



CITY OF HENDERSONVILLE BOARD OF ADJUSTMENT

Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Tuesday, October 10, 2023 – 1:30 PM

AGENDA

1. **CALL TO ORDER**

2. **APPROVAL OF AGENDA**

3. **APPROVAL OF MINUTES**

A. Minutes of September 12, 2023

4. **OLD BUSINESS**

A. Approval of Decision B23-069-VAR

5. **NEW BUSINESS**

A. Signal Hill Townhomes. – Variance (B23-081-VAR) – *Alexandra Hunt / Planner I*

6. **ADJOURNMENT**

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.

**MINUTES OF THE HENDERSONVILLE
BOARD OF ADJUSTMENT**
Tuesday, September 12, 2023
1:30 p.m. in the Council Chambers

The Hendersonville Board of Adjustment held its regular monthly meeting on September 12, 2023, at 1:30 p.m. in the Council Chambers in City Hall, 160 6th Avenue East, Hendersonville, North Carolina. Those present were: Melinda Lowrance, Chair, Ernest Mowell, Vice-Chair, Charles Webb, Kathy Watkins, Chauncey Whiting, Laura Flores, Lynette Oliver, Alexandra Hunt, Planner I, Daniel Heyman, Staff Attorney.

Absent: Libby Collina

Chair called the meeting to order at 1:35 p.m.

Approval of the Agenda: A motion was made by Mr. Webb to approve the agenda. The motion was seconded by Mr. Mowell and passed unanimously.

Approval of the minutes of the August 8, 2023 meeting. A motion was made by Ms. Watkins to approve the minutes as written. The motion was seconded by Mr. Webb and passed unanimously.

Approval of the Decision for B23-064-VAR (Collina). A motion was made by Mr. Mowell to approve the Decision as written. The motion was seconded by Mr. Webb and passed unanimously.

Variance – Jared Webb – 318 Resort Street (B23-069-VAR).

Chair stated today we have one public hearing to consider. A variance request from Jared Webb for the property located at 318 Resort Street. Any persons desiring to testify in these hearings must first be sworn in. Since this is a quasi-judicial hearing, it is very important that we have an accurate record of what goes on here. Therefore, we must ask that you refrain from speaking until recognized by the Chair and, when recognized, that you come forward to the podium and begin by stating your name and address. Anyone present who has knowledge of anything of value that has been given or promised in exchange for a position to be taken on this application should disclose it now.

Chair swore in all persons to give testimony. Jared Webb and Alexandra Hunt were sworn in.

Chair opened the public hearing.

Alexandra Hunt, Planner I stated her name and title for the record. She stated there is an amended memorandum (staff report) in front of you as there was a mistake with the PIN number of the subject property on the staff report only. Staff requests that the amended staff report be entered into the record. The City is in receipt of an application from Jared Webb for a variance to reduce the required transitional area defined in Section 17-3-3 Prohibition Against Development Within the Stream Buffer from the required 20' to 0'. The subject property possesses a PIN 9577-19-9746 and is zoned R-15 Medium Density Residential. The purpose of the requested variance is for the construction of a single-family residential home on an existing vacant lot.

Ms. Hunt gave the project background:

The subject property was originally part of 318 Resort St. until it was subdivided and platted in 2022. The subdivision created what is termed a flag lot. It is zoned R-15 Medium Density Residential and is approximately 0.51 acres or 22,215.6 sq ft. The subject property is currently a vacant lot and based on the most recent USGS maps, the subject property has a blue line stream running through its boundaries specifically the northern corner of the property.

The Henderson County GIS parcel map was shown of the property.

The USGS map was shown and is included in the staff report.

The proposed site plan was shown and is included in the staff report.

Site photos of the property were shown.

A diagram of Section 17-3-3 was shown in the presentation. Review of Section 17-3-3 in the Zoning Ordinance. Section 17-3- requires a 20' transitional area immediately landward of the stream buffer. It can be graded, landscaped and/or used for pedestrian or vehicular purposes so long as no impervious materials are utilized. The Applicant has proposed to revegetate the stream bank area by staking live cuttings along the stream bank and buffer area. As you saw in the cover page and motion, the suggested conditions for approval included that the Applicant provide a revegetation plan to Staff – so in short, the Applicant can work with Staff to provide revegetation plan for the 30' buffer area.

Section 10-9 of the Zoning Ordinance states that a variance constitutes permission to depart from the literal requirements of the ordinance. In order for a variance to be granted, the findings of fact in subsections 1-4 of Section 10-9 must be made.

Staff suggested motions with conditions were presented to the Board.

Ms. Hunt stated the applicant is present.

Chair asked if there were any questions for staff.

Discussion was made on how far the proposed house would sit from the creek bank. Ms. Watkins asked about the curved setback and the differences on the site plan. Ms. Hunt explained the front setback and the updates to the site plan. Ms. Hunt explained how the house looks like it is pushed back further than it really is. She stated she had talked with the applicant concerning this and he can explain the actual distance the house will be.

Discussion was made on the blue line stream.

There were no further questions for staff.

Chair asked the applicant to address the Board.

Jared Webb, applicant stated this is a small stream. There have been times when hardly any water is there whatsoever. There are other times when it get up a little bit but nothing major or substantial. He talked about moving the house forward to be able to meet all of the setbacks however, there is a two-car garage and there would no place to turn around. He had considered this because it would be a whole lot quicker but it just will not work.

Mr. Whiting asked about mirroring the plans and putting it on the other side. Mr. Webb stated if he did that there would be hardly any space to get anything inside the garage.

Mr. Webb stated he bought the property back in 2010 and this had been his intention since he bought the property.

Discussion was made on the creek, the creek bank and the topography of the lot.

There were no further questions for the applicant.

Chair asked if anyone would like to speak for or against the application. No one spoke. Chair stated a neighbor had submitted a comment and was not opposed to the application.

Chair closed the public hearing for Board discussion. The Board discussed the 30 foot requirement and erosion control.

