

STATESVILLE CITY COUNCIL MEETING AGENDA

August 03, 2020

**City Hall – 227 S. Center Street, Statesville, NC
Pre-Agenda Meeting – 6:00 p.m. Council Chambers
Regular Meeting – 7:00 p.m. Council Chambers**

- I Call to Order**
- II Invocation** (Only at Council meeting)
- III Pledge of Allegiance** (Only at Council meeting)
- IV Adoption of the Agenda** (Only at Council meeting)
- V Code of Ethics** *Pg. 3*
- VI 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 so 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 June 15, 2020 Council-Fire Dept Workshop Meeting Minutes and the June 15, 2020 Pre-Agenda and Council Meeting minutes. *Pg. 6, 8, 14***
 - B. Consider approving 2nd reading of annexation request AX20-03, an ordinance to annex the property located at 1243 Tonewood Street, Fairfield Inn and Suites, PIN 4745-35-2158. *(Ashley) Pg. 30***
 - C. Consider approving 2nd reading of annexation request AX20-04, an ordinance to annex the property located at 405 Bristol Drive owned by Steve Ervin and Joye Lamberth, PIN #4724-67-6304. *(Ashley) Pg. 36***
 - D. Consider approving a request to demolish two buildings located at 110 West Allison Street and 746 Shelton Avenue. *(Ashley) Pg. 41***
 - E. Consider approving adding \$50,000 to an existing multi-year contract with Williams Electric Company. *(Maclaga) Pg. 45***
 - F. Consider approving Budget Amendment #2021-02 which uses a fund balance appropriation to allow for the rollover of outstanding purchase orders. *(Tucker) Pg. 46***
 - G. Consider approving an agreement between the Iredell Statesville School District, the Statesville Police Department, the Troutman Police Department, and the Iredell County Sheriff's Office regarding ISSD School Security Surveillance Cameras. *(Addison) Pg. 50***

REGULAR AGENDA

- VII Resume a public hearing and consider approving site plan (Quasi-Judicial) P20-02 filed by Jordon Trotter for Harbor Freight located at 303-313 Turnersburg Highway (US 21 North), Tax Maps 4745-38-5329, 4745-38-6594, 4745-38-6495, 4745-38-6398, 4745-38-6383, and 4745-38-6298. *(Ashley) Pg. 62*
- VIII Consider appointing two alternate members to the Board of Adjustment. *(Ashley) Pg. 72*
- IX Consider approving second reading of an ordinance to amend the City Code as follows: Renumber Chapter 20 – Streets and Sidewalks to Chapter 21; Establish a new Chapter 20 – Stormwater; Amend Section 1.07 – General Penalty. *(Harrell) Pg. 79*
- X Consider approving City assistance with repairs to certain developer-installed water and sewer service connections. *(Harrell) Pg. 98*
- XI Consider adoption of a Resolution of Intent to Reimburse for the water line extension to Larkin Commerce Park, a Capital Project Fund ordinance for the project, and a Resolution to allow the Finance Officer to submit a Local Government Commission application for project financing. *(Tucker) Pg. 100*
- XII Consider approving a request from the Statesville Police Department to receive grant funding from the North Carolina Governor’s Highway Safety Program that will provide 100% funding for Fiscal Year October 1, 2020 - September 30, 2021 for salaries, travel and equipped vehicles for two officers in the amount of \$217,682 with NO MATCH for the first year and approve Budget Amendment #2021-03. *(Addison) Pg. 108*
- XIII Consider approving a special event application from Centralina Realty, Inc. for a Fill the Truck Food Drive. *(Smith) Pg. 112*
- XIV Discussion about increasing the minimum hourly wage for positions employed by the City to at least \$15/hr. *(Smith) Pg. 117*
- XV City Manager’s Report
- XVI Boards and Commissions Meeting Minutes *Pg. 118*
 - 1. 06/23/2020 Planning Board Meeting Minutes
 - 2. 07/01/2020 TRC Meeting Minutes
- XVII Other Business
- XVIII Closed Session
- XIX Adjournment

RESOLUTION NO. 10-20

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,

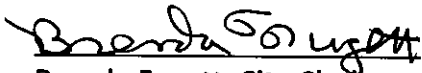
Section 5. Board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet 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.

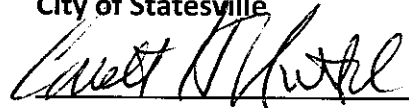
Section 6. This Code of Ethics should be re-executed by each sitting Council member during the first meeting in January each calendar year.

Accepted this the 2nd day of February, 2020.

ATTEST:


Brenda Fugett, City Clerk



City of Statesville

Constantine H. Kutteh, Mayor

**MINUTE BOOK 29, PAGE
STATESVILLE CITY COUNCIL WORKSHOP-FIRE DEPT – JUNE 15, 2020
CITY HALL – COUNCIL CHAMBERS, STATESVILLE, NC – 7:00 P.M.**

Council Present: Mayor Constantine H. Kutteh presiding, J. Johnson, Morgan, Staford, Jones, Foster, S. Johnson, Allison, Lawton via Phone

Council Absent: 0

Staff Present: Ron Smith, Fugett, Davis, Harrell, Josh Smith, Weatherman, Nicholson, Staley, Messick, Bell, Taylor

Media: 0

Others: 0

Call to Order

Mayor Kutteh called the meeting to order.

Fire Chief Andy Weatherman stated that the Internal Fire Station Analysis report summarizes the results of a station location, staffing, and emergency vehicle travel time analysis conducted for the Statesville Fire Department. The department currently operates four staffed fire stations and provides emergency response services to the City of Statesville, including fire prevention and suppression, first response basic life support emergency medical services, technical rescue, airport/aircraft suppression, and hazardous materials response.

Interim Deputy Fire Chief Josh Smith reviewed the analysis. (Attachment A).

Mayor Kutteh asked if the City should consider purchasing the property beside of Station 2 that was an old café. J. Smith replied ????????

In response to a question from Mayor Kutteh, J. Smith described how a new Station 5 would be staffed and equipped.

Mayor Kutteh stated that it appears that the top concerns are:

1. Fire Station 5
2. Relocation of Fire Station 1
3. Access from Fire Station 2 onto Garner Bagnal Boulevard
4. Elimination of service gaps.

J. Smith stated that the departments highest priority is eliminating service gaps to ensure adequate coverage to all areas.

Ron Smith stated that staff will start assembling costs and present that information to Council at another workshop later in the summer.

Mayor Kutteh asked if Council members should talk to our legislators about getting the Garner Bagnal access from NCDOT. Ron Smith replied it would not hurt.

Mayor Kutteh said he feel that this may be a good time to build and to borrow the money to do it.

Ron Smith added that it will not be long before the City will need a Fire Station 6 and 7 because the City is growing.

Council member Jones asked Josh Smith if he had looked at the County overlay when they did the analysis. J. Smith replied that the City currently relies on mutual aid from volunteer departments and that this could become a problem in the near future. Jones said that maybe the City could partner with Iredell County to build a station that would provide coverage for both the City and the County for areas of the City that are growing but are still in the County.

Council members discussed partnering with Mooresville as well.

Council member Morgan asked if Fire Station 5 could be built on the property that was purchased for the Municipal Services Center. Josh Smith replied that building it there would create a huge gap for the downtown area.

Council member Staford asked for a map with the City limits shown on it.

Council member S. Johnson stated that he agrees with J. Smith that the City has a moral obligation to get the gap covered first.

Council member Allison said that Council needs to know what the Fire Department needs and what order they need it in.

Mayor Kutteh adjourned the meeting at 6:05 p.m.

Brenda Fugett, City Clerk

Constantine H. Kutteh, Mayor

**MINUTE BOOK 29, PAGE
STATESVILLE CITY COUNCIL PRE-AGENDA MEETING – JUNE 15, 2020
CITY HALL – COUNCIL CHAMBERS, STATESVILLE, NC – 6:00 P.M.**

Council Present: Mayor Constantine H. Kutteh presiding, J. Johnson, Morgan, Staford, Jones, Foster, S. Johnson, Allison, Lawton via Phone

Council Absent: 0

Staff Present: R. Smith, Fugett, Davis, Messick, Harrell, Ashley, Maclaga, Ferguson, Tucker, Gregory, Staley, Addison, Weatherman, Humphrey, Jenkins, Hodges, Craig

Media: 0

Others: 1

I Call to Order

Mayor Kutteh called the meeting to order and advised a Closed Session will be held following the Pre-Agenda meeting to consult with the City Attorney, to discuss an economic development matter, and to preserve the attorney-client privilege.

Mayor Kutteh stated that Items B on the Consent Agenda and Item XI on the Regular Agenda have been removed from the agenda.

II Invocation (Only at Council Meeting)

III Pledge of Allegiance (Only at Council Meeting)

IV Adoption of the Agenda (Only at Council Meeting)

V Code of Ethics

VI 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 so 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.

A. Consider approving the May 18, 2020 Pre-Agenda and Council Meeting minutes.

B. Consider approving second reading of an ordinance to amend the City Code as follows: Renumber Chapter 20 – Streets and Sidewalks to Chapter 21; Establish a new Chapter 20 – Stormwater; Amend Section 1.07 – General Penalty. (Harrell)

This item was removed from the agenda.

- C. Consider approving the award of “Labor, Miscellaneous Material, and Equipment for Construction of Delivery Six” to Carolina Power and Signalization in the amount of \$882,852. *(Maclaga)*
- D. Consider approving a Resolution directing the City Clerk to Investigate a Petition of Annexation for State F.F. LLC Fairfield Inn & Suites; 1243 Tonewood Street; Receive the City Clerk’s Certificate of Sufficiency; Consider approving a resolution setting the date of July 20, 2020 for a public hearing on the question of the petitioned annexation. *(Ashley)*
- E. Consider approving a Resolution directing the City Clerk to Investigate a Petition of Annexation for Steve Ervin and Joye L. Lamberth; 405 Bristol Drive; Receive the City Clerk’s Certificate of Sufficiency; Consider approving a Resolution setting the date of July 20, 2020 for a public hearing on the question of the petitioned annexation. *(Ashley)*
- F. Consider approving 2nd reading of Text Amendment TA20-01 Filed by Ms. Angela Imes to Amend Article 9 Definitions, Section 9.02 Definitions, Adult/Child Home Day Care to allow a childcare center as a Child Home Day Care. *(Ashley)*
- G. Consider approving three hangar leases at the Statesville Regional Airport for: G.L. Wilson, Ralph Brown, and Carolina Aviation Technical Services, LLC. *(Ferguson)*

Council member Staford asked if it is legal to charge an 18% late fee for a commercial lease, because it is not for a residential lease.

Staford said he does not feel that \$1 million in liability insurance is enough. Airport Manager John Ferguson stated that this one has \$3 million, but he will change it in the lease.

Mayor Kutteh said that staff should look at increasing the minimum required liability insurance to more than \$1 million on all leases. Ron Smith explained that \$1 million is the minimum, and most carry much more than that.

REGULAR AGENDA

Mayor Kutteh reviewed the following Regular Agenda.

- VIII Consider approving 2nd reading of annexation request AX20-01, an ordinance to annex the properties located adjacent to 110 Vance PO Road, PINs 4765-32-5949 & 4765-33-7215. *(Ashley)*
- IX Consider approving 2nd reading of rezoning request ZC20-01 for the properties located adjacent to 110 Vance PO Road; Tax Maps 4765-32-5949 & 4765-33-7215 IC-CB (Iredell County Community Business) to R-8MF (Medium-Density Multi-Family Residential Conditional Use) District. *(Ashley)*

X Conduct a public hearing and consider approving site plan (Quasi-Judicial) P20-04 for the development of Cadence Statesville Senior Apartments located on Simonton Road, Tax Map 4755-23-7198. (Ashley)

Sherry Ashley stated that a site-plan quasi-judicial hearing requires Findings of Fact to support their decision. When Council makes their motion for this, they need to base it on this standard of the Unified Development Ordinance, Article 2, Part 2, Section 2.10(d). In order to deny a site plan that has already received its conditional rezoning approval, Council must have findings of fact to justify that denial for the record and that includes testimony and evidence from the adjoining property owners. It is not just a legislative decision.

Council member Morgan asked if this development is allowed by right in this zoning district. Ashley replied that is correct, they meet the conditions of their conditional use rezoning that they were approved for back in 2002.

XI Consider approving first reading of an ordinance to amend the Rules of Procedure for City Council. (Smith)

This item was removed from the agenda.

XII Consider approving a resolution to affix the terms, conditions, and rate for the interfund loan from the Electric Fund to the Airport Fund. (Tucker)

Mayor Kutteh stated that in January 2019, the City purchased the assets, liabilities, and equity of Statesville Flying Service, to become the full owner/operator of the Statesville Regional Airport. To make this purchase, Council passed Resolution 01-19, which was a Resolution to Reimburse which allowed the Electric Fund to advance monies to the Airport Fund, until such time that the City chose outside borrowing or established the terms of an interfund loan. Resolution 01-19 established a timeline of 18 months to July 2020 to make that decision. While interest rates have certainly lowered to more favorable rates, staff recommends we continue with the interfund loan, with City Council future review options, to protect the collateral interest and avoid any extra parameters that FAA could impose on outside financing. This resolution establishes the terms, conditions, rate, and review options for the interfund loan from the Electric Fund to the Airport Fund. The changes to the recommended loan terms and impacts from the June 1, 2020 agenda based on Council discussion are as follows: 1. the term was changed from twenty to twenty-two years to help mitigate the revenue concerns related to the COVID-19 pandemic (decreasing the annual principal payment from \$304,120.05 to \$273,708.04); 2. the interest rate beginning July 1, 2020 will be lowered from 2.5% to 1.0% due to changes in the interest rate market between when the deal was started and the loan terms were finalized (decreasing total interest from \$1,573,821.24 to \$834,809.52); and 3. inserted a provision to “review the terms of the loan in December 2021 to determine if modifications in interest rate or term are deemed necessary. City Council will also review the loan interest rate and terms at three-year intervals to determine if modifications are needed to support the Electric and Airport Funds” (this will allow the Council to extend the interest only period and change the interest rate and total term up or down before principal payments begin and also allow for a review of these every three years).

Council member Stafford asked if it is legal to set a 1% interest rate. He said he does not recall Council setting it this low. He said he would like for it to be a fair market rate. Council member S. Johnson replied that Council did this because of the decline in fuel sales at

the airport as a result of the Covid crisis. Mayor Kutteh said that it specifically states that it will be reviewed in December 2021 to determine if the interest rate should be adjusted.

Staford said he would like for Council to stop borrowing money from the Electric Fund and that if the fund has this much excess money, then maybe it should be given back to the citizens. Mayor Kutteh explained that some of the money has been generated from revenues exceeding expenses, but over the last three years, a lot of it has been generated from at least four rate reductions where Council put some in reserve and reduced citizen's rates as well. He said that July 1st the City is anticipating nearly another \$9 million as a result of Electricities relationship with Duke Energy. Mayor Kutteh said that some of the funds are there for the AMI program, the expansion of Delivery 6 and other such projects; however, he does agree with Council member Stafford, that if there is \$6 million in the fund that the department knows it does not need for 22 years, then there should be other plans for it.

Council members agreed to move this item to the Consent Agenda.

XIII Consider funding water and sewer relocations and betterments associated with the NC Department of Transportation I-40/I-77 Interchange project (I-3819B) and approving Budget Amendment #23. (Harrell)

Mayor Kutteh stated that in May 2018, staff was contacted by representatives from NC Department of Transportation (DOT) to discuss relocating City water and sewer lines to accommodate the second phase of the I-40 / I-77 interchange project (DOT Project No. I-3819B). Under State statutes, utility relocations for DOT projects are paid by either DOT or the utility, depending on which infrastructure was installed earlier. If the utility was in place first, then DOT pays 100% of the relocation cost. If the DOT facility was constructed first, then the utility pays a portion of the relocation cost. In this scenario, Statesville's share of relocation costs is 25%. City water and sewer lines in the I-3819B project area fall into both categories. DOT will pay to relocate City sewer lines in the vicinity of Davie Ave and E Broad St. The City is responsible for 25% of the relocation cost for a sewer line crossing I-40 and for water lines crossing I-77 at Davie Ave and E Broad St. The City's 25% share of these utility relocations is \$351,569. Additionally, DOT will allow the City to upsize existing water and sewer lines in the project area if the City agrees to pay the difference in cost between installing the larger size vs. the existing size. Staff requested that DOT calculate the cost to upsize a sewer line that crosses I-40 from 15-inch to 24-inch. DOT has indicated the cost for this sewer upsizing is \$149,103.10. Staff recommends upsizing the sewer crossing as the current 15-inch sewer line serves the northeast quadrant of the I-40 / I-77 interchange, as well as the Crawford Rd, I-77 Exit 54, and I-77 Rest Stop areas. Anticipated growth in these areas will require upsizing of this sewer crossing in the future. The existing 12-inch water lines affected by this project are adequate for anticipated future development and staff does not recommend increasing their size. The City's cost for the utility relocations and to upsize the sewer crossing is \$500,672.10. DOT will invoice the City for this work upon completion of the project, which is currently anticipated in 2025. State statute requires the City to pay 25% of the relocation cost for utilities in the project area that were installed after the DOT-maintained roadways. Interstate crossings are among the most expensive items in any utility project. This is an opportunity to accommodate future growth by upsizing an interstate sewer crossing at a significant discount.

Council member Staford asked if there is any advantage to upsizing this to a 30" line. Scott Harrell replied that 24" is plenty of capacity.

Council members agreed to move this item to the Consent Agenda.

XIV Consider awarding the construction contract for the Larkin Commerce Park water line extension to Fuller & Co. Construction, LLC and approving Budget Amendment #24. (Harrell)

Mayor Kutteh stated that Staff received bids to construct a water line extension to serve the Larkin Commerce Park on May 28. The project includes constructing a water line along Amity Hill Rd, Moose Club Rd, and beneath I-77 to the vicinity of the Dover Rd/Larkin Parkway intersection. All of the bids were significantly lower than what was expected. Fuller & Co. Construction, LLC of Bessemer City, NC is the low bidder with a total bid of \$2,307,363.49, which is approximately \$2 million less than what staff anticipated the cost to be.

XV Approve two appointments to the Statesville Regional Airport Commission. (Ferguson)

Mayor Kutteh stated that Dr. Saltzman and David Alexander would like to be re-appointed.

Council members agreed and agreed to move this item to the Consent Agenda.

XVI Appoint two regular members and one alternate member to the Board of Adjustment. (Ashley)

Mayor Kutteh said that Bill Winters would like to be re-appointed to the Board. There are only two other active applications on file. Justin Phillips is a schoolteacher at Mooresville Middle School and cannot attend mid-day meetings, but he is also a candidate for the Planning Board and could be appointed to that board. Mayor Kutteh said he would like to re-appoint Bill Winters and appoint Jed Pidcock as a regular member and leave the alternate position open until additional applications are received.

Council members agreed and agreed to move this item to the Consent Agenda.

XVII Consider re-appointing two regular members to the Design Review Committee. (Ashley)

Mayor Kutteh stated that Chuck Goode and Bryan George both would like to be reappointed to the Committee, and both have served 3 terms. There are no additional volunteer applications on file requesting to serve on the Design Review Committee.

Council members agreed to their reappointment and to move this item to the Consent Agenda.

XVIII Consider appointing two regular members to the Planning Board. (Ashley)

Mayor Kutteh stated that Bernard Robertson's term expires June 30, 2020 and he would like to be reappointed. Brian Long's term also expires June 30, 2020, but he is not interested in being reappointed. There are 4 other active applicants on file for the Planning

Board. They are Alisha Cordle, Dr. Joseph Glasgow, Justin Phillips, and Jed Pidcock. Council just appointed Jed Pidcock to the Board of Adjustment, so he is not available for this board.

XIX Consider appointing one new member and re-appointing four current members to the Stormwater Advisory Commission. (Harrell)

Mayor Kutteh said that members of the Stormwater Advisory Commission serve three-year terms. There are currently two open spots on the commission, and the terms of four original members have expired. David Reese, Steve Knight, Dan Pope, and Mary Katherine Harbin have all served since 2016 and would like to be re-appointed for a second term. Lenwood (Joe) Hudson and Pressley Mattox are two new applicants that would like to be appointed to the Commission.

Council members agreed to reappoint the four current members, appoint Mr. Hudson and Mr. Mattox as new members and to move this item to the Consent Agenda.

XX Boards and Commissions Updates

1. 05/21/2020 Stormwater Commission Meeting Minutes
2. 05/06/2020 Technical Review Committee Meeting Minutes

XXI Other Business

XXII Closed Session

Council member Foster made a motion to move to Closed Session to discuss an Economic Development matter, consult with the attorney, and to retain the attorney-client privilege, seconded by Council member J. Johnson. The motion carried unanimously.

Upon return from Closed Session, Mayor Kutteh advised that Council discussed an Economic Development matter and consulted with the City Attorney and no action was taken.

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

Brenda Fugett, City Clerk

Constantine H. Kutteh, Mayor

**MINUTE BOOK 29, PAGE
STATESVILLE CITY COUNCIL MEETING – JUNE 15, 2020
CITY HALL – COUNCIL CHAMBERS, STATESVILLE, NC – 7:00 P.M.**

Council Present: Mayor Constantine H. Kutteh presiding, J. Johnson, Morgan, Staford, Jones, Foster, S. Johnson, Allison, Lawton via Phone

Council Absent: 0

Staff Present: R. Smith, Fugett, Davis, Messick, Harrell, Ashley, Maclaga, Ferguson, Tucker, Gregory, Staley, Addison, Weatherman

Media: Amy Fuhrman

I Call to Order

Mayor Kutteh called the meeting to order and advised that items B and XI have been removed from the agenda. Items XII, XIII, XV, XVI, XVII, and XIX had been moved to the Consent Agenda during the Pre-Agenda meeting.

II Invocation

The City Clerk gave the Invocation.

III Pledge of Allegiance

Mayor Kutteh led the Pledge of Allegiance

IV Adoption of the Agenda

Council member Jones made a motion to adopt the amended agenda, seconded by Council member J. Johnson. The motion carried unanimously.

V Code of Ethics

VI Public Comment

Mayor Kutteh explained that there was a large group in attendance that have chosen six of their members to speak. As always, each speaker is allowed three minutes to speak during the public comment period.

Police Department Reform & Transparency

Genesis Houpe – 106 Greylin Loop, Apt. #204, Statesville

Ms. Houpe spoke about the statue in front of the Iredell County Courthouse. She asked if the statue in front of the Iredell County Courthouse is for the Iredell County Confederate dead or if it is a memorial for all of our soldiers and if so, then why haven't the placards on the sides of it been updated to reflect that? She wants the statue removed.

Katie Solano-Owner of Hungry Howie's – 720 Club Drive, Statesville

She is starting a Citizens Review Board where citizens can come to them to air their grievances and complaints about officers without fear of reprisal. She read the Board's purpose and mission statements. Asking for transparency in all things involving the Police Department.

James Sprinkle – 130 Hunters Hill Drive, Statesville
Wants the Police Department Training Policy to be made public.

Makayla Edwards – 408 W. Bell Street, Statesville
Wants complaints about Police Officers made public.

Alicia Standish – 150 Ashford Drive, Olin, NC
Spoke on unsafe housing on the southside (no heat, mold, mildew, etc.). Wants changes made to rental housing inspections policies to enforce landlords to keep up and repair their rental properties. Wants changes to policies that will allow a tenant to withhold rent until the dwelling is made safe and livable.

Cokie Bristol – 884 Wendover Rd, Statesville
Distributed information about the Statesville Branch of the National Community Police Oversight and Review Board that they are forming and the Economic State of Black America in 2020. (Attachment A)

Preston Wasson – 704-912-9875
Wants more Police Department transparency and to have future conversations with Council, the Police Department and City staff.

Tonya Thomas – 105 Brookmeade Dr, Statesville
With the Mama's Love Corporation. Wants programs that affect and restructure our youth with invested adults. 2nd Chance programs for adults and juvenile's alike. Community redevelopment and revitalization. Adjustments to the desensitization of those entrusted to serve our communities and the justice system in totality. Asking on behalf of Mama's Love to sit and meet with anyone dedicated to providing community liaisons, or public officials committed to exploring city or county budgets and/or grants available for the achievement of the dire needs of our community. Distributed information to Council members. (Attachment B)

Mayor Kutteh stated that the following citizens had also signed up to speak but had given up their time to the previous speakers: Karen Keaton, Tenisha Turner, Eric Mullins.

Mayor Kutteh asked this group to exit the Council Chambers so that the next group of speakers on a different topic could speak. He told them that if they would like to return to the Council Chambers for the rest of the meeting, they may do so as long as the limit is not reached for the space.

Vance PO Rd Rezoning

Bill Henderson, 301 Wickersham Dr, Statesville, spoke in opposition of the rezoning and the planned development of the property located on Vance PO Road. He cited concerns about reduced property values for surrounding properties and peace of mind.

Chuck Goode, 327 Augusta Dr, Statesville, spoke in opposition of the rezoning and the planned development of the property located on Vance PO Road. He feels it should remain commercially zoned.

Nathan Duggins, speaking on behalf of a number of residents on Bell Farm Road, read a letter from Hap and Annette Roberts in opposition of the annexation, rezoning and the planned development of the property located Vance PO Road citing concerns about decreased property values.

Frank Fugate, representing the developer of the Vance PO Road project, said that the developer has held neighborhood meetings for the project, and both the annexation and the rezoning applications have been approved by the Planning Board. Conditional Use Zoning Districts are tied to the site plan that is submitted with the application and the developer has agreed to 7 conditions for this property. Mr. Fugate said the density is moderate for this development and consists of one building. The entire development will be built at one time, not in phases. As requested by the adjoining single-family residential properties to the south, the developer has agreed to a 125' ft. setback from these single-family residential properties. Allowed improvements within the proposed 125' setback shall include: stormwater management, utilities, and active open space. He said he would answer any questions that Council members may have.

Concerns about South Statesville

Saifah McCollum – 1014 Unity Dr, Statesville

Wants to know what the process and procedure is to get grants that she has found approved by Council. Wants a sidewalk installed on the southside, mainly on Shelton Avenue. There is no easy commute on that road and there is no public transportation. She has found grants for this but needs the city's support and approval. Want landlords held accountable and make them keep their rentals repaired and safe to live in. Wants to establish stronger lines of communication with City officials and employees. Would like to know what the Council's procedure policy is.

Kimberly Wasson – 464 Hartness Rd, Statesville

Would like the dilapidated properties that the City has foreclosed on to be listed on the City website so citizens can view that information and make bids on them to purchase them. She asked if City residents can be given first choice to purchase these properties rather than out of town development corporations that buy them for rentals and then do not maintain them adequately. Mayor Kutteh advised that City staff is currently working on an inventory of every one of these properties in the City and each is being assigned a grade as to what the next action should be for it. He explained that even if a property is foreclosed on, there is still a 10-day upset period whereby a citizen can still bid on the property if they cannot make it to the foreclosure auction that is normally held during the work week. He said that every property with the owner's information and the property information is available on the Iredell County website. Ms. Wasson asked if there is a timeline on the inventory because she was told three years ago that an inventory was being done. Mayor Kutteh said that it is now being done and it is almost finished.

Latoya Imes, 1019 9th Street, Statesville

Wants landlords held accountable and required to keep their rental properties repaired and safe to live in. Some of these properties have mold, no heat, roaches, ceilings falling in, and poor insulation which causes high electric bills. There is the splash pad there for children to play in, but that is mostly geared towards little children. She wants more things for 13-17-year-old children to do in south Statesville because with boredom comes trouble, they have nothing to do; they can no longer even play basketball at the Bentley Center. Council member Foster said that the City will be having a Linear Park meeting soon that

will be built in south Statesville. He said he will contact Ms. Imes with the meeting information when it is finalized.

VII 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 so 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 18, 2020 Pre-Agenda and Council Meeting minutes.**
- B. Consider approving second reading of an ordinance to amend the City Code as follows: Renumber Chapter 20 – Streets and Sidewalks to Chapter 21; Establish a new Chapter 20 – Stormwater; Amend Section 1.07 – General Penalty. (Harrell)**
This item was removed from the agenda.
- C. Consider approving the award of “Labor, Miscellaneous Material, and Equipment for Construction of Delivery Six” to Carolina Power and Signalization in the amount of \$882,852. (Maclaga)**
- D. Consider approving a Resolution directing the City Clerk to Investigate a Petition of Annexation for State F.F. LLC Fairfield Inn & Suites; 1243 Tonewood Street; Receive the City Clerk’s Certificate of Sufficiency; Consider approving a resolution setting the date of July 20, 2020 for a public hearing on the question of the petitioned annexation. (Ashley)**
- E. Consider approving a Resolution directing the City Clerk to Investigate a Petition of Annexation for Steve Ervin and Joye L. Lamberth; 405 Bristol Drive; Receive the City Clerk’s Certificate of Sufficiency; Consider approving a Resolution setting the date of July 20, 2020 for a public hearing on the question of the petitioned annexation. (Ashley)**
- F. Consider approving 2nd reading of Text Amendment TA20-01 Filed by Ms. Angela Imes to Amend Article 9 Definitions, Section 9.02 Definitions, Adult/Child Home Day Care to allow a childcare center as a Child Home Day Care. (Ashley)**
- G. Consider approving three hangar leases at the Statesville Regional Airport for: G.L. Wilson, Ralph Brown, and Carolina Aviation Technical Services, LLC. (Ferguson)**
- XII Consider approving a resolution to affix the terms, conditions, and rate for the interfund loan from the Electric Fund to the Airport Fund. (Tucker)**
- XIII Consider funding water and sewer relocations and betterments associated with the NC Department of Transportation I-40/I-77 Interchange project (I-3819B) and approving Budget Amendment #23. (Harrell)**

XV Approve two reappointments to the Statesville Regional Airport Commission. (Ferguson)

Mayor Kutteh stated that Dr. Saltzman and David Alexander would be re-appointed.

