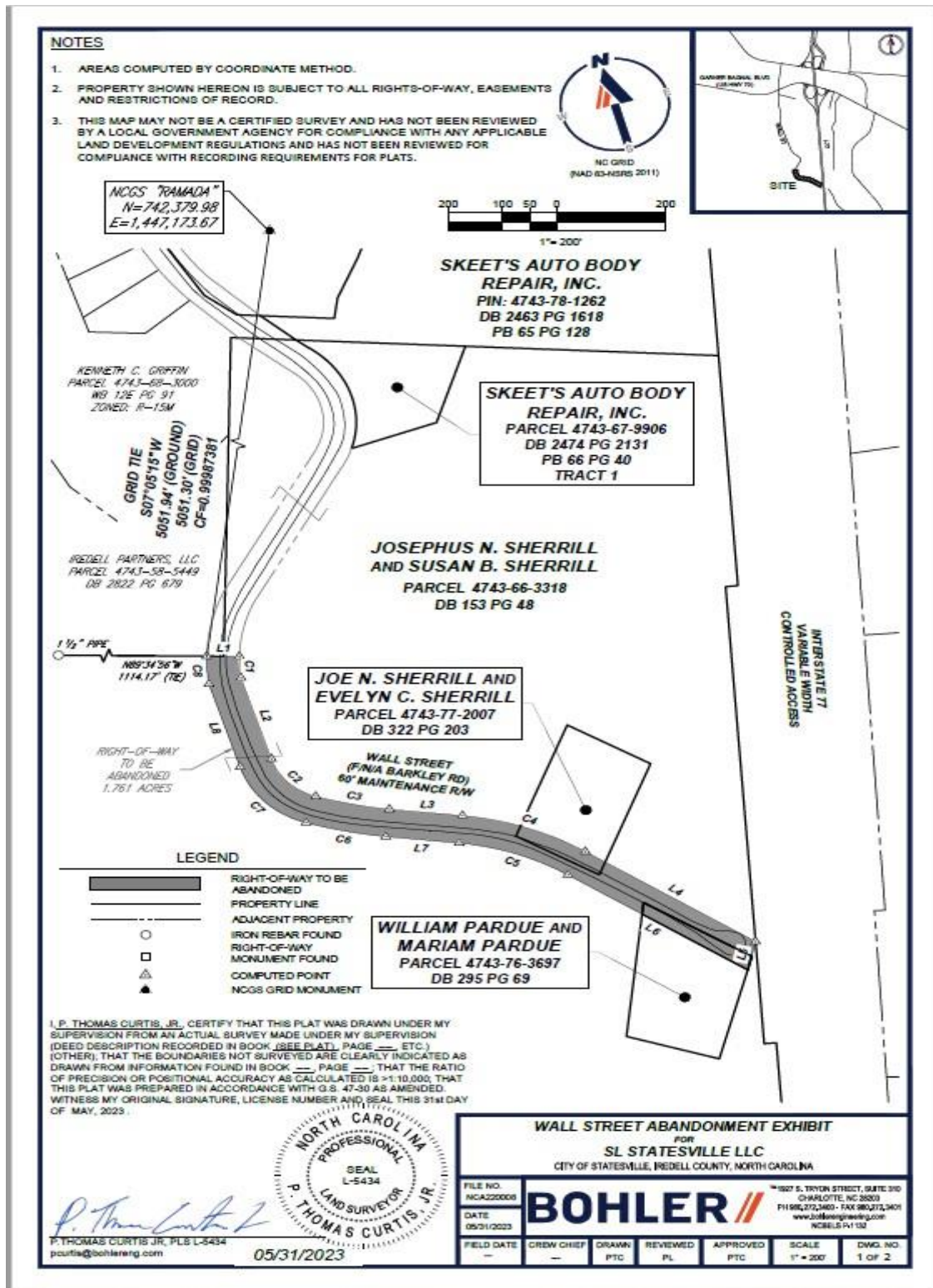
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# **EXHIBIT B** **Wall Street**





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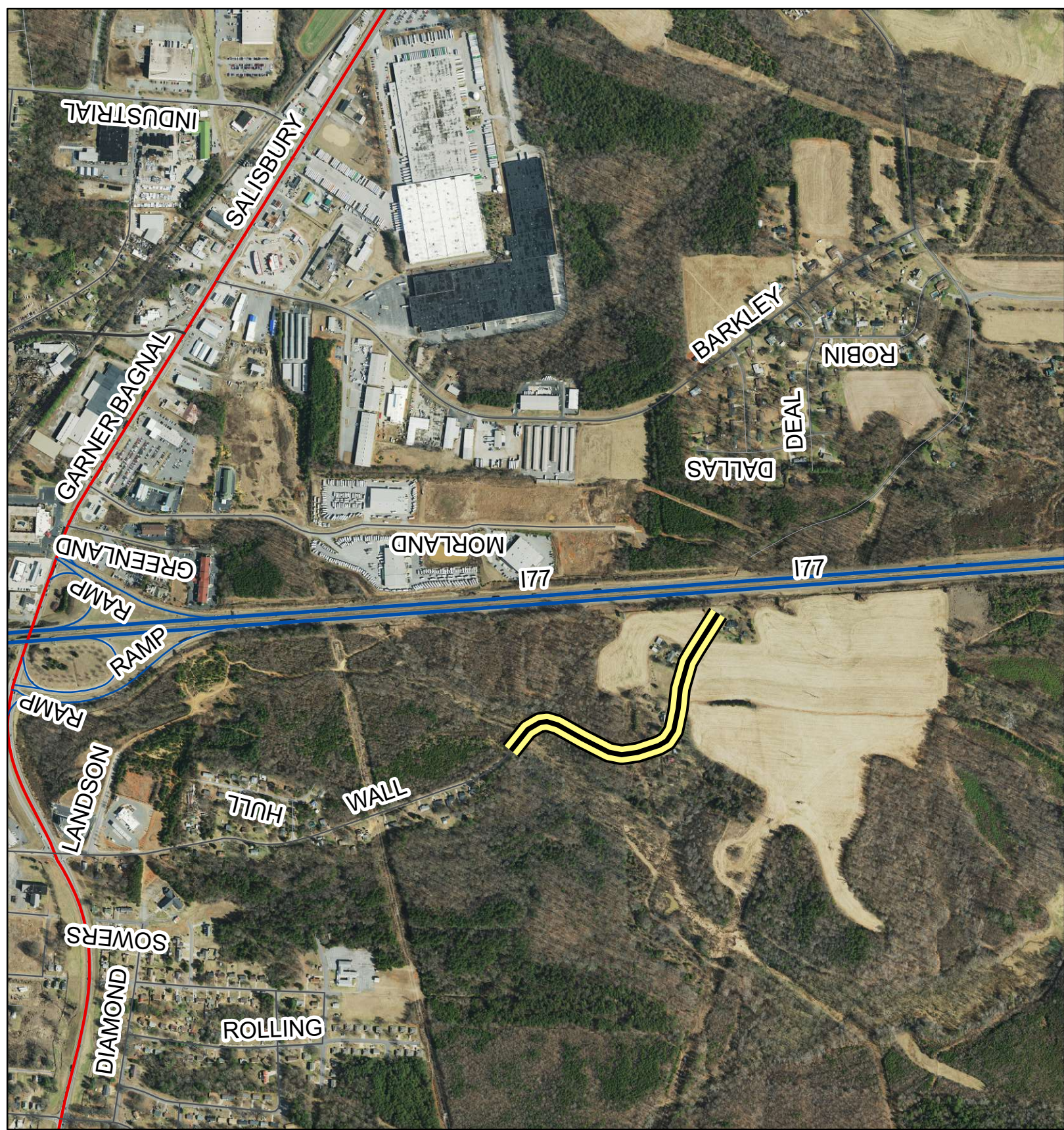
*P. Thomas Curtis Jr.*



05/31/2023

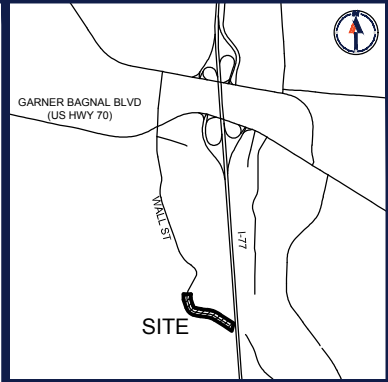
**WALL STREET ABANDONMENT EXHIBIT**  
FOR  
**SL STATESVILLE LLC**  
CITY OF STATESVILLE, REDELL COUNTY, NORTH CAROLINA

FILE NO. NCA220008	<b>BOHLER</b> 		1827 S. TRYON STREET, SUITE 310 CHARLOTTE, NC 28203 P: 704.366.2140 • F: 704.366.2141 www.bohlerengineering.com NCBLS #11132			
DATE 05/31/2023						
FIELD DATE	CREW CHIEF	DRAWN	REVIEWED	APPROVED	SCALE	DWG. NO.
	—	PTC	PL	PTC	N/A	2 OF 2

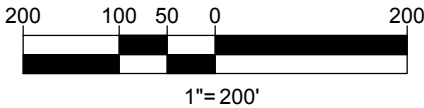


NOTES

1. AREAS COMPUTED BY COORDINATE METHOD.
2. PROPERTY SHOWN HEREON IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS OF RECORD.
3. THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.



NCGS "RAMADA"  
N=742,379.98  
E=1,447,173.67



**SKEET'S AUTO BODY  
REPAIR, INC.**  
PIN: 4743-78-1262  
DB 2463 PG 1618  
PB 65 PG 128

**SKEET'S AUTO BODY  
REPAIR, INC.**  
PARCEL 4743-67-9906  
DB 2474 PG 2131  
PB 66 PG 40  
TRACT 1

KENNETH C. GRIFFIN  
PARCEL 4743-68-3000  
WB 12E PG 91  
ZONED: R-15M

GRID TIE  
S07°05'15"W  
5051.94' (GROUND)  
5051.30' (GRID)  
CF=0.99987381

IREDELL PARTNERS, LLC  
PARCEL 4743-58-5449  
DB 2822 PG 679

**JOSEPHUS N. SHERRILL  
AND SUSAN B. SHERRILL**  
PARCEL 4743-66-3318  
DB 153 PG 48

**JOE N. SHERRILL AND  
EVELYN C. SHERRILL**  
PARCEL 4743-77-2007  
DB 322 PG 203

WALL STREET  
(F/N/A BARKLEY RD)  
60' MAINTENANCE R/W

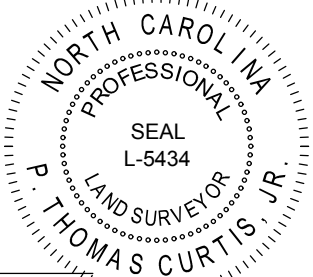
**WILLIAM PARDUE AND  
MARIAM PARDUE**  
PARCEL 4743-76-3697  
DB 295 PG 69

INTERSTATE 77  
VARIABLE WIDTH  
CONTROLLED ACCESS

LEGEND

- RIGHT-OF-WAY TO BE ABANDONED
- PROPERTY LINE
- ADJACENT PROPERTY
- IRON REBAR FOUND
- RIGHT-OF-WAY MONUMENT FOUND
- COMPUTED POINT
- NCGS GRID MONUMENT

I, P. THOMAS CURTIS, JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK (SEE PLAT), PAGE ---, ETC.) (OTHER); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK ---, PAGE ---; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS >1:10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 31st DAY OF MAY, 2023.



P. THOMAS CURTIS JR., PLS L-5434  
pcurtis@bohlereng.com

05/31/2023

WALL STREET ABANDONMENT EXHIBIT

FOR

SL STATESVILLE LLC

CITY OF STATESVILLE, IREDELL COUNTY, NORTH CAROLINA

FILE NO.

NCA220008

DATE

05/31/2023

FIELD DATE

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CREW CHIEF

---

DRAWN

PTC

REVIEWED

PL

APPROVED

Page 99 of 142

SCALE

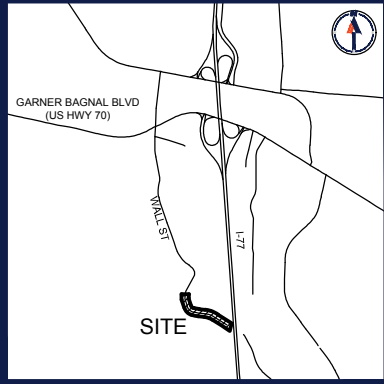
1"=200'

DWG. NO.