Mr. Mowell made the following motion: *With regard to the request by Jared Webb for a variance from Section 17-3-3 Dimensional Prohibition Against Development Within the Stream Buffer to: Reduce the stream buffer transitional area from the required 20' to 0' to construct a single-family residential home. I move the Board to find that: 1) An unnecessary hardship would result from the strict application of the ordinance. 2) The hardship results from the conditions that are peculiar to the property, such as location, size, or topography. 3) The hardship did not result from actions taken by the applicant or the property owner. 4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved for the following reasons: there is a mitigation plan in place, the uniqueness of how the property is shaped and the fact the stream and the transition area cuts diagonally across and he does not see it creating a huge impact. With the following conditions: The applicant shall submit a site plan illustrating that no further disturbance can occur beyond that which is permitted by Section 17-3-3 and 17-3-5 of the Zoning Ordinance. The applicant shall submit a revegetation plan of the 30' buffer area to the Community Development Department for approval prior to a zoning compliance permit being issued. The revegetation of the 30' buffer area must be comprised of appropriate native sedges, grasses, herbaceous, woody ground covers, and low shrubs. No turf grasses are to be used. The Community Development Department shall inspect the site for compliance prior to the issuance of a Certificate of Occupancy. Ms. Watkins seconded the motion.*

Chair called for the vote. The following vote was taken by a show of hands.

Mr. Mowell	Yes
Mr. Webb	Yes
Ms. Lowrance	Yes
Ms. Flores	Yes
Ms. Oliver	Yes
Ms. Watkins	Yes
Mr. Whiting	Yes

The vote was unanimous. Motion approved.

Meeting adjourned at 2:03 p.m.

Melinda Lowrance, Chair

Terri Swann, Secretary

DRAFT



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY PLANNING DIVISION

SUBMITTER: Alexandra Hunt, Planner I **MEETING DATE:** October 10, 2023

AGENDA SECTION: New Business **DEPARTMENT:** Community Development

TITLE OF ITEM: Signal Hill Townhomes. – Variance (B23-081-VAR) – *Alexandra Hunt / Planner I*

SUGGESTED MOTION(S):

1. For Recommending Approval:

With regard to the request by First Victory Inc. for a variance from Section 4.03.C.1 Minimum Street Right-of-Way Requirements and Section 4.03.C.8 Minimum Curve Radii Requirements of the City of Hendersonville Subdivision Ordinance to:

- 1) *Reduce the required 45' minimum street right-of-way provided in Sec. 4.03.C.1 to 30'; and*
- 2) *Reduce the required 150' minimum curve radii provided in Sec. 4.03.C.8 to 90' as part of a Major Subdivision project.*

I move the Board to find that:

- 1) An unnecessary hardship **would result** from the strict application of the ordinance.
- 2) The hardship **results** from the conditions that are peculiar to the property, such as location, size, or topography.
- 3) The hardship **did not** result from actions taken by the applicant or the property owner.
- 4) The requested variance **is consistent** with the spirit, purpose, and intent of the regulation, such that public safety **is secured** and substantial justice **is achieved**.
- 5) The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.

For the following reasons: [*list factual basis for Approval here.*]

[DISCUSS & VOTE]

1. For Recommending Denial:

With regard to the request by First Victory Inc. for a variance from Section 4.03.C.1 Minimum Street Right-of-Way Requirements and Section 4.03.C.8 Minimum Curve Radii Requirements of the City of Hendersonville Subdivision Ordinance to:

- 1) *Reduce the required 45' minimum street right-of-way provided in Sec. 4.03.C.1 to 30'; and*
- 2) *Reduce the required 150' minimum curve radii provided in Sec. 4.03.C.8 to 90' as part of a Major Subdivision project.*

I move the Board to find that:

- 1) An unnecessary hardship **would not result** from the strict application of the ordinance.
- 2) The hardship **does not result** from the conditions that are peculiar to the property, such as location, size, or topography.
- 3) The hardship **did result** from actions taken by the applicant or the property owner.
- 4) The requested variance **is not** consistent with the spirit, purpose, and intent of the regulation, such that public safety **is not** secured and substantial justice **is not** achieved.
- 5) The variance approval **is not** the minimum necessary to make possible the reasonable use of the land, building, or structure.

For the following reasons: [*list factual basis for Denial below.*]

[DISCUSS & VOTE]

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SUMMARY:

SUMMARY: The Community Development Department has received an application from First Victory Inc. for a variance from Section 4.03.C.1 and Section 4.03.C.8 of the City of Hendersonville Subdivision Ordinance. The specific variance requested is for the following:

VARIANCE REQUEST: The variance requested is to reduce the Minimum Street Right-of-Way Requirements in Section 4.03.C.1 and the Minimum Curve Radii Requirements in Section 4.03.C.8 of the Hendersonville Subdivision Ordinance as part of a proposed Major Subdivision project. (See Exhibit A).

The variance is to reduce the Minimum Street Right-of-Way Requirements in Section 4.03.C.1 of the Hendersonville Subdivision Ordinance for “Local” streets from the required 45’ to 30’ in the area outlined in red and marked as “Note A” on the proposed site plan attached as Exhibit B.

Additionally, a variance is requested to reduce the Minimum Curve Radii Requirements for “Local Streets” provided in Section 4.03.C.8 of the Hendersonville Subdivision Ordinance from the required 150’ to 90’ in the area outlined in red and marked as “Note B” on the proposed site plan attached as Exhibit B.

PROJECT/PETITIONER NUMBER:	B23-081-VAR
PETITIONER NAME:	First Victory Inc. (Applicant)
EXHIBITS:	A. Staff Report B. Variance Application C. Proposed Site Plan D. Henderson County GIS Maps E. Warranty Deed

AMENDED MEMORANDUM

TO: Board of Adjustment Members

FROM: Community Development Department

DATE: October 10, 2023

RE: Variance Application – B23-081-VAR (Signal Hill Townhomes)

SUMMARY: The Community Development Department has received an application from First Victory Inc. for a variance from Section 4.03.C.1 and Section 4.03.C.8 of the City of Hendersonville Subdivision Ordinance. The specific variance requested is for the following:

VARIANCE REQUEST: The variance requested is to reduce the Minimum Street Right-of-Way Requirements in Section 4.03.C.1 and the Minimum Curve Radii Requirements in Section 4.03.C.8 of the Hendersonville Subdivision Ordinance as part of a proposed Major Subdivision project. (See Exhibit A).

The variance is to reduce the Minimum Street Right-of-Way Requirements in Section 4.03.C.1 of the Hendersonville Subdivision Ordinance for “Local” streets from the required 45’ to 30’ in the area outlined in red and marked as “Note A” on the proposed site plan attached as Exhibit B.