XVI Appoint two regular members and one alternate member to the Board of Adjustment. (Ashley)

Mayor Kutteh said that Bill Winters will be re-appointed to the Board. There are only two other active applications on file. Justin Phillips is a schoolteacher at Mooresville Middle School and cannot attend mid-day meetings. Council will appoint Jed Pidcock as a regular member and leave the alternate position open until additional applications are received.

XVII Consider re-appointing two regular members to the Design Review Committee. (Ashley)

Mayor Kutteh stated that Chuck Goode and Bryan George will be re-appointed to the Committee. There were no additional volunteer applications on file requesting to serve on the Design Review Committee.

XIX Consider appointing one new member and re-appointing four current members to the Stormwater Advisory Commission. (Harrell)

Mayor Kutteh said that members of the Stormwater Advisory Commission serve three-year terms. There are currently two open spots on the commission, and the terms of four original members have expired. David Reese, Steve Knight, Dan Pope, and Mary Katherine Harbin will be re-appointed for a second term. Lenwood (Joe) Hudson and Pressley Mattox are two new applicants will be appointed to the Commission.

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

Council member Jones made a motion to approve, seconded by Council member J. Johnson.

REGULAR AGENDA

VIII Consider approving 2nd reading of annexation request AX20-01, an ordinance to annex the properties located adjacent to 110 Vance PO Road, PINs 4765-32-5949 & 4765-33-7215. (Ashley)

Sherry Ashley stated that the property was submitted for annexation by Landon Greene LP, agent for property owners, and is adjacent to 110 Vance PO Road. The property is approximately 8.33 acres in size and encompasses Iredell County Parcel Identification Numbers 4765-32-5949 & 4765-33-7215. The properties are contiguous to the primary corporate limits of the City of Statesville and are located in Iredell County's Zoning Jurisdiction and zoned CB (Central Business) District which allows retail and commercial uses. The applicant has submitted a rezoning application to the City to zone the property to R-8MF CU (Medium Density Multi-Family Residential Conditional Use) District to allow for up to 60 units of independent senior housing. The public hearing for the annexation and rezoning was held on March 16, 2020. The tax value of this property is \$195,420. If approved the site utilities will be served by City sewer, Energy United electric service, and

Iredell Water. Without annexation of the property, Council cannot consider rezoning the properties as they are currently in Iredell County's Zoning Jurisdiction. Staff recommends approval of the annexation. Council previously approved first reading of the annexation by a 5-4 vote.

There being no questions from Council, Mayor Kutteh asked for a motion on the item.

Council member Foster made a motion to approve 2nd reading of annexation request AX20-01, an ordinance to annex the properties located adjacent to 110 Vance PO Road, PINs 4765-32-5949 & 4765-33-7215, seconded by Council member Allison.

The vote was as follows:

Ayes: Foster, Allison, Morgan, Lawton

Nays: Jones, Staford, J. Johnson, S. Johnson

Tie Vote: 4-4

Mayor Kutteh voted Aye

Motion carried 5-4

IX Consider approving 2nd reading of rezoning request ZC20-01 for the properties located adjacent to 110 Vance PO Road; Tax Maps 4765-32-5949 & 4765-33-7215 from IC-CB (Iredell County Community Business) to R-8MF (Medium-Density Multi-Family Residential Conditional Use) District. (Ashley)

Ashley stated that Landon Greene LP is requesting to rezone approximately 8.33 acres contained in parcels 4765-33-7215 & 4765-32-5949 adjacent to 110 Vance PO Road from Iredell County CB (Community Business) District to the R-8MF CU (Medium Density Multi-Family Residential Conditional Use) District for a 60 unit independent senior living facility. Conditional Use Zoning Districts are tied to the site plan submitted with the application and the applicant is proposing the following conditions:

1. The proposed development shall consist of a single phase of development and shall be a senior housing development for residents aged 55 years and above in compliance with the Federal HOPA Act (Housing for Older Persons Act)
2. The development will be restricted to a maximum of 60 units (a density of up to 7.3 units per acre)
3. Petitioner will keep a 125' setback as shown from proposed development to existing single family properties to the south. Allowed improvements within the proposed 125' setback shall include: stormwater management and utilities, and active open space.
4. Petitioner agrees to keep the existing wooded area to the north as a buffer.
5. Petitioner will construct a public road from the end of paved road on Vance PO Road to the proposed driveway entrance as per appropriate standards. Road will include curb and gutter on the proposed side of the development.
6. Petitioner shall install 5' sidewalk along Vance PO Road to Mocksville Highway.
7. Petitioner will not be responsible for acquiring right of way or easements for the construction of the sidewalk.

The property is currently in Iredell County's zoning jurisdiction. The intended use of the property is an independent senior housing development. If the property is developed as multi-family it will require sewer service from the City of Statesville, therefore the applicant has also submitted a voluntary annexation request for the property. The site is contiguous to Statesville's city limits. The properties being requested for rezoning are currently

undeveloped. The land use plan calls for the properties to be low density residential even though the property is zoned Iredell County Community Business. The site sits just south of the intersection of Vance PO Road and Mocksville Highway just east of the Mocksville Highway & Broad Street Intersection. The surrounding area consists of a medium size shopping center, smaller scale commercial sites and single-family homes. All multi-family site plans regardless of zoning district are required to be reviewed by the Technical Review Committee, the Planning Board (courtesy hearing) and the City Council (public hearing). The current zoning designation of Iredell County CB is comparable to the City's B-4 (Highway Business) District and therefore the R-8MF District is a less intensive zoning district. All utilities are available at the site.

The surrounding zoning districts and land uses are as follows:

- NORTH OF THE SITE:** IC-GB & R-20, EZ Barn Rentals, Oakdale Baptist Church, Sharpe's Lawn Care
- EAST OF THE SITE:** IC-GB & IC R-20, Dollar General, Abilene Church of Christ
- SOUTH OF THE SITE:** R-15 & IC R-20, Single-Family Homes (Brookmeade Subdivision), Undeveloped Land
- WEST OF THE SITE:** B-4, Eastgate Commons Shopping Center, O'Reilly Auto Parts, East Broad Plaza

If approved the development will provide at least 60 new residential lots that will require City services except sanitation. These new residential lots will also increase the property tax base and population numbers that impact funding. If not approved the property may remain vacant and zoned IC-CB. Commercial uses permitted in IC-CB would be allowed.

The 2005 Land Development Plan projects the property to be low density residential even though the property is zoned Iredell County Community Business, however since the properties are outside of the City's jurisdiction the plan does not thoroughly address this area. The properties are located between the Brookmeade Subdivision and several commercial sites. Staff feels that a medium density multi-family development is a good transition between single-family and commercial development and all utilities are available to the site. Also, with site-plan approval by Council required prior to any multi-family development being approved. Staff's recommendation is favorable to rezone the properties contingent upon annexation and based on the characteristics and conditions listed above; however staff does recommend that the applicant be responsible for acquiring the rights-of-way and easements necessary for the road improvements and the construction of the sidewalk. Upon approval of the second reading of these properties they will be officially zoned R-8MF. If the applicant submits a revised sketch plan it must be reviewed by Technical Review Committee, the Planning Board and City Council. A Consistency Statement is required from Council for this item.

Council member Morgan said that he has received questions from residents in the area about increased traffic concerns. He said that he had looked at the American Association for Highway Engineers General Standards, and it showed that about 200 trips for a 12-14-hour period would be created from a 60 unit Senior complex which included morning and afternoon peak times. This calculates to about 1 every 4 minutes, which does not seem to be onerous. He asked if there will be access to Brookmeade Drive from this development.

Sherry Ashley replied that there is not a connection to Brookmeade Drive. There is one road in and out of the development. Ashley said that the main access from the development is to US-70 which is not at capacity and can certainly handle the additional traffic.

Mayor Kutteh asked Ms. Ashley to review Condition #7 offered by the applicant. Ashley said that the applicant offered to install the 5 ft. sidewalk, but they did not want to be responsible for acquiring the right of way or easements for the construction of the sidewalk if it was needed outside of the right-of-way. She stated that she and the City Engineer have looked at this property and it appears that that may not be necessary, that there is enough right-of-way there to install the sidewalk, but if there is a situation where a property line goes to the center line of the road, that is typically the developers responsibility to work that out. Mayor Kutteh if this is something that must be dealt with tonight. Ashley replied that if Council approves the rezoning with staff's recommendations, then when the site plan goes through the City's review process, staff will make sure that occurs at that time with the construction of the sidewalk.

In response to a request from Council member J. Johnson of what the purpose of the Unified Development Ordinance was, Ashley explained that the City used to have a lot of zoning and land use ordinances prior to the Unified Development Ordinance that was difficult for developers to use. The purpose of combining the zoning and the sub-division ordinances into the Unified Development Ordinance (UDO) was to provide one guiding document to outline all the processes, rules and regulations for developers to use to find out what they have to do construct new developments in the City. As she recalls the UDO was adopted around 2009. Council member J. Johnson said that this property has remained zoned Commercial for over 25 years through all of this change. Ashley replied that the UDO is a document of the City's rules and regulations. It is the Land Use Plan that projects what the City's land use should be and as Council knows, the current Land Use Plan was done in 2004 and is basically out of date because water and sewer lines have been extended beyond the 2004 Land Use Plan.

There being no other questions, Mayor Kutteh asked for a motion on this item.

Council member Foster made a motion to approve 2nd reading of rezoning request ZC20-01 for the properties located adjacent to 110 Vance PO Road; Tax Maps 4765-32-5949 & 4765-33-7215 from IC-CB, Iredell County Community Business to R-8MF, Medium-Density Multi-Family Residential Conditional Use District, seconded by Council member Allison.

Council member Staford stated that he is opposed to this rezoning because it is not consistent with the City's Land Use Plan and it is not in harmony with the surrounding neighborhoods. He read poverty statistics for Iredell County for the cities of Troutman, Mooresville and Statesville for 2000-2014 pointing out that Troutman and Mooresville's poverty rates have remained static for these years at 2% and 28% respectively, but Statesville's has increased tremendously and accounts for 70% of Iredell County's poverty. Staford said the City's growth is coming from these types of properties. He said that when City Council was looking at repealing the Sanitation Fee or at least giving an out to low-income residents, he was cautioned about doing that because 48-49% of the City's residents would qualify for that exemption. There is income disparity in Statesville and that income disparity comes from generational wealth which comes from home

ownership. The City Council needs to be more aware of what it is planning for the City's future with these developments that it is approving.

Council member S. Johnson stated that his comments will echo to some degree what Council member Staford has said. He said that since he has been on City Council there has been a great deal of talk about affordable housing and work-force housing. He believes that there has been too much emphasis placed on residential development rather than growing the economy and working to get businesses that provide good paying jobs to locate in Statesville which would raise the per capita income and would stimulate growth in all the other areas of the local economy. Statesville suffers from a lack of growth and commercial personal property, which is capital equipment that has been placed here by businesses that is not being replaced fast enough to keep up with depreciation. Council must start to think about its young people and create good paying jobs so they can purchase homes and own them in 30 years rather than getting to the age of 55 and need to find housing such as this.

Council member Allison stated that affordable housing is needed in Statesville and people have a right to nice, affordable housing and the City needs to be prepared and make room for it.

Council member S. Johnson said that when people choose to live in the City of Statesville rather than in the County, they understand that they surrender some of their property rights in order to gain greater protection of their property and the amenities of the city. They give up those property rights in exchange for that level of satisfaction and comfort that their property will be protected against any owners or any development that will not benefit their neighborhood or is not compatible with their neighborhood. In Civics class, this is called a Social Compact. The people who bought their homes next to or close to this property, purchased them with the reasonable and rightful expectation that any future development would be compatible with the surrounding area. He said this will be the second time that Council has rezoned and changed the rules on them. If City Council is going to maintain its integrity as elected officials and maintain the confidence of the citizens, it needs to strive to protect that social compact.

Council member Morgan stated that he agrees with most of the comments that have been made, but the Housing for Older Persons Act was put in place 1995 to address exactly that, housing for older people. While we do see some rental adjustments based on income, he can say that his parents, one a schoolteacher and one a small business owner, would have qualified to live in this development for an adjustment in the rent. This development has one way in and one way out, is in walking distance of a church, a grocery store, a pharmacy, and a restaurant and is within a very short driving distance to medical facilities. Taking all of these factors into consideration, he will be voting for this rezoning.

Council member Jones said that initially he was in favor of this rezoning until he heard from an overwhelming number of citizens in this ward that felt that it would negatively affect the value of their property. These citizens would like to see the zoning as it is stated by the County until the City annexed it stay Commercial. The citizens feel that a multi-family project would lead to further multi-family projects across the road from this site and that is already going to be on a Council agenda relatively soon. He will be voting no on this item because that is what the majority of voices in this ward has spoken to him about.

Council member Staford said he believes in affordable housing, but when Statesville has taken on 80% of that responsibility while its neighbors to the south have only taken 20%, he believes that Council is doing an injustice to the citizenry.

Mayor Kutteh asked for a vote on the motion. The vote was as follows:

Ayes: Foster, Allison, Morgan, Lawton

Nays: Staford, J. Johnson, S. Johnson, Jones

Tie Vote: 4-4

Mayor Kutteh voted Aye. Motion carried 5-4

Council member Staford said that the Consistency Statement was not made in the original (1st reading) motion and this is the 2nd reading. He does not believe that it can be added in the 2nd reading, it should have been part of the motion at the first reading. According to the UNC School of Government, punctuation can be corrected, but the motion that was made at 1st reading cannot be dramatically altered from 1st to 2nd reading.

City Attorney Leah Gaines Messick stated that the Consistency Statement is a separate statutory requirement for this motion to be passed and not an alteration of the original motion.

Council member Staford said he would like for it to be noted in the record that the Consistency Statement was not made in the original motion and he objects to this.

Council member Morgan made the following Consistency Statement:

In addition to approving this zoning amendment, this approval is also deemed to be an amendment for the City's Comprehensive Land Use Plan. The change in conditions the Planning Board has taken into account and the City Council has taken into account amending the zoning ordinance to meet the development needs of the community are as follows:

The property is located between the Brookmeade sub-division and commercial sites and staff believes that a medium density, multi-family development is a good transition between single-family and commercial development and all utilities are available at the site.

X Conduct a public hearing and consider approving site plan (Quasi-Judicial) P20-04 for the development of Cadence Statesville Senior Apartments located on Simonton Road, Tax Map 4755-23-7198. (Ashley)

Sherry Ashley reminded Council that this is a quasi-judicial hearing and that the Conditional-Use Rezoning was approved in 2002, so the applicant does have conditions that they must meet. Staff's presentation will show that the applicant has met those conditions. Anyone who wants to speak on this item must be sworn in to give testimony and evidence and Council must make their Findings of Fact to approve or deny the site plan.

Mayor Kutteh asked those that wished to give testimony or present evidence to come forward and be sworn in.

Ashley stated that the site is located at 2344 Simonton Road between the Martha's Ridge Subdivision and the Deer Creek Subdivision. The property is currently 10.03 acres in size and is proposed to be developed with 161 senior apartment units. The site is zoned CU O-1 (Office Single Lot) District. The site will be accessed from Simonton Road. Multi-family development is required to get Planning Board and City Council approval. The site plan indicates all the units will be housed in one building. The building is proposed to be 52,275 sf. It will contain 161 senior apartment units. The setback requirements are met. However, in this case, the height of the building is 50' which required the side setbacks to increase from 10' to 25' and those setbacks are met. Landscaping requirements are met. The site has 166 parking spaces which meets the requirement of the UDO. Units must be limited to seniors for the parking requirements to be met. If not, the development shall provide additional parking spaces. Sidewalk will be installed along Simonton Road. NCDOT did not require curb and gutter along Simonton Road. Extra landscape buffer area has been added between the site and Deer Creek subdivision per the conditional use requirements that were imposed for the rezoning in 2002. The site will utilize City sewer and water utilities and Energy United electrical. The Technical Review Committee approved this site plan at its March 18, 2020 meeting contingent upon approval of stormwater plans. The Planning Board recommended unanimously to approve the site-plan contingent upon approval of stormwater plans, setbacks being labeled on the site plan, 10% active open space calculations being added to the plans, materials and dimensions being added to the elevations, tree protection being added to the grading plan and the stream with stream buffers being added to the plans. The tax value of the land is \$224,630. The estimated value of the completed development is approximately \$17,000,000. Water and sewer service will be provided by the City. Electric service will be provided by Energy United. Possible 161 new residents. Sanitation will be private. Since the Planning Board meeting several corrections stated above have been added to the site plans. Therefore, staff recommends approval of site plan contingent upon approval of the Stormwater Plans and the stream with stream buffers being added to the plans. Otherwise the plans meet the requirements of the UDO. The City Manager has no recommendation for this item due to the quasi-judicial nature of the request.

Mayor Kutteh read a letter that Council received along with a petition with 69 signatures from residents of the Deer Creek and Martha's Ridge subdivisions in opposition of this item. (Attachment C)

The letter offered the following requests to Council for their consideration:

1. A buffer zone of 50 ft. between the present residents of both Martha's Ridge and Dear Creek.
2. The retention of the large trees that surround said development.
3. The construction to blend in with the surroundings and being of no greater than two stories similar to that of the surrounding residential areas.
4. A promissory document from the developer and the owner that it will uphold its commitment to maintain the property as initially presented, and upscale 62 and older Senior Living Residence.

Council member Stafford asked Ashley to explain the zoning classification of this property. Ashley replied that it is the City's CU O-1 (Office Single Lot) District zoning which allows

office, multi-family and other types of uses. Staford asked what the property to the southwest is zoned. Ashley replied there is R-15 to the south, R-8 to the east, and R-15 to the north. Staford clarified that there is no other multi-family developments in this area. Ashley replied that is correct. Staford asked if there are any multi-family developments near or adjacent to this property. Ashley replied there are none adjacent and the closest one would be down the road next to the City Recreation Center. Staford asked how many 50 ft. structures are nearby or adjacent to this property. Ashley replied she did not believe there are any adjacent. Staford said that the Findings of Fact state that "The locations and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of Statesville and its environs." Sherry Ashley replied that Finding of Fact is for Special Use Permits. She said that she gave Council members the correct review criteria information for Site Plans at the Pre-Agenda meeting. The Finding of Fact information in the packet was not the correct one. The review criteria for site plans states: D. Review Criteria – The building and site design described in the Site Development Plan shall be compatible with and shall not adversely impact adjoining properties whether residential or nonresidential. Staford asked why the Deer Creek buffer was increased and the other surrounding properties were not. Ashley replied this was done before she worked for the City but based on the Council meeting minutes from 2002 that was what the residents requested.

Mayor Kutteh declared the public hearing open.

Alan Fletcher, 2205 James Way, spoke in opposition of this item stating that there are no buildings in the area over two stories and will negatively impact the area. The project will negatively affect the property values. Behind 2211 there are survey pins behind the Cypress trees. This plan shows an overlap onto this property. He believes the survey is inaccurate. The residents oppose the removal of the pear trees.

Frances Blanton, 807 Shillington Drive, spoke against the site plan stating that it will negatively affect the peaceful environment and it is not a suitable location for a four-story building.

James Pressley, developer of the project, stated that he is discouraged to hear the testimony that has been given that has been non-expert, personal opinion and hearsay testimony and it is inappropriate for Council to consider this type of testimony in a quasi-judicial hearing. He reminded City Council that the reason we are here this evening is to examine the site plan and confirm its consistency with the City ordinance. As Council knows, for a site plan to come before City Council it must go through three tests first. The first test is that it is examined by staff who have determined that this site plan is consistent with the local ordinance and the zoning conditions. The second test is the Technical Review Committee, who has reviewed the plan and found it to be consistent with the City ordinance and the zoning requirements. The third test is the Planning Board, who voted unanimously to approve this site plan and sent it to City Council for its approval. The only outstanding approval that is needed is the Stormwater Plan, which the Stormwater Department has had since March 17th and the project engineer, Brian Smith with Urban Designs, is working with the Stormwater staff to get it approved. Pressley stated that he or Brian Smith would be happy to answer any questions from Council specific to the site plan and how it relates to the City ordinance. He asked Council to approve the site plan pending approval of the Stormwater Plan.

Council member Staford said that it appears that there are 166 parking spaces on the plan for 161 units. Pressley replied that is correct. Staford asked if people that are 62+ years of age have family and friends that visit. Pressley said that if Staford is questioning the parking and traffic, he knows from the National Association of Apartments that about 75% of apartment dwellers own an automobile and this number is even less for senior communities. Staford replied that statistic may be true for New York City or a large city with mass transportation, but he can assure him that in Statesville, in an upper echelon, 62 and older senior housing complex, everyone of the tenants will most likely own a car. Mr. Pressley stated that evidence is needed for that claim, not just assurances in this quasi-judicial hearing.

Council member Staford asked what the commitment is to the 62 and older requirement. Pressley replied that it depends on the construction loan and to his knowledge, the City does not have an ordinance about construction loans. Staford asked if he is saying that the tenants must be 62 and older or that they may be 62 and older. Pressley replied that he is saying that the head of the household must be 62 years of age or older. Staford asked if LITEC funds are involved in this project. Pressley replied there is not, this is a market rate community.

Council member Foster asked Pressley if he has developed other projects like this and has he had any issues with them. Pressley replied that he represents a development company that has more than 40 years of experience in this type of work. They are certified property managers and train their staff to be professional and to follow local protocols and they have a good reputation.

Mayor Kutteh asked what the monthly rental rates will be. Pressley replied that it is a market rate community so rental rates will rise and fall with demand of the local marketplace.

Council member Allison asked if each apartment will have at least one assigned parking space. Pressley replied that there will be no assigned parking spaces, that relates to the City ordinance which requires at least one space per unit.

Mayor Kutteh asked Sherry Ashley if the Planning Board had to make their decision based on the Review Criteria she had mentioned earlier. Ashley replied that the Planning Board does not hold a quasi-judicial hearing, they hold a courtesy public hearing and their responsibility is to make sure that the site plan meets the requirements of the ordinance. Council is required to hold the quasi-judicial hearing and is required to make the Findings of Fact. Mayor Kutteh clarified that the neither the TRC nor the Planning Board have had to review compatibility or adverse impact. Ashley replied that is correct. The Council is charged with determining that and making the quasi-judicial decision. Mayor Kutteh asked if there are situations where an applicant could comply with everything from a zoning standpoint and the development still would not be compatible with the neighborhood and give Council the right to deny approval of the project. Ashley replied that is possible, but the Findings of Fact must support that decision.

Mayor Kutteh asked Pressley if he would be willing to consider making any of the requests made by those in opposition to the project. Pressley stated that this rezoning has been recorded and has been public information since 2002. This is the first he has heard from Mr. Fletcher and the other 63 people that signed the petition. He said that they know that he purchased this property in 2016, Mr. Fletcher purchased his home in 2017 and could

have found the zoning of the adjoining property at any time before he purchased his home. Pressley said he has worked very hard to present a plan that is consistent with the ordinance and according to the TRC, the Planning Board and City staff it meets the requirements of the ordinance. Mayor Kutteh said he understands how the height of this building is a concern to some members of Council. Mr. Pressley said that the plan exceeds the setbacks on every corner of the plan where possible.

Council member Jones asked if the height requirement in the zoning district is met. Ashley replied that it is.

Council member Morgan stated that the site is zoned correctly for this use, the site plan meets all the requirements of the City Code, the conditions have been met, so essentially, this site plan could be approved by right.

Council member Stafford pointed out that the Review Criteria states that the building and site design described in the Site Development Plan shall be compatible with and shall not adversely impact adjoining properties whether residential or nonresidential. While the proof of adverse impact to adjoining properties may not have been made, the incompatibility has been proven because there is nothing else anywhere in the area of this size and type of structure.

Council member Allison asked how close this building is to its closest residence. Ashley replied she would need to check but it could be at least 40 ft.

Council member S. Johnson said it would be the good neighborly thing for Mr. Pressley to retain the large trees that surround said development. Mr. Pressley stated that the site plan meets the requirements of the ordinance and the zoning and he asked for a motion on the matter.

Council member Foster made a motion to approve site plan P20-04 for the development of Cadence Statesville Senior Apartments located on Simonton Road, Tax Map 4755-23-7198 stating that the building and the site design described in the Site Development Plan is compatible with and does not adversely impact adjoining properties whether residential or nonresidential, seconded by Council member Morgan.

Mayor Kutteh asked Pressley if he is removing the trees that are in the buffer. Pressley replied those are Leland Cypress and they are going to try to save all of them. The Bradford Pear trees will have to be removed for the sidewalk, but street trees will be replanted to replace them.

The vote on the motion was as follows:

Ayes: Foster, Morgan, Allison, J. Johnson, S. Johnson, Lawton, Jones

Nays: Stafford

Motion Carried: 7-1

XI Consider approving first reading of an ordinance to amend the Rules of Procedure for City Council. (Smith)

This item was removed from the agenda.

XIV Consider awarding the construction contract for the Larkin Commerce Park water line extension to Fuller & Co. Construction, LLC and approving Budget Amendment #24. (Harrell)

Scott Harrell stated that staff received bids to construct a water line extension to serve the Larkin Commerce Park on May 28. The project includes constructing a water line along Amity Hill Rd, Moose Club Rd, and beneath I-77 to the vicinity of the Dover Rd/Larkin Parkway intersection. Results of the bid opening are shown below:

<u>Company</u>	<u>Bid Total</u>
Fuller & Co. Construction, LLC	\$2,307,363.49
Hall Contracting Corporation	\$3,004,721.75
Paragon Site Solutions, LLC	\$3,008,432.18
Classic City Mechanical	\$3,407,801.34
Dellinger, Inc.	\$3,470,149.31
Buckeye Bridge, LLC	\$3,766,974.65
Country Boy Landscaping, Inc.	\$4,093,657.77
Hickory Sand Company, Inc.	\$4,098,897.75
State Utility Contractors, Inc.	\$4,412,546.00

Fuller & Co. Construction, LLC of Bessemer City, NC is the low bidder with a total bid of \$2,307,363.49. Construction Admin services (materials review, invoice review, periodic inspection and project certification) will be provided by Hazen & Sawyer. No additional funds are required, as there are sufficient funds remaining on Hazen’s design contract to cover these services. Daily construction inspection will be conducted by City staff. Staff recommends establishing a 3% project contingency in the amount of \$70,636.51, for a total project cost of \$2,378,000. The total project cost is \$2,378,000, which includes construction, construction admin services, and project contingency. Staff is nearing completion on a sewer rehabilitation design and anticipates receiving bids for that project in late July. Staff proposes financing this water extension and the sewer rehab project in one debt package, to be presented to Council in late summer. Extending water service to the Larkin Commerce Park is a provision of the development agreement. Not constructing the water line extension would violate the agreement. Staff and the City Manager recommends awarding the Larkin Commerce Park waterline extension construction contract to Fuller & Co. Construction, LLC and approving Budget Amendment No. 2020-24. If approved, staff will issue a Notice of Award to Fuller & Co. Construction. Staff anticipates construction will begin by late July and is expected to last about six months.

Council member J. Johnson made a motion to award the construction contract for the Larkin Commerce Park water line extension to Fuller & Co. Construction, LLC and approving Budget Amendment #24, seconded by Council member Morgan. The motion carried unanimously.

XVIII Consider appointing two regular members to the Planning Board. (Ashley)

Sherry Ashley stated that Bernard Robertson’s term expires June 30, 2020 and he would like to be reappointed. Brian Long’s term also expires June 30, 2020, but he is not interested in being reappointed. There are 4 other active applicants on file for the Planning Board. They are Alisha Cordle, Dr. Joseph Glasgow, Justin Phillips, and Jed Pidcock. Council just appointed Jed Pidcock to the Board of Adjustment, so he is not available for this board.

Council member Morgan nominated Bernard Robertson for re-appointment and Alicia Cordle to be appointed to the Planning Board.

Council member Staford nominated Dr. Joseph Glasgow to be appointed to the Planning Board.

The vote was as follows:

Re-Appoint Bernard Robertson: Jones, Foster, S. Johnson, J. Johnson, Morgan, Staford

Appoint Alisha Cordle: Morgan, J. Johnson, S. Johnson, Foster, Lawton

Appoint Dr. Joseph Glasgow: Allison, Staford, Jones

Bernard Robertson was re-appointed to the Planning Board and Alisha Cordle was appointed to the Planning Board.