1 OF 2

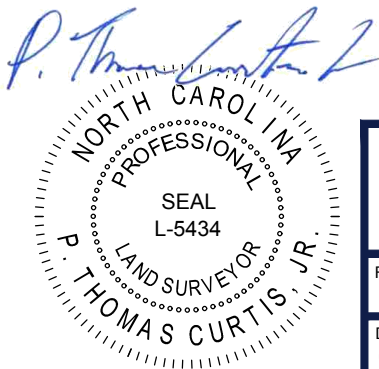
**BOHLER**

1927 S. TRYON STREET, SUITE 310  
CHARLOTTE, NC 28203  
PH 980.272.3400 - FAX 980.272.3401  
www.bohlerengineering.com  
NCBELS P-1132



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05/31/2023

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FOR

SL STATESVILLE LLC

CITY OF STATESVILLE, IREDELL COUNTY, NORTH CAROLINA

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BOHLER

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CREW CHIEF  
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DRAWN  
PTC

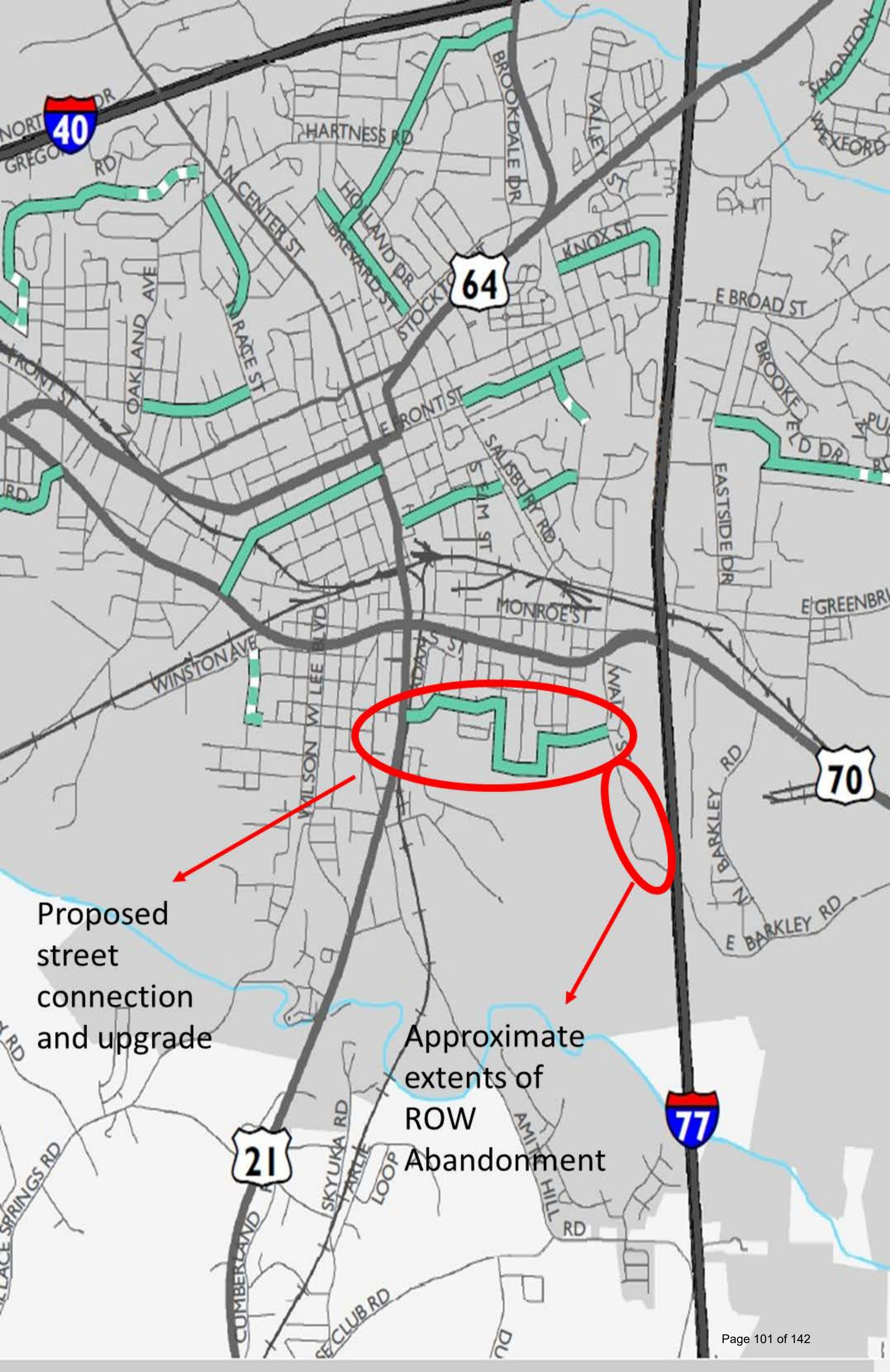
REVIEWED  
PL

APPROVED  
PLC

SCALE  
N/A

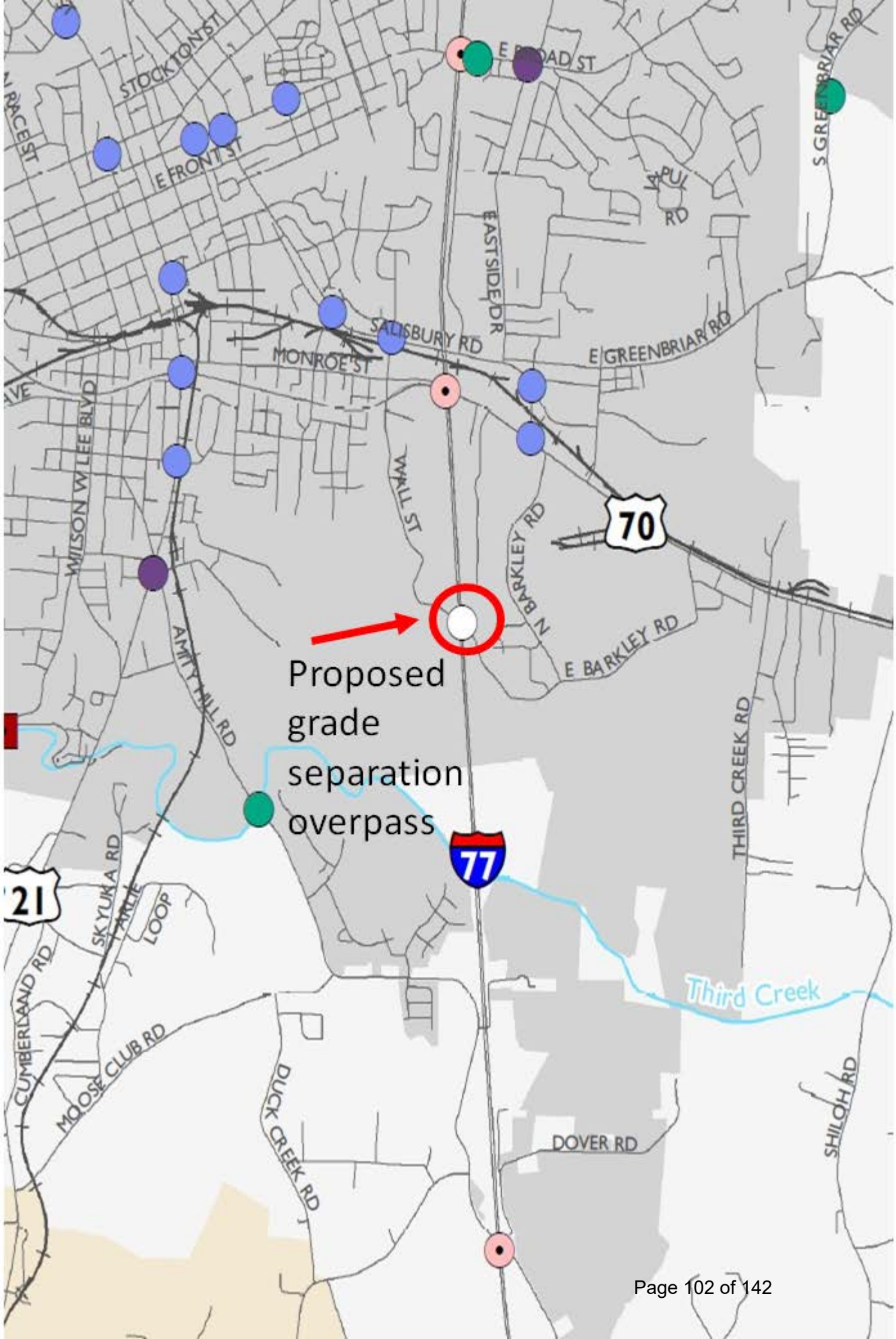
DWG. NO.  
2 OF 2

Page 100 of 142



Proposed  
street  
connection  
and upgrade

Approximate  
extents of  
ROW  
Abandonment



Proposed  
grade  
separation  
overpass

## **Section 2.13 – Abandonment of Streets, Easements or Plats**

### **F. Review Criteria**

**Prior to approval, the City Council shall find that:**

1. The abandonment conforms to State law;
2. The abandonment is consistent with the Comprehensive Plan, Major Street Plan and other adopted plans and policies of the City;
3. The abandonment does not restrict access to any parcel or result in access that is unreasonable, economically prohibitive, or devalues any property; [and]
4. The abandonment does not adversely impact the health, safety, or welfare of the community, nor reduce the quality of public services provided to any parcel of land.

### **G. Decision Maker**

The City Council shall approve, approve with conditions or deny approval of the application.

## **CITY COUNCIL ACTION REQUEST**

**TO:** Mayor and City Council  
**FROM:** Ron Smith, City Manager  
**DATE:** May 25, 2023

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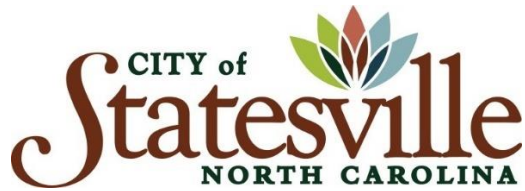
**ACTION NEEDED ON:** June 05, 2023  
(Date of Council Meeting)

### **COUNCIL ACTION REQUESTED:**

Consider a request from Council Member Fred Foster and Council Member Doris Allison to create and distribute a Request for Proposals to develop a grocery store on the City owned property at 1809 Shelton Avenue (4743074191) and 1832 Amity Hill Road (4743064970).

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1. **Summary of Information:** Due to the limited food store options available in this area, Council members Foster and Allison are requesting the City to put out a Request for Proposals in order to bring a grocery store to this area.
2. **Previous Council or Relevant Actions:** In March of 2009, Council rezoned this parcel and 117 others from B-2, B-5, R-5MFM and HI to H.
3. **Budget/Funding Implications:** N/A
4. **Consequences for Not Acting:** No Request for Proposal will be put out for a grocery store.
5. **Department Recommendation:** N/A
6. **Manager Comments:** If the Council is in favor of this, staff will begin the due diligence process on the property and develop an RFP.
7. **Next Steps:** N/A
8. **Attachments:** None



### **Technical Review Committee Meeting Minutes**

**April 5<sup>th</sup>, 2023 @ 9:00 a.m.**

**City Hall – 2<sup>nd</sup> Floor Conference Room**

1. Matt Kirkendall made a Call to Order & Introductions were made around the room.

**City Staff:** Shawn Cox – City Arborist, Justin Waddell – Backflow, Jason Lee – Electric, Chris Sloan – Electric, Randall Moore – Stormwater, Maury Jenkins – Fire Marshal, Scott Harrell – Assistant City Manager, Cory Sloan – Public Works and Public Utilities.

**Attendees:** Frank Cantrell, POB Engineering – Barkley Springs, Mitch Latham, Latham Walters Engineering – Storage Sense, Casey Cline, Little Architecture – St. Philip the Apostle Catholic Church, Adam Ledbetter, Piedmont Metals – John Woodie Enterprises, Brian Cone, Providence Partners – John Woodie Enterprises, Denise Rush, True Homes – Barkley Springs, Tom Platt, American Engineering – Davis Meadows.

2. Matt Kirkendall asked for a motion to consider approving the March 15<sup>th</sup>, 2023 TRC Meeting Minutes. Cory Sloan made a motion to approve, seconded by Justin Waddell. The motion passed unanimously.

#### **Plan Reviews:**

3. P22-35 Storage Sense Expansion – Site Plan – 1446 N Barkley Rd – 3<sup>rd</sup> Submittal

Randall Moore:

1. Provide copies of E&SC LOA and NCG01 COC
2. Need original signed & notarized O&M Agreement
3. Installation Performance Security required.
4. SCM Access & Maintenance Easement should encompass SCM and outlet structure.

Shawn Cox: Laurel Oak is a coastal evergreen, not sure of its viability. Recommend other oak species, i.e., Nuttall Oak.

#### **Tabled for Revisions**

4. S23-02 Barkley Springs Subdivision – Sketch Plan – 1<sup>st</sup> Submittal

Matt Kirkendall: Please get with Sherry Ashley regarding the outstanding items needed to finalize the rezoning.

**Randall Moore made a motion to approve contingent, seconded by Cory Sloan. The motion passed unanimously.**

5. S23-03 Barkley Springs Subdivision – Construction Documents – 1<sup>st</sup> Submittal

Chris Sloan: It is for us to serve, but if a house is within 300' from Energy United they have some rights to serve.

Randall Moore:

1. Provide copies of E&SC LOA and NCG01 COC.
2. Provide Stormwater Application and Checklist Form B.
3. Provide signed and notarized original copy of O&M agreement.
4. Installation Performance Security required for approval.
5. Please provide proposed impervious area for each lot with duplexes, and provide total proposed impervious for townhomes parcel (parking lot/drive and buildings) to calculate ERUs for Stormwater Utility Fee
6. Please use rainfall depths from Table 3-1 in the City of Statesville Drainage Design Manual for calculations (2 Year = 3.44", 10 Year = 5.08", 50 Year = 6.85")
7. Sheet C-302 shows flow from FES 01 entering the SCM directly into the sand chamber (storm drainpipe from west side of Morland Dr), should enter in forebay, please direct all flow into the forebay for pretreatment.
8. Pipes should be min 24" below subgrade.
9. Provide swale calculations.
10. SCM Access & Maintenance Easement should encapsulate the entire SCM and the outlet structure, label it as such.
11. Label pipes outside of the ROW/on private property and provide PSDE (Public Storm Drain Easement), notate on plans who is responsible for maintenance.
12. Escrow required for SCM maintenance.
13. Provide material in pipe table and profiles.
14. Headwalls & end walls or flared end sections are required on all pipes; however, Stormwater Services reserves the right to require headwalls & end walls instead of flared end sections or vice versa.
15. Provide trash rack detail.
16. Provide anti-seep collar detail.