Additionally, a variance is requested to reduce the Minimum Curve Radii Requirements for “Local Streets” provided in Section 4.03.C.8 of the Hendersonville Subdivision Ordinance from the required 150’ to 90’ in the area outlined in red and marked as “Note B” on the proposed site plan attached as Exhibit B.

PROPOSED FINDINGS OF FACT:

- The proposed project is composed of parcels identified as PINs 9579-06-5791, 9579-06-8507, 9579-06-8117, and 9579-07-6259.
- The parcels are zoned R-15 Medium Density Residential and are located in the City’s ETJ.
- The parcels are currently vacant lots and are accessed by two privately maintained roads, Lafolette Street and Amazing Grace Lane.
- Section 2.04.H.2 of the Hendersonville Subdivision ordinance states that all divisions of land involving eight or more lots; or involve the dedication of a new street or change in existing streets shall be considered a major subdivision subject to the standards of this section.

- Section 2.04.H.4(iv) of the Hendersonville Subdivision ordinance requires that all lots of a major subdivision shall be served by a NCDOT-maintained roadway or right-of-way constructed to and maintained in accordance with NCDOT or city standards, as appropriate.
- Section 3.04.A.3 of the Hendersonville Subdivision Ordinance requires accessways serving more than three lots shall be designed, built, and maintained to public street standards.
- Section 4.03.C.1(a) of the Hendersonville Subdivision Ordinance requires that the minimum right-of-way for local streets is 45'.
- Section 4.03.C.1(b) of the Hendersonville Subdivision Ordinance requires that in cases where an existing street is depicted on the city's adopted policy guidance, but is not configured to the required width or cross section, the roadway shall be improved in accordance with the city's adopted policy guidance as part of the development.
- The proposed site plan submitted by the Applicant shows an existing 30' right-of-way on Lafolette St. indicated in Exhibit B - Note A.
- The Henderson County GIS Map shows two existing parcels located at 365 Signal Hill Rd and 329 Signal Hill Rd that abut Lafolette St. (*See Exhibit C*)
- Lafolette Street and Amazing Grace Lane are depicted on the city's adopted policy guidance as local streets.
- Section 4.03.C.8 of the Hendersonville Subdivision Ordinance requires that local streets shall maintain a 150' minimum radii.
- The proposed site plan submitted by the Applicant identifies the proposed centerline radius reduction from 150' to 90' in the area indicated in Exhibit B – Note B.
- NCDOT Subdivision Roads Minimum Construction Standards for the Minimum Centerline Radius is 150' for a natural slope range of 8.1% to 15%; and 90' for a natural slope over 15%.

CODE REFERENCES.

Section 2.04.H.2 - Major Subdivision: Applicability. Unless exempted by section 1.06 of this ordinance or by G.S. 160D-802, all divisions of land involving eight or more lots; or involve the dedication of a new street or change in existing streets shall be considered major subdivision subject to the standards of this section. Conservation subdivisions must also be approved under this section 2.04 H., major subdivision.

Section 2.04.H.4 – Major Subdivision Review Standards.

- a) An application for a major subdivision shall be approved, if it complies with the following:
 - i. The major subdivision is prepared and sealed by a licensed professional authorized by the state to prepare such documents;
 - ii. The major subdivision complies with the applicable standards in G.S. 47-30;
 - iii. The major subdivision includes all required certifications and other pertinent information as required by the city;

- iv. All lots shall be served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with NCDOT or city standards, as appropriate;
 - v. The name of the subdivision shall not duplicate or be similar to the name of an existing subdivision in Hendersonville or Henderson County;
 - vi. Street names used in the subdivision shall not duplicate or be similar to the names of streets in an existing subdivision in Hendersonville or Henderson County;
 - vii. All standards or conditions of any prior applicable permits and development approvals; and
 - viii. The major subdivision complies with all other applicable requirements in this ordinance and the City Code of Ordinances.
- b) Land located within a special flood hazard area shall comply with all applicable city standards for flood damage prevention.

Section 2.04.J.4 – Subdivision Variance Review Standards.

- a) **Required findings.** A subdivision variance application shall be approved provided on a finding the applicant demonstrates all of the following:
- i. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - ii. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
 - iii. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
 - iv. The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured, and substantial justice is achieved.
 - v. The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.

Section 3.04.A.3 – Access serving more than three lots. Accessways serving more than three lots outside a bona fide farm or exempt subdivision shall be designed, built, and maintained to public street standards.

Section 4.03.C – Street Configuration.

- a) Street rights-of-way.
- a. All new streets established in the city’s jurisdiction after March 5, 2020 shall include a minimum street right-of-way configured in accordance with Table 4.03.C.1: Minimum Street Right-of-Way Requirements.

TABLE 4.03.C.1: MINIMUM STREET RIGHT-OF-WAY REQUIREMENTS		
TYPE OF STREET	CONFIGURATION	MINIMUM RIGHT-OF-WAY (FEET) [1] [2]
Major Thoroughfare	7 lanes	120
	5 lanes	100
	4 lanes	90
	3 lanes	80
Minor Thoroughfare	2 lanes, parking on each side	80
	2 lanes, parking on one side	70
	2 lanes, paved shoulder	70
Local	45	
Cul-de-Sac	45 [3]	
Alley	20	
NOTES:		
[1] The street right-of-way shall include curb and gutter, sidewalks, multi-use paths, bicycle lanes (where indicated), and associated utility strips.		

- b. In cases where an existing street is depicted on the city’s adopted policy guidance, but is not configured to the required width or cross section, the roadway shall be improved in accordance with the city’s adopted policy guidance as part of the development.

