



## CITY OF CHERRYVILLE

116 S. MOUNTAIN STREET

CHERRYVILLE, N.C. 28021

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### REGULAR CITY COUNCIL MEETING

MONDAY JANUARY 10, 2022 @ 6:00 PM

CHERRYVILLE COMMUNITY BUILDING

W. J. ALLRAN COUNCIL CHAMBERS

106 S. JACOB ST. CHERRYVILLE, N.C. 28021

- I. CALL TO ORDER: HONORABLE MAYOR H.L. BEAM III
- II. INVOCATION: PASTOR SCOTT HOMESLEY, ST. JOHN'S LUTHERAN CHURCH
- III. PLEDGE OF ALLEGIANCE
- IV. AGENDA APPROVAL **VOTE**
- V. APPROVAL OF MINUTES (See Agenda Materials) VOTE
  - A. CITY COUNCIL REGULAR MEETING DECEMBER 13, 2021 pg. 1-10
- VI. MAYOR'S COMMENTS
- VII. PRESENTATION OF PLAQUE TO FORMER CITY MANAGER/FIRE CHIEF JEFF CASH, MAYOR H.L. BEAM
- VIII. CITIZENS TO BE HEARD: CITIZENS THAT WISH TO SPEAK MAY DO SO BY COMING TO THE PODIUM AND STATING YOUR NAME AND ADDRESS BEFORE YOU SPEAK. COMMENTS WILL BE HELD TO 5 MINUTES PER PERSON. *(PLEASE SIGN UP WITH THE CITY CLERK AT THE MEETING BEFORE THE MEETING BEGINS)*
- IX. PRESENTATION OF AUDIT, YEAR ENDING JUNE 30, 2021, MR. ROBERT ADAMS, MANAGING PARTNER, BUTLER & STOWE (MR. DALTON EMAILED A COPY TO YOU)

- X. CONSIDERATION OF BUDGET AMENDMENTS, FINANCE DIRECTOR DIXIE WALL (See Agenda Materials) pg. 11-12 **VOTE**
- XI. CONSIDERATION OF APPOINTMENTS TO THE ARCHITECTURAL REVIEW BOARD, MAIN STREET CHAIR DONNA BARRINGER (See agenda Material) pg.13 **VOTE**
- XII. UPDATE ON PIEDMONT LITHIUM, MAYOR H.L. BEAM
- XIII. UPDATE ON CITY PURCHASING CARDS (P CARDS), CITY MANAGER BRIAN DALTON
- XIV. CONSIDERATION TO SET A DATE FOR A PUBLIC HEARING RE: SPECIAL USE PERMIT FOR GIS PARCEL #129707 126 W. MAIN STREET, PLANNING & ZONING DIRECTOR DERRICK MACKEY (See Agenda Materials) pg.(s) 14-25 **VOTE**
- XV. CONSIDERATION OF CONTINUED PUBLIC HEARING RE: 1404 SHELBY HWY. (GIS PARCELS 160116, 160117, 160120, 216819 & 305089) REZONING FROM R-40 TO CU R-9, CU RMF, & B-2, PLANNING & ZONING DIRECTOR DERRICK MACKEY (See Agenda Materials) pg.(s) 26-30 **VOTE TO ENTER INTO, CITIZENS SPEAK, VOTE TO EXIT, DISCUSSION, VOTE (MAYOR IF APPROVED OR DENIED THE STATEMENT OF CONSISTENCY AT THE BOTTOM OF PAGE 28 MUST BE READ VERBATIM FOR EITHER DECISION THAT IS MADE) IF APPROVED I HAVE INCLUDED THE RESOLUTION TO ANNEX THIS PROPERTY IN THE CITY LIMITS IN THE AGENDA.**
- XVI. CONSIDERATION OF PROCLAMATION FOR SCHOOL CHOICE WEEK, MAYOR H.L. BEAM (See Agenda Material) pg. 31
- XVII. CONSIDERATION OF RESOLUTION TO BEGIN UPSET BID PROCESS ON CITY OWNED LOT LOCATED ON W. MAIN STREET(CORNER OF W. MAIN ST. AND S. MULBERRY ST.), CITY MANAGER BRIAN DALTON (See Agenda Materials) pg.(s) 32-49 **VOTE**
- XVIII. OTHER BUSINESS
- XIX. ADJOURNMENT **VOTE**

*Providing exceptional service to our community  
that inspires life to blossom*



**REGULAR CITY COUNCIL MEETING**  
**MONDAY DECEMBER 13, 2021 @ 6:00 PM**  
**CHERRYVILLE COMMUNITY BUILDING**  
**W. J. ALLRAN COUNCIL CHAMBERS**  
**106 S. JACOB ST. CHERRYVILLE, N.C. 28021**

The Honorable Mayor H.L. Beam called the meeting to order at the community building in the W.J. Allran Council Chambers. Councilmember's Jill Puett, Gary Freeman, Malcolm Parker, and Jon Abernethy were present. City Clerk Paige H. Green, City Attorney Palmer Huffstetler Jr., Police Chief Cam Jenks, Public Works Director Brandon Abernathy, Downtown Director David Day, and Finance Director Dixie Wall, Fire Chief Jason Wofford, and Captain Brian Doolittle were also present. Michael Powell of the Cherryville Eagle was present for media coverage.