Comments per Cory Sloan:

1. The existing site is more than 50% Wooded. Please provide a Pre-Developed Trib Map that shows the Total Drainage Area and CN, Sub Areas and CN's, Tc Flow Path, and Aerial Image. The City of Statesville Drainage Design Manual provides a list of Curve Numbers and criteria for establishing Good, Fair or Poor ground cover for wooded instances.
2. The Tc used in the Pre-Developed Condition is 0 minutes. The Tc used in the Post Developed Condition is 10.9 minutes. Please revise the Tc Values to represent Pre-Developed and Post Developed Conditions and clearly show and label the Tc Path for both the Pre-Developed and Post Developed Conditions on the Pre Developed and Post Developed Condition Maps.
3. City of Statesville Drainage Design Manual references the NRCS Web Soil Survey for soil classification. Web Soil Survey shows the site to have more than 95% Type B Soils. Please revise curve numbers to reflect Type B Soils.
4. Please update the model to reflect conditions shown on the Predeveloped Trib Map, Soil Conditions, and Tc Data per above Comments.
5. Please include the Sand Filter Design the Stormwater Management Report. Please include the information to clearly show how all the Minimum Design Criteria are being met.

6. Please include all improved area and area disturbed in the analysis (ie backsides of basins, areas improved or graded that do not drain to basin). Areas improved, not draining to the basin should be modeled as bypass. The Total Area analyzed should closely match the limits of disturbance.
7. Per the City of Statesville Drainage Design Manual, please show in the model that the Emergency Spillway can pass the 50 Year Event. The grades adjacent to the emergency spillway do not allow for the conveyance of water out of the SCM. Please revise spillway location so that discharge will be directed out of the SCM.
8. Please provide storm sewer calculations for Inlet Spread and Capacity with the next submission.

Cory Sloan on behalf of Public Works:

1. Please show Dead End Barricades no more than 150' down Starland Drive and include NCDOT Details.
2. Minimum CL Radii for Collector Streets is 230'. Please revise CL Radii of Proposed Moreland Drive and Starland Drive.
3. Please show the remainder of the Moreland Drive Extension that connects with Ex. Barkly Road. Reverse curves are required to have a 100' tangent section between them per Section 8.06.E.10.c.
4. Where is NCDOT Maintenance of the Connection from Moreland Drive to Barkley Road going to stop? Please show all Road Improvements on this plan or provide the other plans.
5. Please show stationing for roadways in plan view on Sheets C-500 and C-501.
6. Add an ADA Ramp across from Starland Drive across Moreland Drive on the north side of Starland Drive.
7. Remove the ramps directed across Moreland from the most northern entrance to the Private Drive.
8. Please add the standard public works notes available on the City of Statesville Engineering Website to the Cover Sheet.

Cory Sloan on behalf of Public Utilities:

1. Please clearly label if water and sewer as public or private on the plans.
2. Please clearly label pipe material for water and sewer mains.
3. Please provide appropriate applications for NCDEQ Water and Sewer Extensions (Public and Private).
4. Public portions of the Water and Sewer Mains require a 20' Public Utility Easement. Please provide copies of the recorded easements with the As Built Process.
5. Ensure clearances per 15A NCAC 02T .0305 are met with the Water and Sewer Design:
  - a. Please confirm clearance from top of 8" sewer between SSMH 15 and SSMH 18 is a minimum of 18" or provide DIP for that stretch of sewer.

Matt Kirkendall:

Please show the following on the CD's Site Plan:

1. Lot areas and dimensions.

2. Provide parking calculations.
3. Show open space calculations.
4. Label setbacks.
5. List Rezoning Conditions.

**Tabled for Revisions.**

6. S23-04 Davis Meadows Subdivision Phase 1 - Construction Documents – 1<sup>st</sup> Submittal

Justin Waddell: Plans should call out the Backflow for the Yard Hydrant at lift station must be a Reduced Pressure Backflow Assembly

Chris Sloan: Need to know timeline for breaking ground to order transformers.

Randall Moore:

1. Development table inaccurate, plan show 251 sf and 191 townhomes.
2. Escrow required for SCM maintenance.
3. Provide copies of E&SC LOA and NCG01 COC
4. Provide copies of 401/404 permits for impacts for road crossing.
5. Provide Stormwater Application and Checklist Form B
6. Provide original signed & notarized O&M Agreement
7. Installation Performance Security required for approval.
8. Provide Stormwater Calculation Package
9. Please show and label 100-year floodplain and floodway on plans
10. Floodplain Development Permit required for work inside the 100-yr floodplain (road crossing, any sewer work)
11. Provide table with pipe diameter, material, length, slope, rim elev, invert elev, grate type, drainage area and flow into structure.
12. Pipe profiles show 36" RCP going into a 21"RCP.
13. Pipe shown in profiles need to match pipes shown on plans.
14. Pipe profiles show 35' of 18" RCP at 0% slope.
15. Plans show a lot of 21" RCP, that is not common, please confirm pipe schedule.
16. If there are any swales in the development, please provide calcs in calc package.
17. Show and label all PSDE (Public Storm Drain Easement) outside the ROW, please notate on plans who is responsible for maintenance (HOA or property owner) (20' for pipes

Cory Sloan on behalf of Public Works:

1. Please label the Street Classification on the Overall and Enlarged Site Plans, Roadway Plan and Profile Sheets.
2. Please show Dead End Barricades no more than 150' down Davis Meadows Drive and include NCDOT Details.
3. Please omit lots 238 and 239 from this Phase. Temporary Dead Ends not provided with a Cul-de-Sac are not allowed to have driveways.
4. Some Vertical Curve labels are off the roadway plan and profile sheets. Please show and label all vertical curves. Once all labels are shown, all curves will be reviewed to ensure compliance with vertical curve design criteria.
5. K Values for Vertical Curves should be as follows:

- a. 4.1 For Collector and Sub-Collector: Crest = 19, Sag = 30, Stop = 14.
- b. 4.2 For Local and Minor: Crest = 19, Sag = 20, Stop = 9.
- c. 4.3 Please revise design and show stop signs where the Stop Control K Value is used.
- 6. Please provide the NCDOT Driveway Permit Application.
- 7. Buffalo Shoals is called out in the Mobility and Development Plan as future Cross Section B. Currently submitted plans show the 80' R/W to be dedicated but does not show the Pavement Section being increased to 12', a 2' Paved Shoulder, 2.5' Curb and Gutter, or Sidewalk as required by Cross Section B along the property frontage.
- 8. Please include any off-site roadway improvements plan sheets with submission.
- 9. Please show Greenway and Greenway Easement. Include necessary details in the Plan Set for Construction.
- 10. Please show and label Cluster Mailbox Locations. Please show associated ADA Access to Cluster Mailbox Locations.
- 11. Is the Townhome Amenity Location apart of this Plan Set? If so please show driveway, ADA Parking, Storm Sewer, etc. If not a part of this plan set, remove from drawings.
- 12. Please add the standard public works notes available on the City of Statesville Engineering Website to the Cover Sheet.

Cory Sloan on behalf of Public Utilities:

- 1. It is very difficult to see the Utility Design on Sheet C8.0. Please provide enlarged sheets for the Utility Plans like the Site, Grading, and Erosion Control series.
- 2. Please clearly label if water and sewer as public or private on the plans.
- 3. Please clearly label pipe material for water mains.
- 4. City of Statesville is not a self-permitting authority. Please provide appropriate applications for NCDEQ Water and Sewer Extensions.
- 5. Public portions of the Water and Sewer Mains require a 20' Public Utility Easement when outside of the Right of Way. Please ensure all easements are captured with the Platting process.
- 6. There are numerous utility crossings not shown in the storm or sanitary profiles. Please ensure that all storm/sanitary/water crossings are shown in the profiles and also ensure clearances per 15A NCAC 02T .0305 are met with the Water and Sewer Design.
- 7. Please provide more detail on the dead-end locations of the proposed water mains (Plug, Blowoff, Hydrant, etc.?) and the connection to the existing main (Tapping Sleeve and Valve, Tee Connection?)
- 8. Please provide more detail on the connection to the existing sewer main at connection Point 1. It looks like an Outside Drop is needed. Please clearly show the outside drop and specify details and inverts of the connection.
- 9. Several places along the sewer main are shown to require outside drops. Please clearly show the outside drop and specify details and inverts of the connection.
- 10. Sheet C8.0 shows the existing sewer main to be an 18" Clay Pipe. Sheet C4.3 and Sheet C6.1 at STA 19+50 show approximately 20' of fill to be placed on top of the existing 18" Clay Pipe. This amount of fill is a structural and maintenance concern. Please remove and replace the existing 18" Clay Pipe with Ductile Iron and Steel Encasement per City of Statesville Detail S-1. The replacement can either be from Ex.

MH to Ex. MH or from 10' outside the bottom the fill slopes on both sides with new manholes set 10' outside the edge of fill slope.

11. Grading does not tie into existing between SSMH 1 and SSMH 2 as shown on Sheet C4.3 and on Sheet C8.5.
12. Sewer Lateral for Lot 215 does not connect to the Main.
13. Show sewer service for Townhome Amenity Center.

Shawn Cox: Too much monoculture, we've seen gloomy scale on red maples, causing them to die. I recommend larger canopy trees and a diversity of species.

Matt Kirkendall:

1. List all rezoning conditions on the overall site plan, currently on the sketch plan. Will need to be on the construction documents.
2. Provide lot widths for lots 216-220, 242-247. Must meet minimum standard or adjust front setback.
3. Show greenway and easement on the construction site plan.
4. Ensure compliance with section 7.02G.

**Tabled for Revisions.**

7. P23-08 St. Philip Catholic Church – 525 Camden Rd – Site Plan – 2<sup>nd</sup> Submittal

Randall Moore: Provide updated Stormwater approval for State Stormwater Permit.

Shawn Cox: Ginkgo Biloba may be hard to get, I recommend having a backup plan.

**Randall Moore made a motion to approve contingent, seconded by Cory Sloan. The motion passed unanimously.**

8. P23-10 John Woodie Enterprises Expansion – 1836 Shelton Ave – 1<sup>st</sup> Submittal

Justin Waddell: The 3/4" water service will need a 3/4" Reduced Pressure Backflow Assembly installed to City of Statesville details.

Matt Kirkendall:

1. This use is no longer permitted in this zoning district and is considered an existing non-conformity.
2. New addition is 3396 sqft., existing building is 10,850sqft. Total increase is 31.3% of GFA. Per Article 3.04.V the total cumulative area increase cannot go beyond 35% with addition and required parking. (How many new employees?)
3. Show new parking areas. Warehousing classifications is .5 per employee on largest shift.
4. Recombination of parcels:

4733-96-9947, (ETJ)  
4733-97-9176, (ETJ)  
4733-97-7169, (Inside City limits)  
4733-97-9365. (Partially inside City limits)

**Justin Waddell made a motion to approve contingent, seconded by Jason Lee. The motion passed unanimously.**

**Final Sign-Off:**

9. P23-12 Statesville Fire Department Station 4 Addition – 115 Martin Ln – Called TRC Meeting

**Other Business:**

10. Adjourn

**Justin Waddell made a motion to adjourn, seconded by Cory Sloan.**

**Planning Board Meeting Minutes**  
**City Hall Council Chambers – 227 S. Center Street**  
**April 25, 2023 – 7:00 p.m.**

**Members Present:** Bernard Robertson, Todd Lange, Tammy Wyatt, Mark Tart, Chuck Campbell, Alisha Lane, Roger Bejeck, Roseta Williams

**Members Absent:** None

**Staff:** Sherry Ashley, Herman Caulder, Genesis Harrod

Chairman Lange called the meeting to order.

**Consider approving the March 28, 2023 Planning Board called meeting minutes.**

**Robertson made a motion to approve the minutes as presented, seconded by Wyatt. The motion carried unanimously.**

**ZC23-05: Courtesy Hearing for a rezoning (amendment) application filed by Tim Derylak, with D.R. Horton Co. on behalf of Chelsea L. Sharpe Heirs & Betty Tull; Tax Map Parcel #4754-23-6335; proposal to amend the concept plan for the rezoning of approximately 87.39 acres located on E. Greenbriar Road; zoned R-8CZ Cluster for a major amendment to the Greenbriar Ridge subdivision to rearrange some of the internal streets and relocate common open space.**

Sherry Ashley introduced the case, pointing out minor versus major changes. Sherry Ashley stated staff felt the changes were substantial enough to go through the process again. A few changes noted were the shifting of required open space, re-location of some of the roadways and walking trail and relocation of the development phasing lines.

Planning Board members asked various questions regarding the walking trail, the original plat and property line.