Section 4.03.C.8 – Street Curves. Street curves shall maintain the minimum radii established in Table 4.03.C.8:Minimum Curve Radii and Tangents:

TABLE 4.03.C.8: MINIMUM CURVE RADII AND TANGENTS		
STREET TYPE	MINIMUM RADII (FEET)	MINIMUM TANGENT DISTANCE BETWEEN REVERSE CURVES ON THE SAME STREET (FEET)
Expressways and Boulevards	600	150
Major and Minor Thoroughfares	400	100
Local Streets	150	0

EXHIBITS:

- A. Variance Application**
- B. Proposed Site Plan**
- C. Henderson County GIS Maps**
- D. Warranty Deed**



**CITY OF HENDERSONVILLE
COMMUNITY DEVELOPMENT DEPARTMENT**

100 N. King Street, Hendersonville, NC 28792

Phone (828) 697-3010 | Fax (828) 698-6185

www.hendersonvillenc.gov

APPLICATION FOR A VARIANCE

Section 10-9 City Zoning Ordinance

The following information is **required** to be submitted prior to review by the Administrative Officer for placement on the Board of Adjustment agenda. Staff will not review applications until each item has been submitted and determined complete. Once the Administrative Officer is in receipt of a complete application, the Administrative Officer will schedule the application for an Evidentiary Hearing before the Board of Adjustment (*Section 10-8-3*).

The Board of Adjustment meets the second Tuesday of each month at 1:30PM at the Operations Center located at 305 Williams Street. Completed applications must be submitted to the Administrative Officer no later than the second Friday of each month, to be included on the following month's agenda.

The Board of Adjustment shall conduct an Evidentiary Hearing (quasi-judicial hearing) on the application. Per NCGS 160D-406(d), the applicant, the local government, and any person who would have standing under NCGS 160D-1402(c), shall have the right to participate as a party at the Evidentiary Hearing. Other witnesses may present, competent, material, and substantial evidence that is not repetitive as allowed by the board (*Section 10-8-3*).

The City Zoning Ordinance can be found on the City of Hendersonville Community Development website: www.hendersonvillenc.gov/community-development

By placing a check mark by each of the following items, you are certifying that you have performed that task.

- ☒ 1. Pre-application meeting with the Planning staff.
- ☒ 2. Completed Variance Application
- ☒ 3. Completed Zoning Permit Application
- ☒ 4. Site Plan of property showing any existing structures, natural features (e.g. streams, ponds, etc.), **as well as** the proposed building or additions indicating distance from such to the centerline of street, side & rear lot lines, and elevations, as applicable, and placement of septic system & drainage field with distances from structures, if applicable.
- ☒ 5. One copy of the septic permit (if applicable)
- ☒ 6. Application Fee of \$75.00
- ☒ 7. Petitioner has checked for Homeowner Association rules, property covenants, deed restrictions, Building Safety Department permits, and other requirements that might have a bearing on the application.

Office Use:

Date Received: _____ By: _____ Fee Received? Y/N

A. Quasi-Judicial Process

The Board of Adjustment is given the authority under Section 10-3 of the Zoning Ordinance of the City of Hendersonville to hear and decide requests for variances from the dimensional requirements of the Zoning Ordinance in accordance with Section 10-9. The Board conducts quasi-judicial hearings and may consider sworn testimony and evidence presented during the hearing. Applicants are advised to bring data or experts in the relevant field to provide fact-based evidence to support any information they want considered. The Board may not consider personal opinions, subjective observations, or personal preferences.

NOTE: The City Planning staff may not provide legal advice to applicants. Applicants are encouraged to consult the appropriate sections of the North Carolina General Statutes, City of Hendersonville Zoning Ordinance, and the Rules of Procedure for the Board of Adjustment, or to consult with an attorney, if more information is needed.

B. Property Information

Name of Project: Signal Hill Townhomes

PIN(s): 9579065791, 9579068507, 9579068308, 9579068117, 9579067975, 9579076259

Address(es) / Location of Property: No address assigned; adjacent to 365 Signal Hill Road

Type of Development: ☒ Residential ☐ Commercial ☐ Other

Current Zoning: R-15

Total Acreage: 13.73

C. To the Zoning Board of Adjustment

I, Travis Fowler, hereby petition the Board of Adjustment for a variance(s) from the literal provisions of the Zoning Ordinance of the City of Hendersonville because I am prohibited from using the parcel of land described in the form "Zoning Permit Applicant" in a manner shown by the Site Plan.

I request a Variance from the following provision(s) of the ordinance (cite section numbers):

Sec. 4.03.C.1 - Minimum Right of Way; Sec 4.03.C.8 - Minimum Curve Radii

D. Variance Burden of Proof

When unnecessary hardships would result from carrying out the strict application of a zoning ordinance, the Board of Adjustment shall vary any of the provisions upon a showing of the factors listed below. The Board **does not** have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board shall grant a variance **only upon showing of all of the factors** below as provided in Section 10-9 of the City of Hendersonville Zoning Ordinance.

Instructions: *In the spaces provided below, indicate the **facts you intend to demonstrate** and **the arguments that you intend to make** to demonstrate to the Board that it can properly grant the variance as provided in Section 10-9 of the City of Hendersonville Zoning Ordinance. (If additional space is required, please provide the information on a separate sheet of paper).*

1. Unnecessary hardship would result from the strict application of the ordinance. In order to determine whether an unnecessary hardship exists, the Applicant must demonstrate the following factors:
 - a. Indicate how an unnecessary hardship would result from the strict application of the ordinance. It is **not** necessary to demonstrate, that in the absence of the variance, no reasonable use can be made of the property.

4.03.C.1 - Requiring the expansion of the existing 30' right of way would limit access opportunities and would require additional land disturbance to create an emergency turnaround.

4.03.C.8 - A 150' centerline radius would cause additional land disturbance; NCDOT standards allow a 90' centerline radius for Residential Local Subdivision Roads.
 - b. Indicate how the hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, **may not** be the basis for granting a variance. A variance **may** be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

4.03.C.1 - The existing 30' right of way has inhabited properties on both sides and any expansion of the right of way would create non-compliant setback conditions for the existing structures.

4.03.C.8 - The current right of ways into the property, which are being expanded are set at a connecting radius of 94. Having to expand this to 150' will required additional land disturbance and will encroach into the steeper sections of the property.

- c. Indicate how the hardship did not result from actions taken by the applicant or property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

4.03.C.1 - The 30' right of way is an existing right of way along Lafolette Street per PB2 PG156.

4.03.C.8 - The existing right of way locations along Lafolete Street and Amazing Grace Ln are revorded in PB2 PG156.

2. Indicate how the requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

4.03.C.1 - Within the existing 30' right of way we are able to provided sufficient drive aisle width for emergency access and also provide the required 5' sidewalk therefore meeting the intent of the ordinance.