**INVOCATION: PASTOR DALE HENDRICKS, SHADY GROVE BAPTIST CHURCH:**

Pastor Dale Hendricks gave the invocation.

**PLEDGE OF ALLEGIANCE:**

Everyone stood and recited the Pledge of Allegiance.

**AGENDA APPROVAL:**

Councilmember Abernethy made a motion to approve the agenda as written. Councilmember Puett seconded the motion and the vote was unanimous.

**APPROVAL OF MINUTES:**

Councilmember Puett made a motion to approve the following sets of minutes:

- A. CITY COUNCIL REGULAR MEETING NOVEMBER 8, 2021 pg.(s) 1-9
- B. CITY COUNCIL WORK SESSION MEETING NOVEMBER 30, 2021 pg.(s) 10-23
- C. CITY COUNCIL CLOSED SESSION MEETING NOVEMBER 30, 2021 (Handed out)
- D. CITY COUNCIL SPECIAL MEETING DECEMBER 4, 2021 pg. 24-25
- E. CITY COUNCIL CLOSED SESSION MEETING DECEMBER 4, 2021 (Handed out)

Councilmember Freeman seconded the motion and the vote was unanimous.

**MAYOR'S COMMENTS:**

“My comments tonight will begin with the introduction of the city’s new City Manager Mr. Brian Dalton. Mr. Dalton was unanimously voted as city manager in open council meeting on December 4, 2021. City Manager Dalton will officially begin his employment one week from today on December 20, 2021. City Council welcomes Mr. Dalton and looks forward to working with him in his new position this coming Monday.

This past month has been quite a busy one for your mayor and the city as well. Farris Fab created some new decorations for Main Street and the lighted trees look great. The Cherryville Garden Club revitalized our HUGE wreaths, and we will put them to good use. The Garden Club also decorated the Historic Heritage Park with new decorations. Our Main Street Christmas Task force and Chamber of Commerce have been working hard getting our holiday events lined up and I am so proud of their diligent work for our city.

On November 27, the city hosted the Holiday Market & Small Business Saturday from 10 am thru 3 pm. Later that evening I was honored to welcome visitors to our Main Street Lighting in the Mini Park at 6 p.m. A chorus consisting of Jon Abernethy, David Day, Amy Chapman and Dennis Workman sang Christmas Carols as Larry Wright provided the sound and music. A special guest appearance by Santa Claus highlighted the event and thanks go to Pete Craft for helping with this visit.

On December 2, a Sip and Shop was held on Main Street from four thru 8 p.m. and on December 3, the city hosted our annual Main Street “A Very Who Ville Christmas” from six thru 10 pm. This event was by far the largest crowds every to assemble in our Historic Down Town area. Estimates from eight to 10 thousand people were on hand for this event.

This past Saturday, the city’s annual Christmas Parade was held with a large crowd on hand for this event as well.

Cherryville’s Holiday Celebration will end with our annual New Year’s Shooters on January 1.

In closing, I am happy to announce that the New 2021 Cherryville Christmas ornament has arrived and they are being sold at our local merchants. The ornament was designed after the BB&T building.

Lastly, Mr. Bob Barker asked that the city design team create a lapel pin for our city. I am proud to be wearing one of these tonight. Thank You Mr. Barker for financing these pins.”

**SWEARING IN CEREMONY OF ELECTED OFFICIALS, CITY CLERK PAIGE H. GREEN:**

City Clerk Paige H. Green administered the oath of office to Councilmember Gary Freeman, Councilmember Jill Parker Puett, and Honorable Mayor H.L. Beam



**CITIZENS TO BE HEARD: CITIZENS THAT WISH TO SPEAK MAY DO SO BY COMING TO THE PODIUM AND STATING YOUR NAME AND ADDRESS BEFORE YOU SPEAK. COMMENTS WILL BE HELD TO 5 MINUTES PER PERSON. (PLEASE SIGN UP WITH THE CITY CLERK AT THE MEETING BEFORE THE MEETING BEGINS):**

None.