D.R. Horton, Inc. (applicant), on behalf of Chelsea L. Sharpe Heirs & Bettye Tull (owners), is requesting significant changes to the concept map for Greenbriar Ridge development; an 87.39-acre parcel of property, which was recently rezoned from R-A and R-8 MFM to R-8 CZ Cluster Subdivision on October 3, 2022 to provide a single-family residential development utilizing the Cluster Subdivision development pattern (see attached Location and Current Zoning & Utilities maps).

The major significant changes are as follows:

1. Development Phasing Lines moved.
2. Units developed in phases changed:
  - Phase 1 - From 99 units to 150 units
  - Phase 2 - From 145 units to 90 units (loss of 4 lots)
3. Shifted position of drainage ponds
4. Public street layout changed

5. Creek crossing changed
6. Alteration to walking trail
7. Walking trail not showing in Phase 1
8. Portion of building lots have been repositioned or have a change in size

The proposed project site is on approximately 87.39 wooded acres primarily located along the north side of East Greenbriar Road, generally between Industrial Drive and South Greenbriar Road in southeast Statesville (see attached Aerial Photo Map and Site Photos). The property was originally rezoned on October 3, 2022, and annexed on December 31, 2022. There are the remnants of an existing home and outbuilding on the property that will require demolition permits. The intent is to amend the concept plan that will allow them to make changes to Open Space location, Public Road layout, Walking Trail routing and relocation of Development Phasing Lines.

The significant changes are as follows:

1. Some of the Open Space areas were decreased while some were increased, but the applicant attests that the project still meets the open space requirements. Need to provide a table for open space on the plan.
2. Some of the public streets inside the development have been moved, some removed, and some added. The creek crossing on the west side, near BMP A (sediment pond) has been removed, while a new creek crossing has been added on the Northeast side, near Open Space C (on the concept plan). A new cul-de-sac has been added to the Northwest end of Road L, close to the entrance from Ora Drive. It is important to note that the entrance from Ora Drive has not been changed.
3. The creek crossing for the walking trail near BMP B has been removed and the trail will now continue along the West side of the creek to a new creek crossing where the new road crosses the creek due North East of the former location.
4. Building lots 72 thru 93 have been moved around to accommodate the revisions.
5. BMP C and BMP D (sediment ponds) have been shifted.
6. Finally, the development phasing lines have been re-drawn, shifting most of phase 1 toward the Eastern part of the development. Phase 1 does not include the walking trail as specified in the conditions of approval and the buffer in Northwest corner near Ora Drive cannot be part of the lots.

**STAFF RECOMENDATION:** The concept plan still exceeds the required active open space and will provide a substantial amount of constructed greenway that will become part of a designated corridor between Kimbrough Park to the Fourth Creek Greenway and beyond. In addition, the project continues to meet the density requirements of the Unified Development Code. Although some of the public roads and sediment ponds have been slightly shifted or changed, they still meet the requirements. No Ingress or egress points were changed. Finally, the change to the greenway trail is minimal and should have no detrimental effect on the project.

This is a procedural step per Section 2.07 (c) of the UDC, therefore the changes must be approved by the Planning Board and City Council.

Staff recommends approval to amend the concept plan contingent upon the applicant meeting all the former conditions of the original rezoning (see original conditions) along with providing a table for open space calculations, greenway must be constructed as part of Phase 1 and the buffer must be outside of lots.

Chairman Lange opened the public hearing.

Tim Derylak with D.R. Horton Co. attended the meeting and spoke during the open public hearing section of the meeting, explaining why the change was issued.

Glen F. asked questions of the developer and board about lots and renting vs. owning.

Sherry Ashley made an informative disclosure that “government cannot discriminate based on owning versus renting” of property.

There being no other speakers, Lange closed the public hearing.

**Wyatt motioned to recommend approval of rezoning (amendment) application filed by Tim Derylak, with D.R. Horton Co. on behalf of Chelsea L. Sharpe Heirs & Betty Tull; Tax Map Parcel #4754-23-6335; proposal to amend the concept plan for the rezoning of approximately 87.39 acres located on E. Greenbriar Road; zoned R-8CZ Cluster for a major amendment to the Greenbriar Ridge subdivision to rearrange some of the internal streets and relocate common open space.**

**Wyatt read the following Consistency Statement: the zoning amendment is approved and is consistent with the City’s comprehensive land use plan, is reasonable, and in the public interest because: The major amendment of moving the streets and open space meets the 2005 Land Development Plan that suggests that the property subject to the rezoning request is suitable for Medium Density residential with a maximum density not exceeding 6 dwelling units per acre. The draft 2045 Land Development Plan projects the parcel as suitable for Complete Neighborhood 2, which is intended primarily for residential development and recommends many of the features—gridded street network, connectivity between neighborhoods, pedestrian/bicycle facilities and planned open space—proposed in the requested Concept Plan. At the proposed gross density of 2.79 dwelling units per acre, the proposed development is significantly less dense than the maximum density defined for Medium Density development by the 2005 LDP, as well as than the approximately five du/acre that the base R-8 zoning district would permit. Additionally, this project fills in a substantial gap between existing neighborhoods and provides beneficial improvements to both sides of E. Greenbriar Road that includes a portion of a multi-use path recommended in the Mobility + Development Plan. Finally, the concept plan exceeds the required active additional open space and will provide a substantial amount of constructed greenway that will become part of a designated corridor between Kimbrough Park to the Fourth Creek Greenway and beyond. Robertson seconded. The motion carried unanimously.**

The vote on the motion was as follows:

Ayes: Robertson, Lange, Wyatt, Tart, Campbell, Lane, Bejeck, Williams

Nays: None

Motion carried: 8-0

**TA23-07 Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 3 Zoning, Section 3.04 Zoning District Regulations; Table 3-1 Use Matrix. Article 5. Supplemental Regulations Performance/Standards for Specific Uses, Section 5.04 Primary Uses and Structures, to include subsection III. Tobacco Shops; Article 6. Development Standards, Section 6.05 Lighting, 1-4; and amend definitions section for: Hookah, Vape, E-Cigarette, Cigar and Cigarette Shop/Lounge, Tobacco Paraphernalia and Tobacco Product to address the lighting standards and zoning districts pertaining to such uses.**

Sherry Ashley introduced the amendment and stated that more vape shops are being created in town. The text amendment addresses vape shops, hookah bars and tobacco shops, including their intended use, which zoning districts to allow them and the lighting standards thereof. A public requests review of these types of businesses reveal complaints about advertising and lighting. Therefore, the amendments explain supplemental regulations rather than ‘by right’.

The amendment delineates between a “shop”, which is intended for its “primary” use to be the sell of such products and a “bar/lounge” whose “primary” use is to allow the consumption of such products. Definitions are provided for the following:

1. Hookah, Vape, E-Cigarette, Cigar and Cigarette Bar/Lounge
2. Tobacco Paraphernalia
3. Tobacco Product
4. Tobacco Store

It is noted that state law does not permit the sell of food or alcohol in a business whose primary purpose is to allow the consumption of such products. The city already has several existing tobacco shops that sell these products, and they are currently allowed in the B-2, B-3, B-4, CB, CBP, CB/H-115, B-5 and LI districts. The amendment would only allow them in the B-4 and B-5 districts with supplemental regulations. Finally, lighting would not be allowed to define, outline, or highlight any architectural feature of the building such as windows, doors, roof lines, eaves, ownings, railings, etc. Neon and LED signs would be allowed in windows as long as they are consistent with applicable sign regulations (see proposed ordinance).

Lange declared the public hearing open.

There being no speakers, Lange closed the public hearing.

**Bejeck made a motion to recommend approval of TA23-07 Text Amendments to the Unified Development Code filed by the City of Statesville to amend Article 3 Zoning, Section 3.04 Zoning District Regulations; Table 3-1 Use Matrix. Article 5. Supplemental Regulations Performance/Standards for Specific Uses, Section 5.04 Primary Uses and Structures, to include subsection III. Tobacco Shops; Article 6. Development Standards, Section 6.05 Lighting, 1-4; and amend definitions section for: Hookah, Vape, E-Cigarette, Cigar and Cigarette Shop/Lounge, Tobacco Paraphernalia and Tobacco Product to address the lighting standards and zoning districts pertaining to such uses. Wyatt seconded the motion. The motion carried unanimously.**

**TA23-08 Text Amendments to the Unified Development Code filed by City of Statesville to amend Article 2. Development Review Process, Section 2.01 Application Process, Table 2-**

**1: Summary of Application Procedures, Article 3. Zoning, Section 3.04 Zoning District Regulations, M. O-1 – Office Single Lot District, N. O & I-2 – Office and Institutional District, O. -1 – Neighborhood Service District, P. B-2 – Neighborhood Business District, Article 5. Supplemental Regulations/Performance Standards for Specific Uses, Section 5.04 Primary Uses and Structures, Z. Dwellings, Planned Multi-family Dwellings and Article 6. Development Standards, Section 6.02 Density and Dimensional Standards, B. Residential Density, 2. to clarify regulations for Duplexes, Townhomes and Multi-family in O-1, O & I-2, B-1, and B-2 Zoning Districts**

Ashley introduced the amendment and clarified previous council and quasi-judicial processes of 'by right' process issuance, discussing the intent of standards as in report.

Due to continued growth within and around the city, additional requests for Townhomes and Multi-family Developments are being requested. In reviewing several of these projects, staff has discovered there is some ambiguity in the language for Townhomes and Multi-family developments in the O-1, O & I-2, B-1 and B-2 Zoning Districts. In the city's UDO, Townhomes and Multi-family developments are uses allowed in these districts. However, the density is what is ambiguous.

Staff thinks the intent may have been to allow the O-1, O & I-2, B-1, and B-2 districts to be considered a MF zone however the code does not indicate this. So, staff has consistently been interpreting the code to allow density as follows:

Overall acreage divided by 5,000 sq. ft. to get number of units permitted. Staff used this interpretation based on the language in the code which allows the use and the language that states minimum lot size if used for residential purposes in 5,000 sq. ft. B-2 does not specify.

In addition, another interpretation could be that there are no density limitations in these districts.

Lange declared the public hearing open.

There being no speakers, Lange closed the public hearing.

**Bejeck made a motion to recommend approval TA23-08 Text Amendments to the Unified Development Code filed by City of Statesville to amend Article 2. Development Review Process, Section 2.01 Application Process, Table 2-1: Summary of Application Procedures, Article 3. Zoning, Section 3.04 Zoning District Regulations, M. O-1 – Office Single Lot District, N. O & I-2 – Office and Institutional District, O. -1 – Neighborhood Service District, P. B-2 – Neighborhood Business District, Article 5. Supplemental Regulations/Performance Standards for Specific Uses, Section 5.04 Primary Uses and Structures, Z. Dwellings, Planned Multi-family Dwellings and Article 6. Development Standards, Section 6.02 Density and Dimensional Standards, B. Residential Density, 2. to clarify regulations for Duplexes, Townhomes and Multi-family in O-1, O & I-2, B-1, and B-2 Zoning Districts. Wyatt seconded the motion.**

The vote on the motion was as follows:

Ayes: Robertson, Lange, Wyatt, Tart, Lane, Bejeck, Williams

Nays: Campbell

Motion carried: 7-1

### **Other Business**

Sherry Ashley introduced Herman as the new Assistant Director and Herman discussed his background and interests.

**Lane made a motion to adjourn, and all members seconded. The motion carried unanimously.**

**DESIGN REVIEW COMMITTEE CALLED MEETING  
CITY HALL SECOND FLOOR CONFERENCE ROOM  
April 26, 2023 @ 3:00 pm**

Members present: Chuck Goode, Rebecca Jones, Bryan George, John Marshall

Absent: Scott Zanotti, Brittany Marlow

Staff present: Marci Sigmon, Lori Deal

Chairman Goode called the meeting to order and stated we have suffered a great loss of three major contributing buildings in downtown Statesville due to the fire. Chairman Goode asked for a motion to approve the DRC minutes from the April 13, 2023 meeting.

**George made a motion to approve the April 13, 2023 DRC meeting minutes, seconded by Marshall. The motion carried unanimously.**

**Consider Design Review Application, DRC 23-08 from applicants, Terry Miller and Rev. Marcus Farmer to demolish the structure located at 113 Garfield Street; 4744-13-0840.**

Sigmon introduced the case stating the structure located at 113 Garfield Street was constructed ca. 1925 and is owned by Mt. Pleasant AME Zion Church. The building historically served as the district office of the presiding elder over the Western North Carolina District of AME Zion Church.

The owner is requesting to demolish the building due to severe disrepair. The building is experiencing structural issues with the supporting wood joists decaying and the interior floors falling in. The exterior of the structure has been renovated by adding vinyl siding. The church will clear the debris where the building once stood and sow the area in grass seed when demolition is complete.

Reverend Marcus Farmer stated the structure belongs to the Statesville District of Western NC AME Zion Church to prevent confusion and Terry Miller stated he will apply for the demolition permit in this name also. Miller stated the floor has fell in 18 to 24 inches from the front door and there were signs of previous roof damage.

**George made a motion to approve Design Review Application DRC 23-08 from applicants, Terry Miller and Rev. Marcus Farmer to demolish the structure located at 113 Garfield Street, seconded by Marshall. The motion carried unanimously.**

**Other Business**

There was discussion regarding design revisions made to an upcoming project in order to meet the guidelines on Stockton Street and guideline violations on Salisbury Road and East Front Street.