XX Boards and Commissions Updates

1. 05/21/2020 Stormwater Commission Meeting Minutes
2. 05/06/2020 Technical Review Committee Meeting Minutes

XXI Other Business

XXII Closed Session

There being no other business, Mayor Kutteh asked for a motion to adjourn.

Council member Jones made a motion to adjourn, seconded by Council member Allison. The motion carried unanimously.

Brenda Fugett, City Clerk

Constantine H. Kutteh, Mayor

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: Sherry Ashley, Planning Director
DATE: June 25, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider approving 2nd reading of annexation request AX20-03, an ordinance to annex the property located at 1243 Tonewood Street, Fairfield Inn and Suites, PIN 4745-35-2158.

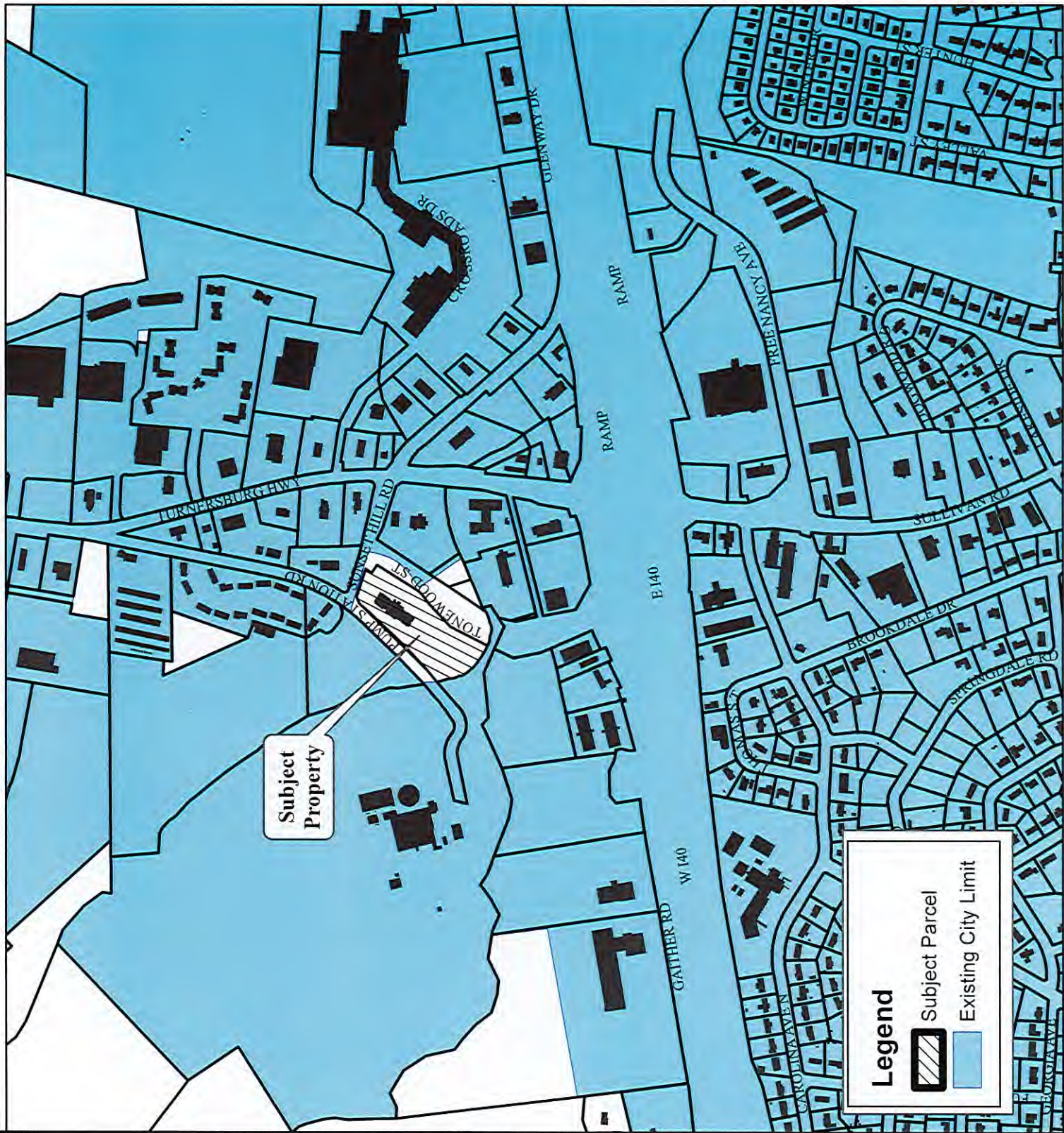
- 1. Summary of Information:** The property being considered for annexation was submitted by David Norman on behalf of Fairfield Inn and Suites. The subject property is located at 1243 Tonewood Street and is approximately 3.598 acres in size and is further identified as Iredell County Parcel Identification Number (PIN) 4745-35-2158. The subject property is contiguous to the primary corporate limits of the City of Statesville. The property is zoned B-5 (General Business) District and the hotel is currently under construction on the site.
- 2. Previous Council or Relevant Actions:** The site plans for a new Fairfield Inn were approved by City Council on August 5, 2019 contingent upon several corrections and annexation. All the corrections have been made; thus, the annexation petition has been submitted. The public hearing and first reading of the ordinance was held and approved at the August 3, 2020 Council meeting.
- 3. Budget/Funding Implications:** The tax value of this property is \$630,710. The estimated value of the completed development is approximately \$9.5 million. City water and sewer is provided to the site. Electrical service is provided by Duke Energy.
- 4. Consequences for Not Acting:** Without annexation the city would not collect property taxes.
- 5. Department Recommendation:** The department recommends passing the first reading of the ordinance to annex the property located at 1243 Tonewood Street.
- 6. Manager Comments:** Concur with the department's recommendation.
- 7. Next Steps:** If 2nd reading is approved the annexation will be effective on August 31, 2020.
- 8. Attachments:**
 1. City Limit Location Map
 2. Utility Location Map
 3. Ordinance for Annexation

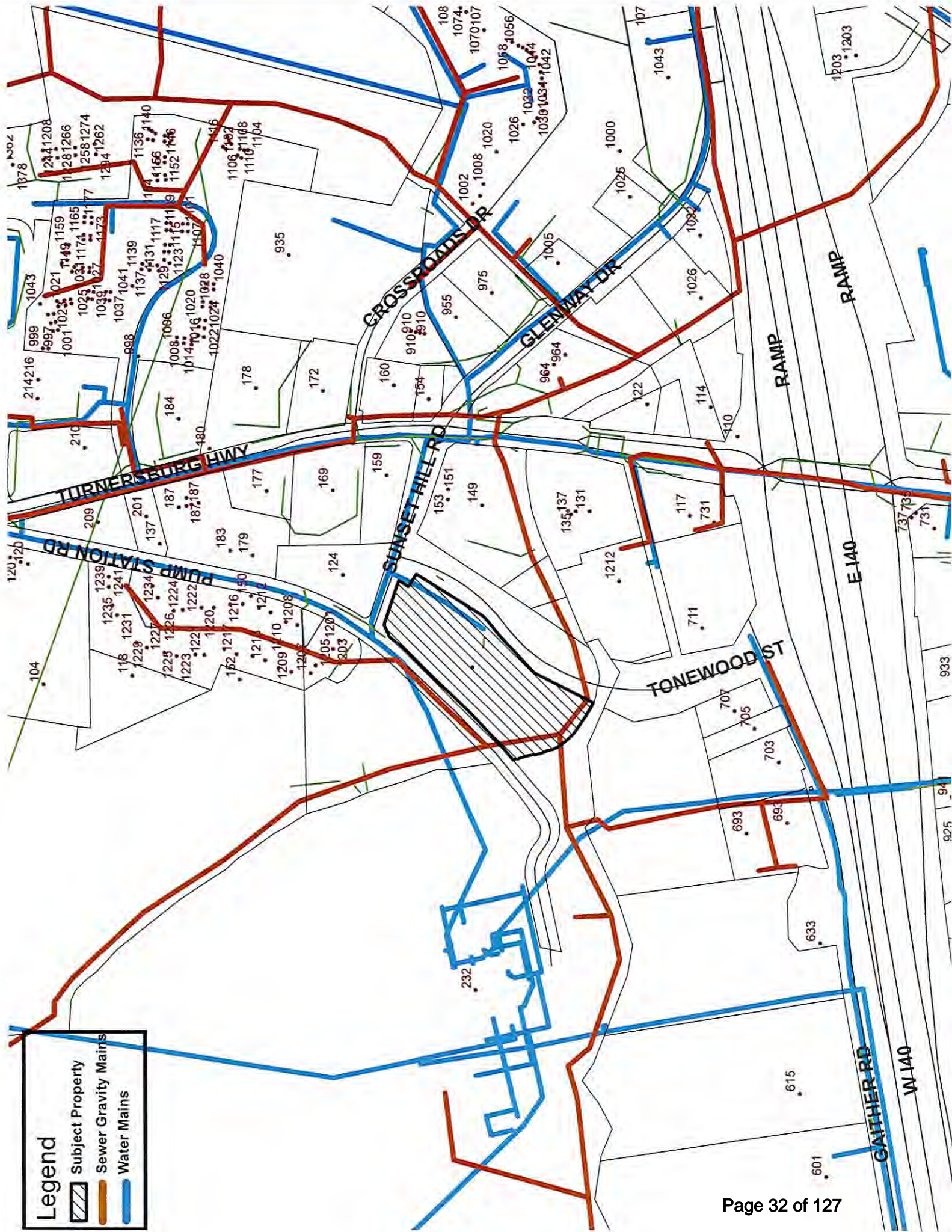
**City of Statesville
Planning Department**

1243 Tonewood Street
Property



1 inch = 666.666667 feet





Legend

-  Subject Property
-  Sewer Gravity Mains
-  Water Mains

ORDINANCE NO. _____

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF STATESVILLE, NORTH CAROLINA**

**State F.F., LLC, Fairfield Inn & Suites
1243 Tonewood Street
AX20-03
4745-35-2158**

WHEREAS, the Statesville City Council has petitioned under G.S. 160A-31, to annex the area described below; and

WHEREAS, the Statesville City Council has by resolution directed the Clerk to investigate the sufficiency of the petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at Statesville City Hall at 7:00 o'clock p.m. on the 20th day of July, 2020 after due notice by publication on 10th day of July, 2020; and

WHEREAS, the Statesville City Council finds that the petition meets the requirements of G.S. 160A-31:

WHEREAS, the Statesville City Council further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the Statesville City Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE, BE IT ORDAINED BY the Statesville City Council of the City of Statesville, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described contiguous territory is hereby annexed and made part of the City of Statesville, as of August 31, 2020 at 11:59 p.m.

Description

ALL THAT CERTAIN tract or parcel of land situate in the City of Statesville ETJ, Iredell County in the state of North Carolina. Said parcel being more particularly described as follows:

BEGINNING AT A CALCULATED POINT IN THE CENTERLINE OF FOURTH CREEK WHERE THE SAME IS INTERSECTED BY THE EASTERLY MARGIN OF PUMP STATION ROAD (SR-1933 60' WIDE PUBLIC RIGHT OF WAY) SAID POINT ALSO BEING DISTANT N 56°36'37" E A DISTANCE OF 199.34' FROM NCDOT CONTROL POINT "BY8-228" (PROJECT #34192.3.1), SAID POINT ALSO BEING DISTANT S 09°17'27" E A DISTANCE OF 34.49' FROM A PK NAIL FOUND IN THE CENTERLINE OF A BRIDGE OVER SAID CREEK; AND FROM SAID POINT OF BEGINNING RUN THENCE, WITH THE WESTERLY MARGIN OF PUMP STATION ROAD THE FOLLOWING FIVE COURSES AND DISTANCES: 1) N 51°09'22" E PASSING A #4 REBAR SET AT 25.00' AND CONTINUING 29.71' FOR A TOTAL DISTANCE OF 54.71' TO A #4

REBAR SET; THENCE, 2) ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1151.31', AN ARC LENGTH OF 135.89', WITH A CHORD BEARING OF N 47°46'30" E , AND CHORD DISTANCE OF 135.81', TO A #4 REBAR SET; THENCE, 3) WITH A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 4132.34', AN ARC LENGTH OF 190.28', WITH A CHORD BEARING OF N 43°04'28" E , AND CHORD DISTANCE OF 190.26', TO A #4 REBAR SET; THENCE, 4) N 41°45'19" E A DISTANCE OF 45.58' TO A #4 REBAR SET; THENCE, 5) THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 2141.31', AN ARC LENGTH OF 120.18', WITH A CHORD BEARING OF N 39°56'59" E , AND CHORD DISTANCE OF 120.17', TO AN NCDOT RIGHT OF WAY DISK FOUND; THENCE, N 63°42'20" E A DISTANCE OF 38.80' TO AN NCDOT RIGHT OF WAY DISK FOUND IN THE SOUTHERN MARGIN OF SUNSET HILL ROAD (SR-1935 50' RIGHT OF WAY); THENCE, WITH SAID MARGIN OF SUNSET HILL ROAD S 71°28'23" E A DISTANCE OF 144.21' TO A #4 REBAR SET WHERE THE SAME IS INTERSECTED BY THE WESTERLY MARGIN OF TONEWOOD STREET (VARIABLE WIDTH RIGHT OF WAY); THENCE, WITH SAID MARGIN OF TONEWOOD STREET THE FOLLOWING EIGHT COURSES AND DISTANCES: 1) S 32°13'25" W, A DISTANCE OF 35.99' TO A #4 REBAR SET; THENCE, 2) S 57°46'35" E, A DISTANCE OF 46.80' TO A #4 REBAR SET; THENCE, 3) S 32°13'25" W, A DISTANCE OF 176.76' TO A #4 REBAR SET; THENCE, 4) S 32°13'25" W, A DISTANCE OF 68.44' TO A #4 REBAR SET; THENCE, 5) WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 498.00', AN ARC LENGTH OF 50.49', WITH A CHORD BEARING OF S 49°40'38" W, AND A CHORD DISTANCE OF 50.47', TO A #4 REBAR SET; THENCE, 6) WITH A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 568.00', AN ARC LENGTH OF 92.02', WITH A CHORD BEARING OF S 47°56'27" W, AND A CHORD DISTANCE OF 91.92', TO A #4 REBAR SET; THENCE, 7) S 47°23'13" W, A DISTANCE OF 90.40' TO A #4 REBAR SET; THENCE, 8) S 26°22'03" W PASSING A #4 REBAR AT 192.62' AND CONTINUING 17.60' FOR A TOTAL DISTANCE OF 210.22' TO A CALCULATED POINT IN THE CENTERLINE OF THE AFORESAID FOURTH CREEK AND IN THE EASTERLY LINE OF THE CITY OF STATESVILLE (WATER PLANT), (DEED BOOK 1080, PAGE 752); THENCE, ALONG THE CENTERLINE OF FOURTH CREEK AND WITH THE CITY OF STATESVILLE THE FOLLOWING EIGHT COURSES AND DISTANCES: 1) N 63°59'14" W A DISTANCE OF 27.41' TO A POINT; THENCE, 2) N 62°37'35" W A DISTANCE OF 30.69' TO A POINT; THENCE, 3) N 59°43'10" W A DISTANCE OF 43.68' TO A POINT; THENCE, 4) N 61°44'57" W A DISTANCE OF 41.88' TO A POINT; THENCE, 5) N 19°06'46" W A DISTANCE OF 63.69' TO A POINT; THENCE, 6) N 23°15'57" W A DISTANCE OF 50.88' TO A POINT; THENCE, 7) N 04°09'08" W A DISTANCE OF 39.45' TO A POINT; THENCE, 8) N 09°08'41" W A DISTANCE OF 30.72' TO THE POINT AND PLACE OF BEGINNING.

SAID ABOVE DESCRIBED TRACT OR PARCEL OF LAND CONTAINING WITHIN SAID BOUNDS, AN AREA OF 156,731.9 SQUARE FEET, 3.598 ACRES MORE OR LESS. BEING IDENTIFIED AS ALL OF PIN # 4745352158 AS SHOWN ON THE TAX MAPS OF IREDELL COUNTY, NORTH CAROLINA.

Section 2. Upon and after August 31, 2020 at 11:59 p.m., the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Statesville and shall be entitled to the same privileges and benefits as other parts of the City of Statesville. Said territory shall be subject to municipal taxes according to G.S. 160A-31.

Section 3. The Mayor of the City of Statesville shall cause to be recorded in the office of the Register of Deeds of Iredell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Iredell County Board of Elections, as required by G.S. 163-288.1.

The Ordinance was introduced by a first reading by Council member _____, seconded by Council member _____, and carried on the 20th day of July, 2020.

AYES:

NAYS:

The second and final reading of this ordinance was heard on the 3rd day of August, 2020 and upon motion of Council member _____, seconded by Councilmember _____, and unanimously carried, was adopted.

AYES:

NAYS:

The Ordinance to be in full force and effect from and after the 31st day of August 2020 at 11:59 p.m.

City of Statesville

Constantine H. Kutteh, Mayor

ATTEST:

Brenda Fugett, City Clerk

APPROVED AS TO FORM:

Leah Gaines Messick, City Attorney

CITY COUNCIL ACTION REQUEST

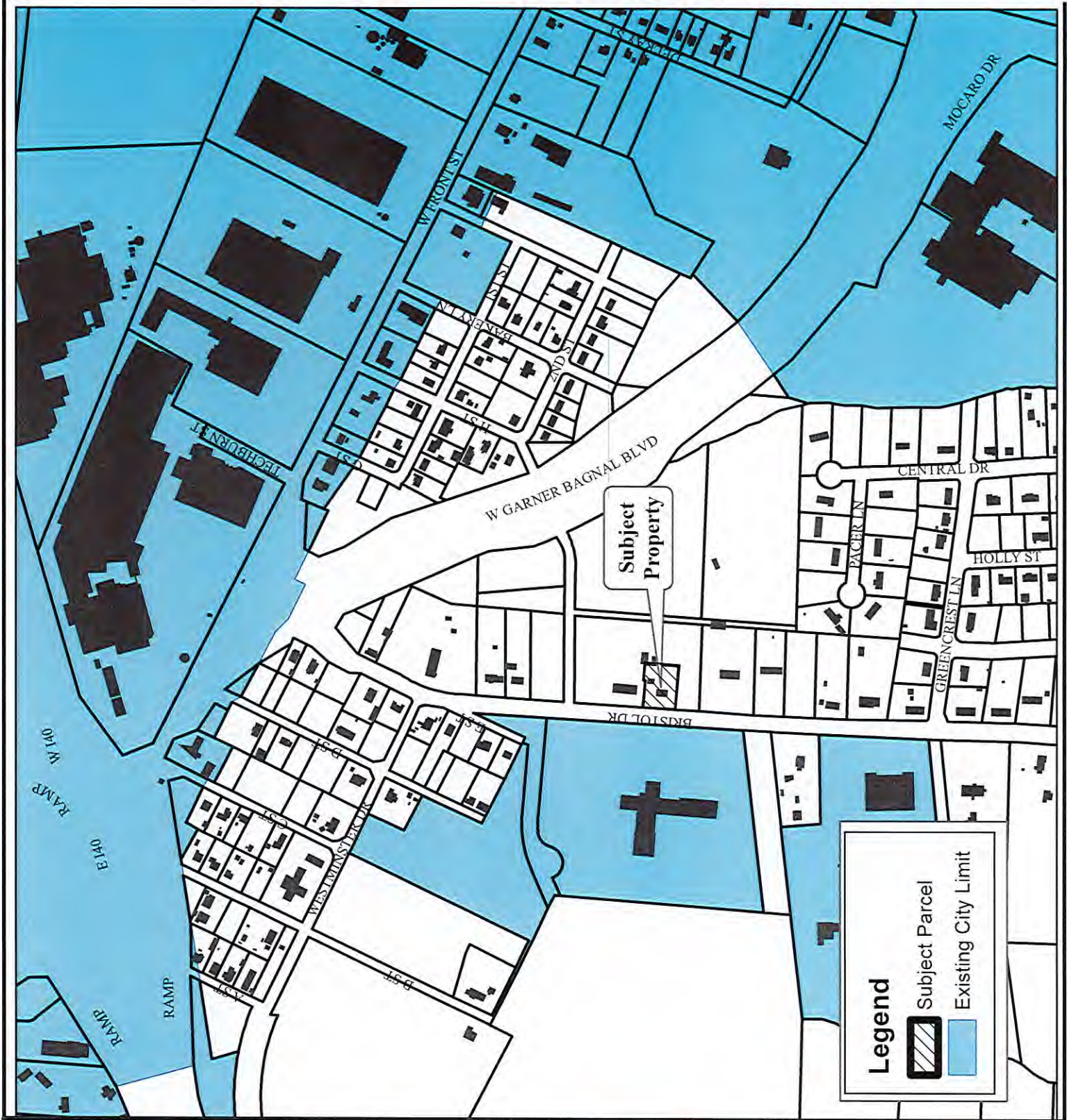
TO: Ron Smith, City Manager
FROM: Sherry Ashley, Planning Director
DATE: June 25, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

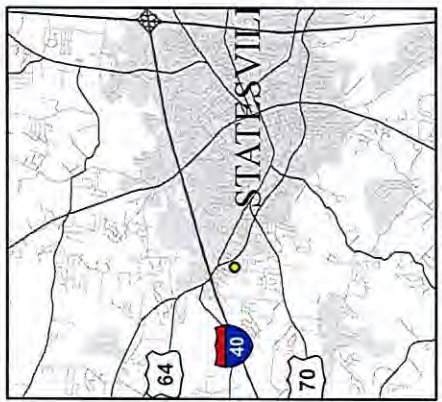
Consider approving 2nd reading of annexation request AX20-04, an ordinance to annex the property located at 405 Bristol Drive owned by Steve Ervin and Joye Lamberth, PIN #4724-67-6304.

- 1. Summary of Information:** The property being considered for annexation was submitted by Steve Ervin and Joye L. Lamberth and is located at 405 Bristol Drive. The applicants would like for 405 Bristol Drive to have its own water meter. This property currently shares water with 403 Bristol Drive. The subject property is approximately .495 acres in size and encompasses Iredell County Parcel Identification Number (PIN) 4724-67-6304. The subject property is not contiguous to the primary corporate limits of the City of Statesville, and therefore, the petition is being processed as a voluntary satellite annexation. The property is located within the City's Zoning Jurisdiction and is zoned R-20, therefore no rezoning will have to occur.
- 2. Previous Council or Relevant Actions:** N/A
- 3. Budget/Funding Implications:** The tax value of this property has not been set at this time due to the property being subdivided. Only the water tap (\$525.00) will apply for a split from the meter at 403 Bristol Drive. The property is served by City electric service and water.
- 4. Consequences for Not Acting:** Without annexation, City Council could approve the water request with the applicants paying outside rates or deny the request and 405 Bristol Drive would continue sharing water with 403 Bristol Drive.
- 5. Department Recommendation:** The department recommends passing the first reading of the ordinance to annex the property located at 405 Bristol Drive.
- 6. Manager Comments:** Concur with department's recommendation.
- 7. Next Steps:** If approved, the second reading will be August 3, 2020. The annexation will be effective on August 31, 2020.
- 8. Attachments:**
 1. City Limit Location Map
 2. Utility Location Map
 3. Ordinance for Annexation



**City of Statesville
Planning Department**

405 Bristol Drive Property



ORDINANCE NO. _____

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF STATESVILLE, NORTH CAROLINA**

**Steve Ervin and Joye Lamberth
405 Bristol Drive
AX20-04
Tax Map 4724-67-6304**

WHEREAS, the Statesville City Council has petitioned under G.S. 160A-58.1, to annex the area described below; and

WHEREAS, the Statesville City Council has by resolution directed the Clerk to investigate the sufficiency of the petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at Statesville City Hall at 7:00 o'clock p.m. on the 20th day of July 2020 after due notice by publication on the 10th day of July 2020; and

WHEREAS, the Statesville City Council finds that the area described therein meets the standards of G.S. 160A-58. 1(b), to wit:

- a. The nearest point of the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the City;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the City;
- c. The area described is so situated that the City will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;

WHEREAS, the Statesville City Council further finds that the petition has been signed by all the owners of real property in the area who are required by law to sign; and

WHEREAS, the Statesville City Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the City and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE, BE IT ORDAINED BY the Statesville City Council of the City of Statesville, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described noncontiguous territory is hereby annexed and made part of the City of Statesville, as of the August 31, 2020 at 11:59 p.m.

Description

Beginning at a pin in the R/W of Bristol Dr. and corner of Joye L. Lamberth property and running with the Bristol Dr. R/W North 03 deg. 01 min. 39 sec. East 118.53 feet to a pin in the R/W of Bristol Dr. and Lamberth; thence South 85 deg. 28 min. 02 sec. East 104.60 feet to a pin; thence North 04 deg. 31 min. 58 sec. East 1.20 feet to a pin; thence North 04 deg. 31 min. 58 sec. East 3.80 feet to a pin; thence South 85 deg. 28 min. 02 sec. East 62.10 feet to a pin corner of Lamberth thence South 03 deg. 01 min. 39 sec. West 122.33 feet to a pin corner of Lamberth thence North 85 deg. 28 min. 02 sec. West 166.80 feet to the point and place of beginning containing .495 Ac. as shown on the plat recorded in the Iredell County ROD at book 71 page 130. Property

Address: 405 Bristol Drive

Section 2. Upon and after August 31, 2020 at 11:59 p.m., the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Statesville and shall be entitled to the same privileges and benefits as other parts of the City of Statesville. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Statesville shall cause to be recorded in the office of the Register of Deeds of Iredell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Iredell County Board of Elections, as required by G.S. 163-288.1.

The Ordinance was introduced by a first reading by Council member _____, seconded by Council member _____, and unanimously carried on the 20th day of July, 2020.

AYES:
NAYS:

The second and final reading of this ordinance was heard on the 3rd day of August, 2020 and upon motion of Council member _____, seconded by Council member _____, and unanimously carried, was adopted.

AYES:
NAYS:

The Ordinance to be in full force and effect from and after the 31st day of August 2020 at 11:59 p.m.

City of Statesville

Constantine H. Kutteh, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Fugett, City Clerk

Leah Gaines Messick, City Attorney

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: Sherry Ashley, Assistant Planning Director
DATE: July 20, 2020

ACTION NEEDED ON: August 3, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider approving a request to demolish two buildings located at 110 West Allison Street and 746 Shelton Avenue.

1. Summary of Information: The Iredell Statesville Community Enrichment Corporation is requesting to demolish two buildings located on their campus at the intersection of Shelton Avenue and West Allison Street. The properties located at 110 West Allison Street and 746 Shelton Avenue are zoned Central Business Perimeter and are owned by the corporation. 110 West Allison Street is used as a storage facility by Iredell Statesville Community Enrichment Corporation. 746 Shelton Avenue is known as the old Joey's Fish Market Building, built in 1950 and currently stands vacant. Both buildings are in major disrepair experiencing extensive leaking, therefore causing significant damage to the buildings.

After demolition, the applicant plans to construct a parking lot and revamp the campus entrance where the two buildings once stood. The applicant states the new parking lot and redesigned entrance will allow a more pleasing flow of traffic into the area of the main office and training facility plus provide parking for the Art and Music Hub located near the property, at 117 McElwee Street. Grand steps will be constructed from the parking lot leading to the sidewalk along Shelton Avenue for utilization by attendees to the Art & Music facility.

As part of the overall vision for the Iredell Statesville Community Enrichment Corporation campus, the applicant will be constructing additional parking spaces on the northern portion of the campus towards the rail line to accommodate visitors to the business office, training facility and Art and Music Hub (Please see the attached site plan identifying where the parking will be located on the northern portion of the campus).

2. Previous Council or Relevant Actions: N/A

3. Budget/Funding Implications: N/A

4. Consequences for Not Acting: The applicant will not be able to demolish the structures therefore causing the buildings to continue to deteriorate structurally creating a nuisance and hazard on the property.

5. Committee Recommendation: The Design Review Committee recommended approving the demolition request as presented at their July 9th, 2020 regularly scheduled meeting.

6. Manager Comments: Concur with the Design Review Committee recommendation.

7. Next steps: If approved, the applicant will obtain a demolition permit to remove the buildings and move forward with plans to implement a new parking lot and redesign the main entrance of the Iredell Statesville Community Enrichment Corporation campus.