4.03.C.8 - The minimum 90' centerline radius is the NCDOT standard and therefore meets the intent of the ordinance.

E. Applicant Contact Information

Travis Fowler

*** Printed Applicant Name**

First Victory Inc.

Printed Company Name (if applicable)
☒ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership

☐ Other: _____

☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the Applicant named above my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Adjustment except through sworn testimony at the public hearing. (Applicable if box is checked.)


 Applicant Signature

 Manager
 Applicant Title (if applicable)

 542 S. Caldwell St
 Address of Applicant

 Brevard, NC 28712
 City, State, and Zip Code

 (828) 577-4201
 Telephone

 Travis@FirstVictory.com
 Email

F. Owner Contact Information (if different from Applicant)

Hetta Suess Trust

* ^ Printed Owner Name

* ^ Printed Company Name (if applicable)

☐ Corporation ☐ Limited Liability Company ☒ Trust ☐ Partnership

☐ Other: _____

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the Applicant named above my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Adjustment except through sworn testimony at the public hearing. (Applicable if box is checked.)


 Owner Signature

Owner Title (if applicable)

592 S. Caldwell St

Address of Property Owner

Brevard, NC 28712

City, State, and Zip Code

828) 884-7934

Telephone

Travis @ FirstVictory.com

Email

* Property owner hereby grants permission to the City of Hendersonville personnel to enter the subject property for any purpose required in processing this application.

^ If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION.

Certification

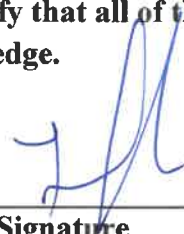
In granting a variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the City of Hendersonville Zoning Code. Violations of the provisions of the variance granted, including any conditions or safeguards, which are part of the granting of the variance, shall be deemed in violation of the City of Hendersonville Zoning Ordinance.

I, Travis A. Fowler, hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Date

9/7/2023

Applicant Signature



Applicant Title

owner/developer

Applicant Name (Please Print)

Travis A. Fowler

Applicant(s): (Developer)Printed Name First Victory Inc☒ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____Signature [Signature]Title President Email Travis@FirstVictory.comAddress of Applicant 542 S. Caldwell St Breward, AL 38712

Printed Name _____

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

Signature _____

Title _____ Email _____

Address of Applicant _____

Printed Name _____

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

Signature _____

Title _____ Email _____

Address of Applicant _____

Printed Name _____

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

Signature _____

Title _____ Email _____

Address of Applicant _____

Printed Name _____

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

Signature _____

Title _____ Email _____

Address of Applicant _____

Property Owners(s):* ^ Printed Name Herta Swess Trust☐ Corporation ☐ Limited Liability Company ☒ Trust ☐ Partnership ☐ Other: _____Signature [Signature]Title Owner Email Travis@FirstVictory.comAddress of Property Owner 540 S. Caldwell St Brevard, NC 28712

* ^ Printed Name _____

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

Signature _____

Title _____ Email _____

Address of Property Owner _____

* ^ Printed Name _____

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

Signature _____

Title _____ Email _____

Address of Property Owner _____

* ^ Printed Name _____

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

Signature _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the City of Hendersonville personnel to enter the subject property for any purpose required in processing this application.

^ If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION.

CONSULTANTS



NOT FOR
CONSTRUCTION

SIGNAL HILL TOWNHOMES
PREPARED FOR:
FIRST VICTORY, LLC
SIGNAL HILL ROAD
HENDERSONVILLE, NC
SITE DEVELOPMENT PLAN

PLAN SET		
#	DATE	DESCRIPTION
1	9.7.23	BOA SUBMITTAL

SHEET NO.

L-100

Note B

PROPOSED CENTERLINE RADIUS REDUCTION FROM 150' TO 90' MINIMUM IN THIS AREA (90' RADIUS MEETS NCDOT STANDARDS)

PROPOSED 35' SETBACK FROM CENTERLINE OF ROAD

PROPOSED 26' ACCESS ROAD

PROPOSED 45' RIGHT OF WAY

Note A

PROPOSED VARIANCE FOR RIGHT OF WAY REDUCTION FROM 45' TO 30' IN THIS AREA

PROPOSED 30' SETBACK FROM EXTERIOR-PROPERTY LINES (50% COUNTED AS OPEN SPACE)

PROPOSED COMMON AREA OPEN SPACE (TYP.)

APPROX. LIMITS OF DISTURBANCE (TYP.)

PROPOSED 20' OFFSET FROM FRONT-OF GARAGE TO 5' SIDEWALK

PROJECT SUMMARY:

EXISTING ZONING: R-15
PROPOSED PROJECT REGULATIONS: R-15 MINOR PRD

TOTAL AREA: 13.73 ACRES
ALLOWED PRD DENSITY: 3.75 UNITS PER ACRE = 51 UNITS
PROPOSED DENSITY: 50 SINGLE-FAMILY ATTACHED UNITS

REQUIRED OPEN SPACE: 60% (8.238 ACRES)
PROPOSED OPEN SPACE: 64.2% (8.82 ACRES)
*50% OF PERIMETER SETBACK = 1.29 ACRES
*COMMON OPEN SPACE = 7.53 ACRES

BOARD OF ADJUSTMENT VARIANCE REQUEST:

1. REDUCTION IN REQUIRED RIGHT OF WAY FROM 45' TO 30' BASED ON EXISTING SITE CONDITIONS. PROPOSED DESIGN ALLOWS FOR 24' DRIVE AISLE AND 5' SIDEWALK

2. REDUCTION IN CENTERLINE RADIUS OF PROPOSED ROAD FROM 150' TO 90' MINIMUM. THIS REDUCTION MEETS NCDOT STANDARDS FOR MOUNTAIN REGIONS.

