

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

For Consent Agenda

MEETING DATE: 1 November 2010
SUBJECT: Edneyville Park Agreement
ATTACHMENT(S): Draft agreement terms

SUMMARY OF REQUEST:

The County was approached by the Edneyville Community Center Association with a proposal to trade part of the County property used for the Community Center and recreational area for an equal piece of a property owned by Robin Coward, of the Habitat for Humanity Shuey Knolls project. The properties to be exchanged are of equal size of 0.086 acres. This exchange was proposed to increase adjacent property for recreational uses in Edneyville. The Edneyville Community Center Association and Habitat for Humanity have review the agreement and agreed to its terms.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Approval of the draft agreement.

If the Board is so inclined, the following motion is suggested:

I move that the Board approve the draft agreement with the Edneyville Community Center Association, Coward, and Habitat for Humanity, and direct the chairman and staff to execute the same.

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

AGREEMENT FOR EDNEYVILLE RECREATIONAL PROPERTY

THIS LETTER OF AGREEMENT is being entered into by and between Henderson County, North Carolina (hereinafter referred to as “Henderson County”), Robin P. Coward, 898 Ida Rogers Drive, Hendersonville, North Carolina 28792 (hereinafter “Coward”), the Edneyville Community Center Association, (hereinafter “Edneyville”) and Habitat for Humanity (hereinafter “Habitat”) and is effective upon execution by both parties.

WITNESSETH

WHEREAS Henderson County is a body politic and corporate having the legal capacity to contract pursuant to NCGS 153A-11, NCGS Article 160A Chapter 12, and NCGS 153A-449;

WHEREAS Henderson County is desirous of contracting to acquire more contiguous property for recreational purposes;

WHEREAS the Edneyville Community Center Association is desirous of increased property for recreational purposes adjacent to existing recreational property;

WHEREAS the property owner is willing to provide the County with property in exchange for property that shall make her property more contiguous; and

WHEREAS the property owner’s residence is part of the Shuey Knolls Habitat for Humanity community

NOW THEREFORE, for mutual promises and consideration as stated herein, the parties agree as follows:

1. **CONVEYANCE**. The following conveyances shall take place:
 - a. Henderson County shall convey .086 acres located at 15 Ida Rogers Drive to Robin P. Coward. This property adjoins Coward’s property on the northwest side and fronts Ida Rogers Drive. Hereinafter this property shall be known as “Henderson addition”.
 - b. Robin P. Coward will convey approximately .086 acres located at 898 Ida Rogers Drive to Henderson County. This tract consists of that area that lies NE of a drainage swale on the NE portion of the Robin P. Coward property. Hereinafter this property shall be known as “Coward addition”.
 - c. A site plan of the property to be exchanged is included by reference to this Agreement and is labeled “Exhibit A”.
 - d. Prior to recording the property additions, a final survey of the exchanged areas shall be completed to ensure the additions are equal in size.
 - e. Prior to the signage of this Agreement, an adequate appraisal has been done and been presented to all parties.
2. **MAINTENANCE**. Edneyville shall, on behalf of Henderson County, construct a fence consisting of a 4 ft tall chain link or similar along the new property line. The fence shall be approximately 300 ft in length.
3. **EXPENSES**. All costs related to this conveyance shall be paid by Edneyville including the

survey of the property, fence construction, and recording costs. No other parties shall incur any costs due to this transaction.

4. **RELEASE FROM EXISTING COVENANTS.** Habitat agrees to release any and all covenants, restrictions, or requirements placed on Coward or the property that would prohibit the exchange of these additions. The former property once conveyed to Henderson County shall not be subject to Habitat’s restrictions. Habitat and Coward do agree that the restrictive covenants for Shuey Knolls as the currently exist or as they may hereafter be lawfully amended shall apply to the real property being transferred from Henderson County to Coward. Henderson County does further agree to make the conveyance to Coward subject to the Shuey Knolls restrictive covenants.
5. **ENTIRE UNDERSTANDING.** This Agreement sets forth the entire arrangement between the parties and supersedes all prior oral and written understandings, representations, and discussions between the parties respecting the subject matter of this Agreement.
6. **ASSIGNMENT.** This Agreement may not be assigned by any party without written agreement by the other parties.
7. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of North Carolina.
8. **INDEMNIFICATION.** Henderson County shall not be liable for the actions of Edneyville, its agents, contractors or partners.
9. **MISCELLANEOUS PROVISIONS.** The singular of any term used in this Agreement shall include the plural, and the masculine shall include the feminine and vice versa.
10. **PARTIES TO THIS AGREEMENT.** This Agreement gives no rights or benefits to anyone other than Henderson County, the property owner, Habitat and Edneyville.

IN WITNESS WHEREOF, parties have duly executed this agreement as of this the ____ day of _____, 2010.

HENDERSON COUNTY

BY: _____
William M. Moyer, Chairman

ATTESTED BY:

[CORPORATE SEAL]

Terry L. Wilson

PROPERTY OWNER

BY: _____
Robin Coward

EDNEYVILLE COMMUNITY ORGANIZATION ASSOCIATION

BY: _____
_____, Chair

ATTESTED BY:

[CORPORATE SEAL]

_____, Secretary

HABITAT FOR HUMANITY

BY: _____
_____, CEO

ATTESTED BY:

[CORPORATE SEAL]

_____, Secretary

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

Carey McLelland, Finance Director

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, _____, Notary Public for said County and State, certify that William Moyer personally came before me this day and acknowledged that he is the Chairman for Henderson County Board of Commissioners, a municipal corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by himself as Chair.