8. Attachments:

1. Existing Condition Photos
2. Overall Campus Concept Illustration from Applicant

110 W Allison Street & 746 Shelton Ave – Existing Conditions



110 W Allison St – Storage Facility – To Be Demolished



746 Shelton Ave – Old Fish Market – To Be Demolished



Looking North Toward the Rail Line & Art/Music Center



Zoom - Looking North Toward the Rail Line & Art/Music Center

110 W Allison Street & 746 Shelton Ave – Existing Conditions

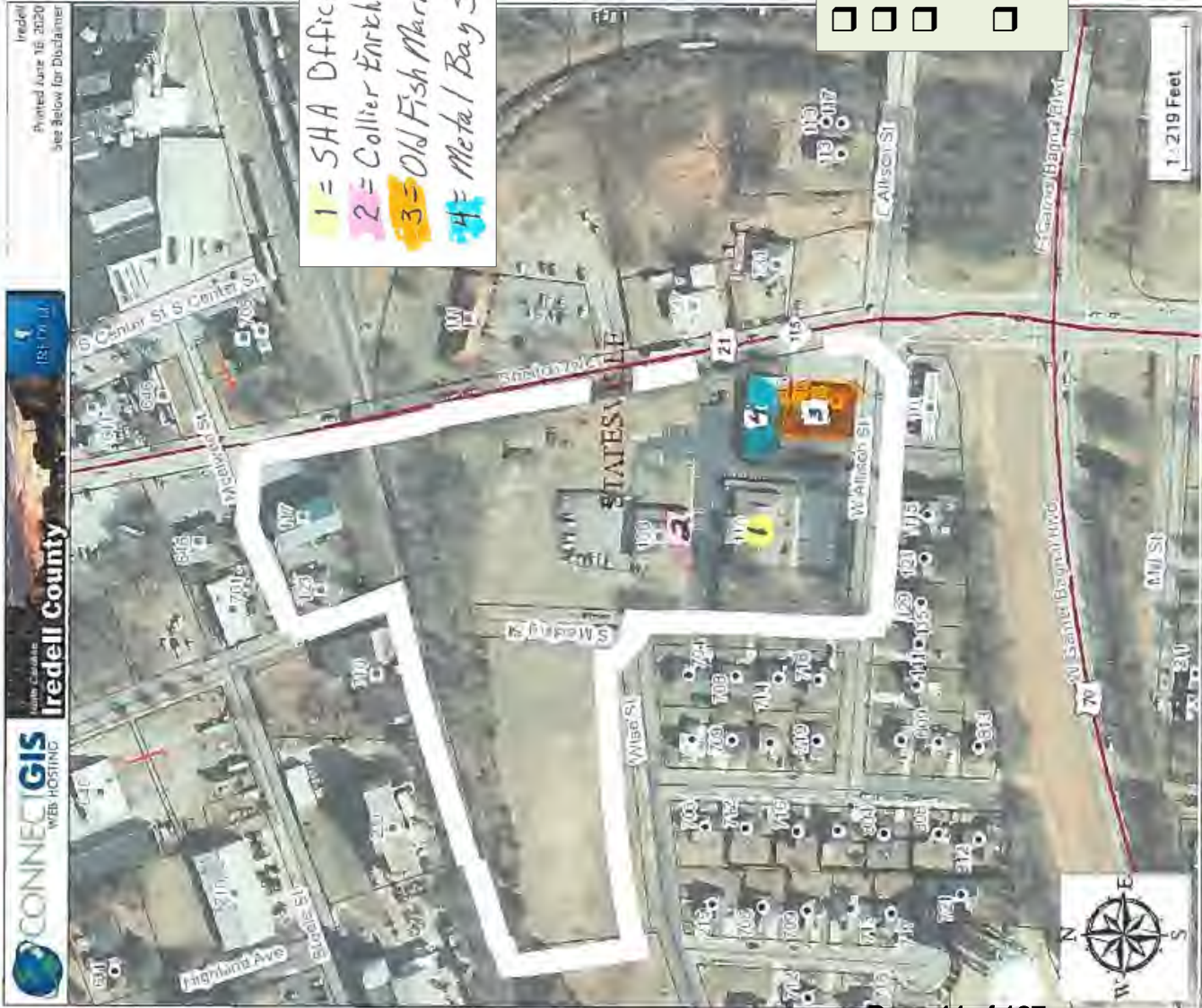


Current Entrance 110 W Allison St – Looking North



View of ISCEC Main Office Entrance – Area to be Redesignated for more Pleasing Flow of Traffic

Iredell Statesville Community Enrichment Corporation – Campus Overview



■ 1 = SHA Office
■ 2 = Collier Enrichment Center
■ 3 = Old Fish Market 746 Shelton
■ 4 = Metal Bay Storage 110 W. Allison St

- # 1 - Building to Remain
- # 2 - Building to Remain
- # 3 - Building to be Demolished (New Parking Lot will be Constructed)
- # 4 - Building to be Demolished (New Parking Lot will be Constructed)

Campus Boundary

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: John Maclaga, Electric Utilities Director
DATE: July 20, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider approving adding \$50,000 to an existing multi-year contract with Williams Electric Company.

- 1. Summary of Information:** Williams Electric Company is one of two contractors assisting the City with large projects. Although the City is transitioning to Sumter Utilities, the City has a small amount of work for Williams to finish; \$50,000 will complete the work. The City has recently used Williams to help with several projects, including ongoing NCDOT work along East Broad Street; the City expects to be repaid by NCDOT for non-betterment portions of the project.
- 2. Previous Council or Relevant Actions:** This is related to the April, 2018, multi-year contract with Williams Electric Company.
- 3. Budget/Funding Implications:** The Electric Department's budget can handle the request.
- 4. Consequences for Not Acting:** The City could face unnecessary conflict with the NCDOT for failure to act in good faith to relocate its electric lines in the area of several projects, notably along I-77 and East Broad Street.
- 5. Department Recommendation:** Staff recommends Council approve adding \$50,000 to an existing multi-year contract with Williams Electric Company.
- 6. Manager Comments:** Recommend for approval.
- 7. Next Steps:** Upon approval, staff with handle getting monies added to a Purchase Order.
- 8. Attachments:** None

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: Christopher Tucker, Finance Director
DATE: July 21, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider approving Budget Amendment #2021-02 which uses a fund balance appropriation to allow for the rollover of outstanding purchase orders.

- 1. Summary of Information:** This request is the annual action to authorize the rollover of outstanding purchase orders as of June 30, 2020 and to amend the 2020-2021 budget accordingly. Approval of this budget amendment will appropriate funds in the 2020-2021 Operating Budget to pay for items that were included in the 2019-2020 budget but not received before year-end.
- 2. Previous Council or Relevant Actions:** Council approved Budget Amendment 2020-2 on August 19, 2020. It is of the same nature as this request.
- 3. Budget/Funding Implications:** Fund Balance Appropriated is the revenue that supports this appropriation. The unspent appropriations from the previous year roll into Fund Balance at the close of the fiscal year. This action retrieves those appropriations to pay the obligations encumbered.

The total fund balance required to fund the open encumbrances is \$6,627,081.

In the General Fund, the fund balance needed amounts to \$1,757,627. Significant outstanding encumbrances include \$722K for the ordered Fire Engine, approx. \$400K for open IT projects, approx. \$325K for open Recreation projects and equipment and \$100K for Planning to complete the City Land Use Development Plan.

In the Electric Fund, the fund balance needed amounts to \$2,649,951. Significant outstanding encumbrances are related to the capital projects for construction of Delivery 6, AMI pilot program and a bucket truck.

In the Water/Sewer Fund, the fund balance needed amounts to \$3,489,157. Significant outstanding encumbrances are related to the capital project of Larkin Water Line Extension (which will eventually be funded by loan proceeds), sewer rehab projects, and NCDOT utility betterments.

- 4. Consequences for Not Acting:** Current Appropriations would be used to fund outstanding obligations putting pressure on the ability to fund current expenditures at the expected levels.
- 5. Department Recommendation:** Approve as presented.

6. **Manager Comments:** Concur with Department Recommendation.
7. **Next Steps:** Staff will post budget amendment and roll outstanding purchase orders into the current year
8. **Attachments:**
 1. Budget Amendment #2021-2

CITY OF STATESVILLE
BUDGET AMENDMENT #2021-2

August 3, 2020
FISCAL YEAR 2020-2021

FUND / ACCOUNT #	ACCOUNT TYPE	DESCRIPTION	CURRENT BUDGET	CHANGE (+ / -)	AMENDED BUDGET
GENERAL FUND					
010.0000.399.00.00	Revenue	Fund Balance Appropriated	1,048,000	1,757,627	2,805,627
		Total Revenues	<u>1,048,000</u>	<u>1,757,627</u>	<u>2,805,627</u>
010.4100	Expenditure	Mayor & Council	250,365	2,500	252,865
010.4600	Expenditure	Information Technology	519,591	399,642	919,233
010.4800	Expenditure	Planning	1,736,770	150,707	1,887,477
010.5100	Expenditure	Police	10,900,712	105,294	11,006,006
010.5300	Expenditure	Fire	6,999,092	722,000	7,721,092
010.5500	Expenditure	Public Works-Engineering	546,598	24,056	570,654
010.5535	Expenditure	Street Construction	500,000	31,714	531,714
010.6210	Expenditure	Recreation-Admin	693,404	172,815	866,219
010.6220	Expenditure	Recreation-Athletics	199,816	52,600	252,416
010.6225	Expenditure	Recreation-Fitness Center	471,201	1,838	473,039
010.6240	Expenditure	Recreation-Park Maint	1,813,878	94,461	1,908,339
		Total Expenditures	<u>24,631,427</u>	<u>1,757,627</u>	<u>26,389,054</u>
ELECTRIC FUND					
530.0000.399.00.00	Revenue	Fund Balance Appropriated	2,000,000	2,649,951	4,649,951
		Total Revenues	<u>2,000,000</u>	<u>2,649,951</u>	<u>4,649,951</u>
530.8100	Expenditure	Electric Operations	43,277,700	2,649,951	45,927,651
		Total Expenditures	<u>43,277,700</u>	<u>2,649,951</u>	<u>45,927,651</u>
WATER/SEWER FUND					
550.0000.399.00.00	Revenue	Fund Balance Appropriated	-	3,489,156	3,489,156
		Total Revenues	<u>-</u>	<u>3,489,156</u>	<u>3,489,156</u>
550.5581	Expenditure	Sewer Maintenance	1,624,181	307,882	1,932,063
550.5582	Expenditure	Water Maintenance	1,671,907	2,935,812	4,607,719
550.8220	Expenditure	Water Purification	4,841,777	16,400	4,858,177
550.8230	Expenditure	Third Creek WWTP	2,462,373	4,891	2,467,264
550.8240	Expenditure	Fourth Creek WWTP	4,356,762	224,171	4,580,933
		Total Expenditures	<u>14,957,000</u>	<u>3,489,156</u>	<u>18,446,156</u>

STORMWATER FUND

570.0000.399.00.00	Revenue	Fund Balance Appropriated	-	282,747	282,747
Total Revenues			<u>-</u>	<u>282,747</u>	<u>282,747</u>
570.8250	Expenditure	Stormwater Operations	2,241,000	282,747	2,523,747
Total Expenditures			<u>2,241,000</u>	<u>282,747</u>	<u>2,523,747</u>

CIVIC CENTER FUND

580.0000.399.00.00	Revenue	Fund Balance Appropriated	250,000	205,226	455,226
Total Revenues			<u>250,000</u>	<u>205,226</u>	<u>455,226</u>
580.6250	Expenditure	Civic Center Operations	1,096,250	205,226	1,301,476
Total Expenditures			<u>1,096,250</u>	<u>205,226</u>	<u>1,301,476</u>

DESCRIPTION: Appropriating Fund Balance to allow for the rollover of outstanding encumbrances



Budget Officer

Finance Director

APPROVED BY CITY COUNCIL:

City Clerk

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: David Addison, Chief of Police
DATE: July 21, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider approving an agreement between the Iredell Statesville School District, the Statesville Police Department, the Troutman Police Department, and the Iredell County Sheriff's Office regarding ISSD School Security Surveillance Cameras.

1. **Summary of Information:** This is an agreement between the Iredell Statesville School District, the Iredell County Sheriff's Office, the Troutman Police Department, and the Statesville Police Department to allow and/or obtain access to real-time (live) video feeds from ISSD's surveillance cameras when active circumstances at a public district school or facility present an immediate need for law enforcement or fire safety personnel to respond to that school or facility to aid in response and protection of the health or safety of district school students, ISSD personnel or ISSD property; and to provide a mechanism for access to ISSD's surveillance cameras, but is not intended to create an obligation or promise by the Law Enforcement Agencies to utilize the live video feeds
2. **Previous Council or Relevant Actions:**
3. **Budget/Funding Implications:**
4. **Consequences of Not Acting:**
5. **Department Recommendation:**
6. **Manager Comments:** Recommend for approval.
7. **Next Steps:**
8. **Attachments:**
 1. Agreement

AGREEMENT

THIS AGREEMENT is made and entered into as of this _____ day of _____, 2020 by and between **THE IREDELL STATESVILLE SCHOOL DISTRICT** (hereinafter referred to as "ISSD"), a body corporate and a political subdivision of the State of North Carolina whose principal place of business is in Statesville, North Carolina; AND **THE IREDELL COUNTY SHERIFF'S OFFICE** (hereinafter referred to as "Sheriff"), a body corporate and a political subdivision of the State of North Carolina whose principal place of business is located in Statesville, North Carolina; AND **TROUTMAN POLICE DEPARTMENT** (hereinafter "TPD"), a body corporate and a political subdivision of the State of North Carolina whose principal place of business is located in Troutman, North Carolina; AND **STATESVILLE POLICE DEPARTMENT** (hereinafter "SPD"), a body corporate and a political subdivision of the State of North Carolina, whose principal place of business is located in Statesville, North Carolina.

WHEREAS, ISSD operates public schools located in Iredell County, North Carolina; and

WHEREAS, Sheriff is a law enforcement agency having jurisdiction throughout Iredell County, North Carolina; and

WHEREAS, TPD is a law enforcement agency having jurisdiction throughout Troutman, North Carolina; and

WHEREAS, SPD is a law enforcement agency having jurisdiction throughout Statesville, North Carolina; and

WHEREAS, Sheriff, TPD, and SPD may collectively be referred to hereinafter as "Law Enforcement Agencies"; and

WHEREAS, the Parties desire to allow and/or obtain access to real-time (live) video feeds from ISSD's surveillance cameras when active circumstances at a public district school or facility present an immediate need for law enforcement or fire safety personnel to respond to that school or facility to aid in response and protection of the health or safety of district school students, ISSD personnel or ISSD property; and

WHEREAS, the parties agree the purpose of this Agreement is to provide a mechanism for access to ISSD's surveillance cameras, but is not intended to create an obligation or promise by the Law Enforcement Agencies to utilize the live video feeds; and

WHEREAS, ISSD, TPD, SPD, and Sheriff are collectively referred to hereinafter as the "Parties".

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I — RECITALS

1.01 **Recitals.** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE II — SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on the execution of this Agreement, and conclude on _____.

2.02 **Confidential and Exempt Security and Safety Plan Information.** The Law Enforcement Agencies acknowledge ISSD's video security monitor images depict the internal layout and structural elements of ISSD's buildings or other structures owned or operated by ISSD. Law Enforcement Agencies shall keep and maintain confidential and exempt all such information provided to it under applicable law. Law Enforcement Agencies further agree not to release such information or to disclose their contents to anyone other than a duly authorized law enforcement or fire department official in the performance of such person's official duties. Any failure by Law Enforcement Agency to maintain the confidential and exempt nature of such information shall constitute a material breach of this Agreement.

2.03 **Access to Recorded Video Images Not Involving an Emergency.** The parties acknowledge that video images recorded through use of ISSD's security video cameras may be considered confidential and exempt "education record" pursuant to North Carolina General Statutes; the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, and the federal regulations issued pursuant thereto. The parties acknowledge that any and all original recordings of video security images captured through the use of ISSD's video security cameras as well as any equipment within which such images are recorded are the property of ISSD and may not be removed from ISSD's property. The parties further acknowledge that the original copies of such video images are to be retained in ISSD's custody subject to North Carolina General Statutes, the applicable public records retention schedules, and any applicable exemptions. When the Law Enforcement Agencies desire access to recorded images from the ISSD security video cameras as part of their law enforcement responsibilities, not involving an emergency, the law enforcement agency shall make a request for such recorded images to the ISSD. The request must include: (1) the name of the requesting agency and individual officer within the agency; (2) the purpose for the request; (3) information sufficient to identify the individual students who are directly related to the search; (4) the date upon which law enforcement needs to search ISSD's records; and (5) identifying information of the school

district, and security camera to be searched. ISSD shall make a good faith effort, and work with all due diligence to render a decision to the requesting Law Enforcement Agency as soon as possible, and prior to the date upon which they wish to search ISSD's records. ISSD shall grant the request to Law Enforcement Agencies so long as it is related to law enforcement purposes, and the request does not conflict with Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, and the federal regulations issued pursuant thereto.

2.04 Viewing of Real-Time (Live) Video Feeds from ISSD Security Cameras. The parties acknowledge and agree that viewing of real-time (live) video feeds from ISSD security cameras by Law Enforcement Agencies is not considered access to an "education record" as defined under state or federal law. Notwithstanding, the parties agree and acknowledge that Law Enforcement Agencies viewing of real-time (live) video feeds received from the ISSD security video cameras will be limited to specific circumstances, described below, which are necessary to protect the health or safety of students or individuals on or around ISSD property.

2.04.1 Exigent Circumstances Authorizing Real-Time (Live) Video Access. Law Enforcement Agencies shall be permitted to view, through remote access, real-time (live) video feeds received from ISSD security cameras when there is a good, articulable, and significant threat to the health and safety of a student or other person. Such exigent circumstances can be shown, but is not limited to the following exigent circumstances:

- (A) Where a district school or facility issues an elevated threat at the school or facility;
- (B) Where a call is received through the 911 system of an emergency occurring on or near the grounds of a district school or facility;
- (C) Where a district school or other ISSD facility notifies a Law Enforcement Agency having jurisdiction or participating under an applicable mutual aid agreement of an incident occurring on ISSD property that requires a law enforcement response;
- (D) Where a district school or other ISSD facility notifies a Law Enforcement Agency or another fire safety agency having jurisdiction or participating under an applicable mutual aid agreement of an incident occurring on ISSD property that requires a fire safety response;
- (E) When necessary to protect the health or safety of district school student(s), ISSD personnel or other individuals on or near the grounds of a district school or facility;
- (F) When necessary to protect the ISSD property and property of others on ISSD property; and

(G) For routine maintenance solely to verify camera operability and functionality. This may include verifying that surveillance cameras are properly designated for their location at a district school or facility.

2.04.2 General Surveillance Prohibited. Law Enforcement Agencies acknowledge that being granted real-time (live) access to the ISSD security video cameras does not authorize Law Enforcement Agencies to conduct general surveillance of ISSD property unrelated to a specific law enforcement purpose as described in 2.04.1 of this Agreement.

2.04.3 Procedures for Remote Access. ISSD will provide Law Enforcement Agencies with a password that will allow the Law Enforcement Agencies, for the purposes described herein, uninterrupted, real-time (live) video feeds from all ISSD security cameras. The password will be maintained by designated personnel within ISSD and each individual law enforcement agency. ISSD shall have the right to monitor Law Enforcement Agencies usage of real-time (live) video access.

2.04.4 Limited Authority to Record Video Screen Shots or Short Video Clips. Law Enforcement Agencies acknowledge that the video access authorized by this Agreement is intended to be restricted to real-time (live) video access and that Law Enforcement Agencies shall make no recordings of such real-time (live) video images except as expressly authorized by this Agreement. Notwithstanding the above, Law Enforcement Agencies are permitted to make screenshots or short video clips not in excess of 20 seconds in length capturing the video images of persons of interest that appear through the real-time (live) video access feeds to the extent necessary to assist law enforcement personnel responding to the exigent circumstances specified in 2.04.1 of this Agreement. Law Enforcement Agencies' personnel who make any recording of real-time (live) video access from ISSD's security video feeds, other than as permitted by this Subsection 2.04.4, can be subject to discipline at the discretion of each Law Enforcement Agencies Chief Officer. Such discipline can include, but not be limited to, suspension and termination.

2.04.5 Law Enforcement Agencies Video Supervisor; Authorized Personnel. Any determination by Law Enforcement Agencies that real-time (live) video access of ISSD's security video feeds is to be engaged by Law Enforcement Agencies shall require confirmation by a Law Enforcement Agencies' representative (hereafter "Video Supervisor") that one of the exigent circumstances specified in Section 2.04.1 of this Agreement. Any Video Supervisor or Law Enforcement Agencies' personnel who engages in real-time (live) video feed without proper authorization under this Agreement can be disciplined for misconduct by the respective department heads of each Law Enforcement Agency.

2.04.6 Other Law Enforcement Agencies or Fire Safety Personnel. The Law Enforcement Agencies' Video Supervisor and his/her designee(s) are authorized to provide other law enforcement or fire safety agencies having jurisdiction over a particular ISSD school or facility or responding under a mutual aid agreement with the same information law enforcement agencies would provide to his own personnel responding to an exigent circumstances under Section 2.04.1 of this Agreement.

2.04.7 Training. Law Enforcement Agencies shall be entitled to access ISSD's security video feeds for the purposes of training when schools are not in session. Prior to such use, law enforcement agencies must issue notice of their intended use to ISSD, which sets forth the date, time, and individuals who will access the video feed. If the noticed time would present a conflict, the Parties shall work in good faith to determine another date and time for which the training can occur.

2.05 **Confidentiality of Education Records.** Notwithstanding any provision to the contrary within this Agreement, to the extent that Law Enforcement Agencies receive access to "education records" as defined under state and federal law, Law Enforcement Agencies shall:

2.05.1 Fully comply with the requirements of North Carolina General Statutes; the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (FERPA) and its implementing regulations (34 C.F.R. Part 99), and other state or federal law or regulation regarding the confidentiality of student information and records;

2.05.2 Notify ISSD immediately upon discovery of a breach of confidentiality of education records held by Law Enforcement Agencies by telephone at (704) 924-2028, and take all necessary notification steps as may be required by North Carolina General Statutes and the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (FERPA) , and fully cooperate with appropriate ISSD staff to resolve any privacy investigations and concerns in a timely manner;

2.05.3 Prepare and Distribute at Law Enforcement Agencies' own cost, and all required breach notifications, under the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (FERPA) and North Carolina law, or reimburse ISSD any direct costs incurred by ISSD for doing so, including but not limited to, those required by North Carolina General Statutes, when Law Enforcement Agencies' personnel have been determined to be the source of the breach;

2.05.4 Be responsible for any fines or penalties for failure to meet breach notice requirements pursuant to federal and/or North Carolina law, when Law Enforcement Agencies' personnel have been determined to be the source of the breach;

2.05.5 Provide ISSD with the name and contact information of Law Enforcement Agencies' employee who shall serve as ISSD's primary security contact and shall be

available to assist ISSD in resolving obligations associated with a security breach of confidentiality of education records, when Law Enforcement Agencies' personnel have been determined to be the source of the breach; and

2.05.6 Securely Erase copies of education records from any media once any media equipment is no longer in use or is to be disposed.

2.06 **Ownership of Education Records**. To the extent that Law Enforcement Agencies receive any original education records from ISSD, such records shall remain the property of ISSD. Upon termination of this Agreement Law Enforcement Agencies shall, at ISSD's request, return to ISSD or dispose of any such original education records in compliance with the applicable North Carolina statutes and provide ISSD with a written acknowledgment of said disposition.

2.07 **Audit of Law Enforcement Agencies' Access to ISSD Security Video Images**. Law Enforcement Agencies' access and use of real-time (live) feeds from ISSD security cameras is subject to audit by ISSD. Five business days after Law Enforcement Agencies access ISSD security video images, Law Enforcement Agencies will provide ISSD with detailed information about such use including, at a minimum, the following information:

- (A) the identity of the Video Supervisor who activated any real-time (live) video access by the Law Enforcement Agency to ISSD's security video feeds and the identities of each user authorized by the Law Enforcement Agency to view said video feeds;
- B) the exigent circumstances under Section 2.04.1 of this Agreement which authorized the Video Supervisor to engage the Law Enforcement Agencies' real-time (live) video access to ISSD's security video feeds;
- (C) the location of each district school or facility at which security cameras were accessed;
- (D) the location of security camera(s) accessed;
- (E) the names of the law enforcement personnel who viewed ISSD's security video feeds; and
- (F) copies of any screen shots or short video clips that were captured by Law Enforcement Agency from the real-time (live) video feeds pursuant to Section 2.04.5 of this Agreement.

2.08 **Notice**. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is

changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To ISSD: Iredell Statesville School District
Attn: Superintendent, Kelly McCarraher
PO Box 911
Statesville, NC 28687

To TPD: Troutman Police Department
Attn: Tina Fleming
P.O. Box 26
Troutman, NC 28166
Telephone: 704-528-7610
Email: tfleming@troutmannnc.gov

To Sherriff: Iredell County Sheriff Office
Attn: Chief Deputy Andy Poteat
P.O. Box 287
Statesville, NC 28687
Telephone: 704-924-4060
Email: cpoteat@co.iredell.nc.us

To SPD: Statesville Police Department
Attn: Police Chief of the SPD
PO Box 1111
Statesville, NC 28687
Facsimile: 704-878-3514

2.09 **Public Records.** With respect to any public records created, received, or maintained in connection with this Agreement, each party is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that the other party would provide such records and at a cost that does not exceed the cost provided in NCGS §132 *et al* or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to the other party in a format that is compatible with the other party's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to NCGS § 132 *et al*, and the resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

2.10 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression, marital status, national origin, religion, sex, or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

ARTICLE 3 -- GENERAL CONDITIONS

3.01 **No Waiver of Immunity.** Nothing herein is intended to serve as a waiver of sovereign, governmental or public official immunity, or waive the public duty doctrine, by any agency or political subdivision to which said immunity may be applicable or of any rights or limits to liability existing under North Carolina General Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the state of North Carolina to be sued by third parties in any matter arising out of any Agreement.

3.03 **Independent Contractor.** The parties to this Agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee, or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so.

3.04 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party thirty (30) calendar days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) calendar day period and the defaulting party is diligently attempting in good faith to cure the same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) calendar days; notice which shall be the sole remedy for a default of this Agreement. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.05 **Termination.** This Agreement may be canceled with or without cause by either party during the term hereof upon thirty (30) calendar days written notice to the other party of its desire to terminate this Agreement.

3.06 **Compliance with Laws.** Each party shall comply with all applicable federal, state and local laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.07 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.08 **Assignment.** Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement.

3.09 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.10 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.11 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.12 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riots or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without

unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.13 **Survival.** All representations and warranties made herein, including any obligations set forth herein for auditing of records, confidentiality, and indemnification shall survive the termination of this Agreement.

3.14 **Agreement Administration.** ISSD has delegated authority to the Superintendent of Schools or his/her designee to take any actions necessary to implement and administer this Agreement.

3.15 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

3.16 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR ISSD:

The Iredell Statesville School District

ATTEST:

By: _____
Martin Page, Chair

By: _____

(Corporate Seal)

Approved as to Form:

By: _____
Constantine H. Kutteh, General Counsel

FOR SPD:

The City of Statesville, North Carolina

ATTEST:

By: _____
William Morgan, Mayor Pro Tem

By: _____
Brenda Fugget, Clerk

(Corporate Seal)

Approved as to Form:

By: _____
Leah Gaines Messick, City Attorney

FOR TPD:

The City of Troutman, North Carolina

ATTEST:

By: _____
Teross Young, Mayor

By: _____
Kim Davis, Clerk

(Corporate Seal)

Approved as to Form:

By: _____
Gary Thomas, Town Attorney

FOR SHERIFF:

ATTEST:

By: _____
Sheriff Darren Campbell

By: _____

(Corporate Seal)

Approved as to Form:

By: _____
Adam Dillard, General Counsel

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: Sherry Ashley, Planning Director
DATE: July 6, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Conduct a public hearing and consider approving site plan (Quasi-Judicial) P20-02 filed by Jordon Trotter for Harbor Freight located at 303-313 Turnersburg Highway (US 21 North), Tax Maps 4745-38-5329, 4745-38-6594, 4745-38-6495, 4745-38-6398, 4745-38-6383, and 4745-38-6298.

- 1. Summary of Information:** The site is located at 303-313 Turnersburg Highway (US 21) (see GIS Map). The property is currently 1.83 acres in size and is proposed to be developed with a Harbor Freight retail store. Currently there are 5 dwellings on the property that will be demolished. The site is zoned B-4 (Highway Business) District. The site will be accessed from Turnersburg Hwy (US 21) via the main access drive being limited to a right in/right out as required by NCDOT, with a future access being at the signal with James Farm Road to the North as part of U-5799. A third possible future access would be to the North Pointe Shopping center via a 30' access easement. This easement will be stubbed to the property line. In addition, US 21 is scheduled to be widened from Pump Station Road to Fort Dobbs Road under project U-5799.

New construction in the B-3, B-4 and B-5 zoning districts are required to get Planning Board and City Council approval. The building is proposed to be 15,500 square feet. The setback requirements are met. Landscaping requirements are met. The site has 64 parking spaces which meets the requirement of the UDO. Fee in lieu will be submitted to the City in place of installing sidewalk. The sidewalk will be constructed as part of the widening project. The exterior walls will be constructed of brick with metal canopies (see elevation) which meets the architectural requirements of the UDO. The site will utilize city sewer and electric utilities and Iredell water.