SYMBOL LEGEND:

- CALCULATED POINT
- EXISTING IRON REBAR (RIR)
- EXISTING IRON PIPE (EPI)
- EXISTING SPRINKLE BOX
- EXISTING PLANTED STONE (EPS)
- EXISTING ANGLE IRON (EAI)
- EXISTING IRON REBAR W/ E-CAP (RIR)
- ▲ U.S.D. CONTROL POINT
- SANITARY SEWER MANHOLE (SSMH)
- SANITARY SEWER CLEAN-OUT (SCO)
- WATER METER (WM)
- WATER VALVE
- UTILITY POLE
- TELEPHONE PEDESTAL (TPED)
- HISTORIC LOT NUMBER

LINE LEGEND:

- SURVEYED BOUNDARY LINE
- TRACT / PARCEL LINES TO BE ABANDONED
- ADJOINERS DEED LINE (NOT SURVEYED)
- RIGHT-OF-WAY LINE
- SANITARY SEWER LINE
- SEWER EASEMENT LINE (APPROXIMATE)
- TIE LINE ONLY
- BRANCH
- OVERHEAD UTILITY LINE
- CHAIN LINK FENCE LINE
- BOARD FENCE LINE
- BARBED-WIRE FENCE LINE
- INDEX CONTOUR LINE
- INTERIM CONTOUR LINE
- MARKED WATER LINE (APPROXIMATE)

Exhibit C

Item A.



October 4, 2023

Streets and Highways

- FREEWAY
- INTERSTATE
- BOULEVARD

- THOROUGHFARE
- COLLECTOR
- Local Roads
- Parcels

THIS IS NOT A SURVEY.

All information or data provided, whether subscribed, purchased or otherwise distributed, whether in hard copy or digital media, shall be at the user's own risk. Henderson County makes no warranties or guarantees, including the warranties of merchantability or of fitness for a particular purpose. Map data is not appropriate for, and is not to be used as, a geodetic, legal, or engineering base system. The data is not intended as a substitute for surveyed locations such as can be determined by a registered Public Land Surveyor, and does not meet the minimum accuracy standards of a Land Information System/Geographic Information System Survey in North Carolina (21 NCAC 56.1608).

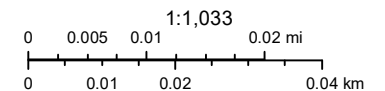


Exhibit C

Item A.



October 4, 2023

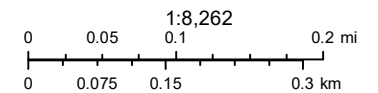
Streets and Highways

- FREEWAY
- INTERSTATE
- BOULEVARD

- THOROUGHFARE
- COLLECTOR
- Local Roads
- Parcels

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BK 4053 PG 669 - 674 (6) DOC# 1000999127
This Document eRecorded: 06/09/2023 01:22:35 PM
Fee: \$26.00
Henderson County, North Carolina Tax: \$1,850.00
William Lee King, Register of Deeds

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$1,850.00 Return after recording to: Donald E. Jordan
Brief description for the Index: 6 Tracts, Signal Hill Road
This Deed was prepared by: Donald E. Jordan, Attorney at Law
This property does not include the primary residence of Grantor

This DEED is made this 7th day of June, 2023, by and between:

GRANTOR: **BARBARA L. WHITE, individually and as Trustee of the
Barbara L. White Living Trust dated May 2, 2019
(see Exhibit B for Trust Certification),
joined by her Husband,
JOHN DANIEL WHITE**

Grantor's Address: 3215 Colonial Drive, Aiken, SC 29801

GRANTEE: **HERTA G. SUESS, Trustee of the
Herta G. Suess Trust**

Grantee's Address: 17187 Gulf Pine Circle, Wellington, FL 33414

The designation Grantor and Grantee in this Deed shall include the parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.


The Grantor, for a valuable consideration paid by the Grantee (the receipt of which is acknowledged) grants, bargains, sells and conveys to the Grantee in fee simple, all of the lot or parcel of land located in Hendersonville Township, Henderson County, North Carolina, and as is described in the attached Exhibit A. This is all of the same property acquired by Grantor by Deed recorded in Book 3163, Page 577 and a portion of the same property acquired by Grantor by Deed recorded in Book 3347, Page 406, Henderson County Registry. This conveyance is made subject to easements and rights of way of record, to any covenants of record, and to real property taxes for the current year.

Submitted electronically by "Donald E. Jordan"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Henderson County Register of Deeds.

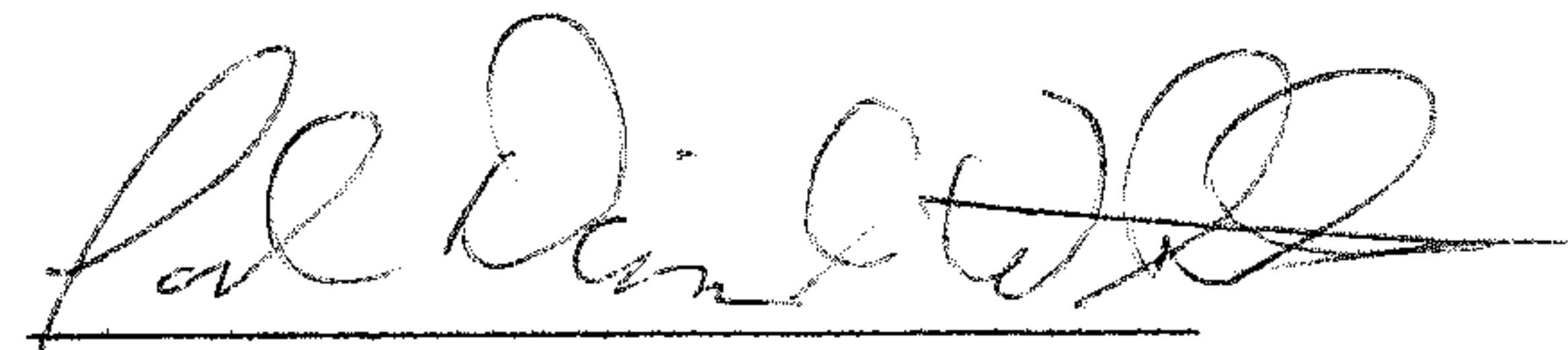
THIS CONVEYANCE IS MADE FOR THE GRANTEE TO HAVE AND TO HOLD the Property and all privileges and appurtenances belonging to the Property in fee simple.

The Grantor covenants with the Grantee that Grantor is seized of the Property in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons, subject only to the stated exceptions.

Grantor is signing this Deed as of the date specified above.


Barbara L. White, Trustee of the
Barbara L. White Living Trust
dated May 2, 2019


Barbara L. White


John Daniel White

STATE OF SOUTH CAROLINA
COUNTY OF Aiken

I, Lacey Jordan, a Notary Public of the specified County and State, certify that Barbara L. White, individually and as Trustee of the Barbara L. White Living Trust dated May 2, 2019, and John Daniel White personally appeared before me this day and acknowledged the voluntary execution of this Deed.