**The meeting was adjourned.**



**Historic Preservation Commission Meeting Minutes  
April 27, 2023 - City Hall Council Chambers - 7:00 p.m.**

**Present:** Anna Campbell, Glenn Setzer, John MacPhail, Barry Edwards, Agnes Wanman, Jessica Arnold, Erika Gottholm

**Absent:** David Richardson, Dea Mozingo-Gorman

**Staff:** Marci Sigmon, Lori Deal

**Others:** Dustin McCrary, Phil Fowler

**Roll Call & Swearing In**

Vice-Chairman Wanman called the meeting to order, called the roll, and asked the board members if any of them had held ex-parte communication regarding the cases on the agenda. Hearing none, he swore in those who planned to speak.

**Approval of minutes**

**Campbell made a motion to approve the April 5, 2023 Historic Preservation Commission called meeting minutes as presented, seconded by Setzer. The motion carried unanimously.**

**Setzer made a motion to recuse Erika Gottholm from COA23-05, seconded by MacPhail. The motion carried unanimously.**

**Consideration for a Consideration for a Certificate of Appropriateness (COA23-05) from Dustin McCrary to install a sign on the structure located at 117 Kelly Street; Tax Map 4734-85-8770.**

Marci Sigmon gave the following Staff Report:

The house located at 117 Kelly Street was constructed ca. 1920. The structure is a two-story brick veneer house with a hip roof and front hipped dormer. The front porch has brick posts with openwork panels in the center and a plain balustrade.

Past Certificate of Appropriateness approvals include the removal of two large trees in the rear yard due to unhealthiness and disease.

The owner, 120 S Elm Street, LLC, represented by Dustin McCrary, is requesting after-the-fact approval to install a sign on the front porch of the structure. The requested sign is six feet long and eighteen inches tall. The owner states the sign material is constructed of a wood product called high density urethane. The owner also states the sign will be for a law office. In the applicant's request, it is stated the sign will be hung with dark blue painted chains.

The Historic Preservation Standards state signs over two feet by three feet have to be approved by the Historic Preservation Commission. The standards also state that signs in the historic

districts shall be constructed from traditional sign materials such as wood, stone, or metal.

The commission must consider the following pages in the Design Standards when rendering their decision: Chapter 2 District Settings & Site Features, Page 19: H. Signage

Sigmon passed around a sample of the sign material to the board members.

Edwards asked for the timeline and if this is the original application and Sigmon stated this is the original application. Sigmon stated Mr. McCrary had asked to be on the February meeting, but he missed the deadline, so he was scheduled for the March HPC meeting, then he emailed me and said that he was not going to be able to attend and would like to be on the April agenda. Edwards asked why the sign was lying on the ground instead of posted. Sigmon stated the sign was in the yard from what I recall when McCrary requested to be on the March agenda. When I drove by one day in April, the sign was lying on the ground and not posted. When it was time for the April hearing, I put the sign back in the yard in an upright position.

Setzer asked if a law firm was in that location previously and if there was a sign in the yard and Sigmon stated yes and it is shown in the guideline book in the signage section. Sigmon stated the lamp and sign were there previously.

Edwards asked if the original application was for an after the fact approval and Sigmon stated it was not, it was a request to place a sign. Edwards asked if there was communication with the applicant that it had become after the fact and Sigmon stated no. Sigmon stated she placed it as after the fact in the staff analysis because when I took pictures on April 18th, the applicant's requested sign was installed and I did not know it was being installed.

Edwards asked if there was communication with the applicant at the initial meeting that the material and size did not meet guidelines and Sigmon stated the size is up to the board. There is not a lot of information specifying size in the guidelines, but I did say normally a sign would look like the one in the guidelines and the previous sign on the parcel and McCrary said he removed it and wanted this sign instead.

Edwards asked if there was communication about the material and Sigmon stated I mentioned to him that wood, stone, or metal are allowed as stated in the guidelines.

Arnold stated the application specifies this is a wood material, but on Google, it is a chemically made plastic material made to look like wood. Edwards stated he called the company which fabricated this sign and asked for someone to describe this product and they said there is no wood in this product. Sigmon stated she advised the applicant there are specific rules about the type of material used in the historic district and he dropped off a sample for the March meeting.

Vice-Chairman Wanman declared the public hearing open.

Dustin McCrary stated he owns 117 Kelly Street and his intentions are to move his office there. He has had an office in the Statesville square since June 1, 2012 and has outgrown that space. He has owned 117 North Kelly Street since 2019 and has spent the past year renovating. He originally applied in February for the March meeting but was out of town and was delayed until the April meeting. On April 13<sup>th</sup> he was driving to Tennessee and received an email from Artisan Graphics that install was en route to install the interior sign. He did not know they were hanging the outside sign until his sister sent a photograph of the sign installed. He sent an email to them on April 14th to ask how to take the sign down since he had not attended the meeting for approval.

He had not received a response by April 20<sup>th</sup> so he emailed them again and is still waiting for a reason why they hung the sign.

Artisan Graphics told him they have used the sign in other historic areas because it is high density urethane that appears to be wood. It is six feet long by 18 to 20 inches high for a total of nine square feet and the size allowed is six square feet. The issue is the length and with my logo and my name, it has to be a little bit longer. McCrary believes it looks appropriate, is symmetrical, and looks good. He chose a hanging sign instead of a sign on a post because Kelly Street is a one-way street and parking is full in front of his office before 8:00 am due to Lifespan and the church. The only way to see a sign is if it hangs and a sign on a post cannot be seen over the cars parked on the street. The previous law firms had a sign on a lamp post. This is the only commercial property on the street and it looks more appropriate to hang a sign than to be the only house on the block that has a lamp post with a monument sign.

When planning the sign, he explored a monument sign, but his name is long and there is no grass. There is about five or six feet of grass between the end step and the beginning of the sidewalk so it would not look appropriate in such a limited space. His approach was to be as discreet as possible with a sign that can be seen over the cars and maintain an appropriate, aesthetic look.

This composite material has been used in other historic areas and it looks like wood without rot or decay. His intention was to bring the sign, but it has been installed. He wanted to show it looks good and is nicer than the previous sign.

Edwards stated the sign in the standards has two names under each other and it fits on the sign and if you put McCrary under Dustin, it would probably fit too. Edwards asked at what point did you discuss with the sign company that this is a historic district and you need to get approval and McCrary stated from the very beginning and they hung the sign anyway. At first, he thought Sigmon could approve it then Amy Lawton called and Mr. Hudson called and they thought she was going to be able to approve the sign. Sigmon called or emailed the day after and said she could not approve it and he would have to come before HPC. I hoped to take the sign to the meeting because it is easier to ask permission than to ask forgiveness, but I cannot undo the chain links.

Setzer asked where Lifespan's sign is located and Campbell stated it is on the front of the building, but it faces Broad Street. McCrary stated the Keller Williams, Pasta Amore, the cigar shop and the Watering Hole all have large signs and his sign is half their size. Setzer stated those properties are in the Downtown District where HPC does not have jurisdiction.

Wanman stated the hanging sign is attractive but is hard to see with cars parked along the street and a monument sign would be the same way. A sign on the house or a hanging sign is a better option and she does not have an issue with the placement or size of the sign but has an issue with the material.

Edwards stated there are several structures on Broad Street from the previous BB&T bank coming into town that have signs on posts and he can read every sign across the street. There is an attorney's office that has a sign on the structure by the front door with the same sign on a post out front. Edwards asked if there are height allowances for a post in the front yard and Sigmon stated there are not exact measurements listed in the Historic Preservation Standards, but in the Unified Development Ordinance (UDO) it cannot be any taller than six feet with the pole.

Setzer stated he did not realize parking is allowed in front of Lifespan and McCrary stated every parking spot on Kelly Street is taken by 8:00 am. Statesville granted Lifespan the right to use Kelly Street for their parking up to his property and everything beyond his property is public parking. He has asked Lifespan to move the van which is parked in Lifespan's parking lot next to the road and the answer was no. McCrary stated the van will block a monument sign.

Edwards asked Sigmon if any of the emails shared with her were about the sign fabricator showing up and installing the sign without the applicant knowing and Sigmon stated no. McCrary stated they sent him an email April 13th at 10:21 that said, "install is enroute today to install interior sign". He emailed them April 14th at 2:35 PM and said, "the interior sign looks awesome, but how do you take down the exterior sign". Edwards asked how the sign was already fabricated if he did not have approval and McCrary stated he wanted to bring it to this meeting and if the answer was no, it was going to be trash and it was worth the risk. McCrary stated the sign looks like wood and Setzer and Campbell agreed it does look like wood. Edwards stated as a quasi-judicial board we are to base our vote on our standards not our opinion.

McCrary stated his sign is not the only hanging sign in downtown Statesville. The Arts Council hung a circular sign off one of the most historic structures in downtown Statesville, the old jail. Edwards, Setzer and Wanman stated downtown business are not in their jurisdiction. McCrary stated there are signs that are suspended and not monument signs. McCrary stated on Broad Street the monument signs in front of large corporations and banks are huge.

Arnold stated the issue is not with the size of the sign, but the material it is made of. We would be more comfortable approving a sign out of the materials that the standards recommend. The application states the sign is wood, but it is a chemically made material. The previous sign is more visible from a car rather than the sign on the porch because it is hidden by the pillars.

Edwards stated the Dudley Law Firm on Broad Street has double signs. The sign to the right of the front door is about 16 inches high by approximately three feet wide and there is a sign on the post and the two signs do an adequate job announcing what type of attorney they are and are in pedestrian scale. Parking is not allowed on that block, but that is the only difference.

McCrary stated there is a whole block of commercial business on that side of the street and to differentiate, he was trying to look like the other houses on the side of the street that do not have a lamp post and a monument sign in front of them.

Campbell asked why urethane material was used instead of wood. McCrary stated Investor Jackson in Davidson used this material and it was described as a wood composite, the closest thing to wood, and it looks like wood.

MacPhail asked if this material is approved will it set a precedence and Wanman stated yes. Wanman continued, we have been discussing changing materials on homes, but a sign is not part of a home and can be removed and not affect the historic fabric of the building. Wanman stated the guidelines are clear for wood, stone, or metal, but if we approve against the guidelines, it will set a precedent and we would be obligated to consider the material change for signs. Edwards stated according to quasi-judicial guidelines, one vote never sets precedence for any future votes. Wanman stated she agrees if we do not step over that line, but it opens the door if we approve against the guidelines.

McCrary stated this material is supposed to last longer than wood, is weather resistant, is lighter, and easier to make. Wood is more expensive and this sign is machine carved. Edwards stated

you could have used stone or metal and McCrary stated there is five feet of yard space for a monument sign and it would not look appropriate on a residential street. Wanman agreed a monument sign would not be appropriate. Arnold stated the previous type of sign could have been used and McCrary stated with his branding and the length of his name it will not look right.

Wanman stated hardy plank siding is allowed on new construction with the provision it is smooth and not fake wood grain. It mimics the look of wood and is on the permanent structure. A sign is temporary and the look and texture of this product is similar to hardy plank. It is temporary and is not requested to be put on the building, but to be installed in front of or attached to the building. Sigmon stated the difference is the guidelines state fiber cement siding is allowed on new construction and the sign guidelines do not state a substitute material is allowed.

Edwards stated the size of the hanging sign blocks architectural details on the window and if it was on a post in the front yard all details on the structure could be seen. Edwards continued this is a residential area zoned commercial and this was a home at one time and should not look like a sign in the commercial area downtown. McCrary stated the house next door has vinyl siding. Edwards stated standards four and five state construct new signage out of traditional materials such as wood, stone or metal and it is not appropriate to introduce new signage in contemporary materials such as plastics and this is a type of a resin plastic.

Wanman stated she has no issue with the material, but the regulations state something different. Campbell asked if an approval can be based on a future change to guidelines and Sigmon stated no, because all changes go through this committee then the planning board and then city council.

Edwards asked if the property next door is also zoned commercial and McCrary stated it is not and his is the only commercial property on the street.

Erica Gottholm stated it was their understanding their house is zoned the same as McCrary's building. Martin is using it for a law office, it got hit by lightning last year, and there is a sink hole in front of the house. Edwards asked if the structure has any signage on it and Gottholm stated no. Setzer asked if there is a shared driveway between the two houses and Gottholm stated yes.

Gottholm stated they sent an email to Sigmon stating they do not have problems with the sign. Martin tried to get Lifespan to move the white van so that you could see his sign and they would not move it. You could not see the law sign coming down the street because of the white van. Martin is a different type of attorney, is older, retired from the army, and takes the cases he wants. Setzer asked if signage will be put up for your husband's office? Gottholm stated she hopes the house becomes a residence.

Edwards asked if we approve this request, can a condition be put in place that any replacement sign must start this process again for size, material, etc. and Wanman stated it could be put in as a condition especially with the risk of wind damage to a hanging sign.

Sigmon stated the commissioners needed to think about the specific wording in the findings of fact if answering yes or state specific conditions of the property in the motion to approve if the commission interprets the material as not listed in the standards.

There was discussion regarding staff approval of routine repair and replacement of existing signs if they are like for like. New signs or replacement signs with a different design, material or dimensions must come before the commission.

Vice-Chairman Wanman declared the public hearing closed.