THIS the ____ day of _____, 201__

Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

Property Owner

I, _____, Notary Public for said State and County certify that
_____ came before me this day and acknowledged that he/she is the
property owner of _____, and that thereby can sign this
document regarding that property.

THIS the ____ day of _____, 201__

Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

Habitat For Humanity

I, _____, Notary Public for said State and County certify that
_____ came before me this day and acknowledged that he/she is the
Secretary/Assistant Secretary of _____, and that by
authority duly given and as the act of the corporation the foregoing instrument was signed in its
name by its President/Vice President, sealed with its corporate seal, and attested by
himself/herself as its Secretary/Assistant Secretary.

THIS the ____ day of _____, 201__

Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

Edneyville Community Center Association

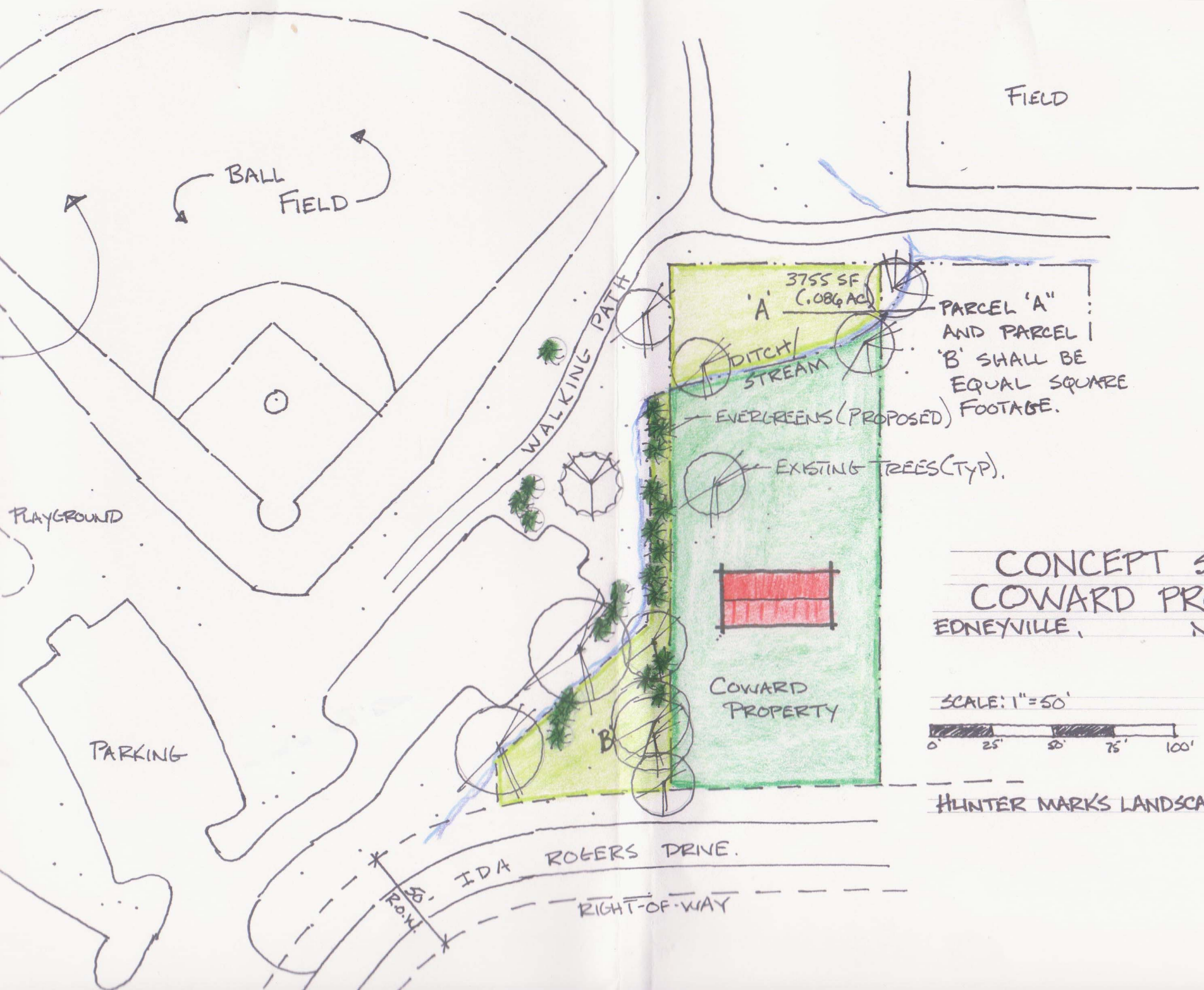
I, _____, Notary Public for said State and County certify that _____ came before me this day and acknowledged that he/she is the Secretary/Assistant Secretary of _____, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its President/Vice President, sealed with its corporate seal, and attested by himself/herself as its Secretary/Assistant Secretary.

THIS the _____ day of _____, 201__

Notary Public

My Commission Expires: _____

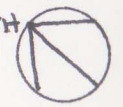
[NOTARIAL SEAL]



CONCEPT SKETCH
 COWARD PROPERTY
 EDNEYVILLE, NORTH CAROLINA

SCALE: 1" = 50'
 MARCH 8, 2010
 NORTH

HUNTER MARKS LANDSCAPE ARCHITECTURE



3755 SF
 (0.086 AC)
 PARCEL 'A'
 AND PARCEL
 'B' SHALL BE
 EQUAL SQUARE
 FOOTAGE.

DITCH/
 STREAM
 EVERGREENS (PROPOSED)
 EXISTING TREES (TYP.)

COWARD
 PROPERTY

IDA ROGERS DRIVE.
 RIGHT-OF-WAY

50'
 R.O.W.