Witness my hand and official stamp or seal, this 8th day of June, 2023.

My commission expires: 2/11/2029


Notary Public

[Notary Stamp/Seal Here]

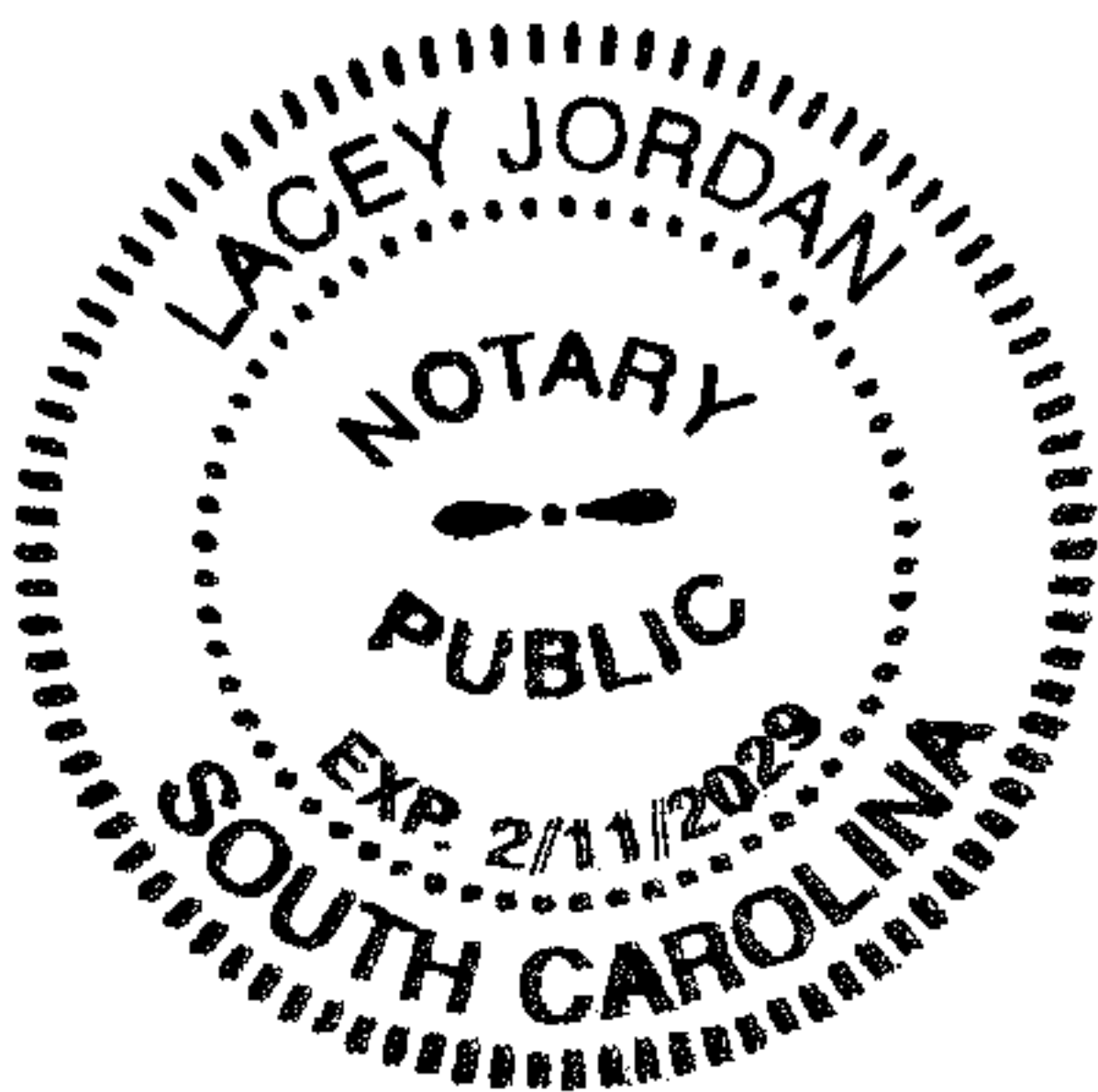


EXHIBIT A - LEGAL DESCRIPTION

(Page 1 of 3)

TRACT ONE:

HENDERSON COUNTY, NC TAX PARCEL #993369

PIN: 9579-06-5791

BEING a part of TRACT ONE as shown and described in deed from Boyd Leon Hyder, Janice Laverne Hyder, Marie C. Hyder, and Gregory Allen "Doc" Hyder to Lucille H. Terry by recorded in Deed Book 777 at Page 676 of the Registry for Henderson County, North Carolina.

Also being part of the Fifth Tract in that deed to Clay Hyder recorded in Deed Book 236 at Page 216, Henderson County Registry.

Further being all of LOTS 23-31, 43-66 and 89-124 of the Property of H.D. Hyder as shown on plat recorded at Plat Book 2 at Page 156 (now Plat Cabinet B at Page 180A), of the Registry for Henderson County, North Carolina.

TRACT TWO:

HENDERSON COUNTY, NC TAX PARCEL #9945018

PIN: 9579-06-8308

BEING all remaining property of TRACT ONE as shown and described in deed from Boyd Leon Hyder, Janice Laverne Hyder, Marie C. Hyder, and Gregory Allen "Doc" Hyder to Lucille H. Terry by recorded in Deed Book 777 at Page 676 of the Registry for Henderson County, North Carolina.

Also being the remaining part of Fifth Tract in that deed to Clay Hyder recorded in Deed Book 236 at Page 216, Henderson County Registry.

Further being all of LOTS 9-18 of the Property of H.D. Hyder as shown on plat recorded at Plat Book 2 at Page 156 (now Plat Cabinet Bat Page 180A), of the Registry for Henderson County, North Carolina.