### **Findings of Fact**

Wanman stated that the Commission must either answer all five Findings of Fact in the affirmative or determine that such finding does not apply to the specific project under consideration. The Findings of Fact results are as follows for each item:

1. The historic character of the property will be retained and preserved.

**Yes**

Anna Campbell – Yes	Barry Edwards - No	Total
Glenn Setzer – Yes	Jessica Arnold – Yes	Yes - 3
John MacPhail – No		No - 2

2. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of distinctive features, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features has been substantiated by documentary, physical, or pictorial evidence.

**N/A – Unanimous**

3. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest method possible.

**N/A – Unanimous**

4. Archeological resources will be protected and preserved in place. If such resources must be disturbed, the applicant has shown that mitigation measures will be undertaken.

**N/A – Unanimous**

5. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize the property. The new work will be differentiated of the old and will be compatible with the massing, size, scale, and architectural features to protect the integrity of the property and its environment.

**No**

Anna Campbell – Yes	Barry Edwards - No	Total
Glenn Setzer – Yes	Jessica Arnold – No	Yes - 2
John MacPhail – No		No - 3

**Wanman stated a vote for COA23-05 is not needed because the findings of fact with the board members answers do not support enough affirmatives to move forward with a vote.**

McCrary stated he is not adding anything construction wise to the building in Finding of Fact 5 and Wanman stated it is an exterior alteration. Edwards stated if the sign was in the front yard, it might be different, but it is this mounted to the structure and an exterior alteration. Setzer stated it is not really mounted, it is not permanent, and is removable. Wanman stated we agree that you need a sign. But this particular sign material is an issue because the guidelines clearly specify wood, stone, or metal.

Edwards stated an analogy of if a vinyl shutter is put on a house, it does not meet our standards. It is not permanent. Are vinyl shutters allowed on a structure? It is bolted in and it may not be permanent. It could be changed to wood in the future, but vinyl does not meet the standards.

Setzer asked how this material is different from hardie plank, other than it is a cement-based material and Wanman stated it may be a very good material to allow, but the guidelines do not say wood, stone, metal or something simulating these, it just says wood, stone and metal.

Edwards stated this street, regardless of zoning of each property, has a residential feel to it. This sign takes on a commercial feel on a residential street. You cannot take into account any of the businesses on the corners because they are in a different jurisdiction. Kelly Street and Mulberry Street have a residential feel to them, which is quaintness, and the smaller signs are in scale and pedestrian scale to the neighborhoods. We are starting to lose the historic feel of this one.

McCrary asked if he could come back and petition this committee for a monument sign that is five feet wide and Sigmon stated as long as it does not protrude into the right of way of the street. McCrary asked if he has a five foot wide monument sign on my street, would it meet standards if it was stone or wood and Wanman stated it would not be more visible and there would still be issues with cars parked along the street. McCrary asked Edwards how a five foot wide brick monument sign does not line up with the other residences on Kelly Street, Mulberry Street and Oakhurst Street. Edwards asked how the UDO would dictate a sign on that street in a historic district and Sigmon stated there are height and width restrictions, but it is based on the square footage of the parcel that faces the street for a monument sign. Edwards asked if it is from the structure to the street, to the right of way, to the sidewalk, or the entire lot size and Sigmon stated in Central Business (CB) zoning, it is from the front corner to the other front corner of the parcel. Wanman stated if the applicant came back with an application for a monument sign or other type of sign and it met the UDO sign regulations and met all the HPC guidelines, we would be obligated to approve it. Edwards asked for the maximum height for a monument sign and Sigmon stated she does not have the UDO with her but usually it is six feet. Sigmon pointed to the map on the screen and stated it is calculated from this point to this point of the parcel to get the length and that is how you get the square footage allowed for a monument sign. Edwards asked if she has any idea what that would be and Sigmon stated she does not, it is probably 25 square feet, but she could be wrong. Edwards asked if that includes just the sign and the apparatus it would hang from and Sigmon stated the UDO does include all the apparatus, but in certain districts like this district, it includes the signage part only.

Wanman stated the commission may change the regulations for sign materials, but it is not going to happen in the next months, but in the meantime, you need a sign. So until then what about using wood? Keep your sign and come back with a request when the changes to the guidelines are made.

McCrary asked the commission to reconsider for an exception that his is the only business on Kelly Street, the sign looks like wood, and there is no parking in downtown since the fire. Wanman stated I do not think anybody here argues with this, which may be a very good product, but right now it is not in the guidelines as an approved product. The guidelines have to be changed and that is going to take time because we are not going to make all the changes at one time.

Wanman stated the majority of the commission has determined the request does not meet the findings of fact, therefore we cannot approve the COA.

**Edwards made a motion to return Erika Gottholm, seconded by Setzer. The motion carried unanimously.**

**Consideration for a Certificate of Appropriateness (COA23-07) from Phil Fowler to install**

**a privacy fence in the side yard on the property located at 325 Armfield Street; Tax Map 4734-93-6249.**

Marci Sigmon gave the following Staff Report:

The house located at 325 Armfield Street was constructed ca. 1920 and is a one-story bungalow structure. The house has broad, low gables, overhanging eaves with extended, decorative plates, trim on the gable peaks, and bungalow style windows. An offset front porch extends eastward to form a porte-cochere. The 1999 architectural survey states the upper porch posts have been replaced with ironwork.

Past Certificate of Appropriateness approvals include during 2013 replacing the side door and sidelights, reroofing the structure with asphalt shingles, removing and reinstalling the sidewalk, and removing siding to reveal the original siding material.

The owner, Mr. Philip Fowler, is requesting to remove the chain link fence in the west side yard and install a six-foot-tall wooden privacy fence and install six-foot-tall fencing and a gate at east rear yard connecting with the corner of the house. The privacy fence in the west side yard would measure thirteen feet six inches and connect to the house to provide security and privacy for the property. The fence design would be dog-eared. The east rear yard fencing and gate request would include adding twenty feet six inches of wooden fencing including the proposed six-foot-wide gate. The gate would encompass two doors, each measuring three feet wide and be six feet tall extending to seven feet tall at the center of the gateway to create an arc-shaped design leading into the rear yard. Please see the drawing of the proposed gate in the application packet.

In addition, the owner plans to remove all the chain link fencing in the rear yard and replace it with six-foot-tall wooden privacy fencing. The rear yard portion of the request can be approved by staff.

The commission must consider the following pages in the Design Guidelines when rendering their decision: Chapter 2 District Settings & Site Features, Pages 20-21: I. Fences and Walls

Setzer asked if the wood fence would replace the same footprint of the chain link fence and Sigmon stated yes. Arnold asked if they are approving only the corner and Sigmon stated the commission is also approving the west elevation at the back and the gate.

Edwards asked if the fence will be a privacy or staggered fence and Sigmon stated it will be a total privacy fence. Edwards asked if there is only one gate and Sigmon stated yes, it has a double door gate with one opening.

Vice-Chairman Wanman declared the public hearing open.

Edwards asked if the support structure will face the inside of the property and Phil Fowler stated yes. Fowler showed a sample of the hinges to the commission and Edwards asked if there are three hinges on each side of the door and Fowler stated there will be two on each side with a total of four. MacPhail asked if the fence would be stained or unfinished and Fowler stated it will be painted.

Vice-Chairman Wanman declared the public hearing closed.

**Findings of Fact**

Wanman stated that the Commission must either answer all five Findings of Fact in the affirmative or determine that such finding does not apply to the specific project under consideration. The Findings of Fact results are as follows for each item:

1. The historic character of the property will be retained and preserved.  
**Yes – Unanimous**
2. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of distinctive features, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features has been substantiated by documentary, physical, or pictorial evidence.  
**N/A – Unanimous**
3. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest method possible.  
**N/A – Unanimous**
4. Archeological resources will be protected and preserved in place. If such resources must be disturbed, the applicant has shown that mitigation measures will be undertaken.  
**N/A – Unanimous**
5. New additions, exterior alterations, or related new construction will not destroy historic materials that characterize the property. The new work will be differentiated of the old and will be compatible with the massing, size, scale, and architectural features to protect the integrity of the property and its environment.  
**Yes – Unanimous**

**Edwards made a motion to approve Certificate of Appropriateness (COA23-07) from Phil Fowler to install a privacy fence in the side yard on the property located at 325 Armfield Street as submitted citing Fences and Walls guidelines 3 and 5, seconded by Campbell. The motion carried unanimously.**

Edwards asked Fowler about the in-process new construction in the rear yard and Fowler stated it is a shed. Edwards stated to please contact staff in order to receive a COA for the new construction.

### **Other Business**

The commission discussed the recent fire downtown.

The commission discussed the status of houses with violations for sale, a new owner on Walnut Street and a house damaged by fire.

Sigmon stated she has completed a grant application for the Garfield/Green Street area for an architectural survey and potentially a nomination for the national registry. If the grant is not approved, it will be up to the City Council to move forward and hopefully there will be notification of grant awards by June or July 2023. The grant received by the Iredell County Library will expire June 30, 2023.

The next HPC meeting will be May 18, 2023.

There being no other business, Vice-Chairman Wanman asked for a motion to adjourn.

**Setzer made a motion to adjourn, seconded by MacPhail. The motion carried unanimously.**

**STATESVILLE BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
May 2, 2023**

The Statesville Board of Adjustment met Tuesday, May 2, 2023 at 12:30 p.m. in the City Hall Council Chambers located at 227 South Center Street, Statesville, NC.

**Board Members Present:** Gurney Wike, Bill Winters, George Simon, Jed Pidcock, Leslie Griffin

**Board Members Absent:** David Steele, Roy West

**Council Present:** N/A

**Staff Present:** Sherry Ashley, Xavier Bauguess

**Others:** Leah Messick – City Attorney, Ronald Wyatt, Andrew Foard, Chris Harris

**Media:** 0

Simon called the meeting to order.

**Approval of minutes**

**The February 7, 2022 Board of Adjustment meeting minutes were approved as presented by acclamation.**

Chairman Simon explained the quasi-judicial meeting process and stated a 4/5 majority is required for variance approval. Simon swore in all those present who planned to speak during the hearing. Two people were sworn in.

Simon declared the public hearing open.

**V23-02 A request filed by Ronald Wyatt for three variances from the minimum lot size and minimum lot width established for the R-20 zoning district, which is 20,000 square feet and 100 feet, established in Section 3.04. B., Table 3-3 of the Statesville Unified Development Code. The petitioner's request is to reduce the minimum lot size to 12,188 square feet and minimum lot width to 71.75 feet for Lot 1 and reduce the minimum lot size to 18,001 for Lot 2, in order to subdivide the current lot, which has two single-family homes into two separate lots, each containing one single-family dwelling.**

Sherry Ashley gave the following Staff Report:

**Background Information**

- The subject property is located at 2908 & 2912 Newton Drive;
- The property is owned by Ronald Wyatt;
- The subject property is approximately .69 acres in size;
- The subject property is located within the R-20 (Suburban Residential) District;

- The variance application was submitted by Ronald Wyatt on March 23, 2023.

### **Variance Request**

The petitioner, Ronald Wyatt is requesting to subdivide this parcel into two parcels. In order to do so, the petitioner needs three variances from the minimum lot size and lot width established for the R-20 zoning district, which is 20,000 square feet and 100 feet, established in Section 3.04. B., Table 3-3 of the Statesville Unified Development Code. The three requested variances are as follows: 1) To reduce the minimum lot size for Lot 1 by 7,812, for a lot size of 12,188 square feet 2) To reduce the minimum lot width for Lot 1 by 28.25 feet for a lot width of 71.75 feet 3) To reduce the minimum lot size for Lot 2 by 1,989 square feet for a lot size of 18,011 square feet.

### **Review**

There are currently two single-family homes on the parcel addressed 2908 and 2912 Newton Drive. This property is located outside of the city limits but is located within the City of Statesville extraterritorial jurisdiction (ETJ). The single-family dwelling addressed 2908 Newton Drive was built in 1939 and the single-family dwelling addressed 2912 Newton Drive was built in 1940, before the City's zoning districts were established. The petitioner, Ronald Wyatt, purchased the property on January 31, 2021, long after the single-family dwellings were built on the property.

The petitioner, Ronald Wyatt, seeks to subdivide the subject parcel, located at 2908 and 2912 Newton Drive, Parcel 4724-53-2313. The established minimum lot size and minimum lot width in the R-20 zoning district, according to the Statesville Unified Development Code, is 20,000 square feet and 100 feet.

Section 6.02. A. 8 states that "there shall not be more than one (1) principal residential building and its accessory building per lot, except as otherwise permitted in this code." The parcel is considered a non-conforming occupied lot because it currently has more than one principal residential building on the lot. The petitioner has stated that granting this variance will remedy the non-conformity of two-single family dwellings on one lot while the minimum lot size and minimum lot width will become legal non-conformities. The petitioner has also stated that this tradeoff will be advantageous for the City of Statesville as it will allow for separate home ownership for each lot allowing for an additional affordable housing unit in Statesville.

The subject property is unique, due to the fact that the two single-family dwellings on this property were built before the City of Statesville extraterritorial jurisdiction was established. The current lot meets the minimum lot size and minimum lot width for one single-family dwelling; however, it has two single-family dwellings on it and does not meet the minimum lot dimensions to subdivide the parcel to create two parcels that meet the minimum lot dimensions. This property is the only parcel in the neighborhood with more than one single-family dwelling and granting the variance will remedy that non-conformity.