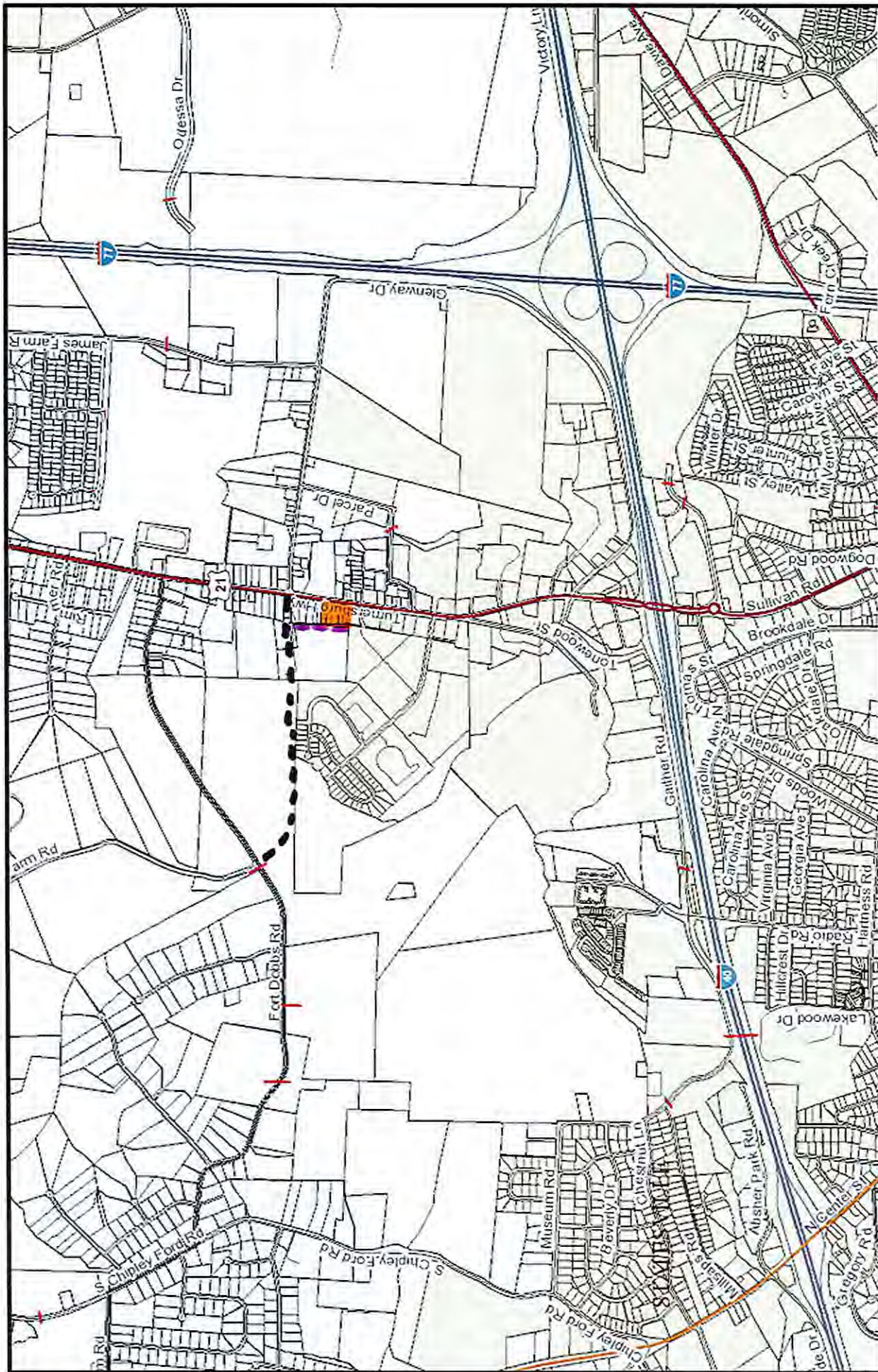
- 2. Previous Council or Relevant Actions:** The TRC approved this request at its March 18, 2020 meeting contingent upon receipt of revised site plan, dumpster enclosed with materials that match the building, setbacks being labeled, height of building being labeled, fence around stormwater detention must be black or green coated, completion of annexation and recombination plat, fee in lieu of for sidewalk, 10' utility easement for City utility use, the site being built in conjunction with NCDOT Project U-5799, the direct access drive being built as right in/right out if completed before U-5799 median installed, and approval of stormwater plans.

Several corrections were made prior to the planning board meeting. Therefore, the Planning Board recommended unanimously to approve the site-plan contingent upon completion of annexation and a recombination plat, fee in lieu of for sidewalk, the site being built in conjunction with NCDOT Project U-5799, final approval of roadway plans by Engineering, and approval of stormwater plans. Otherwise the plans meet the requirements of the UDO.

In addition, the Planning Board directed staff to pursue Elmridge Lane as a future public city street due to the amount of developable land in the area (see GIS map). Elmridge Lane is projected in the

Mobility & Development Plan to be a future collector street (see attached). By expanding Statesville's collector street system, travel can be enhanced between local streets and arterials and it can relieve pressure from major thoroughfares. Several of the proposed collector streets enhance travel east and west in Statesville.

3. **Budget/Funding Implications:** The tax value of the land is not indicated on Iredell County's GIS website because the lots are being combined. However, the estimated value of the completed development is approximately \$1.3M. City sewer, city electric and Iredell water will service the site.
4. **Consequences for Not Acting:** Parcels may remain vacant.
5. **Department Recommendation:** Staff recommends approval of site plan contingent upon completion of annexation and recombination plat, fee in lieu of for sidewalk, the site being built in conjunction with NCDOT Project U-5799, final approval of roadway plans by Engineering, and approval of stormwater plans. Otherwise the plans meet the requirements of the UDO.
6. **Manager Comments:** Because this is a quasi-judicial matter, I have no recommendation at this time.
7. **Next Steps:** If approved, permits would be issued.
8. **Attachments:**
 1. GIS map
 2. Site/Land Plan
 3. Road Access Plan
 4. Elevations
 5. Mobility & Development Plan, Collector Street Plan
 6. GIS map of area with proposed roads
 7. Finding of Fact



North ↑

- Proposed new collector street (city standards)
- Proposed private collector street
- Harbor freight Site



TURNERSBURG HWY

COWAN LN

NORTHCROSS LN

VENTURE LN

318

318

308

304

302

300

294

108

118

116

117

121

123

124

110

113

284

323

321

313

309

307

303

108

114

118

116

122

126

128

130

134

C300

Sheet No:

MAP REVISIONS:

NO.	DATE	DESCRIPTION
1	04-21-20	EROSION COMMENTS
2	05-20-20	OWNER COMMENTS
3	05-26-20	OWNER COMMENTS
4	06-05-20	OWNER COMMENTS
5	06-16-20	OWNER COMMENTS

STREET PLAN FOR:
JORDAN TROTTER COMMERCIAL REAL ESTATE

LOCATION ADDRESS:	301-213 TURNERSBURG HIGHWAY, STATESVILLE, N.C. 28625
DRAWN BY:	GVG
CHECKED BY:	MIG
SCALE:	1"=40'
DATE OF FIELD SURVEY:	12-04-19
DATE OF MAP:	02-06-20
DEED REF. ILLUSTRATED:	
DRAWING NO.:	20190722-NORTH CROSS
STATEVILLE TOWNSHIP -- IREDELL COUNTY -- NORTH CAROLINA	

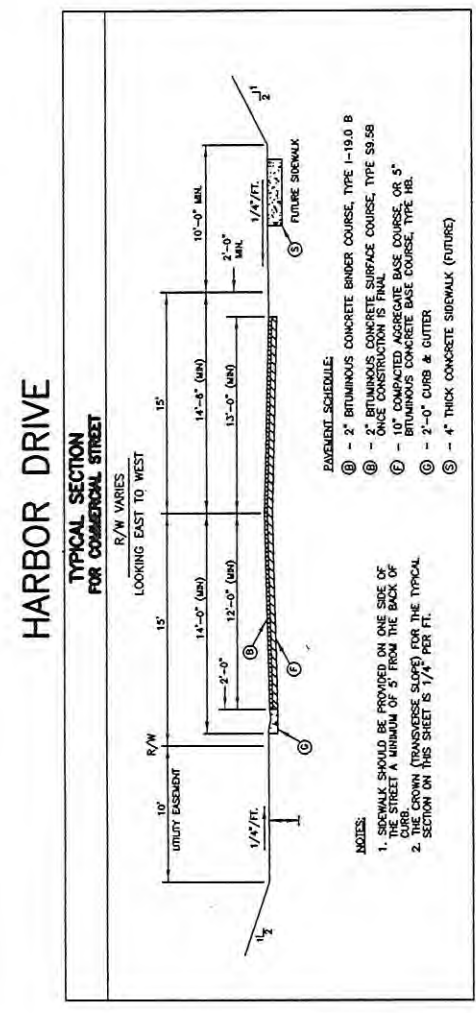
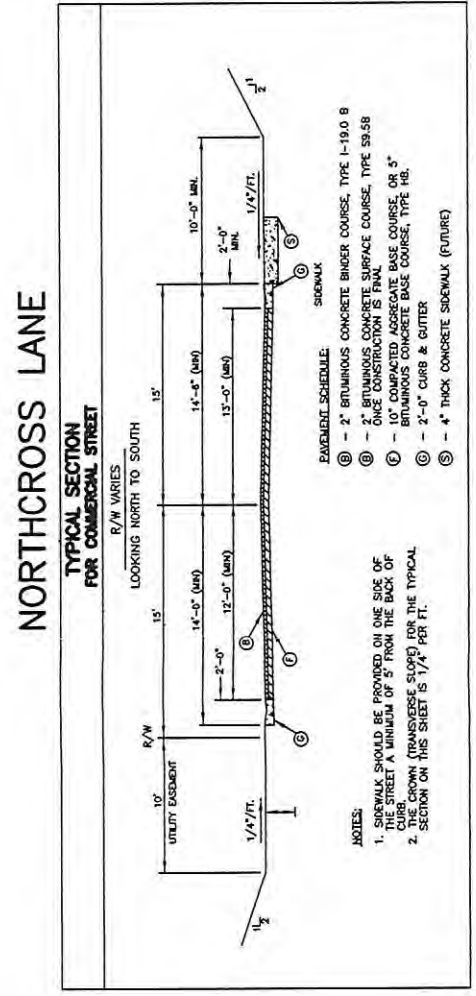
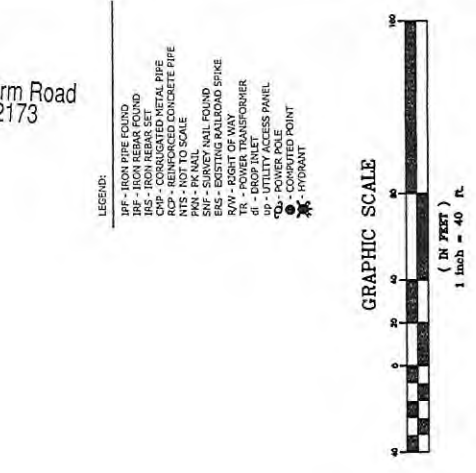
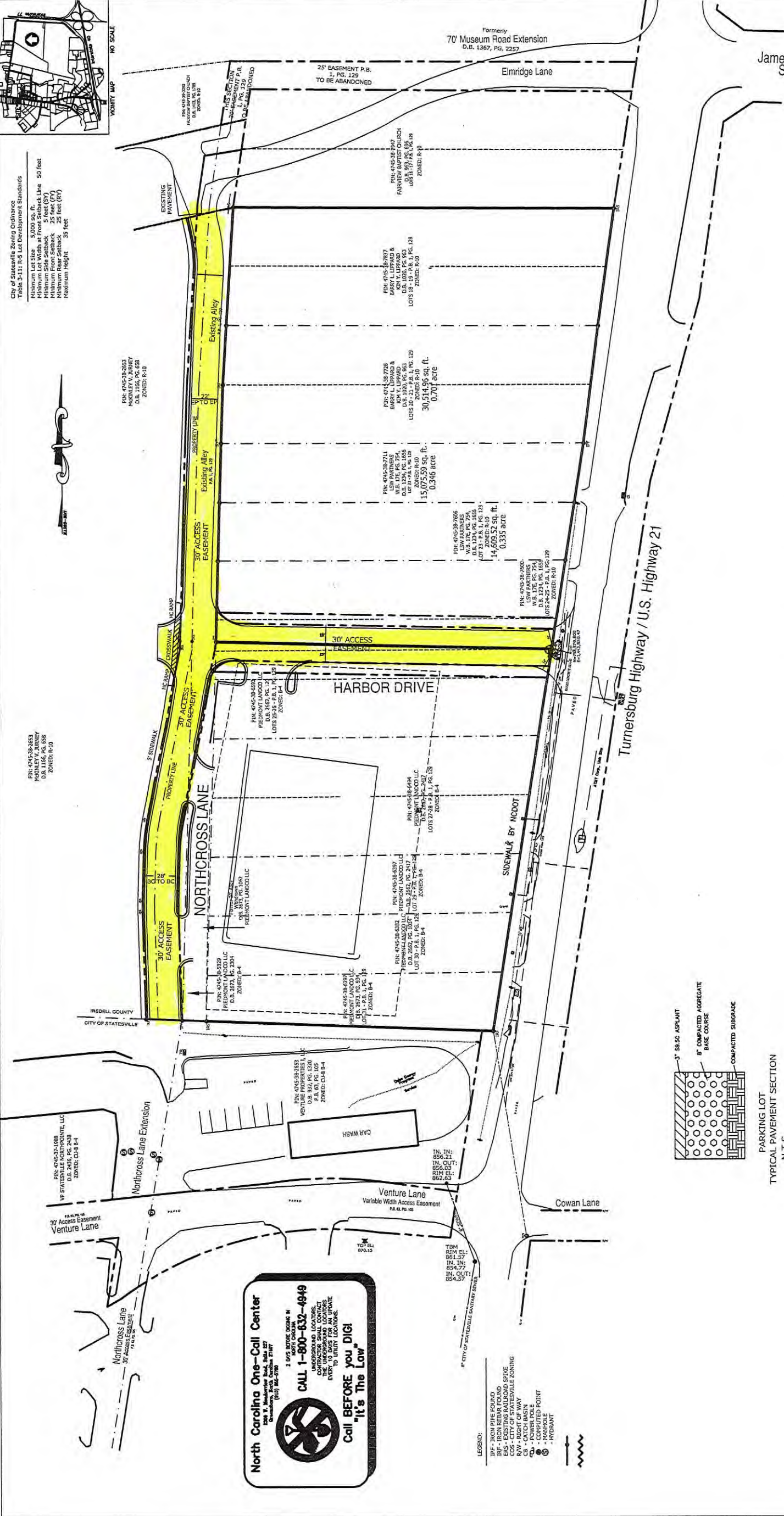
JORDAN GRANT
ENGINEERING • SURVEYING • PLANNING
P.O. BOX 151 • STATESVILLE, NC 28687
mattg@jordan-grant.com (704) 928-7919
FIRM # P-1227



06-16-20

City of Statesville Zoning Ordinance
Table 3-11: R-5 Lot Development Standards

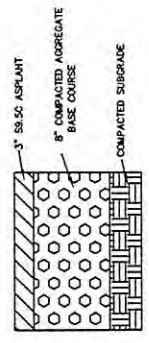
Minimum Lot Size	5,000 sq. ft.
Minimum Lot Width at Front Setback Line	50 feet
Minimum Side Setback	5 feet (5')
Minimum Rear Setback	25 feet (25')
Maximum Height	35 feet



North Carolina One-Call Center
2 DAYS BEFORE DIGGING IN NORTH CAROLINA
CALL 1-800-632-4949
UNDERGROUND LOCATIONS, THE UNDISCOVERED LOCATIONS, EVERY UTILITY LOCATION, EVERY TO UTILITY LOCATION, EVERY TO UTILITY LOCATION.






Call BEFORE you DIG!
"It's The Law"

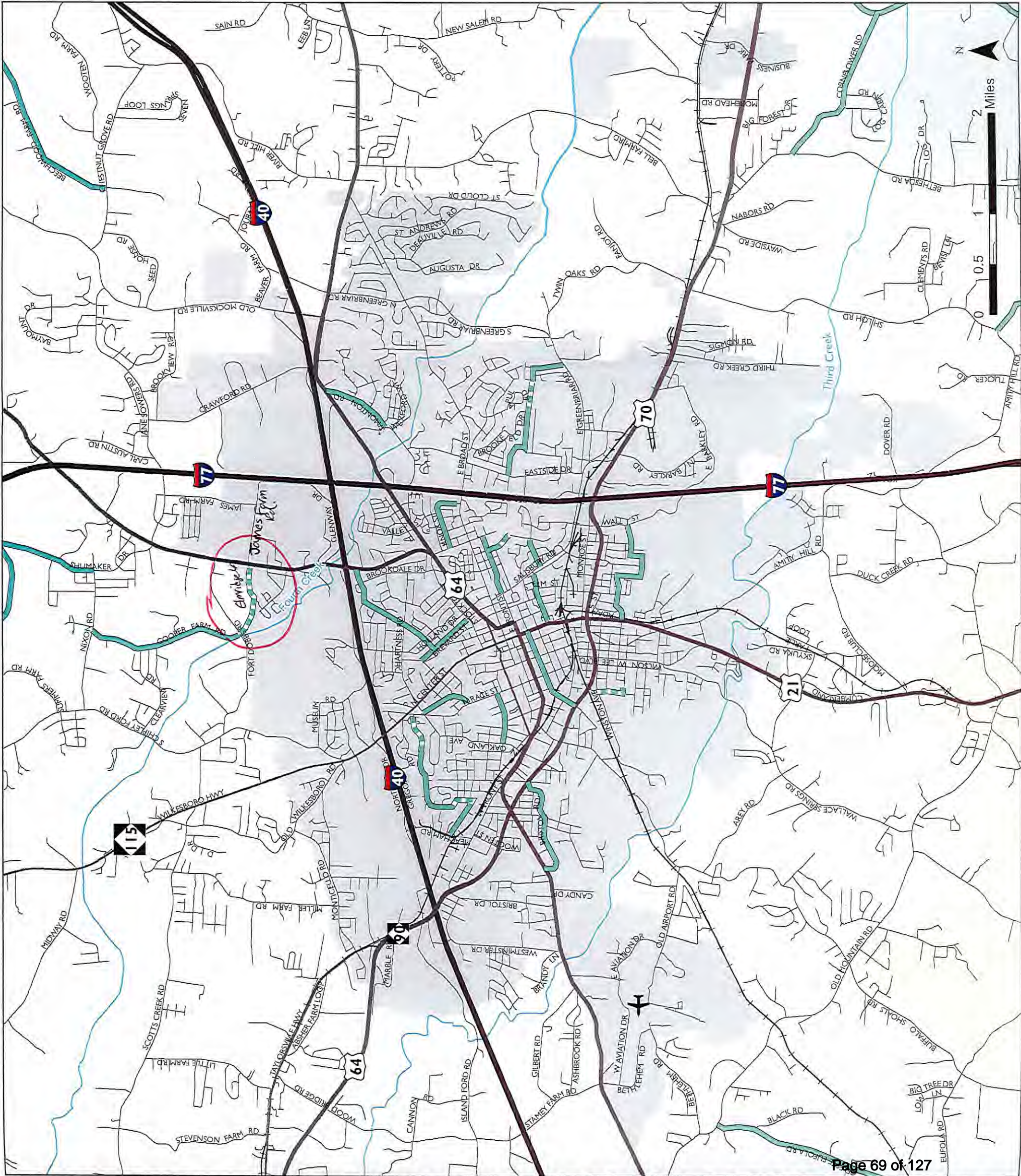
- LEGEND:
- IRP - IRON PIPE FOUND
 - IRF - IRON REBAR FOUND
 - ERS - EXISTING RAILROAD SPIKE
 - ES - EXISTING STAKE FOUND
 - R/W - RIGHT OF WAY
 - CB - CATCH BASIN
 - MANHOLE
 - HYDRANT
 - COMPUTED POINT



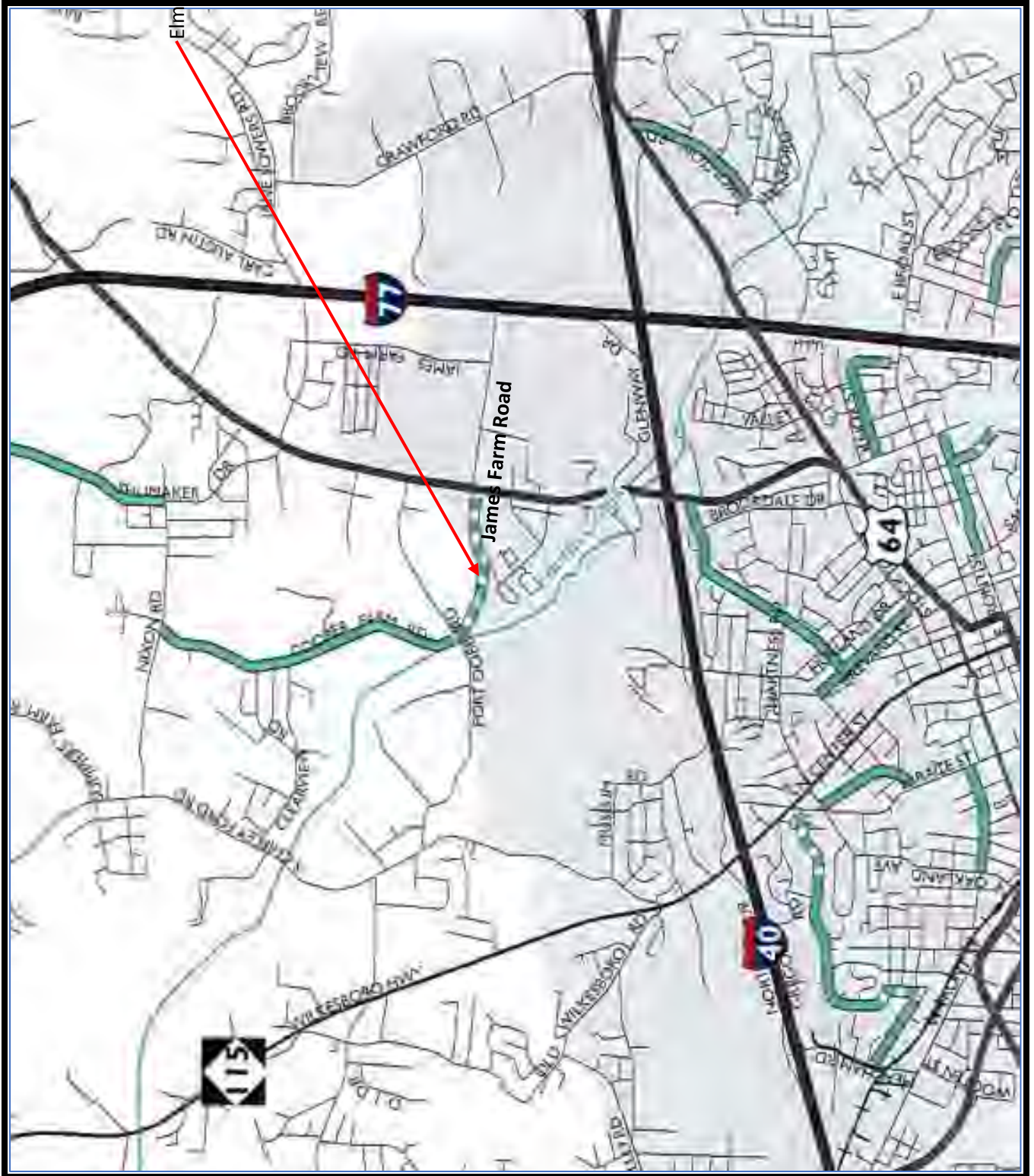
Collector Street Plan Inset

Figure 3.12b

-  Upgrade to Collector Street
-  Proposed Collector Street
-  Statesville Municipal Airport
-  City of Statesville Study Area
-  County Boundary



Elmridge Lane



consider the siting of proposed construction and its impact on topography, vegetation, adjacent development, improvements in the immediate area and tie site plan's conformance to the goals, objectives, and policies of the Comprehensive Plan.

B. Applicability

No person shall construct or modify an applicable building or structure, nor shall any excavation for such building or structure be commenced, until a site development plan has been approved in accordance with this section. Applicable buildings and structures include any new development or redevelopment in the B-3, B-4 and B-5 zoning districts, see Table 2-1: Summary of Application Procedures and all multi-family development.

C. Application and Procedures

A property owner or designated representative shall initiate building permit review by filing an application with the Planning Department.

D. Review Criteria

The building and site design described in the Site Development Plan shall be compatible with and shall not adversely impact adjoining properties whether residential or nonresidential.

E. Decision Maker

The City Council shall approve, conditionally approve, or deny applications for site development plan approval.

F. Amendments

Amendments to building plans may be approved prior to completion of the approved construction. Once approved, such amendments become part of the original application. Changes to the building footprint or site development plan for multi-family or non-residential structures shall require an amended site development plan.

G. Completion of Buildings

Nothing contained herein shall require any change in the plans, construction, size or designated use of a building having a valid permit issued prior to the effective date of this Code.

H. Condition of the Permit

All work performed under a valid permit shall conform to the approved application and subsequent amendments.

(Ord. No. 05-14, 5-5-14)

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: Sherry Ashley, Planning Director
DATE: July 21, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider appointing two alternate members to the Board of Adjustment.

- 1. Summary of Information:** The Board of Adjustment currently has 2 vacancies for alternate members. Since your June meeting, the vacancies were advertised in the newspaper. Therefore 4 applications have been received. The 4 candidates are Bruce Johnson, Leslie Griffin, Peter Varvaris and Roy West. Their information, as well as the current Board Roster, is attached for your review.
- 2. Previous Council or Relevant Actions:** City Council appoints members to the Board of Adjustment on an annual basis for staggered terms. All Board of Adjustment members must reside within the city. Council at their June 15, 2020 meeting appointed Bill Winters and Jed Pidcock to serve as regular members. However, the board needs 2 alternate members.
- 3. Budget/Funding Implications:** Since BOA meetings are at lunchtime, a meal is provided. Members are also paid \$20 per meeting. These costs are accommodated in the Planning Department's budget.
- 4. Consequences for Not Acting:** Current vacancies would remain unfilled. This makes achieving a quorum more difficult.
- 5. Department Recommendation:** Staff will work with all appointed members.
- 6. Manager Comments:** No comments.
- 7. Next Steps:** Notify appointees and provide training materials.
- 8. Attachments:**
 1. Volunteer Applications (4)
 2. Board of Adjustment Roster



STATESVILLE CITY GOVERNMENT extends an invitation for all interested citizens of Statesville (and those residing in the extraterritorial planning jurisdiction) to volunteer their services to any of a number of boards and commissions which are appointed.

A list of these boards and commissions appears below. From time to time, the mayor also appoints special citizen study committees and tasks force to deal with specific issues. Please fill out this Volunteer Information and Interest Sheet if you're interested in volunteering. If you have questions about any of these boards, please call 704-878-3583. Your opinions are valued, your help is needed and Statesville welcomes your interest!

BOARDS/COMMISSIONS

ABC Board
Civil Service Board
Convention & Visitors Bureau
Statesville Housing Authority

Airport Commission
Community Appearance Commission
Historic Preservation Commission
Stormwater Advisory Commission

Board of Adjustment
Design Review Committee
Planning Board

Names of boards, commission or committee in which you are interested. Please list in order of **priority**:

(1) Board of Adjustment, (2) Human Relations Commission, (3) Statesville Housing Authority, (4) Planning Board

Name: Bruce A. Johnson Home Phone: 704.582.3790

Home Address: 2126 Wexford Way Zip Code: 28625

Ward: Ward 1

Occupation: College Dean

Business Phone: 704.330.6072 Email: Johnson.BruceA@gmail.com

Place of Employment: Central Piedmont Community College Available for Daytime Meeting: Yes No

Race: Black Sex: M Age: 45

Equal Opportunity Information: City government policy prohibits discrimination based on race, sex, creed, national origin, age or handicap. The information requested will in no way affect the interest you have expressed in serving the City of Statesville. Its sole use will be to see how well our appointment efforts are reaching all segments of the population.

Education: Bachelors Degree - Mathematics (Central State University - OH)

Masters Degree - Applied Mathematics (Virginia Tech University - VA)

Doctorate Degree - Higher Education Administration (Liberty University - VA) [In Progress]

Business and Civic Experience: 17+ years in higher education, 4+ years as a municipal employee, ~1 year as school board member

Areas of Expertise, interest, skills: Workforce development, public relations, budget management, planning and development data-informed decision-making, supporting under-repre

Why do you want to serve? I have lived in Statesville for the last 17 years but have commuted to work for 13 of those years. During that time, I have been very active in the communities that I worked. I am very interested in investing my time and energy into building the city that I live in.