EXHIBIT A - LEGAL DESCRIPTION

(Page 2 of 3)

TRACT THREE:

HENDERSON COUNTY, NC TAX PARCEL #106364

PIN: 9579-06-7975

Parcel No. 1:

BEGINNING at a stake on Hyder Street and running with said Hyder Street, North 4 deg. West 125 feet to a stake; thence North 86 deg. West 180 feet to a stake; thence South 10 deg. East 125 feet to a stake; thence South 86 deg. East 180 feet to the BEGINNING. BEING Lot Nos. 32, 33, 34, 35 and 36 of the H. D. Hyder Subdivision of the W. H. Hawkins land as per plat recorded in Plat Book 2 at Page 156 (now Plat Cabinet Bat Page 180A), of the Record of Plats of Henderson County, North Carolina.

Parcel No. 2:

BEING Lot Nos. 37, 38, 39, 40, 41 and 42 of the H. D. Hyder Subdivision of the W. H. Hawkins land as shown by plat of same recorded in Book 2, Page 156 of the Record of Plats for Henderson County, North Carolina.

Parcel No. 1 and Parcel No. 2 being that same property conveyed to Clay Hyder and wife, Grace Allen Hyder, by deed recorded in Deed Book 367 at Page 501 of the Registry for Henderson County, North Carolina.

TRACT FOUR:

HENDERSON COUNTY, NC TAX PARCEL #9945019

PIN: 9579-06-8117

BEING all of Lots 1, 2, 3, 4, 5, 6, 7 and 8 of the H. D. Hyder Subdivision as more fully described at Plat Book 2, Page 156 (now Plat Cabinet Bat Slide 180A) and Deed Book 777, Page 99, Henderson County Registry.

BEING Tract Seven of that deed from Boyd Leon Hyder, Janice Laverne Hyder, Marie C. Hyder, and Gregory Allen "Doc" Hyder to Lucille H. Terry by recorded in Deed Book 777 at Page 676 of the Registry for Henderson County, North Carolina, and being all that property described in deed to Clay Hyder recorded in Deed Book 777 at Page 99 of the Registry for Henderson County, North Carolina.

EXHIBIT A - LEGAL DESCRIPTION

(Page 3 of 3)

TRACT FIVE:

HENDERSON COUNTY, NC TAX PARCEL #107483

PIN: 9579-07-6259

BEING all that property shown and described in deed from Ola Grace Hyder, widow, to Lucille Hyder Logan, by deed recorded in Deed Book 572 at Page 705, Henderson County Registry, and being that same property described in deed from Henderson County to Clay Hyder and wife, Ola Grace Hyder, dated August 21, 1956, and recorded in Deed Book 354 at Page 82, Henderson County Registry.

TRACT SIX:

HENDERSON COUNTY, NC TAX PARCEL #109226

PIN: 9579-06-8507


Lots 19, 20, 21 and 22 of the Hyder Subdivision as shown on plat recorded in Plat Book 2, Page 156 (now Plat cabinet B at Slide 180-A) in the office of the Register of Deeds for Henderson County, North Carolina, reference to which is hereby made for full description.

BEING that same property conveyed by Thomas E. Lee, Jr. And wife, Ruth P. Lee to Thomas E. Lee, III and wife, Mischa H. Lee by deed recorded February 11, 1987 in Deed Book 693 at Page 225, Henderson County Registry, and that same property conveyed by Mischa Hill Davis (formerly married to Thomas E. Lee III) and husband, James Thomas Davis, to Thomas E. Lee, III by deed recorded April 2, 2002 in Deed Book 1095 at Page 141 of the Registry for Henderson County, North Carolina.

EXHIBIT B - TRUST CERTIFICATION

Pursuant to NCGS §36C-10-1013 and related Trust laws, Grantor makes the following certifications with respect to the Barbara L. White Living Trust dated May 2, 2019:

1. The Trust has not been revoked or modified in any way which would make these certifications incorrect, and it remains in full force and effect.
2. Barbara L. White is the Settlor of the Trust and is acting as the sole Trustee. The Trust can be amended or revoked at any time by the Settlor.
3. The Trust provides the Trustee with the power to sell and convey the real property conveyed by this Deed.
4. The taxpayer identification number for the Trust will be made available to appropriate parties upon request.



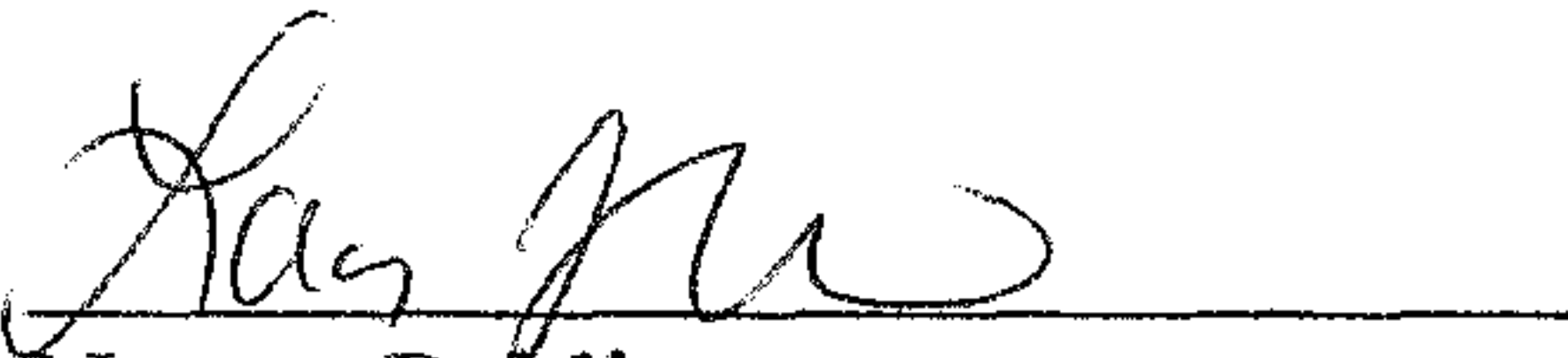
Barbara L. White, Trustee of the
Barbara L. White Living Trust
dated May 2, 2019

STATE OF SOUTH CAROLINA
COUNTY OF Aiken

I, Lacey Jordan, a Notary Public of the specified County and State, certify that Barbara L. White, as Trustee of the Barbara L. White Living Trust dated May 2, 2019, personally appeared before me this day and, after being duly sworn, swore or affirmed that the contents of the foregoing are true and correct.

Witness my hand and official stamp or seal, this 8 day of June, 2023.

My commission expires: 2/11/2029



Notary Public

[Notary Stamp/Seal Here]