The average lot size of lots in the neighborhood is approximately 16,374 square feet, which is below the minimum lot size of the R-20 district. The petitioner has represented that it is not possible to meet the minimum lot size and minimum lot width to create two separate lots however granting the variance request will allow the subdivision of this property, allowing for two parcels containing one principal residential building each, which would achieve the spirit, and intent of the Unified Development Code.

The petitioner is requesting these variances to allow the subdivision of the parcel into two separate parcels with one single-family dwelling on each parcel. The newly created Lot 1 is proposed to be 12,188 square feet, a variance of 7,812 square feet, and will have a lot width of 71.75 feet at the front setback line, a variance of 28.25 feet, while the newly created Lot 2 is proposed to be 18,011 square feet, a variance of 1,989 square feet.

### **Staff Recommendation**

Based on the presented evidence and due to the fact that the lot is already non-conforming, the houses were built before zoning was established, and the average size of the lots in the neighborhood are below 20,000 square feet, staff recommends granting the variance request to reduce the minimum lot size by 7,812 square feet and the minimum lot width by 28.25 feet for Lot 1 and to reduce the minimum lot size by 1,989 for Lot 2, to create two new lots. The newly created Lot 1 is proposed to be 12,188 square feet and will have a lot width of 71.75 feet at the front setback line, while the newly created Lot 2 is proposed to be 18,011 square feet.

Without the variance the petitioner would not be able to subdivide the parcel into two separate parcels and both houses would remain on one lot. The petitioner could also attempt to rezone the property to R-10 (Urban Low Density Residential) District, which has a minimum lot size of 10,000 square feet however a variance would still be needed to subdivide the parcel as proposed because the minimum lot width in the R-10 district is 75. Additionally, there is no guarantee that the rezoning request would receive a favorable recommendation from the Planning Board or approval from City Council.

Ashley presented the findings of fact that the board must determine all four are true to grant the variance and to find substantial evidence to meet each. Ashley gave the staff analysis against the findings of fact based on the evidence submitted by the applicant:

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

Ashley stated the subject property is zoned R-20, which establishes a minimum lot size of 20,000 square feet and a minimum lot width of 100' at the front setback line. Without the variance, the applicant would not be able to subdivide the parcel into two separate parcels and both houses would remain on one lot.

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

Ashley stated the subject property is located outside of the city limits but is located within the City of Statesville Extraterritorial Jurisdiction (ETJ) and is zoned R-20. There are currently two single-family homes on the parcel, built before City zoning was established, addressed 2908 and 2912 Newton Drive. The single-family dwelling addressed 2908 Newton Drive was built in 1939 and the single-family dwelling addressed 2912 Newton Drive was built in 1940. Section 6.02. A. 8 states that "there shall not be more than one (1) principal residential building and its accessory building per lot, except as otherwise permitted in this code." The current arrangement is considered to be non-conforming.

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

Ashley stated the petitioner, Ronald Wyatt, purchased the property on January 31, 2021, long after the single-family dwellings were built on the property.

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

Ashley stated the petitioner has represented that granting the variance request will allow the subdivision of this property, allowing for two parcels containing one principal residential building each, which would achieve the spirit, and intent of the Unified Development Code.

The petitioner appears to be requesting reasonable variances required to subdivide the parcel into two parcels with one home on each parcel, while maintaining the spirit of the zoning district.

The requested variance, and subdivision of the parcel into two parcels with one home on each parcel, does not appear to conflict with the UDC Purpose in Section 1.02

Ashley stated based on the evidence provided, all four findings of fact appear to be met. The subject property is unique due to the fact that the parcel is already non-conforming, the houses were built before zoning was established and the average size of the lots in the neighborhood are below 20,000 square feet.

Winters asks if the homes are currently used as rental properties and Wyatt states that they are.

Winters asks if the Board grants this variance request and the homes were torn down, would new homes be permitted on these lots and Ashley stated new homes would be permitted if the new homes met the setback requirements for the district.

Simon asks if anyone wishes to speak in favor of granting the variance.

Ronald Wyatt, property owner, addressed the board. Wyatt stated that this is a current a non-conforming use however he is requesting these variances to bring the property into conformance. Wyatt stated that he has invested more than \$75,000 into the homes to bring them up to modern standards and codes and the intent is to sell the homes for single-family home ownership.

Simon asks if the Board had any questions for Wyatt and there were none.

Simon asks if anyone else would like to speak in favor of granting the variance and there were none.

Simon asks if anyone would like to speak against granting the variance and there were none.

Ashley stated that the Board cannot base their decision on whether the property is owner occupied or renter occupied.

Simon declared the public hearing closed.

Chairman Simon reviewed the following variance checklist questions to apply to the three variance requests.

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

	True	False		True	False	TOTAL	
Pidcock	X		Winters	X		True	5
Wike	X		Simon	X		False	0
Griffin	X						

Explanation:

Pidcock – It is already a non-conformity due to there being two single-family homes on the parcel.

Wike - It is already a non-conformity due to there being two single-family homes on the parcel.

Griffin - It is already a non-conformity due to there being two single-family homes on the parcel.

Winter - It is already a non-conformity due to there being two single-family homes on the parcel.

Simon- It is already a non-conformity due to there being two single-family homes on the parcel.

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

	True	False		True	False	TOTAL	
Pidcock	X		Winters	X		True	5
Wike	X		Simon	X		False	0
Griffin	X						

Explanation:

Pidcock – The homes were built prior to the current code standards.

Wike – The average lot size in the neighborhood is below 20,000 square feet.

Griffin - The average lot size in the neighborhood is below 20,000 square feet.

Winters – The average lot size in the neighborhood is below 20,000 square feet.

Simon – The average lot size in the neighborhood is below 20,000 square feet.

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

	True	False		True	False	TOTAL	
Pidcock	X		Winters	X		True	5
Wike	X		Simon	X		False	0
Griffin	X						

Explanation:

Pidcock – The homes were built prior to the current property owner buying the property.

Winters – The homes were built prior to the current property owner buying the property.

Griffin - The homes were built prior to the current property owner buying the property.

Winters – The homes were built prior to the current property owner buying the property.

Simon – The homes were built prior to the current property owner buying the property.

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

	True	False		True	False	TOTAL	
Pidcock	X		Winters	X		True	5
Wike	X		Simon	X		False	0
Griffin	X						

Explanation:

Pidcock – It is consistent with the of the surrounding area.

Wike – It is consistent with the of the surrounding area.

Griffin - It is consistent with the of the surrounding area.

Winters – It is consistent with the of the surrounding area.

Simon – It is consistent with the of the surrounding area.

**Pidcock made a motion based on the findings of fact to grant the three variances as submitted, seconded by Wike. The motion carried unanimously.**

**V23-03 A request filed by Foard Construction Company on behalf of Excel Truck Group for a variance from the predominant exterior building materials, established in Section 6.08. M.1. of the Statesville Unified Development Code. The petitioner's request is to build a 50' x 50' storage building with metal panels with exposed fasteners on 100% of all four building façades.**

Simon swore in all those present who planned to speak during the hearing. Three people were sworn in.

Sherry Ashley gave the following Staff Report:

#### **Background Information**

- The subject property is located at 2221 International Drive;
- The property is owned by RE/SG Investments, LLC;
- The subject property is approximately 6.789 acres in size;
- The subject property is located within the B-5 (General Business) District;
- The variance application was submitted by Foard Construction on March 30, 2023.

#### **Variance Request**

The petitioner, Foard Construction, on behalf of Excel Truck Group is requesting a variance from the predominant exterior building materials, established in Section 6.08. M.1. of the Statesville Unified Development Code. The petitioner's request is to build a 50' x 50' storage building with metal panels with exposed fasteners on 100% of all four building façades.

#### **Review**

The petitioner, Foard Construction on behalf of Excel Truck Group, seeks to build a 50' x 50' storage building with metal panels with exposed fasteners on 100% of all four building facades on the subject parcel, located at 2221 International Drive.

Section 6.08. establishes the Design Standards for Non-Residential Developments. Section 6.08. M. 1 states "Predominant exterior building materials shall be high quality materials including brick, wood, sandstone, other native stone, aluminum composite materials and tinted/textured concrete masonry units. Tinted textural concrete masonry can be used as accent block. Metal with no exposed fasteners may be used up to 50% on facades visible from public streets, public parking

areas and/or drive-thru areas. Metal with exposed fasteners may be used up to 30% on facades visible from public streets, public parking areas and/or drive-thru areas as accent materials. Metal siding with exposed or non-exposed fasteners may be used up to 100% for service facades not visible from public streets, public parking and/or drive-thru areas.

The applicant has proposed a 50' x 50' storage building with metal panels and exposed fasteners on 100% of all four building facades. The property has frontage along International Drive and Interstate 40; therefore, all four building facades will be visible from public streets. Since the building facades are visible from public streets, metal with exposed fasteners may be used up to 30% of the building facades while the other 70% of the façade must meet the materials listed in 6.08 M. 1.

Excel Truck Group is a Freightliner/Western Star heavy duty truck dealership. The petitioner states that Freightliner/Western Star is the largest truck manufacturer in the United States and has seen tremendous growth in the Charlotte Region. Excel Truck Groups' location at the Interstate 40 and Interstate 77 interchange is key to their growth. The current building was built in the early 1960's and does not have the storage capacity to support the growth, therefore, it has become necessary to construct additional storage space.

The petitioner states the current building was built in the 1960's and they would like the new building to match the architecture of the existing building. The best location for the new building based on topography, is east of the existing building. Any other location, hidden from public view, would result in moving loads with a forklift up and down a hill, resulting in unnecessary travel time.

The petitioner states the intention for the new storage building is to improve the exterior appearance while providing a safer and more efficient workspace for employees. Excel Truck Group is currently storing items outside and using storage containers. They would like to improve the appearance by constructing a storage building that matches the exterior of the existing building. The new building would keep the parts safe from weather damage and theft and would be ergonomically friendly for employees as they would have access with a forklift.

The petitioner is requesting a variance to construct a 50' x 50' storage building with metal panels and exposed fasteners on 100% of all four building facades.

#### **Staff Recommendation**

All four facades of the building would be visible from public streets as the property has frontage along International Drive and Interstate 40. Excel Truck Group can build a new storage building that consists of 30% metal with exposed fasteners or 50% metal with no exposed fasteners. City Council originally adopted this ordinance on August 2, 2010 and amended it on January 10, 2022 to specifically address metal siding. If granted, this variance request would not satisfy the intent of the ordinance. Therefore, based on the evidence presented, staff recommends denial.

Ashley presented the findings of fact that the board must determine all four are true to grant the variance and to find substantial evidence to meet each. Ashley gave the staff analysis against the findings of fact based on the evidence submitted by the applicant:

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

Ashley stated the petitioner is requesting the variance in order to construct a 50' x 50' storage building with metal panels with exposed fasteners on 100% of all four building façades. The petitioner has stated this request is to match the architecture of the existing building.

UDC Section 6.08. M. 1 states metal with no exposed fasteners may be used up to 50% on facades visible from public streets, public parking areas and/or drive-thru areas. Metal with exposed fasteners may be used up to 30% on facades visible from public streets, public parking areas and/or drive-thru areas as accent materials.

Ashley stated that the Unified Development Code allows three different options for building materials in the B-5 District. Therefore, the staff conclusion is that this finding of fact is not met.

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

Ashley stated the petitioner has represented the best location for the new building based on topography, is east of the existing building. Any other location, hidden from public view, would result in moving loads with a forklift up and down a hill, resulting in unnecessary travel time.

Ashley stated the subject property has frontage along International Drive and Interstate 40 which means all four facades of the proposed building would be visible from public streets.

Ashley stated that the applicant is placing the building in a spot that would allow visibility on all four facades of the building, and the intent of the ordinance is to have facades visible to the public to meet the architectural ordinance. Therefore, the staff conclusion is that this finding of fact is not met.

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

Ashley stated the petitioner has represented that the current building was built in the 1960's and they would like the new building to match the architecture of the existing building.

Ashley stated the hardship would result from actions taken by the applicant since the variance is requested to build a new building that does not meet the code. Therefore, the staff conclusion is that this finding of fact is not met.

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

Ashley stated the petitioner has represented that the intention for the new storage building is to improve the exterior appearance while providing a safer and more efficient workspace for employees. They are currently storing items outside and using storage containers. The new building would improve the appearance by constructing a storage building that matches the exterior of the existing building. The new building would keep the parts safe from weather damage and theft and would be ergonomically friendly for employees as they would have access with a forklift.

Ashley stated that the City Council amending UDC Section 6.08. M. 1 in January 2022, to specifically address metal siding. Therefore, the staff conclusion is that this finding of fact is not met.

Ashley stated based on the evidence provided, all four findings of fact are not met. All four facades of the building would be visible from public streets as the property has frontage along International Drive and Interstate 40. Excel Truck Group can build a new storage building that consists of 30% metal with exposed fasteners or 50% metal with no exposed fasteners. City Council originally adopted this ordinance on August 2, 2010 and amended it on January 10, 2022 to specifically address metal siding. If granted, this variance request would not satisfy the intent of the ordinance.

Ashley stated that the Board has seen a similar case submitted by Randy Marion however the current ordinance was not in place at that time, therefore this case is different.

