

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: June 3, 2019

SUBJECT: Real estate swap issue, Hendersonville Elementary School

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Resolution of Board of Education advocating swap
Proposed release deed for BB&T and Trustee
Preliminary Survey

SUMMARY OF REQUEST:

A neighbor of Hendersonville Elementary School discovered that a fence built across what was believed to be the neighbor's back yard, and that other improvements believed to be in the property owner's back yard are in fact on property titled in the County for Hendersonville Elementary School. The property owner contacted the Board of Education, seeking to acquire the strip of land, totaling 0.19 acres. The Board of Education agreed to the conveyance of the strip to the property owner, in return for the conveyance from the property owner of a permanent sewer line easement crossing the property owner's parcel, which would allow the school to operate a gravity sewer from the school, rather than the current pump station.

If the Board is in agreement, the next step will be to obtain the release deed from BB&T, then to create and exchange the deeds for the respective interests in real estate.

BOARD ACTION REQUESTED:

Approval of the real estate exchange.

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

I move that the Board approve the exchange of real estate as shown in this agenda item.

RESOLUTION OF THE HENDERSON COUNTY BOARD OF PUBLIC EDUCATION
APPROVING A PROPOSED EXCHANGE OF SCHOOL PROPERTY

WHEREAS, pursuant to a Lease and Agency Agreement by and between the Henderson County Board of Public Education (the "Board") and the County of Henderson (the "County") and subject to a financing agreement, title to the real property upon which Hendersonville Elementary School is situated (the "Property") is vested in the County;

WHEREAS, there are various structures and improvements serving as appurtenances to the residential real property adjacent to and lying to the north of the northeastern corner of the Property, which appurtenances encroach upon the Property, as shown upon the preliminary plat attached hereto as Exhibit A;

WHEREAS, wastewater from the Property is currently removed via a pump station, which pump station could be eliminated by providing a new sewer line, located within of a permanent easement for a said line crossing the adjacent property to connect to the City of Hendersonville's system located near the margin of Forest Hill Drive;

WHEREAS, pursuant to G.S. §160A-271, the County is considering exchanging a 0.19-acre portion of the Property to the adjacent landowner for a permanent sewer easement crossing the said adjacent property, as shown on Exhibit A; and

WHEREAS, the elimination of the said pump station would ultimately benefit the Property in an amount equal to or greater than the value of the 0.19-acre parcel.

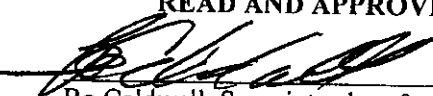
NOW THEREFORE, the Henderson County Board of Public Education hereby resolves as follows:

Section 1. The Board encourages the County to perfect the exchange of real property pursuant to G.S. §160A-271 by exchanging the 0.19-acre portion of the Property to the adjacent landowner in exchange for a permanent sewer line easement, substantially as shown on Exhibit A.

Section 2. The Board Chairperson and Superintendent are authorized to sign any documents as they shall deem necessary to carry out the purposes of this Resolution, including without limitation releases of the Property from the Lease and Agency Agreement, and such documents as may be required by any lender holding a security interest in the Property, in the name of and as the act of the Henderson County Board of Public Education. Furthermore, the Superintendent is authorized to take such actions as he shall deem necessary to carry out the purposes of this Resolution.

Section 3 This Resolution shall be effective immediately upon its approval.

READ AND APPROVED, this the 13 day of May, 2019


Bo Caldwell, Superintendent &
Ex Officio Secretary


Amy Lynn Holt, Chairperson

This document prepared by: Charles Russell Burrell

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

RELEASE AND SUBORDINATION

THIS DEED OF RELEASE, made and entered into this ___ day of June, 2019, by and between F. Louis Loyd, III, Trustee for Branch Banking and Trust Company, (the "Trustee"), and the County of Henderson, North Carolina, (the "County"), (said designations shall include the respective parties, whether one or more, individual or corporate, and their respective successors in interest or assigns);

WITNESSETH:

WHEREAS, the County heretofore executed to the Trustee, a certain Deed of Trust recorded in Deed of Trust Book 2247 at page 661, in the Office of the Register of Deeds for Henderson County, North Carolina to secure a certain Note as therein provided, due and payable to Branch Banking and Trust Company; and,

WHEREAS, the County has requested the said Trustee to join in the release and subordination from the lien of the Deed of Trust so much of the land as is hereinafter described;

NOW, THEREFORE, said Trustee has released and by these presents does release, convey and subordinate unto the County, and assigns, certain land as follows:

THAT real property shown as 0.19 acres on that plat of a survey recorded as Plat Slide _____, of the Henderson County Registry, which is made part hereof by this reference.