Date 3 July 2020

Signature: 

The Statesville City Council sincerely appreciates the interest of all citizens in serving their City. For more information on the responsibilities of various boards, you may contact the City Manager's Office at 704-878-3583. **Return form to the Deputy City Clerk, City Manager's Office, City of Statesville, PO Box 1111, Statesville, NC 28687-1111 or at anesbit@statesvillenc.net.**

This form will remain active until THREE years after date received.



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BOARDS/COMMISSIONS

- | | | |
|-------------------------------|----------------------------------|-------------------------|
| ABC Board | Airport Commission | Board of Adjustment |
| Civil Service Board | Community Appearance Commission | Design Review Committee |
| Convention & Visitors Bureau | Historic Preservation Commission | Planning Board |
| Statesville Housing Authority | Stormwater Advisory Commission | |

Names of boards, commission or committee in which you are interested. Please list in order of **priority**:

Board of Adjustment (Alternate)

Name: Leslie Griffin Home Phone: 704-881-3169

Home Address: 751 N Miller Avenue Zip Code: 28677

Ward: 5

Occupation: Orderwriter

Business Phone: 704-873-7202 Email: lesliegriffin@kewaunee.com or griffin1058@gmail.com

Place of Employment: Kewaunee Scientific Corp Available for Daytime Meeting: Yes No

Race: African American Sex: F Age 50

Equal Opportunity Information: City government policy prohibits discrimination based on race, sex, creed, national origin, age or handicap. The information requested will in no way affect the interest you have expressed in serving the City of Statesville. Its sole use will be to see how well our appointment efforts are reaching all segments of the population.

Education: High School diploma, studied Mitchell Community College

Business and Civic Experience: Customer Service, Office Clerk

Areas of Expertise, interest, skills: Customer Service

Why do you want to serve? I have live in Statesville my entire life and want to be a part in serving to make Statesville a even greater community.

Date 7/6/20 Signature: Leslie Griffin

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BOARDS/COMMISSIONS

- | | | |
|-------------------------------|----------------------------------|-------------------------|
| ABC Board | Airport Commission | Board of Adjustment |
| Civil Service Board | Community Appearance Commission | Design Review Committee |
| Convention & Visitors Bureau | Historic Preservation Commission | Planning Board |
| Statesville Housing Authority | Stormwater Advisory Commission | |

Names of boards, commission or committee in which you are interested. Please list in order of priority:

Board of Adjustment (would consider others if needed)

Name: Peter W. Varvaris Home Phone: 704-928-5390 (cell)

Home Address: 518 Stinson Ct. Statesville, NC Zip Code: 28677

Ward: 5

Occupation: Real Estate Broker, primarily as an independent Right of Way Agent

Business Phone: 704-928-5390 (cell) Email: Peter.Varvaris@gmail.com

Place of Employment: Statesville (home office) Available for Daytime Meeting: Yes No

Race: White Sex: Male Age 64

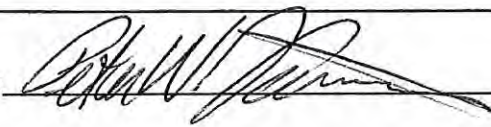
Equal Opportunity Information: City government policy prohibits discrimination based on race, sex, creed, national origin, age or handicap. The information requested will in no way affect the interest you have expressed in serving the City of Statesville. Its sole use will be to see how well our appointment efforts are reaching all segments of the population.

Education: B.S. - U.S. Naval Academy (1977); MDiv. - Concordia Seminary, St. Louis (1997); NC Real Estate Education and License

Business and Civic Experience: Business: Real Estate; Pastoral Ministry; Sales & Systems Engineering (IBM); Military Officer (USMC). Civic: various community engagement & involvement as Pastor of local churches (in Statesville & Mooresville).

Areas of Expertise, interest, skills: Analytical & logical; Empathetic and fair; Able to see both sides of an issue; Personable - able to get along with different personality types; Strong work-ethic and high degree of integrity; Reliable.

Why do you want to serve? I would like to contribute to the City of Statesville, in which I have resided for 23 years, in a meaningful way - that is, in a way that utilizes my analytical and people skills.

Date 7/15/20 Signature: 

The Statesville City Council sincerely appreciates the interest of all citizens in serving their City. For more information on the responsibilities of various boards, you may contact the City Manager's Office at 704-878-3583. Return form to the Deputy City Clerk, City Manager's Office, City of Statesville, PO Box 1111, Statesville, NC 28687-1111 or at anesbit@statesvillenc.net.

This form will remain active until THREE years after date received.



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BOARDS/COMMISSIONS

ABC Board
Civil Service Board
Convention & Visitors Bureau
Statesville Housing Authority

Airport Commission
Community Appearance Commission
Historic Preservation Commission
Stormwater Advisory Commission

Board of Adjustment
Design Review Committee
Planning Board

Names of boards, commission or committee in which you are interested. Please list in order of **priority**:

BOA
Name: ROY WEST Home Phone: 704 873 5902
Home Address: 3339 SEDGEMFIELD RD Zip Code: 28625
Ward: 1

Occupation: GENERAL CONTRACTOR
Business Phone: 704 873 4325 Email: RWEST@PSWESTCONSTRUCTION.COM
Place of Employment: P.S. WEST CONST Available for Daytime Meeting: Yes No
Race: W Sex: M Age: 72

Equal Opportunity Information: City government policy prohibits discrimination based on race, sex, creed, national origin, age or handicap. The information requested will in no way affect the interest you have expressed in serving the City of Statesville. Its sole use will be to see how well our appointment efforts are reaching all segments of the population.

Education: 3 yrs COLLEGE N.C. STATE

Business and Civic Experience: 50 yrs AS LOCAL CONTRACTOR
8 yrs City Council, 5 yrs CHAIR CITY BOARD OF ADJ, 8 yrs
CHAIR OF COUNTY BOA, PAST CHAIR CHAMBER OF COMMERCE

Areas of Expertise, interest, skills:
15 yrs ON City AND COUNTY BOARDS OR ADJ

Why do you want to serve? BELIEVE MY EXPERIENCES WILL ADD TO
BOARD DECISIONS

Date 7/21/20 Signature: Roy West

The Statesville City Council sincerely appreciates the interest of all citizens in serving their City. For more information on the responsibilities of various boards, you may contact the City Manager's Office at 704-878-3583. Return form to the Deputy City Clerk, City Manager's Office, City of Statesville, PO Box 1111, Statesville, NC 28687-1111 or at anesbit@statesvillenc.net.

This form will remain active until THREE years after date received.

City of Statesville Board of Adjustment

3 Year Terms, City Code 22-43, G.S. 160A-388 City Council Appointment

Meets 1st Tuesday of Month

David Steele (Chair) 449 Glen Eagles Road Statesville, NC 28677	(B) 704.768.3202 (H) 704.873.2754 davidsteele@jcsteele.com	6/30/2022
Gurney Wike 150 Columbine Dr Statesville, NC 28625	(H) 704.873.7091 gurneywike@gmail.com	6/30/2021
Bill Winters 225 Glen Eagles West Statesville, NC 28625	(H) 704.878.0033 (B) 704-871-7094 Wintersbill79@gmail.com	6/30/2023
George Simon (Vice-Chair) 3313 Camden Road Statesville, NC 28625	(H) 704-872-0639 gsimonsez@att.net	6/30/2021
Jed Pidcock 819 Radio Road Statesville, NC 28677	(B) 704-878-4524 daytime (C) 740-707-3366 jedpidcock@gmail.com	6/30/2023
Craig Morrow (ETJ Rep) 161 Timberbrook Lane Statesville, NC 28625	(H) 704.880.6634 onhismissionfield@gmail.com	6/30/2022

Alternates:

Vacant 6/30/2021

Vacant 6/30/2021

Other Important Contacts

Sherry Ashley, Planning Director
(B) 704.878.3539
sashley@statesvillenc.net

Brenda Fugett (Staff / Clerk)
(B) 704.878.3544
bfugett@statesvillenc.net

Leah Messick
Winthrop & Winthrop
706 Hartness Road
Statesville, NC 28677
(B) 704.873.2172
leah@winthrop-law.com

Lori Deal (Staff)
(B) 704-878-3574
ideal@statesvillenc.net

April Nesbit
(B) 704.878.3583
anesbit@statesvillenc.net

City Council Representative
David Jones
Statesville, NC 28687
davidjones@clr-properties.com
djones@statesvillenc.net

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: Scott Harrell, Executive Director of Public Works / City Engineer
DATE: July 22, 2020

ACTION NEEDED ON: August 3, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider approving second reading of an ordinance to amend the City Code as follows:

- **Re-number Chapter 20 – Streets and Sidewalks to Chapter 21;**
 - **Establish a new Chapter 20 – Stormwater;**
 - **Amend Section 1.07 – General Penalty.**
-

- 1. Summary of Information:** Staff is proposing to add a new chapter to the City Code. This chapter will contain guidelines and procedures for two required functions of the Stormwater Program: (1) Illicit discharge detection and elimination and (2) Tail ditch maintenance.

Based on discussion at the July 20, 2020 Council meeting, the chapter has been modified as follows:

- The definition of Stormwater (Section 20-26.(d) (16)) was modified to read, “Any surface flow, runoff, and/or drainage ~~consisting entirely of water from~~ occurring during or following any form of natural precipitation and resulting from such precipitation.”
- The definition of *User* (Section 20-26.(d) (22)) was eliminated. Subsequent references to *User* have been replaced with *Person* or otherwise modified in accordance with their context.
- Section 20-27.(c) (2), which specified a one-year deadline from the date of the ordinance for eliminating illicit connections, was replaced with the following: “This prohibition includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.” This eliminates a potential conflict with the following paragraph (20-27.(c) (3)), which states “the City Stormwater Program Manager shall designate the time within which the (illicit) connection shall be removed.”

2. Previous Council or Relevant Actions:

July 20, 2020: Council directed staff to clarify the definitions of “Stormwater” and “User” in Section 20-26.(d), and to consider the implication of the one-year deadline for eliminating illicit connections specified in Section 20-27.(c) (2).

June 1, 2020: Council approved first reading of the proposed ordinance and repealed Resolution 21-95 prohibiting City forces from working outside the right-of-way. Sections 20-28. – Right of Entry and 20-29. – Enforcement were subsequently edited in response to Council comments.

September 17, 2018: Council instructed staff to include tail ditch maintenance in the scope of the Stormwater Program. Funding for this work was included in the Stormwater Utility that went into effect July 1, 2019

November 11, 2016: The City's Phase II NPDES permit went into effect. The permit specifies a 60-month time frame, or by November 11, 2021, for implementing six stormwater-related activities. Illicit discharge detection and elimination is one of the six required activities.

August 21, 1995: Council adopted Resolution 21-95 prohibiting City forces from "providing labor and equipment concerning storm drains, creeks, ditches, etc. on private property."

3. **Budget/Funding Implications:** The Stormwater Program budget was developed to fund all required and anticipated program tasks, including IDDE and tail ditch maintenance.
4. **Consequences for Not Acting:** The City will be found in violation of its NPDES permit and could be subject to penalties and/or fines if the IDDE practice is not in place by November 11, 2021. City storm drainage infrastructure will continue to be impacted by poor tail ditch maintenance.
5. **Department Recommendation:** Staff recommends approving second reading of the attached ordinance to amend the City Code as follows:
 - Reorder Chapter 20 – Streets and Sidewalks to Chapter 21 (the Code chapters are arranged alphabetically; there currently is no Chapter 21);
 - Establish a new Chapter 20 – Stormwater;
 - Amend Section 1.7 of the City Code to prevent a conflict with Section 20.29 of the proposed new chapter, related to civil penalties.
6. **Manager Comments:** Recommend for approval.
7. **Next Steps:** Once second reading is approved, Stormwater Program staff will begin performing IDDE and tail ditch maintenance activities immediately.
8. **Attachments:**
 1. Proposed Ordinance establishing Chapter 20 – Stormwater and related Code amendments

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 20 OF THE STATESVILLE CITY CODE

WHEREAS, the City of Statesville is directed by the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and the Federal Phase II Stormwater Rules promulgated under it, as well as the rules of the North Carolina Environmental Management Commission promulgated in response to Federal Phase II requirements, to incorporate Illicit Discharge Detection and Elimination into the activities of the City and,

WHEREAS, the Statesville City Council has directed that staff should incorporate maintenance of tail ditches into the activities of the City's Stormwater Program and,

WHEREAS, it is appropriate to codify these changes in a new Chapter 20 of the Statesville City Code,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STATESVILLE:

- Chapter 20 – Streets and Sidewalks is renumbered to Chapter 21 – Streets and Sidewalks and;
- Section 1-7. – General Penalty is amended to read as follows:

(b) Except as set forth in subsection (c), violation of any provision of this Code shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00), to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a period of seventy-two (72) hours after he has been cited for violation of the ordinance. Citation shall be in writing, signed by the appropriate department head or the department head's designee charged with the enforcement of the particular ordinance which has been violated, and shall be delivered or mailed to the offender either at his residence or at his place of business or at the place where the violation occurred. Each day's continuing violation shall be a separate and distinct offense. Violations of the following provisions shall not be misdemeanors, but shall subject the offender to the civil penalty; chapter 3; chapter 5; chapter 9; chapter 10; chapter 11; portions of chapter 12, including sections 12-4, 12-86, 12-125 and 12-170; chapter 13; portions of chapter 14, excluding section 14-11, subsection (a), sections 14-17 through 14-19, 14-52 through 14-54 and section 14-76; section 15-37; chapter 19; chapter 20; chapter 21; chapter 22, excluding section 22-2; chapter 23, article VIII; and the city's zoning ordinance. Any action to recover such civil penalty may be joined in action for appropriate equitable or other legal remedy, including injunctions and orders of abatement and including an action to recover damages owing to the city by reason of expenses incurred by the city in abating, correcting, limiting and otherwise dealing with the harmful effects of the offending action.

(c) Violations of Chapter 20 shall subject the offender to civil penalties as set forth in Section 20-29.

- A new Chapter 20 – Stormwater is established to read as follows:

CHAPTER 20 – STORMWATER

Article I. – GENERAL

Article II. – ILLICIT DISCHARGE AND ILLICIT CONNECTION

Article III. – TAIL DITCH MAINTENANCE

ARTICLE I. – GENERAL

Sec. 20-1. – Supervision of Work.

It shall be the duty of the Public Works Director and the Stormwater Program Manager, or their authorized representative, to supervise all work upon the stormwater conduits, structures, basins, and channels belonging to the city which are now or may be established. They shall report from time to time to the city council as directed on the condition of the stormwater conduits, structures, basins, and channels belonging to the city and, generally, keep the stormwater infrastructure of the city free from obstructions and in a state of good repair.

Sec. 20-2. – 20-25. – Reserved.

ARTICLE II. – ILLICIT DISCHARGE AND ILLICIT CONNECTION

Sec. 20-26. - General Provisions.

- (a) *Authority.* The City Council of the City of Statesville, further referred to herein as “the City”, is authorized to adopt this section pursuant to North Carolina law, including but not limited to, Article 14, Section 5 of the Constitution of North Carolina; G.S. 143-214.7 and rules promulgated by the environmental management commission thereunder; Session Law 2004-163, G.S. 160A-174 and 160A-185.
- (b) *Findings.* It is hereby determined that:
- (1) Pollutants allowed to enter streams and lakes are harmful to public health and safety as well as to the natural environment.
 - (2) Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and Federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to Federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this section.
 - (3) Therefore, the Statesville City Council establishes this set of water quality regulations to meet the requirements of state and federal law regarding non-stormwater discharges to the storm drainage system.
- (c) *Purpose.* The purpose of this article is to provide for the health, safety, and general welfare for the citizens of the City of Statesville through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of

the City's National Pollutant Discharge Elimination System (NPDES) permit. The objectives of this article are:

- (1) To enforce the City's Stormwater Management Program;
- (2) To reduce or prevent pollutants in the MS4 to the maximum extent practicable;
- (3) To prohibit illicit connections and discharges to the MS4;
- (4) To prevent improper disposal of materials that degrade water quality; and
- (5) To authorize all inspections, surveillance and monitoring procedures necessary to ensure compliance with this article.

(d) *Definitions.* For the purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) *Clean Water Act.* The federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*), and any subsequent amendments thereto.
- (2) *Construction Activity.* Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (3) *Facility.* Any land use including, but not limited to: commercial, industrial, and residential land uses, and any other source including, but not limited to: motor vehicles and rolling stock that directly or indirectly contribute, cause, or permit the contribution of any discharge, illicit or otherwise, to the MS4.
- (4) *Hazardous Materials.* Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (5) *Illegal or Illicit Discharge.* Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted elsewhere in this article.
- (6) *Illicit Connections.* Either of the following:
 - a. Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said

drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

- b. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (7) *Industrial Activity.* Activities subject to NPDES industrial stormwater permits as defined in 40 CFR, § 122.26 (b)(14).
 - (8) *Municipal Separate Storm Sewer System (MS4).* The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Statesville and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.
 - (9) *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit.* A permit issued by EPA (or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
 - (10) *Non-Commercial Car Washing.* Any occasional automotive washing performed by individuals or groups without charging any fee or in exchange for a charitable donation. This shall include, but is not limited to, car washes performed by local church groups, school groups, athletic teams, youth organizations, and individuals at their place of residence.
 - (11) *Non-Stormwater Discharge.* Any discharge to the storm drain system that is not composed entirely of stormwater.
 - (12) *Person.* Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
 - (13) *Pollutant.* Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid wastes, solid wastes, animal wastes, and yard wastes (including grass clippings and leaves); refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage (including flushing of sanitary sewer lines and equipment), fecal coliform, and pathogens; dissolved and particulate metals; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

- (14) *Premises*. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (15) *Storm Drainage System*. Facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (16) *Stormwater*. Any surface flow, runoff, and/or drainage **consisting entirely of water from occurring during or following** any form of natural precipitation and resulting from such precipitation.
- (17) *Stormwater Control Measures (SCMs)*. There are two major categories of SCMs: structural and non-structural.
- a. Structural SCMs refer to physical structures designed to remove pollutants from stormwater runoff, reduce downstream erosion, provide flood control, and/or promote groundwater recharge. Structural SCMs may be mandated as a condition of site development.
 - b. Non-Structural SCMs are typically passive or programmatic and tend to be source control or pollution prevention measures that reduce pollution in runoff by reducing the opportunity for stormwater runoff to be exposed to pollutants. Non-Structural SCMs are encouraged on all properties and should be implemented wherever feasible, however Non-Structural SCMs are typically not mandated as a condition of site development.
- (18) *Stormwater Conveyance System*. A network of linear and point structures designed to collect, receive, convey, and otherwise manage the controlled movement of stormwater runoff on and from the development site. The Stormwater Conveyance System can consist of numerous types of manmade structures and devices and natural conveyances including, but not limited to, swales, ditches, channels, pipes, culverts, tiles, curb inlets, yard inlets, drop inlets, junction boxes, manholes, outfalls, and the like.
- (19) *Stormwater Management Plan*. A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.
- (20) *Stormwater Management System*. All conveyances and structures (SCMs) that are constructed on a development site for the purposes of managing stormwater runoff by collecting, conveying, controlling, storing, detaining, retaining, infiltrating, filtering, and

otherwise mitigating the negative impacts that stormwater has on the natural environment.

(21) *Stormwater Program Manager.* The City employee hired by the City Manager to manage the City's stormwater programs.

~~(22) *User.* Any person who owns real property on which a facility is owned.~~

(22) *Wastewater.* Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(e) *Jurisdiction and Scope of Authority.* The Illicit Discharge and Illicit Connection Ordinance codified in this article, hereinafter the article, shall apply to all facilities within the City limits. All ~~users~~ **persons** whose facility is subject to this article, regardless of whether the ~~user's~~ facility is managed or operated by another person, shall comply with this article as well as any permits, enforcement actions or orders issued hereunder. The Stormwater Program Manager shall administer, implement, and enforce the provisions of this article. Any powers granted or imposed on the Stormwater Program Manager may be delegated by the Stormwater Program Manager to other designated personnel as may be necessary. Nothing in this article shall be interpreted to impose an obligation on the City to construct, maintain, repair or operate a storm drainage system, or any part thereof, located on another person's property.

(f) *Abrogation.* This article is not intended to repeal, abrogate, annul, impair, or interfere with any existing agreements, covenants, rules, regulations or permits previously adopted or issued. However, if any provisions or requirements of this article conflict with any existing regulations or ordinances, the more restrictive provisions shall apply.

Sec. 20-27. - Prohibited Discharges and Connections.

(a) *Illicit Discharges.* No person shall cause or allow the discharge, emission, disposal, pouring or pumping of any liquid, solid, gas or other substance, including but not limited to fuel, oil, anti-freeze, chemicals, soaps, animal waste, paints, garbage or litter, other than stormwater, in such manner and amount, directly or indirectly, so that the substance either does or is likely to reach any stormwater conveyance, waters of the state or lands within the City, except as provided in Sec. 20-27.(b).

(b) *Allowable Discharges.* Non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows;

- (4) Rising ground waters;
 - (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
 - (6) Uncontaminated pumped ground water;
 - (7) Discharges from potable water sources;
 - (8) Foundation drains;
 - (9) Air conditioning condensation;
 - (10) Irrigation water;
 - (11) Springs;
 - (12) Water from crawl space pumps;
 - (13) Footing drains;
 - (14) Lawn watering;
 - (15) Residential and charity car washing;
 - (16) Flows from riparian habitats and wetlands;
 - (17) De-chlorinated swimming pool discharges (free and total chlorine less than 1 ppm);
 - (18) Firefighting discharge;
 - (19) Dyes (that are both biodegradable and non-toxic) normally used to identify and trace underground pipe networks, but only if ~~the user has notified~~ the Stormwater Program Manager **is notified** at least 24 hours prior to the time of the test;
 - (20) Street wash water (note: prior to street washing, excess mud, sediment, debris, and other pollutants shall be removed to prohibit such from entering the drainage system);
 - (21) Any other non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued ~~to the user~~ and administered under the authority of the EPA, or DWQ, provided that the ~~user~~ **permittee** is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations. Discharges specified in writing by the Stormwater Program Manager as being necessary to protect public health and safety or discharges that have been filtered through an approved pretreatment system that consistently demonstrate no discharge of pollutants.
- (c) Illicit Connections.
- (1) Connections to a stormwater conveyance system that allow or potentially allow the discharge of non-stormwater, other than the exclusions described in Section 20-27 (b) are unlawful. Prohibited connections include, but are not limited to: floor drains,

domestic and commercial washing machines, commercial vehicle washing or steam cleaning, septic systems and sanitary sewers.

- (2) **This prohibition includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.** ~~Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this article. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.~~
- (3) Where it is determined that said connection:
- a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or
 - b. Was made in violation of any applicable regulation or ordinance, other than this section;

The City Stormwater Program Manager shall designate the time within which the connection shall be removed.

- (4) In setting the time limit for compliance, the Stormwater Program Manager shall take into consideration:
- a. The quantity and complexity of the work;
 - b. The consequences of delay;
 - c. The potential harm to the environment, to the public health, and to public and private property; and
 - d. The cost of remedying the damage.
- (5) When necessary to stop an actual or threatened discharge that is imminently dangerous or prejudicial to the public's health or safety, the Stormwater Program Manager may, without prior notice, order that ~~a user's~~ access to the MS4 be suspended. If the violator fails to comply with this suspension order, the Stormwater Program Manager may take such steps as deemed necessary to remove, abate or remedy the actual or threatened discharge. ~~The user~~ **violator** shall reimburse the City the full cost of such removal, abatement or remedy according to the terms of this article. ~~The user~~ **violator** may appeal the Stormwater Program Manager's decision pursuant to this article, but ~~the user~~ may not reconnect to the MS4 without prior written approval of the City.

(d) Spills.

- (1) Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained,

controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.

- (2) In the event of a known or suspected illicit discharge of hazardous materials into the MS4, the ~~user~~ **observant** or their employee, contractor, or agent, shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a non-hazardous illicit discharge, the ~~user~~ **observant** shall notify the Stormwater Program Manager in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Statesville Stormwater Program Manager within three business days of the phone notice. If an illicit discharge emanates from a commercial or industrial land use, the ~~user~~ **person responsible for the facility** shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 20-28. - Right of Entry.

- (a) The Stormwater Program Manager or designee shall have the right to inspect the property and/or facility of any person subject to this article and any permit/document issued hereunder. The Stormwater Program Manager or designee shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this article. Such inspection shall be made with the prior consent of the owner, manager, or signatory official. If such consent is refused the Stormwater Program Manager or designee may seek issuance of an administrative search warrant pursuant to G.S. 15-27.2 or its successor.
- (b) Where a person has security measures in force which require proper identification and clearance before entry into its premises, the person shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Stormwater Program Manager or designee will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (c) The Stormwater Program Manager or designee shall have the right to set up on the person's property such devices as are necessary to conduct sampling and/or metering of the person's operations.
- (d) Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly by the person at the written or verbal request of the Stormwater Program Manager or designee. The costs of clearing such access shall be borne by the person.
- (e) In no case shall inspection, monitoring, sampling, or other duties performed by the Stormwater Program Manager or designee to ensure compliance with the article confer an obligation on the City of Statesville to assume responsibility for the structural SCM.

Sec. 20-29. – Enforcement.

- (a) *Authority to Enforce.* The provisions of this section shall be enforced by the Stormwater Program Manager, his or her designee, or any authorized agent of the City of Statesville. Whenever this section refers to the Stormwater Program Manager, it includes his or her designee as well as any authorized agent of the City of Statesville.
- (b) *Violation Unlawful.* Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this section, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this section, is unlawful and shall constitute a violation of this article.
- (c) *Each Day a Separate Offense.* Each day that a violation continues shall constitute a separate and distinct violation or offense.
- (d) *Responsible Person/Entities.* Responsible persons are all persons or dischargers who participate in, assist, direct, create, cause, or maintain a condition that constitutes a violation of this article, or fails to take appropriate action so that a violation of this article results or persists.
- (1) Responsible persons include, but are not limited to, owners of property where a violation occurs; persons in the design or construction field who have created, directed, or assisted in the design or construction of an improvement or feature in violation of the requirements of this article; and persons who have control over the use or maintenance of property or the activities occurring on property where a violation has occurred.
- (2) Multiple violations may be charged against multiple individuals or entities for an action that violates this article.
- (e) *Public Nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the responsible person's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- (f) *Notice of Violation.*
- (1) Whenever the City finds that a ~~user~~ **person** has violated this article, the City shall notify the ~~user~~ **person** and/or property owner in writing by (1) registered or certified mail, and (2) personal service or posting of said notice at the facility where the alleged violation occurred. The notice shall specify the violation and actions needed to be taken to comply. The notice may also indicate a requirement for the discharger to perform any or all of the following:
- a. Install equipment or perform testing necessary to monitor, analyze and report of the condition of the ~~user's~~ **facility's** storm drainage system;

- b. Eliminate illicit connections or discharges;
 - c. Cease and desist all violating discharges, practices or operations;
 - d. Abate or remedy the stormwater pollution or contamination hazards and restore any affected property;
 - e. Pay a civil penalty; or
 - f. Implement source control or treatment SCM(s).
- (2) If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the ~~user~~ violator fail to meet the deadline, then representatives of the City shall enter upon the facility and are authorized to take any and all measures necessary to abate the violation and/or restore the facility and the expense thereof shall be charged to the ~~user~~ violator and collected pursuant to Section 20-28. – Right of Entry. Refusal to accept the notice shall not relieve the ~~user~~ violator of the obligation set forth herein.
- (g) Remedies.
- (1) *Recovery of costs and fines.* As authorized by G.S. § 160A-193, the offender shall be liable to the City for the civil penalty, all costs incurred by the City while enforcing this article, including but not limited to: abatement costs, remedying the damage caused by the illicit discharge, restoring the facility, sampling, clean-up, the City's administrative costs, costs of court, and costs of litigation, to include reasonable attorney's fees. Within 30 days after the City has completed its abatement of the violation, restoration of the facility and/or its investigation and inspection, the violating ~~user or~~ person will be notified of the City's total costs and the civil penalty, if any. The total amount due shall be paid within 30 days of the date of notice. If the amount due is not paid within 30 days, the charges shall constitute a lien on the land or premises where the nuisance occurred. A lien established pursuant to this division shall have the same priority and be collected as unpaid ad valorem taxes. The total amount due is also a lien on any other real property owned by the ~~user~~ violating person within the City limits, except for the person's primary residence. A lien established pursuant to this division is inferior to all prior liens and shall be collected as a money judgment. The ~~user~~ violating person may avoid the lien on any other real property owned by the ~~user~~ within the City limits only if ~~the user~~ it can be shown that the accrual or threatened discharge was created solely by another person. In the event that the ~~user~~ violating person is able to pass the liability onto another person, the other person shall be liable to the City pursuant to this section.
- (2) *Withholding of inspections, permits, certificate of occupancy or other approvals.* Building inspections; permits for development or other improvements; requests for plan approval for zoning, subdivision, other development or construction; and certificates of occupancy may be withheld or conditioned upon compliance with this article until a responsible person with ownership or management of the property for

which permits or approvals are sought has fully complied with this article and all actions taken pursuant to this article.