Simon asks Winters what the issue was in the Randy Marion case and Winters states that the big discussion at that time was about the exposed fasteners and the Board decided to approve the variance request without exposed fasteners and to required multiple colors of metal.

Simon asks if this request was submitted just to save money and Ashley stated that the board would have to ask the applicant that question.

Pidcock asks if this issue is the visibility from public roads and Ashley stated that it is the current issue.

Simon asks if anyone wishes to speak in favor of granting the variance.

Chris Harris of Excel Truck Group addressed the board. Harris stated that they started leasing this facility six years ago and now own the facility. The biggest challenge they are facing is that they have outgrown the facility and they need to increase their storage space. Harris stated that their intention is for the new building to match the existing facility, however the ordinance would not allow them to do so. Three sides of the building would be visible from Interstate 40. However, you would have to be very close to the building to see the exposed fasteners therefore the exposed fasteners would not be visible from Interstate 40. International Drive is not a highly used road, and they are one of the only ones that use it.

Harris stated that their goal is to put in a facility that would allow them to store all of their parts in. Currently they have to store parts outside, in trailers and shipping containers, which can be a safety issue for their employees and creates a loss in efficiency. Harris stated that this cost always plays a factor in these types decision, however in the next three to five years they are looking to potential replace that facility with a new dealership and at that point they will be looking to build a facility that will be able to store all of their parts but at this time they are looking for a practical solution that will handle their growth today while meeting the need of their employee and customers.

Simon asks if the issue is the fasteners and Harris stated that the ordinance regulates the percentage of metal siding permitted based on the visibility from public street and whether the fasteners are exposed or non-exposed.

Simon asks what the difference in cost would be to meet the requirements of the code and Harris stated that it would double the cost of the project from \$40,000 to \$80,000.

Simon asks if turning the fasteners the other way would alleviate the issue with the fasteners and Harris stated that the head of the fasteners would be on the outside of the building like the fasteners on the existing building. The head of the fasteners can only be seen when you are close to the building and cannot be seen from Interstate 40 or International Drive.

Pidcock stated that if the fasteners were non-exposed they would be allowed to use metal siding up to 50% of the façade.

Winters stated that in the Randy Marion case the metal was called architectural metal and City Council has made their intention clear by adopting the new ordinance therefore any new structure would have to be built in conformance with the current code.

Simon asks if they have looked at other just doing one side of the building to work the percentages to comply with the code and Harris stated they have looked at changing the location of the proposed building to create less visibility however it would not be in the best interest of their employees in terms of efficiency.

Wike asks if they could do façade similar to the existing building that has windows that way the façade would comply with the code and match the existing building and Harris stated that the façade that has windows on the existing building is a same portion of the building and the majority of the building is all metal which is why they are requesting the variance.

Andrew Foard of Foard Construction addressed the board. Foard stated that they are currently using shipping containers as storage on this property that can be seen from Interstate 40 and this building would replace those shipping containers.

Simon declared the public hearing closed.

Chairman Simon reviewed the following variance checklist questions to apply to the variance requests.

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

	True	False		True	False	TOTAL	
Pidcock	X		Winters		X	True	1
Wike		X	Simon		X	False	4
Griffin		X					

Explanation:

Pidcock – Due to the additional cost for what the applicant represents is a temporary building.

Wike – The Unified Development Code offers reasonable options for building materials and the use of metal siding with exposed or non-exposed fasteners.

Griffin - The Unified Development Code offers reasonable options for building materials and the use of metal siding with exposed or non-exposed fasteners.

Winter - The Unified Development Code offers reasonable options for building materials and the use of metal siding with exposed or non-exposed fasteners.

Simon- The Unified Development Code offers reasonable options for building materials and the use of metal siding with exposed or non-exposed fasteners.

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

	True	False		True	False	TOTAL	
Pidcock		X	Winters		X	True	0
Wike		X	Simon		X	False	5
Griffin		X					

Explanation:

Pidcock – Due to the standards that have been established by the Unified Development Code.

Wike – Due to the standards that have been established by the Unified Development Code.

Griffin - Due to the standards that have been established by the Unified Development Code.

Winters – Due to the standards that have been established by the Unified Development Code.

Simon – Due to the standards that have been established by the Unified Development Code.

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

	True	False		True	False	TOTAL	
Pidcock		X	Winters		X	True	0
Wike		X	Simon		X	False	5
Griffin		X					

Explanation:

Pidcock – The applicant is proposing to use building materials that the code specifically addresses.

Winters – The applicant is proposing to use building materials that the code specifically addresses.

Griffin - The applicant is proposing to use building materials that the code specifically addresses.

Winters – The applicant is proposing to use building materials that the code specifically addresses.

Simon – The applicant is proposing to use building materials that the code specifically addresses.

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

	True	False		True	False	TOTAL	
Pidcock		X	Winters		X	True	0
Wike		X	Simon		X	False	5
Griffin		X					

Explanation:

Pidcock – It is not consistent with the of the purpose and intention of the ordinance.

Wike – It is not consistent with the of the purpose and intention of the ordinance.

Griffin - It is not consistent with the of the purpose and intention of the ordinance.

Winters – It is not consistent with the of the purpose and intention of the ordinance.

Simon – It is not consistent with the of the purpose and intention of the ordinance.

**Wike made a motion based on the findings of fact to adopt the conclusions of law proposed and the judgement to deny the variance request, seconded by Winters. The motion carried unanimously.**

Meeting adjourned at 1:08 p.m.

**DESIGN REVIEW COMMITTEE MEETING  
CITY HALL COUNCIL CHAMBERS  
MAY 11, 2023 @ 2:00 pm**

Members present: Scott Zanotti, Chuck Goode, Rebecca Jones

Absent: Bryan George, John Marshall, Brittany Marlow

Staff present: Marci Sigmon, Lori Deal

Chairman Goode called the meeting to order and asked for a motion to approve the DRC minutes from the April 26, 2023 called meeting.

**Jones made a motion to approve the April 26, 2023 DRC called meeting minutes, seconded by Goode. The motion carried unanimously.**

**Consider Design Review Application DRC 23-07 from applicants, TightLines Designs, Inc. and Woda Cooper Companies, Inc. to construct a new apartment complex at 119 Stockton Street; Tax ID respectively 4734-97-7245.**

Sigmon introduced the case stating the property located at 119 Stockton Street is vacant and encompasses approximately 2.5 acres. The land is zoned Central Business Perimeter and High Density Single-Family Residential. The zoning ordinance states when a parcel is split zoned the governing zoning will be the zoning which has the highest square footage. This property's majority zoning is Central Business Perimeter.

The owner, Woda Cooper Companies, Inc., is requesting to build an apartment community to include fifty units as well as multiple common spaces, an exercise room, and a computer room. The applicant has named the potential apartments Bluebird Commons. Bluebird Commons is a Housing Tax Credit funded project which will provide affordable housing for individuals and families age 55 and above in the Statesville area. The property owner owns and operates more than 350 properties across 16 states.

The building will be L-shaped constructed with wood frame and wood trusses. The front entry of the building will face east, and the longest part of the rear elevation will face west where a retaining wall will be built due to topology. The parking lot will be on the northeast portion of the parcel at the front elevation. The main entry into the complex will be at Stockton Street. The complex will be a three-story/four-story split building and will have a combination of brick and fiber cement exterior finishes, fiberglass one-over-one windows, and gabled roofing design with shingles. The Stockton Street elevation is 123 feet 8 inches in length, the elevation facing southwest towards North Center Street is 188 feet 4 inches long, the northwest elevation toward Clark Street is approximately 63 feet, and the northeast elevation is approximately 60 feet long. The height of the three-story/four-story split building is 28 feet 6 inches to the beginning of the roofline. The roof will add additional height to the structure.

Exterior Materials will include:

Fiber Cement Siding:

James Hardie Lap Siding – 3 colors (Cobblestone, Monterey Taupe, Boothbay Blue)

James Hardie Vertical Siding – 1 color (Cobblestone)

James Hardie Panel – Porch and balcony ceilings (Arctic White)

Fiber Cement Trim & Soffit:

James Hardie Trim – Arctic White

- 1x4 or 1x6 trim around doors and windows – see elevations for trim locations and sizes.
- 1x4 continuous trim between siding and brick
- 1x2 batten strips b/w fiber cement panels at porch and balcony ceiling
- 1x6 corner trim
- 2x8 fascia board

James Hardie Vented Soffit – Arctic White

Brick:

General Shale – Red Range Wirecut

Shingles:

Landmark – 30 Year Anti-fungal Architectural Roof Shingles (Weathered Wood)

Windows & Doors:

Anderson Windows – Fiberglass (White)

-Proposed grille pattern: 1 over 1

Tell Doors (Building Entry and Balcony Doors) – Full Glass Hollow Metal (Painted White)

Tell Doors (Sprinkler Room and Stairwell Exit Doors) – Flush Hollow Metal (Painted Gray)

Gutters & Downspouts:

5" Seamless Gutters (White)

3x4 Aluminum Downspouts (White)

Railings:

Metal Reinforced Vinyl Railings (White)

Denis Blackburne, Senior Vice-President of Woda Cooper Companies stated the development is financed by North Carolina Housing Finance under the tax credit program. It is referred to as affordable housing for the residents, but no shortcuts are taken in construction. This development is the top scoring application in western North Carolina and is in the top three in the state. It is age restricted to 55 and older with 37 one-bedroom units and 13 two-bedroom units.

Goode asked if the fencing at the retaining walls is required since there is not a walking surface within 36" of the retaining walls and David Maurer, Tightline Designs stated the fence at the rear is not required, but the fence along Stockton Street was added as a safety precaution. A fence is not required along the pond, but Woda Cooper typically installs a fence to keep the residents safe. Maurer stated fencing is added for safety reasons and it will not be a chain link fence, but will be an ornamental steel fence as discussed with Sigmon.

Goode asked for the dumpster area fence and gates and Maurer stated it will be a similar steel gate with slats for screening and the three sides will be Hardie siding to match the building.

Goode asked for the Hardie trim or brick pilasters to be used on the corners and Maurer stated the trim will match the building with 1 x 6 trim at the corners. Goode asked if the required vents will match the siding or brick and John Petty, Woda Cooper Companies stated the vents are color matched to the brick, Hardie Siding, or soffit. Maurer stated they are committed to match the vents to the background color.

Goode asked for the proposed HVAC and electric meter screening and Maurer stated the HVAC units will be on the ground on the west, east and north sides and none on Stockton Street. The landscaping plan will screen all the ground mounted condensing units to meet TRC requirements. The electrical meters will be mounted on the east wall adjacent to the stairwells with enough room between the sidewalk to add screening.

Goode asked for information on the vinyl steel reinforced railings and Maurer stated it is a vinyl railing with metal rods in the supports and top and the surface is a vinyl cover. Goode asked if it is only on the balcony and Maurer stated yes on the second level.

Zanotti asked if there would be a monument sign and Maurer stated yes to the right of the entry on Stockton Street. It will have a brick base with an inset panel and the top of the sign will be four feet off the ground and it will be submitted to Sigmon for staff approval.

Goode stated the double-crossed hatched area on the site plan is an easement for a 60" or larger pipe that determines the location of the building and that is why it is shifted to the west. Goode asked if the single hatched area on the site plan is active open space and Maurer stated yes. Petty stated the open space includes a picnic shelter.

**Jones made a motion to approve Design Review Application DRC 23-07 from applicants, TightLines Designs, Inc. and Woda Cooper Companies, Inc with the conditions the vents are color coordinated to the exterior color, use metal fencing but no chain link fencing, landscape screen the HVAC units, and use Hardie board siding on three sides of the dumpster enclosure with metal slats for the doors, seconded by Zanotti. The motion carried unanimously.**

**Consider Design Review Application, DRC 23-06 from Sir Speedy Printing to install a new monument sign on the property located at 301-307 North Center Street; Tax ID 4734-97-2059.**

Sigmon introduced the case stating The property located at 301-307 North Center Street is zoned Office and Institutional Complex. The property is owned by Chris Johnson Realty. The property includes 1.65 acres and currently contains Banner Drug, RE/MAX Properties, and the United Way of Iredell County office. The property lies within the Downtown Overlay District and falls under the purview of the Design Review Committee.

The owner is requesting to install a multi-tenant monument sign in the front yard of the property. The monument sign will measure nine feet long, six feet tall, and twenty inches thick. The sign face would measure thirty-two square feet and be divided equally among four tenant sign areas. The applicant's submitted rendering states the cabinet would be fabricated aluminum and the base would be constructed from faux stone. The monument sign would not contain internal lighting. If the requested monument sign is approved, the current RE/MAX monument sign will be removed at the time of installation for the new sign.

Sigmon stated if the monument sign is approved, per the UDO she can staff approve each of the four small signs.

Steven Purifoy, Sir Speedy Project Manager stated they want to add a multi-tenant monument sign to advertise all four businesses at the same location.

Zanotti asked if the sign base will match the brick on the building and Purifoy stated yes, they will match the brick and a mason will be contracted to construct. Goode clarified the base will be brick instead of faux stone and Purifoy stated yes.

**Zanotti made a motion to approve Design Review Application DRC 23-06 from Sir Speedy Printing to install a new monument sign on the property located at 301-307 North Center Street, seconded by Jones. The motion carried unanimously.**

**The meeting was adjourned.**

DRAFT