TO HAVE AND TO HOLD said lands and premises, together with all privileges thereunto belonging to the County of Henderson, North Carolina, and assigns, free and discharged from, or as noted, subordinated to, the lien of the Deed of Trust record n Deed of Trust Book 2247 at page 661, in the Office of the Register of Deeds for Henderson County, North Carolina, and hereinabove referred to; but it is understood and agreed that this Release and Subordination shall apply only to so much of said lands as are herein expressly described and conveyed, and that as to the remainder of said lands, said Deed of Trust shall be and remain in full force and effect.

IN TESTIMONY WHEREOF, the said party of the first part has hereunto set its hand and seal the day and year first written above.

_____(Seal)
F. Louis Loyd, III, Trustee

**STATE OF NORTH CAROLINA
COUNTY OF**

I, _____, a Notary Public of said County and State, do hereby certify that F. Louis Loyd, III, Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this ____ day of June, 2010 .

My commission expires:

Notary Public

PLAT OF SURVEY FOR HENDERSON COUNTY

BEING A RECOMBINATION OF
A PORTION OF
DEED BOOK 1417, PAGE 233
WITH DEED BOOK 742, PAGE 041
ALSO SHOWING PROPOSED
20' SEWER EASEMENT

CITY OF HENDERSONVILLE
HENDERSONVILLE TOWNSHIP
HENDERSON COUNTY
NORTH CAROLINA

**SCALE: 1" = 30'
APRIL XXXX, 2019**

I, DAVID H. HILL, M.C. PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION AND THAT LOCAL ACTUAL GPS SURVEY MADE AND CONTROL WAS ESTABLISHED FROM AN ACCURATE SURVEY. THE FOLLOWING INFORMATION WAS USED TO Prepare this SURVEY:

- (1) NATIONAL MERIT CLASS A MONUMENTAL AT 95%
- (2) 2019 SURVEYING INSTRUCTIONS, 10/10/2018
- (3) TYPES OF GPS FIELD PROCEDURES USED
- (4) DATES OF SURVEY: APRIL, 2019
- (5) INSTRUMENTS USED: SONY XDR-X1000, 2019
- (6) CALIBRATION RECORD NO. 158
- (7) GROUND MODEL GRID UTM
- (8) COMBINED GRID FACTORS(S): 0.999774197
- (9) SURVEYING SOFTWARE: SURVEY FORT
- (10) WITNESSES AT SURVEY: DAVID H. HILL, SURVEYOR AND SEAL
- (11) THIS DEED DATED APRIL, XXXX, 2019