- (3) *Remedies not limited.* The remedies provided herein, whether civil, criminal, or administrative, are not exclusive; may be exercised singly, simultaneously, or cumulatively; may be combined with any other remedies authorized under the law; and may be exercised in any order.
- (4) *Remedies not exclusive.* The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies.

(h) Civil Penalties.

- (1) Any person who violates or fails to act in accordance with any of the provisions of this article or rules or orders adopted or issued pursuant to this article shall be subject to consideration of a civil penalty as described herein. When a civil penalty is assessed, each day of a continuing violation shall constitute a separate violation under this subsection. Failure to comply with the requirements of this article may result in imposition of enforcement measures as authorized by G.S. 143-215.6B.
- (2) Said penalties shall be assessed by the City Manager, or his/her designee. No penalty shall be assessed until the person alleged to be in violation is served in writing by (1) certified mail, and (2) personal service or posting of said notice at the facility where the alleged violation occurred.
- (3) In the event the City is fined by the state or federal governments resulting from an illicit discharge or connection made by a discharger or other person, the discharger or other person at fault shall reimburse the City for the full amount of the civil penalty assessed by the state and/or federal governments as well as for the abatement costs incurred by the City during the investigation and restoration process pursuant to this article.
- (4) Civil penalties collected pursuant to this article shall be used or disbursed as directed by law.
- (5) *Illicit discharges.* Any ~~user or other~~ person, including but not limited to, a designer, contractor, agent, or engineer, who allows, acts, participates in, assists, or directs an illicit discharge, either directly or indirectly, may be subject to civil penalties as follows:
 - a. For first-time offenders:
 1. If the quantity of the discharge is equal to or less than five (5) gallons and consists of domestic or household products in quantities considered ordinary for household purposes, said person shall be assessed a written warning describing the offense and any corrective action(s) necessary to mitigate the discharge and prevent its recurrence. The warning shall also establish a date

by which the corrective action(s) shall be completed, which shall be 30 days from the date of the written warning. If the corrective action(s) are not completed by the date specified, the offender shall be assessed a Category I Civil Penalty per violation, per day.

2. If the quantity of the discharge is greater than five (5) gallons or contains non-domestic substances, including but not limited to process wastewater, said person shall be assessed a Category I Civil Penalty per violation, per day.

b. First-time offenders who discharge into the MS4 any substance that is a byproduct of a commercial or industrial process or any substance that was purchased at a bulk sales location shall be assess a Category II Civil penalty. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.

c. Repeat offenders. A ~~user~~ **person** who discharges into the MS4 in violation of this article more than once within a 12-month period shall be assessed a civil penalty at one category level higher than the category assessed for a first-time offender of the substance and/or volume discharged. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.

(6) *Illicit Connections.* Any ~~user or other~~ person, including but not limited to a designer, contractor, agent, or engineer, who allows, acts, participates in, assists, or directs the establishment of an illicit connection, either directly or indirectly, may be subject to civil penalties as follows:

a. First-time offenders shall be assessed a Category II civil penalty in an amount set forth in the schedule of civil penalties. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.

b. A ~~user or~~ person who is found to have violated this section more than once within a 12-month period shall be assessed a Category III civil penalty in an amount set forth in the schedule of civil penalties. Each day's continuing violation shall constitute a separate and distinct offense for the purpose of assessing a civil penalty.

(7) *Penalty considerations.* In determining the amount of the penalty, the Stormwater Program Manager or designee shall consider:

- a. The degree and extent of harm to the environment, public health and public and private property; and
- b. The cost of remedying the damage; and
- c. The duration of the violation; and
- d. Whether or not the violation was willful; and

- e. The prior record of the person responsible for the violation in complying with this article; and
 - f. The City's enforcement costs and the amount of money saved by the violator through his, her or its noncompliance; and
 - g. Any other consideration relevant to the violation.
- (8) *Schedule of penalties.* The following civil penalties shall be imposed, up to the amount shown for each category, upon the ~~user of~~ person found to have violated this article:
- a. First Offense, discharge less than 5 gallons of domestic, household, and/or ordinary products: Written warning, with the conditions outlined in paragraph (h) (5) a.1. above.
 - b. Category I: civil penalty not to exceed \$100 per day per violation.
 - c. Category II: civil penalty not to exceed \$1,000 per day per violation.
 - d. Category III: civil penalty not to exceed \$5,000 per day per violation.
- (9) *Other remedies still required.* Assessment of a civil penalty does not exempt the violator from the responsibility to perform other remedies as allowed in paragraphs (e), (f) and (g) of this Section.

Sec. 20-30. – Appeals.

- (a) Any order, requirement, decision or determination made by the Stormwater Program Manager may be appealed to and decided by the Statesville Board of Adjustment.
- (b) An appeal from a decision of the Stormwater Program Manager must be submitted to the Statesville Board of Adjustment within 30 days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Appeals must be mailed or delivered to the Public Works Director and clearly marked with the following: "Appeal of IDIC Decision – Board of Adjustment." Following submission of an appeal, the Public Works Director will forward the appeal request to the BOA. Within 30 days or at the next regular BOA meeting, the Stormwater Program Manager shall provide all documentation constituting the record upon which the action appealed from was taken.
- (c) An appeal stays all proceedings in furtherance of the action appealed, unless the Statesville Public Works Director certifies to the Statesville Board of Adjustment, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record upon due cause shown.
- (d) The Statesville Board of Adjustment shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney. Decisions of the Statesville Board of Adjustment are final.

Sec. 20-31. - Nuisance; Injunctive Relief.

- (a) Illicit discharges and illicit connections which exist within the City are hereby found, deemed, and declared to be dangerous or prejudicial to the public health or public safety and are found, deemed, and declared to be public nuisances.
- (b) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Sec. 20-32. – 20-50. – Reserved.

ARTICLE III. – TAIL-DITCH MAINTENANCE

Sec. 20-51. – General Purpose.

- (a) The intended purpose of this policy is to provide general guidelines and procedures for maintenance and repair of tail ditches within the City of Statesville's (City) jurisdiction. The City maintains the drainage system within the City's right-of-way (ROW) and on City property. Consistent with the provisions of this Policy and City ordinances, the City may also maintain and repair drainage infrastructure outside of City ROW for the purpose of protecting City-owned infrastructure.
- (b) It is recognized that many properties have been privately developed in the floodplains of creeks and streams in Statesville and that such properties are occasionally subject to nuisance flooding, standing water, and poor drainage. The City is not legally or fiscally responsible for the repair and maintenance of general flooding on private property. However, it shall be the policy of the City to enter onto private property under these conditions and for the purpose of maintaining and repairing city infrastructure, which includes but is not limited to streets, curb and gutter, pavement, or storm pipes when it is determined that: (1) a problem has been created due to a tail-ditch issue; and (2) the City determines all of the Primary Criteria listed herein are met. The Stormwater Program Manager or designee shall administer and interpret this policy.
- (c) This policy is not intended for problems affecting recently constructed, occupied structures. This policy is intended only for a residence wherein a certificate of occupancy has been issued at least ten (10) years prior. This policy is also not intended to address control issues such as algae, mosquitoes, water quality, and trash removal, and they do not qualify for maintenance or improvements through this policy.

Sec. 20-52. – Primary Criteria for Tail Ditch Maintenance.

- (a) The Stormwater Program Manager shall analyze each tail ditch to determine if the following primary criteria are present:

- (1) The tail-ditch is located within the City limits of Statesville, North Carolina, or a tail-ditch located outside of the territorial limits affects City infrastructure, such as roads or streets;
- (2) A Certificate of Occupancy has been issued for the residence at least ten (10) years prior to the date the application was submitted;
- (3) The property owner(s) is (are) willing to execute a Right of Entry Agreement;
- (4) The problem threatens or creates a danger to public safety in a City ROW;
- (5) The problem is caused by stormwaters emanating from public or private lands or right-of-way (i.e. public stormwater).

Sec. 20-53. – Terms and Conditions of City Participation.

- (a) If the Stormwater Program Manager determines all primary criteria are present, he or she shall do repair and maintenance work to tail-ditch issues as funding allows. The Stormwater Program Manager must prioritize approved applications according to approved, available funds, net public benefit, and potential dangers and harm to the public or public property.
- (b) Any work performed must be done according to the following terms and conditions:
 - (1) All work must be performed by City personnel or a City contractor. The City will not furnish materials to the property owner for installation by Owner or Owner's contractor;
 - (2) Participating property owners must donate to the City, where necessary, a permanent easement to construct the Project and maintain the drainage system. Future stormwater maintenance by the City shall be limited to repairs and maintenance of a substantive nature that ensures the adequate performance of the infrastructure. Ongoing stormwater system maintenance for the purposes of aesthetics or convenience shall be the responsibility of the property owner.
 - (3) All maintenance and repair services are subject to available funding, determined each Fiscal year pursuant to the direction of the Statesville City Council.
 - (4) The City will not participate in maintenance and repair of Stormwater Control Measures or Stormwater Best Management Practices that are privately owned and/or required under site plans approved by the City or NC Department Environmental Quality.
 - (5) All work performed by the City shall be constructed to meet current City design standards located in the Drainage Design Manual.

Sec. 20-54. – 20-75. – Reserved.

Effective date:

This amendment, and any ordinances affected by this amendment, is effective on the date of its enactment.

This, the ____ day of _____, 2020.

This ordinance was introduced for first reading by Council member _____, seconded by Council member _____, and unanimously carried on the ____ day of _____, 2020.

AYES:

NAYS:

The second and final reading of this ordinance was heard on the ____ day of _____, 2020, and upon motion of Council member _____, seconded by Council member _____, and unanimously carried, was adopted.

AYES:

NAYS:

This ordinance is to be in full force and effect from and after the ____ day of _____, 2020.

CITY OF STATESVILLE

Constantine H. Kutteh, Mayor

APPROVED AS TO FORM

Leah Gaines Messick, City Attorney

ATTEST:

Brenda Fugett, City Clerk

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager

FROM: Scott Harrell, Executive Director of Public Works / City Engineer

DATE: July 22, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider approving City assistance with repairs to certain developer-installed water and sewer service connections.

1. **Summary of Information:** During the economic downturn of the late 2000s, several residential subdivisions sat inactive for an extended period of time. As economic conditions improved in recent years and building activity resumed, several sewer service connections were found to be in need of repair. Such repairs are typically performed by the contractor who originally performed the work, but due to the length of inactivity during the recession, contractor warranties have expired.

As directed by Council, staff is proposing the City assist with the repair of these water and sewer service laterals as follows:

For residential subdivisions where water and sewer service connections (service laterals) were installed prior to 2010 but building construction was delayed a period of ten (10) years or longer due to either economic hardship or a condition present beyond the control of the developer, the City will evaluate water and/or sewer service connection repairs upon request and prepare a cost estimate of necessary repair work. Upon agreement by the builder/developer and payment to the City of 50% of the cost estimate, as well as fund availability within the fiscal budget for the City, the City will perform the repair work prior to acceptance of the service connections for maintenance. This practice will apply to eligible service connections in the Larkin Phase 4, Beverly Heights and Georgetown subdivisions, as well as other residential subdivisions that meet the above criteria.

In the three subdivisions mentioned, approximately 90 eligible service laterals have been inspected by City staff, with 22 found to be in need of repair. The total estimated repair cost for these laterals is approximately \$30,000. The proposed City assistance will therefore total no more than \$15,000. Several of these laterals have already been repaired in accordance with an earlier agreement between the City and Adams Homes (Larkin Phase 4). Previous Council or Relevant Actions: N/A

2. **Previous Council or Relevant Actions:** N/A

3. **Budget/Funding Implications:** If approved, the City's share of the repair costs will be about \$15,000. There are adequate funds for this expense in the Water/Sewer Maintenance Division's operating budget.

4. **Consequences for Not Acting:** Staff will evaluate and present subsequent requests for assistance to Council for consideration on a case-by-case basis.

5. **Department Recommendation:** Staff recommends approving the service lateral repair assistance.
6. **Manager Comments:** Recommend for approval.
7. **Next Steps:** If approved, staff will respond accordingly to requests for service lateral repair assistance in the eligible subdivisions.
8. **Attachments:** None

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: Christopher Tucker, Finance Director
DATE: July 9, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider adoption of:

- 1. Resolution of Intent to Reimburse for the water line extension to Larkin Commerce Park,**
 - 2. Capital Project Fund ordinance for the project, and**
 - 3. Resolution to allow the Finance Officer to submit a Local Government Commission (LGC) application for project financing.**
-

- 1. Summary of Information:** At the June 15, 2020 City Council meeting, the Council was presented the bid results to construct a water line extension to serve the Larkin Commerce Park. The project includes constructing a water line along Amity Hill Road, Moose Club Road, and beneath I-77 to the vicinity of the Dover Rd/Larkin Parkway intersection.

The low bidder, Fuller & Co. Construction LLC was awarded the contract.

The attached resolution of intent to reimburse allows the City to begin incurring costs on the project while it procures the proper debt package to handle the project. The maximum is set at \$3,000,000 which allows for other costs such as engineering, inspection, design and easement acquisitions to be reimbursed by debt proceeds assuming they fit within the final time window and that is the most favorable funding alternative. This is not necessarily the debt issue amount at this time but an amount that cannot be exceeded for IRS purposes.

Additionally, staff is presenting a Capital Project Ordinance for this project. This accounting tool allows staff to segregate the project and capitalize it as a whole upon completion.

Finally, staff is also presenting a Resolution for LGC application that allows the Finance Officer to submit an application to the LGC for the debt package for the project.

- 2. Previous Council or Relevant Actions:** June 15, 2020 – Awarded construction contract to Fuller & Co. Construction LLC
- 3. Budget/Funding Implications:** The construction contract with contingency is \$2,378,000. Other costs associated with the project can either be paid directly from the Water/Sewer Fund or through the debt proceeds assuming they fall with the time criteria of the resolution.

Assuming a \$3M debt issuance at 15 years at 3%, the future debt payments would be around \$255,0000 annually.

4. **Consequences for Not Acting:** All costs of the project would come from the Water/Sewer Fund fund balance.
5. **Department Recommendation:** Adopt the Resolution of intent. Adopt the Project Ordinance. Adopt the LGC Application resolution.
6. **Manager Comments:** Concur with the department recommendation.
7. **Next Steps:** Finance Staff will enter the new fund into accounting software and begin the LGC application process.
8. **Attachments:**
 1. Resolution of Intent to Reimburse
 2. Capital Project Fund Ordinance
 3. Resolution for LGC Application
 4. Loan Scenarios

RESOLUTION _____

The City Council of the City of Statesville, North Carolina met in a regular meeting in the Council Chambers of the City Hall located at 227 S. Center Street in Statesville, North Carolina, the regular place of meeting, at 7:00 p.m. on August 3, 2020.

Present: _____

Absent: _____

* * * * *

_____ introduced the following resolution the title of which was read and a copy of which had been previously distributed to each Council Member:

RESOLUTION OF THE CITY OF STATESVILLE, NORTH CAROLINA DECLARING ITS OFFICIAL INTENT TO REIMBURSE EXPENDITURES UNDER UNITED STATES DEPARTMENT OF TREASURY REGULATIONS

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 hereby finds, determines and declares the following:

(a) Section 1.150-2 of the Treasury Regulations (the "Regulations") prescribes specific procedures which will be applicable to certain bonds or notes issued by or on behalf of the City including, without limitation, a requirement that the City declare its official intent to reimburse certain expenditures with proceeds of debt to be incurred by the City prior to, or within sixty (60) days of, payment of the expenditures to be reimbursed.

(b) The City intends to advance its own funds in order to pay certain capital costs (the "Original Expenditures") relating to the acquisition, construction and equipping of a water line extension to the Larkin Commerce Park property (the "Project").

(c) The City reasonably expects to reimburse itself for the Original Expenditures from the proceeds of debt to be incurred by the City.

(d) \$3,000,000 is the maximum principal amount of debt expected to be incurred for the purpose of paying the costs of the Project.

(e) This declaration of official intent is made pursuant to Section 1.150-2 of the Treasury Regulations to expressly declare the official intent of the City to reimburse itself from the proceeds of debt to be hereinafter incurred by the City for certain expenditures paid by the City on or after the date which is sixty (60) days prior to the date hereof.

(f) The funds heretofore advanced or to be advanced by the City to pay the Original Expenditures are or will be available only on a temporary basis, and do not consist of funds that were otherwise earmarked or intended to be used by the City to permanently finance the Original Expenditures.

(g) All Original Expenditures to be reimbursed by the City were paid no more than sixty (60) days prior to, or will be paid on or after the date of, this declaration of official intent, except with respect to certain amounts incurred before such 60-day period not exceeding 20% of the issue price of the proceeds of the debt to be hereinafter incurred which are expended for "preliminary expenditures" within the meaning of Section 1.150-2 of the Treasury Regulations (the "Preliminary Expenditures"). The City understands that, except for the Preliminary Expenditures, such reimbursement must occur not later than eighteen (18) months after the later of (a) the date the Original Expenditures were paid and (b) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the Original Expenditures were paid.

Section 2. This resolution shall take effect upon its adoption.

Upon motion of _____, seconded by _____ the foregoing resolution entitled "RESOLUTION OF THE CITY OF STATESVILLE, NORTH CAROLINA DECLARING ITS OFFICIAL INTENT TO REIMBURSE EXPENDITURES UNDER UNITED STATES DEPARTMENT OF TREASURY REGULATIONS" was adopted by the following vote:

Ayes: _____

Noes: _____

* * * * *

I, Brenda Fugett, City Clerk of the City of Statesville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of the City Council of said City at a regular meeting held on August 3, 2020 as relates in any way to the introduction and adoption of the foregoing resolution and that said proceedings are recorded in the minutes of said City Council.

I DO HEREBY FURTHER CERTIFY that proper notice of such regular meeting was given as required by North Carolina law.

WITNESS my hand and the official seal of said City this 3rd day of August, 2020.

[SEAL]

ORDINANCE NO. _____

**AN ORDINANCE ESTABLISHING THE
LARKIN COMMERCE PARK WATER LINE EXTENSION PROJECT**

WHEREAS, the City Council of the City of Statesville desires to extend a water line to the Larkin Commerce Park and surrounding areas, and

WHEREAS, the City Council of the City of Statesville desires to use debt proceeds to cover professional services and construction of the project, and

WHEREAS, the scope and timeline of the capital project will potentially cross fiscal years, and

WHEREAS, North Carolina General Statutes §159-13.2 authorizes the adoption of a capital project budget ordinance, and

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Statesville that there is hereby adopted a Capital Project Budget Ordinance setting forth the following revenues and expenditures for the life of the project:

REVENUES:

Debt Proceeds	\$3,000,000
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EXPENDITURES:

Project Expenditures	\$3,000,000
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Duly adopted this 3rd day of August 2020.

Constantine H. Kutteh, Mayor

ATTEST: _____
Brenda Fugett, City Clerk

RESOLUTION _____

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20

WHEREAS, the City of Statesville, North Carolina desires to construct a water line extension to be located along Amity Hill Road, Moose Club Road, beneath I-77 to the vicinity of the Dover Rd/Larkin Parkway intersection in Statesville (the "Project") to provide water service to an unserved area; and

WHEREAS, The City of Statesville desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Statesville, North Carolina, meeting in regular session on the 3rd day of August 2020, make the following findings of fact:

1. The proposed contract is necessary to provide water service to potential residential and commercial citizens of Statesville NC.
2. The proposed contract is preferable to a bond issue for the same purpose because the cost to issue revenue bonds would be greater.
3. The sums to fall due under the contract are adequate and not excessive for the proposed purpose based on estimates received by contracted consultants Hazen and Sawyer;
5. The City of Statesville's debt management procedures and policies are good because the policies of the City have been carried out in strict compliance with law, and adequate debt management will continue to be provided as directed by the NC Local Government Commission.
6. The increase in taxes necessary to meet the sums to fall due under the proposed contract will be \$0.00 cents per \$100 valuation is not deemed to be excessive.
7. The City of Statesville is not in default in any of its debt service obligations.
8. The attorney for the City of Statesville has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.
9. The probable net revenues of the project to be financed will be sufficient to meet the sums to fall due under the proposed contract.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to act on behalf of the City of Statesville in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this 3rd day of August, 2020.

Constantine H. Kutteh, Mayor

ATTEST:

Brenda Fugett, City Clerk

LOAN AMORTIZATION SCHEDULE

ENTER VALUES

Loan amount	\$1,800,000.00
Annual interest rate	4.00%
Loan period in years	10
Number of payments per year	1
Start date of loan	7/1/2019

Optional extra payments	\$0.00
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LOAN SUMMARY

Scheduled payment	\$221,923.70
Scheduled number of payments	10
Actual number of payments	1
Total early payments	\$0.00
Total interest	\$419,237.00

LENDER NAME	Woodgrove Bank
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PMT NO	PAYMENT DATE	BEGINNING BALANCE	SCHEDULE D PAYMENT	EXTRA PAYMENT	TOTAL PAYMENT	PRINCIPAL	INTEREST	ENDING BALANCE	CUMULATIVE INTEREST
1	7/1/2019	\$1,800,000.00	\$221,923.70	\$0.00	\$221,923.70	\$149,923.70	\$72,000.00	#####	\$72,000.00
2	8/1/2019	\$1,650,076.30	\$221,923.70	\$0.00	\$221,923.70	\$155,920.65	\$66,003.05	#####	\$138,003.05
3	9/1/2019	\$1,494,155.65	\$221,923.70	\$0.00	\$221,923.70	\$162,157.47	\$59,766.23	#####	\$197,769.28
4	10/1/2019	\$1,331,998.18	\$221,923.70	\$0.00	\$221,923.70	\$168,643.77	\$53,279.93	#####	\$251,049.21
5	11/1/2019	\$1,163,354.41	\$221,923.70	\$0.00	\$221,923.70	\$175,389.52	\$46,534.18	\$987,964.88	\$297,583.38
6	12/1/2019	\$987,964.88	\$221,923.70	\$0.00	\$221,923.70	\$182,405.10	\$39,518.60	\$805,559.78	\$337,101.98
7	1/1/2020	\$805,559.78	\$221,923.70	\$0.00	\$221,923.70	\$189,701.31	\$32,222.39	\$615,858.47	\$369,324.37
8	2/1/2020	\$615,858.47	\$221,923.70	\$0.00	\$221,923.70	\$197,289.36	\$24,634.34	\$418,569.11	\$393,958.71
9	3/1/2020	\$418,569.11	\$221,923.70	\$0.00	\$221,923.70	\$205,180.94	\$16,742.76	\$213,388.17	\$410,701.47
10	4/1/2020	\$213,388.17	\$221,923.70	\$0.00	\$213,388.17	\$204,852.65	\$8,535.53	\$0.00	\$419,237.00

Principal	Loan Term					
	3	5	7	10	15	20
\$ 2,500,000						
Rate:						
1.5%	858,457	522,723	378,890	271,085	187,361	145,614
2.0%	866,887	530,396	386,280	278,316	194,564	152,892
2.5%	875,343	538,117	393,739	285,647	201,916	160,368
3.0%	883,826	545,886	401,266	293,076	209,416	168,039
3.5%	892,335	553,703	408,861	300,603	217,063	175,903
4.0%	900,871	561,568	416,524	308,227	224,853	183,954
4.5%	909,433	569,479	424,254	315,947	232,785	192,190
5.0%	918,021	577,437	432,050	323,761	240,856	200,606
5.5%	926,635	585,441	439,911	331,669	249,064	209,198
6.0%	935,275	593,491	447,838	339,670	257,407	217,961

Principal	Loan Term					
	3	5	7	10	15	20
\$ 3,000,000						
Rate:						
1.5%	1,030,149	627,268	454,668	325,303	224,833	174,737
2.0%	1,040,264	636,475	463,536	333,980	233,476	183,470
2.5%	1,050,412	645,741	472,486	342,776	242,299	192,441
3.0%	1,060,591	655,064	481,519	351,692	251,300	201,647
3.5%	1,070,803	664,444	490,633	360,724	260,475	211,083
4.0%	1,081,046	673,881	499,829	369,873	269,823	220,745
4.5%	1,091,320	683,375	509,104	379,136	279,341	230,628
5.0%	1,101,626	692,924	518,459	388,514	289,027	240,728
5.5%	1,111,962	702,529	527,893	398,003	298,877	251,038
6.0%	1,122,329	712,189	537,405	407,604	308,888	261,554

CITY COUNCIL ACTION REQUEST

TO: Ron Smith, City Manager
FROM: David Addison, Chief of Police
DATE: July 21, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider approving a request from the Statesville Police Department to receive grant funding from the North Carolina Governor’s Highway Safety Program that will provide 100% funding for Fiscal Year October 1, 2020-September 30, 2021 for salaries, travel and equipped vehicles for two officers in the amount of \$217,682 with NO MATCH for first year and approve Budget Amendment #2021-03.

1. Summary of Information: The Statesville Police Department has forty-six (46) officers assigned to uniform patrol. The uniform patrol division responds to 911 calls for service twenty-four (24) hours a day and seven (7) days a week. During the calendar year of 2019, SPD received 81,285 calls for service. Officers responded to 61,910 calls for service which includes self-initiated calls for service. Total 911 calls for service in 2019 increased 9% over 2018. Officers responded to 14% more 911 calls for service in 2019 than in 2018. The staffing on patrol has remained the same since around the mid to late 1980’s.

During our initial crime presentation, we requested eight (8) additional patrol officers along with other personnel from City of Statesville. We applied to GHSP for four officers and four vehicles and have been tentatively awarded two officers and two vehicles for FY 2020-2021, beginning on October 1, 2020 in the amount of \$217,682, which is 100% of funding with no match for the first year. This grant will assist with our need to increase staffing while reducing the cost to the City of Statesville. The need for additional personnel is critical for the Statesville Police Department and the community.

This opportunity will also allow SPD to apply for three additional years for salary and travel funding in support of these two officers for 80% for second year (\$101,878/GHSP & \$25,469/City Match), 75% for third year (\$98,342/GHSP & \$32,781/City Match), and 50% for fourth year (\$67,506 GHSP & \$67,506/City Match). Total GHSP funds to be realized by the City of Statesville over the four years will be \$485,408.

- 2. Previous Council or Relevant Actions:** Request to apply was approved at the February 17, 2020 Council meeting.
- 3. Budget/Funding Implications:** If the GHSP grant is accepted, the City of Statesville will off-set approximately \$485,408 in personnel, travel and equipment costs over four years, allowing the City to fund other projects or support other personnel needs. City of Statesville will receive **\$217,682** funding for the first year of this grant on a reimbursement formula with NO MATCH required by the City. (Personnel: \$122,182, Travel: \$1,500, Equipment/Vehicles: \$94,000= \$217,682)

4. **Consequences of Not Acting:** If the City of Statesville does not accept this award, we would be funding these two officers at full cost and provide two vehicles at full cost. This would divert funding from other projects and personnel needs.
5. **Department Recommendation:** The Statesville Police Department recommends the City of Statesville accept this grant for year one and allow SPD to apply in each of the following three years for continued support for these two officers.
6. **Manager Comments:** Recommend for approval.
7. **Next Steps:** Documents to be signed week of August 3, 2020 in order to continue process to receive award effective October 1, 2020.
8. **Attachments:**
 1. Budget Amendment #2021-3
 2. Application approval letter



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

J. ERIC BOYETTE
SECRETARY

July 8, 2020

Pamela NAVEY
CITY OF STATESVILLE POLICE DEPT
PO Box 506
STATESVILLE NC 28687-0506

Application #: 1000009043
Program: GHSP2021-PERSONNEL/EQUI
Project : CITY OF STATESVILLE POLICE DEPT

Ref : Application Approval

Dear Pamela NAVEY,

Congratulations! The NC Governor's Highway Safety Program (GHSP) has approved your agency to begin the next phase of GHSP's FY 2021 Funding process.

This phase allows your agency to complete a grant agreement with NC GHSP to provide the outcomes outlined in the final grant application. Although your application has been approved, this does not assure funding. Final approval of funds will not be made until late September, once your Agreement is finalized.

The next step of the funding process is the submission of several key documents via the Grants Management System. Please contact your Highway Safety Specialist if you have any questions about completing these documents.

The GHSP appreciates your dedication and contribution to highway safety.