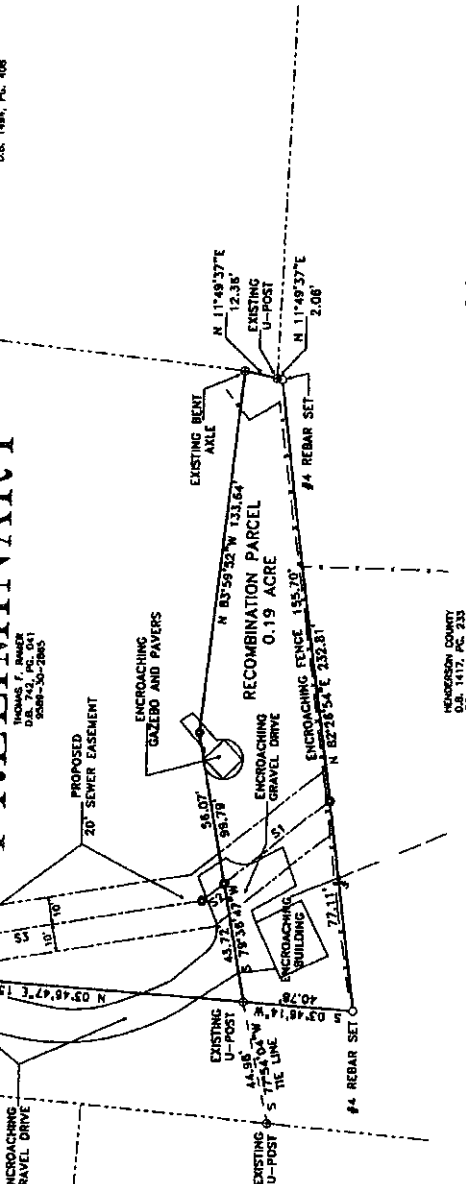
N.C. PROFESSIONAL LAND SURVEYOR LICENSE #

MARK A. MCCLINE
D.S. 1494, P.C. 408

Henderson County, certify that this information was prepared under the supervision of the County Administrator for the purpose of subdividing land in accordance with Henderson County Land Development Code.

CALLS ALONG CENTERLINE
PROPOSED 20' SEWER EASEMENT

Course	Bearing	Distance
S1	N 35°39'44" W	49.33'
S2	N 35°38'44" W	10.19'
S3	N 09°41'11" W	136.01'



David H. Hill, M.C.
Professional Land Surveyor,
certify that this survey is a recombination of property.

State of North Carolina
County of Henderson

I, Review Officer
of Henderson County, certify that the map
and plat with this certification is a true and
correct map made in accordance with the
statutory requirements for recording.
Review Officer

State of North Carolina, County of Henderson
This instrument was prepared for registration and recording
in the Office of State of Deeds in the State and County
depository, at Charlotte, North Carolina, on day of
 month, 2019.

I, Clerk

David H. Hill, M.C.
Professional Land Surveyor,
certify that this survey is a recombination of property.

State of North Carolina
County of Henderson

I, Review Officer
of Henderson County, certify that the map
and plat with this certification is a true and
correct map made in accordance with the
statutory requirements for recording.
Review Officer

State of North Carolina, County of Henderson
This instrument was prepared for registration and recording
in the Office of State of Deeds in the State and County
depository, at Charlotte, North Carolina, on day of
 month, 2019.

I, Clerk

HILL AND ASSOCIATES
SURVEYORS, P.A.
LICENSE NUMBER: C-1991

DAVID H. HILL
N.C.P.L.S. 3863
403 WEST BLAKE RIDGE ROAD
EAST FLAT ROCK, NORTH CAROLINA 28726
(828) 983-1409

DATE: APRIL, XXXX, 2019 DRAWING BY: DHH DRAWING: 2019019 FILE: 2019019

CHECKED BY: DHH DRAWN BY: DHH

NOTES:

- 1- AREAS BY COORDINATE COMPUTATION.
- 2- ALL AREAS SHOWN ARE SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD OR UNRECORDED THAT MAY DIRECTLY AFFECT ALL AREAS SHOWN.
- 3- ALL DISTANCES ARE HORIZONTAL, GROUND MEASUREMENTS UNLESS OTHERWISE NOTED.
- 4- ALL EASEMENTS ARE SHOWN AS PER THE RECORDS OF RECORD IN THE COUNTY OF HENDERSON AND THOMAS F. ROWER.
- 5- THE CURRENT COURSES OF RECORD ARE SHOWN AS PER THE RECORDS OF RECORD IN THE COUNTY OF HENDERSON AND THOMAS F. ROWER.

LEGEND:

- ⊙ MONUMENT FOUND AS NOTED
- MONUMENT SET AS NOTED
- △ TRIANGULATION POINT
- P-PID - PROPOSED PROVISIONAL
- UP - UTILITY POLE
- PH - PHONE POLE
- TM - TRANSFORMER
- TV-PID - CABLE TV FEEDLINE
- WM - WATER METER
- WY - WATER WAVE

GRID (NORTH)
N.A.D. 83/2011