Sincerely,

Mark Ezzell
Director

CITY OF STATESVILLE
BUDGET AMENDMENT #2021-3
 August 3, 2020
 FISCAL YEAR 2020-2021

FUND / ACCOUNT #	ACCOUNT TYPE	DESCRIPTION	CURRENT BUDGET	CHANGE (+ / -)	AMENDED BUDGET
GENERAL FUND					
010.5100.340.45.00 (NEW)	Revenue	GHSP Grant	-	217,862	217,862
		Total Revenues	<u>-</u>	<u>217,862</u>	<u>217,862</u>
10.5100	Expenditure	Police	11,006,006	217,862	11,223,868
		Total Expenditures	<u>11,006,006</u>	<u>217,862</u>	<u>11,223,868</u>

DESCRIPTION: To receive and appropriate Governor's Highway Safety Program (GHSP) grant revenues and expenditures



 Budget Officer

 Finance Director

APPROVED BY CITY COUNCIL:

 City Clerk

CITY COUNCIL ACTION REQUEST

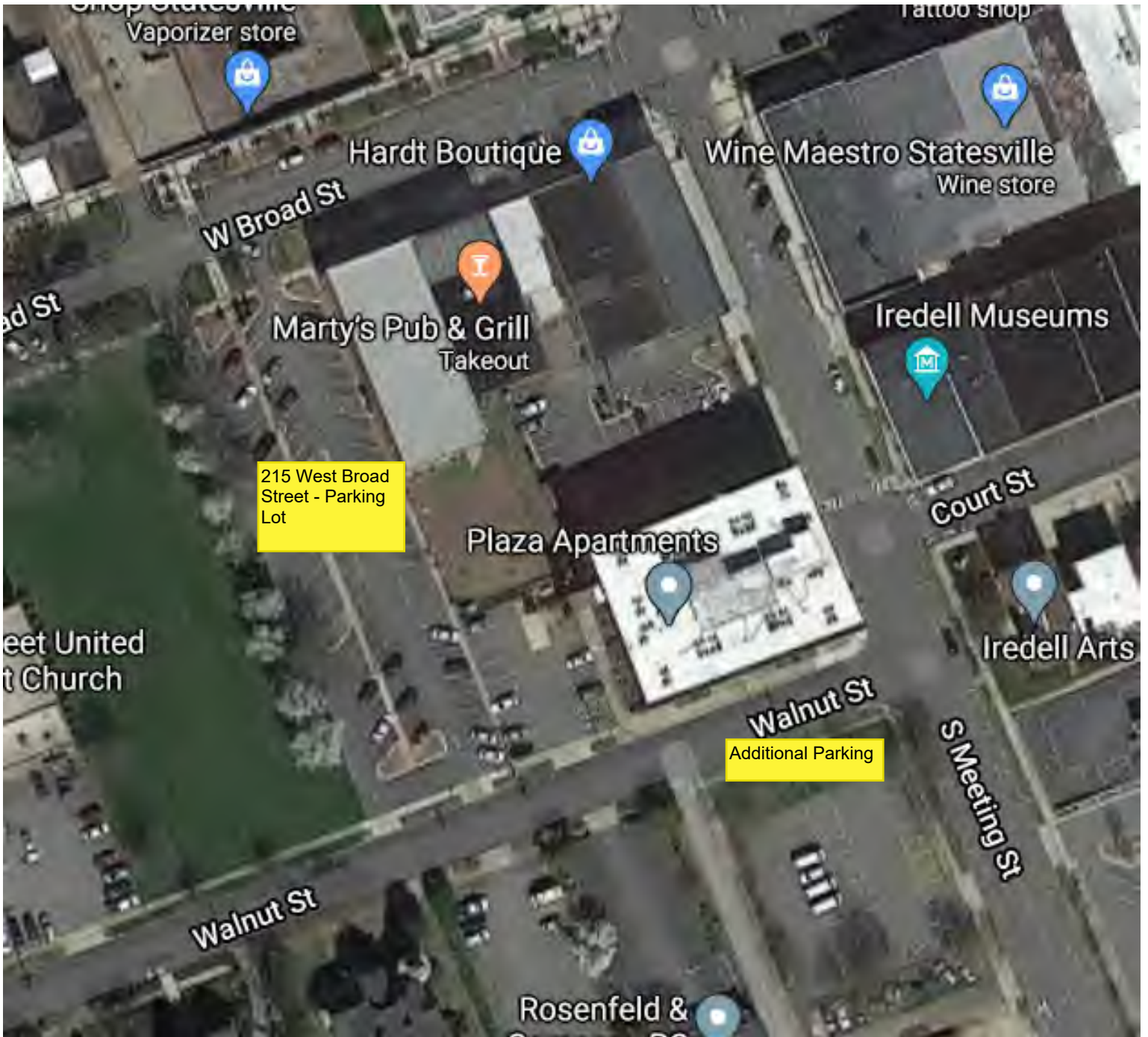
TO: Mayor and City Council
FROM: Ron Smith, City Manager
DATE: July 23, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Consider approving a special event application from Centralina Realty, Inc. for a Fill the Truck Food Drive.

- 1. Summary of Information:** Centralina Realty, Inc. is requesting approval to host the Fill the Truck Food Drive event at 215 West Broad Street in the City owned parking lot. The event will be held from 2:00pm – 9:00 p.m. (including setup and dismantle hours) on Sunday, September 13, 2020 to collect food, supplies and money to support Iredell Christian Ministries Food Bank. The applicant has estimated the attendance at 150 and plans to have vendors, food trucks and live music for the event. The applicant has also invited Fourth Creek Brewing Co., LLC and Red Buffalo Brewing Co., LLC to sell alcohol. Both of the breweries have provided liability insurance including liquor liability with the City of Statesville listed as an additional insured. Parking will be available on the west side of the parking lot at 215 West Broad Street. Downtown parking is also available along with the City lot on Walnut Street. The applicant will be responsible for collecting and disposing of all garbage at the end of the event.
- 2. Previous Council or Relevant Actions:** N/A
- 3. Budget/Funding Implications:** N/A
- 4. Consequences for Not Acting:** The applicant would be unable to host the event.
- 5. Department Recommendation:** Risk Manager Lynn Smyth suggested the following contingencies related to COVID-19 upon approval:
 - The event must meet the restrictions in place by the State and City at the time of the event.
 - 14 days prior to the event, the applicant must submit a COVID-19 compliance plan for the event to be reviewed by City staff.
- 6. Manager Comments:** Although this is a great and laudable cause, it is impossible to know where we will be regarding COVID-19 in September, it is unlikely we will be at a point that we should sponsor a gathering of 150 or more people. Lynn Smyth has suggested COVID-19 executive order compliance and planning, but I do not think it will be possible for us to effectively enforce. I would recommend against this request or in the least condition your approval upon the ability for a much larger group to meet, under the Governor's authority.
- 7. Next Steps:** If approved the applicant will be issued a Special Event Permit.
- 8. Attachments:**
 1. Special event application
 2. Certificates of Insurance – Centralina Realty, Inc.
 3. Location Map



CITY COUNCIL ACTION REQUEST

TO: Mayor and City Council
FROM: Ron Smith, City Manager
DATE: July 23, 2020

ACTION NEEDED ON: August 03, 2020
(Date of Council Meeting)

COUNCIL ACTION REQUESTED:

Discussion about increasing the minimum hourly wage for positions employed by the City to at least \$15/hr.

1. **Summary of Information:**
2. **Previous Council or Relevant Actions:**
3. **Budget/Funding Implications:**
4. **Consequences for Not Acting:**
5. **Department Recommendation:**
6. **Manager Comments:**
7. **Next Steps:**
8. **Attachments:**

**Planning Board Meeting Minutes
City Hall Council Chambers
June 23, 2020 @ 7:00 p.m.**

Members Present: Tammy Wyatt, Bernard Robertson, Don Daniel, Todd Lange, Bo Walker, Brian Long

Members Absent: Mark Tart, Charlotte Reid, Alternate - Rosetta Williams

Staff: Sherry Ashley-Planning Director, Brenda Fugett-City Clerk, Steve Bridges-Senior Planner

Others: Courtesy Hearing P20-02 – 4
Courtesy Hearing P20-08 – 4
Courtesy Hearing ZC20-05 - 18

Media: 0

Vice-Chairman Bo Walker called the meeting to order and asked for a motion on the May 26, 2020 Planning Board meeting minutes.

Consider approving the May 26, 2020, Planning Board meeting minutes.

Lange made a motion to approve the May 26, 2020 meeting minutes as presented, seconded by Daniel. The motion carried unanimously.

P20-02 site plan/sketch plan review for Harbor Freight Site Plan located at 303-313 Turnersburg Hwy (US 21); Tax Maps 4745-38-5329, 4745-38-6594, 4745-38-6495, 4745-38-6398, 4745-38-6383, and 4745-38-6298.

Staff member Steve Bridges gave the following staff report:

The site is located at 303-313 Turnersburg Highway (US-21). The property is currently 1.83 acres in size and is proposed to be developed with a Harbor Freight retail store. 5 houses currently on the site will be demolished. The site is zoned B-4 (Highway Business) District. The site will be accessed from Turnersburg Hwy (US-21) at two future locations, the main access drive being a right in/right out as required by NCDOT, the second being at the signal with James Farm Road to the North. A third possible future access is to North Pointe Shopping center and the site will have to be stubbed to the property line. In addition, US-21 is scheduled to be widened from Pump Station Road to Fort Dobbs Road under project U-5799. New construction in the B-3, B-4 or B-5 zoning districts is required to get Planning Board and Council approval. The building is proposed to be 15,500 sf. The setback requirements are met. Landscaping requirements are met. The site has 64 parking spaces which meets the requirement of the UDO. Fee in lieu will be submitted to the City in place of installing sidewalk. Sidewalk will be installed by NCDOT under the U-5799 project. The exterior walls will be constructed of brick with metal canopies which meets the architectural requirements of the UDO. The site will utilize city sewer and electric utilities and Iredell Water. The TRC approved this request at its March 18, 2020 meeting contingent upon receipt of the revised site plan, dumpster enclosed with materials that match the building, setbacks being labeled, height of the building being labeled, fence around stormwater detention

must be black or green coated, completion of annexation and recombination plat, pay fee in lieu of for sidewalk, 10' utility easement for City utility use, the site being built in conjunction with NCDOT Project U-5799, the direct access drive being built as right in/right out if completed before U-5799 median installed, and approval of stormwater plans. Several corrections have been made. Therefore, staff recommends approval of site plan contingent upon completion of the annexation and recombination plat, the fee in lieu of sidewalk being paid, the site being built in conjunction with NCDOT Project U-5799, final approval of roadway plans by Engineering, and approval of the stormwater plans. Otherwise the plans meet the requirements of the UDO.

Vice-Chairman Walker declared the courtesy hearing open and asked if anyone wished to speak in favor of or in opposition of this item.

Matt Grant, engineer for the project, came forward and answered questions from the board.

Steve Bridges asked if Harbor Drive will be a City street. Grant replied that it will be a privately owned street and maintained by the owner.

Sherry Ashley advised that there is 15 acres to the north of this property. City Code requires you to have frontage on a City street, so if the roads are not designed to City standards now, whoever develops these 15 acres in the future will have to upgrade the streets to City standards. In their initial conversation with staff, at least Harbor Drive was supposed to be designed as a City street. They do not have to build the entire street when building Harbor Freight, they just have to do their half. When the property to the right is developed, that developer will have to finish building that City street, because the street is going to extend north to service the future development of the other properties so you do not want to prevent them from being able to develop to the north because they do not have any public street frontage.

Ken Journey, adjoining property owner, stated that in 2002 Fairview Baptist Church contacted him about purchasing some of his property to build a parking lot at the church on the south side of the church. He said that at the time he had approval to build an assisted living facility on the property, which required only a 25 ft. right-of-way into the property for the assisted living facility or a couple of houses. The assisted living project fell through and was never built. At that time, he contacted the City Planning Department and was told that a 70 ft. right-of-way would be needed to ever develop the property commercially, so he has a 70 ft. right-of-way across Fairview Baptist Church's property. It is about 300 ft. deep from US-21 to his property. NCDOT is going to put curb and gutter to there. The church is responsible for maintaining the rest of it. He has been advised by City engineers, City Planning Department and some Council members, that when his property is developed, no matter what happens to the road with the 30 ft. right-of-way, they are likely going to require the developer of his property to build a road to City standards with sidewalk, curb and gutter, and maybe even a median, depending on what is going to be built, and two or more lanes to the far side of his property. All of this will be a huge expense to the developer. That is why he wants to make sure that he does not have any expense on this other road that he really does not even need.

Sherry Ashley stated that the decision about the streets is really an agreement between these two property owners that they must work out. The City offers two options: 1. Build the streets to City standards and the City will maintain them, or 2. Do not build them to City standards and they will be private streets and the property owners must maintain them. Ashley said the Planning Board can approve this site plan as presented or it can require something different. She just wants to make sure that Mr. Journey's property has access to at least one public street and is not

landlocked, but the two property owners must make the decision as to which street that is going to be.

Grant stated that to build the street to City standards they would need to acquire additional right-of-way from Mr. Journey, and they would prefer not to build the road to City standards. Lange asked if the Board approves the site plan as submitted, with the understanding that Harbor Road is not being built to City standards, to assure access to the property to the west to allow for commercial development, the motion must contain that Elmridge Rd/James Farm Rd extension must be built to City standards as a public street. Bridges replied that is correct.

Mike Simmons, head of the trustees of Fairview Baptist Church said that they have been working with Howard Bryan and Ken Journey and have had several meetings with them regarding the existing Northcross Street where it ties into the main driveway of the church. He said that the church currently has two entrances, a north entrance, and a south entrance. Elmridge Rd is the one on the south side. He explained that when the Highway 21 road expansion project begins, the church will lose its north driveway. The church would like to purchase some additional property and come up from the north end where the light will be, but the church has not pursued that yet. The church is okay with them using the main driveway and they have an agreement that has not been signed yet, but that will be the church's only access in and out. He is concerned about large vehicles, such as tractor trailers and garbage trucks, using the road and the church being responsible to maintain it since it is now a private road.

There being no other speakers, Walker declared the courtesy hearing closed.

Lange made a motion to approve Site Plan P20-02 as presented with the private streets, contingent upon completion of the annexation and recombination plat, fee in lieu of for sidewalk, the site being built in conjunction with NCDOT Project U-5799, final approval of Roadway Plans by Engineering and approval of the Stormwater Plans, and also directed staff to in the future, consider Elmridge as a public street, seconded by Wyatt. The motion carried unanimously.

P20-08 site plan review for Georgetown Place Phase II located adjacent to 163 James Farm Road; Tax Map 4745-59-1376.

Bridges gave the following staff report:

The site is located behind 151 James Farm Road. The property is currently 8.2 acres in size and is proposed to be developed with 53 Townhomes. The site is zoned R-5 MF (High Density Multi-Family Residential) District. The site will be accessed from James Farm Road at one location.

New construction in the MF zoning districts is required to get Planning Board and Council approval. There will be 53 Townhome Duplex units. The setback requirements are met. Landscaping requirements are met. Curb, gutter, and sidewalk will be installed on all new streets. The site will utilize city sewer, Iredell Water, and Duke Energy for Electric.

The TRC approved this request at its April 15, 2020 meeting contingent upon approval of stormwater plans. Staff recommends approval of the site plan contingent upon approval of stormwater plans. Otherwise the plans meet the requirements of the UDO.

Vice-Chairman Walker declared the courtesy public hearing open and asked if anyone wished to speak in favor of or against this item.

Matt Grant, engineer for the project, came forward and said he would answer any questions the board may have.

Daniel asked if the duplexes are two story. Grant replied that they are two story duplexes.

There being no other speakers, Vice-Chairman Walker declared the hearing closed.

Robertson made a motion to approve contingent upon approval of the Stormwater Plans, seconded by Daniel. The motion carried unanimously.

ZC20-05 rezoning request from MEG 2, LLC rezoning approximately 5.01 acres located at 3421 and 3423 E. Broad Street from B-4 (Highway Business) District to R-5MF CU (High Density Multi-Family Residential Conditional Use) District; Tax Map 4765-23-2518.

Bridges gave the following staff report:

Neil Shepherd with Blue Ridge Engineering PLLC on behalf of MEG 2, LLC is requesting to rezone approximately 5.01 acres, parcel 4765-23-2518 from B-4 (Highway Business) District to R-5MF CU (High Density Multi-Family Residential Conditional Use) District for a 72-unit workforce housing apartment complex. Conditional Use Zoning Districts are tied to the concept plan submitted with the application and the applicant is proposing the following conditions after receiving comments from the community meeting held on March 18, 2020:

1. There shall be a maximum of 72 residential units.
2. There shall be a screening fence along the western boundary line.
3. The side yard building setback line along the western boundary line shall be increased from 25 feet to 50 feet.
4. The required landscape buffer width along the western boundary line shall be increased from 15 feet to 30 feet.
5. The dumpster area shall be located no closer than 50 feet from the western boundary line.
6. The front yard building setback line shall be increased from 25 feet to 50 feet.
7. The maximum residential building height shall be 45 feet, 3 stories.
8. The maximum clubhouse building height shall be 25 feet, 1 story.
9. All site lighting shall include cut-off fixtures.
10. There shall be no swimming pool allowed at the site.

The site currently has 2 single family residences on the property even though it is zoned B-4 (Highway Business) District which allows most retail sales and services. The intended use of the property is a 72-unit workforce housing apartment complex with 3 buildings, 3 stories high. The side setbacks were increased, per the UDO, by 1 foot for every 1 foot in building height above 35 feet which increased the side setback from 5 feet to 15 feet. The concept plans also include a clubhouse, picnic pavilion and playground. City sewer, Iredell water and Energy United electric utilities are available to the site. The land use plan calls for the properties to be low density residential even though the property is zoned B-4 (Highway Business).

The site is located just west of the intersection of E. Broad Street and Mocksville Highway (US 64). The surrounding area consists of a medium size shopping center, smaller scale commercial sites and single-family homes. All multi-family site plans regardless of zoning district are required to be reviewed by TRC, Planning Board (courtesy hearing) and Council (public hearing). The

current zoning designation is B-4 (Highway Business) District and therefore the R-5MF CU District is a less intensive zoning district.

The surrounding zoning districts and land uses are as follows:

NORTH OF THE SITE: B-4, Eagle Equipment Rentals, Bill Henderson Automotive, attorney Privette's law office, a carwash and a butcher shop

EAST OF THE SITE: B-4, Eastgate Shopping Center, Food Lion, Kirk's Catering, Cedar Stump Pub, O'Reilly's Auto Parts, etc. Sunshine Laundry, Edward Jones, Preston Construction

SOUTH OF THE SITE: Iredell County CB, Self-storage mini-warehouses, vacant land, and City R-15, Single-Family Homes (Brookmeade Subdivision)

WEST OF THE SITE: R-15, Single-Family Homes (Camelot Subdivision)

The 2005 Land Development Plan projects the property to be low density residential even though the property is zoned B-4 (Highway Business) District and has utilities. The property is located between the Camelot Subdivision and other B-4 commercial sites. Multi-family development is a good transition between single-family homes and commercial development when all utilities are available to support the site. In addition, the conditions volunteered by the applicant would minimize any negative impacts to the neighboring subdivision. If approved final site plan approval will be required by TRC, Planning Board and City Council. Therefore, staff's recommendation is favorable to rezone the property.

Long asked how many units are permitted per acre in R5 zoning. Bridges replied 16. Long asked at what point a Traffic Impact Analysis (TIA) will be triggered. He understands that this small project would not trigger one, but with the other recently approved multi-family project just down the road from this one, he is concerned about the additional traffic that will be added with both developments on a road that is already congested at times. He asked what would trigger the City to do a traffic study. Ashley replied that the City Code requires that over 3,000 trips per day will trigger a TIA, but this project will not trigger one; however, NCDOT could require left turn lanes or decelerations lanes for this project. She said that unfortunately transportation is usually reactive rather than proactive.

Walker asked how long this property has been zoned B4. Ashley replied that it has been zoned B4 for as long as she has been with the City which is 2005.

Vice-Chairman Walker declared the courtesy public hearing open and asked if anyone present wished to speak in favor of or against this item.

Neal Shepherd, with Blue Ridge Engineering, engineer for the project, stated that this is a good location for this type of development and is a good transition development between the single-family residential and the B4 commercial zoning. He said that this project would have much less of an impact than some types of uses that are currently allowed by right in B4 zoning and would be considered down zoning. He said that a community meeting was held, and they received feedback and some changes were made to the project as a result of that feedback. He said that there is a need for this type of housing in Statesville.

Greg Rhodes, developer for the project, came forward to answer questions from the board.

Lange asked if these will be market rate rentals.

Mr. Rhodes replied that it is a market rate development with tax incentives, but it is not Section 8 or low-income housing, there is no rental assistance at all. This is workforce housing for people such as teachers, police officers, firefighters, young professionals, workers in the construction trades, retail salespeople, office workers and service workers. This development is a good infill between single family residential and business zoning districts. Mr. Rhodes stated that his company built a development like this behind Ft. Dobbs Hardware on Highway 21 last year. Mr. Rhodes read a list of places of employment where those who live in the Highway 21 development work as follows: UPS, Lowe's Corporate, Lowe's Distribution Center, Aerotech, MGK, Keco Coatings, Pain Clinic of NC, Cox Automotive, BI-LO, Mecklenburg Animal Hospital, Davis Regional Medical Center, Home Care Helpers, and Carolina Beverage Group.

Long asked what is drawing so many of these types of projects to Statesville. Mr. Rhodes replied that he has enjoyed working in Statesville for the past 18 months with County and City officials and it is probably one of the best places he has ever worked with. People are very accommodating, not a lot of red tape, and he has felt like he was part of the community for the last 18 months. When he saw this site, he thought it would be a good location to offer a multi-family buffer between the single-family and the commercial zoning development.

Walker asked if the tax incentives are given to the tenants and if the rents are subsidized. Mr. Rhodes replied that the tax incentives are part of the financing for the project. No tax incentives are given to the tenants and no rents are subsidized.

Robertson asked how much the rent will be per unit. Rhodes said that as of right now the rent will be \$750 for a 1 bedroom, \$850 for a 2 bedroom and \$950 for a 3 bedroom.

Lange stated that there is a clear need for this type of housing in Statesville. He asked what the requirements are to live there. Rhodes replied that they do criminal, background and credit checks for each prospective tenant.

Wyatt asked if there will be an onsite property manager. Rhodes replied that yes there will be as well as an onsite maintenance staff.

Walker asked if anyone opposed to the project wished to speak.

Ron Johnson, 509 Camelot Drive, spoke against the rezoning. He said that his sunroom and his bedroom is on the eastside of his house and is only 53 ft. to the property line. He said there has to be a better use for this property and a better location for this project.

Sharon Brown, 417 Camelot Drive, spoke against the rezoning. She said that she lives across from the corner of this property. She is concerned about hearing garbage trucks early in the morning emptying dumpsters as well as the smell from the dumpsters. She is also worried about traffic that could affect Camelot Drive.

Mark Floyd, 512 Camelot Drive, spoke against the rezoning. He is concerned about stormwater runoff from this because all the water from Camelot already runs across his property.

Joshua Gaskin, 342 West Glen Eagles Rd, spoke against the rezoning. He said he lives in Shannon Acres and does not believe that this is the right location for this type of development.

Aimee Reimann, 631 St. Cloud Drive, spoke against the rezoning. She said that she lives in Shannon Acres and many of the residents are against this development. It is not consistent with the adjoining properties or the Land Use Plan. It will bring property values down. There is other property already zones for multi-family. This development will increase stormwater runoff in the Shannon Acres subdivision creating issues and increased traffic will increase traffic issues.

Ginger Finley, 519 St. Cloud Dr, spoke against the rezoning. She said that this is not an urban area where multi-family developments are usually built, and the project is not in keeping with the surrounding neighborhoods and not a good transition between residential and commercial. She stated concerns about stormwater, overcrowding at East Elementary School, and increased traffic. This is spot zoning, and nobody seems to be looking at these factors and how it will affect the them.

Drew Kessler, 3215 Meadow Rue Lane, President of the Dogwood Hills subdivision. He spoke against the rezoning. Most of the residents of Dogwood Hills that he spoke with are against the development. He said that the development does not align with the current Land Use Plan which calls for low density development on this parcel. He asked the Planning Board to deny this rezoning.

Chuck Goode, 327 Augusta Drive, spoke against the rezoning. He said he is concerned about everything that has already been mentioned by the previous speakers as well as the noise from the development.

Sherry Law, 226 Glen Eagles Rd, spoke against the rezoning. She said that a 260 unit development off of Greenbriar Rd. has been approved as well as another 60 unit development on Vance PO Rd. She is concerned about the increased traffic that will result from all of these units on a two lane road.

Bill Thompson, 105 Camelot Dr, spoke against the rezoning. He is concerned about increased traffic and accidents, stating that the traffic on this road is already bad.

There being no other speakers, Walker declared the courtesy public hearing closed.

Lange asked what uses are allowed by right in the B4 zoning district. Walker stated that car dealerships, grocery stores, convenience stores, and retail offices are some of the by right allowed uses. Bridges added that zoos, certain types of landfills, and dance clubs/bars are other uses that are allowed by right in B4 zoning.

Lange asked the project engineer how they plan to mitigate the stormwater runoff. Neal Shepherd replied that the site plan must go through the City review process with the Technical Review Committee and they will determine what stormwater mitigation is required.

Lange asked the developer why this site and are there are other viable sites. Rich Kirkland, said that he is a Certified Appraiser, and that apartment developments are usually used as a buffer between single-family residential and commercial development and is a much less intense use than what is allowed by right in B4 zoning. This is considered a down zoning Wyatt asked if he was aware of the other apartment developments that have been approved in the area. Mr. Kirkland replied that he did not look at that.

Lange asked what a better use would be for this property. Aimee Reimann stated that the neighborhood residents are aware of the commercial uses and are okay with any use that is allowed by right in the B4 zoning.

Long said he believes that the density is very high for this, but that he agrees that multi-family is a good transitional development for the property.

Walker said that the neighborhood has planned on this being B4 for years and feels that it should stay this for now.

Lange said that he agrees that the density is excessive for this spot.

Lange made a motion to approve ZC20-05, seconded by Robertson. The vote on the motion was as follows:

Ayes: Lange, Robertson

Nays: Long, Wyatt, Daniel, Walker

Motion Failed: 2-4

Reports-City Council Meeting

Bridges reported Council decisions on items heard by the Planning Board.

Other Business

Steve Bridges announced that member Brian Long was leaving the board and his replacement is Alicia Cordle. Bernard Robertson was reappointed for another term.

Sherry Ashley stated that there will be a July meeting and officers will be elected at that meeting.

There being no other business, Long made a motion to adjourn, seconded by Wyatt. The motion carried unanimously.

**Technical Review Committee Meeting Minutes
City Hall – 2nd Floor Conference Room
July 01, 2020 at 9:00 a.m.**

City Staff: Elaine Anthony – Planning, Mark Taylor – Public Works, Regina Hoke – W/S Maintenance-BFCC, Clyde Fox – W/S Maintenance, Ray Allen – Stormwater, Chris Sloan – Electric, Brenda Fugett – City Clerk

County Staff: 0

Others: David Reese - CESI

Elaine Anthony called the meeting to order.

Consider approving the June 17, 2020 TRC meeting minutes.

Ray Allen made a motion to approve the June 17, 2020 minutes, seconded by Mark Taylor. The motion carried unanimously.

Revised Simon Professional Building – Site Plan – Davie Avenue

Ray Allen:

1. Show the easement from the public way to the SCM on the plans.
2. Provide a maintenance schedule on the plans and in the O&M. Include the annual cost for operations, inspection and reporting.
3. The SCM for this project has been installed. A record of holding an SCM installment performance bond for the project has not been submitted to staff.
4. Applicant needs a maintenance bond attached to the O&M prior to recording. The amount of this bond is pending.

Regina Hoke – No comments.

Mark Taylor – No comments.

Clyde Fox – No comments.

Chris Sloan – Must run the conduit to the electric pole.

Elaine Anthony – Must submit updated elevations.

Sloan made a motion to approve contingent upon:

1. **Show the easement from the public way to the SCM on the plans.**
2. **Provide a maintenance schedule on the plans and in the O&M. Include the annual cost for operations, inspection and reporting.**
3. **The SCM for this project has been installed. A record of holding an SCM installment performance bond for the project has not been submitted to staff.**

4. Applicant needs a maintenance bond attached to the O&M prior to recording. The amount of this bond is pending.
5. Must run the conduit to the electric pole.
6. Submit updated elevations.

Fox seconded the motion. The motion carried unanimously.

Statesville Middle School - Renovations/Parking Additions - 321 Clegg Street

Regina Hoke – Make sure RP is written on the plans at the backflow. Call out the pipe on the inset – Ductile Iron to 5 ft. past the backflow. Must put a backflow device on the other 2” meter or it can be removed.

Ray Allen – Add easements to the plan to Front Street. Put the maintenance schedule on the plans and on the O & M Agreement.

Mark Taylor – 2,459 queuing area for cars.

Chris Sloan – No comments.

Clyde Fox – Raise the manholes.

Sloan made a motion to approve contingent upon:

1. Submittal of the Flood Permit
2. Make sure RP is written on the plans at the backflow.
3. Call out the pipe on the inset – Ductile Iron to 5 ft. past the backflow.
4. Must put a backflow device on the other 2” meter or it can be removed.
5. Add easements to the plan to Front Street.
6. Put the maintenance schedule on the plans and on the O & M Agreement.
7. 2,459 queuing area for cars.
8. Raise the manholes.

Fox seconded the motion. The motion carried unanimously.

There being no further business, Anthony made a motion to adjourn, seconded by Hoke. The motion carried unanimously.