**CONSIDERATION OF COUNCIL APPOINTMENTS, MAYOR H.L. BEAM:**

Mayor Beam proposed the following appointments for Councilmembers:



<b><u>Proposed Appointment</u></b>	<b><u>Current Appointee</u></b>	<b><u>Appointed December 13, 2021</u></b>
Mayor Pro-Tem	Councilmember Jill Puett	
ABC Board Liaison	Councilmember Malcolm Parker	
Appearance Committee/Garden Club	Councilmember Jill Puett	<b>Alt. Gary Freeman</b>
Audit Committee	Mayor H L Beam Councilmember Jon Abernethy-Chairman	
Centralina Council of Government	Mayor H L Beam Councilmember Jill Puett	
Cemetery Committee Liaison	Councilmember Jill Puett	
Chamber of Commerce Liaison	Councilmember Gary Freeman	<b>Alt. Jon Abernethy</b>
Depot Museum Liaison & Historical Museum	Councilmember Malcolm Parker	
ElectriCities Board	Mayor H L Beam	<b>Alt. Brian Dalton</b>
ElectriCities Rate Committee	Councilmember Jill Puett	<b>Alt. Dixie Wall</b>
Fire Department Relief Fund Board	Councilmember Malcolm Parker Councilmember Jon Abernethy	

Gaston-Cleveland -  
Lincoln Transportation  
Advisory Committee (MPO)

Mayor H L Beam  
Councilmember Jill Puett (Alt)

Recreation Advisory Committee Liaison      Councilmember Gary Freeman **Alt. Jon Abernethy**

YMCA Liaison      Councilmember Gary Freeman **Alt. Jill Puett**

Main Street Program      Councilmember Jill Puett  
Councilmember Gary Freeman

Councilmember Parker made a motion to approve the proposed appointments.  
Councilmember Puett seconded the motion and the vote was unanimous.

**CONSIDERATION OF PROPOSED PRICE INCREASE RE: CHERRYVILLE MEMORIAL CEMETERY & CHERRYVILLE MEMORIAL COURTYARD, CITY CLERK PAIGE H. GREEN:**

City Clerk Paige H. Green proposed the following cemetery price increase for January 1, 2022:



**PROPOSED FEES FOR CHERRYVILLE CITY  
MEMORIAL PARK**

The following fee changes for the Cherryville Memorial Cemetery will be effective **January 1, 2022** and will remain in effect until further notice.

**PURCHASE PRICE FOR ALL GRAVE SPACES:**      Inside Residence      \$ 600.00?  
Outside Residence      \$1,000.00?

**FEES FOR GRAVE OPENING AND CLOSINGS: (CHARGES PRIOR TO INTERMENT)**

Cremation Grave Opening      \$ 375.00 **\$400.00**  
Baby Grave Opening      \$340.00 **\$375.00**  
Adult Grave Opening      \$ 630.00 **\$675.00**  
**Oversized Adult Grave Opening      \$ NEW \$775.00**

**Maintenance Fee for Inside City Residence:**      \$ 0.00  
**Maintenance Fee for Outside City Residence:**      \$ 700.00?

An additional fee of **\$600.00** will be charged to have a grave opened on the following holidays – New Year’s Day, Independence Day, Thanksgiving Day, Memorial Day and Labor Day.

In order to insure quality workmanship we ask for at least 36 hours' notice. **Notice of less than 24 hours will incur an additional charge passed on from Greene & Son, Inc.**

Rock removal is an additional ~~\$200.00~~ **\$225.00** per hour.

Funerals scheduled to begin after 4:00 pm, will incur an additional charge of \$500.00. **Funerals lingering in the cemetery, deterring contracted staff from closing of the plot after 5:00 pm will be subject to additional charges that will be passed on from contractor.**

**Due to the increased demand for Saturday and Sunday funerals, holding bodies for the weekend, there is an additional \$100.00 charge for graves on these days.**

We do not perform burials on Easter Sunday, Thanksgiving or Christmas day.

If there are any questions concerning the above fee schedule and the city's policies relating to the Cherryville Memorial Cemetery, please call City Clerk Paige Green at 704-435-1709.

**NEW CREMATION SECTION OF CEMETERY ONLY**

Cremation remains: (2 x 2 space)	Inside Residence	\$ 375.00?
	Outside Residence	\$ 600.00?

Maintenance fee only for outside residence for cremation remains: (Adopted 12/09/2013)  
\$300.00?

ALL MARKERS FOR CREMATION REMAINS MUST BE A FLAT 2 x 2 MARKER.

**BENCHES:**

Customers will purchase bench.

Space for bench in the City Cemetery will be \$400.00?

City will meet with the family and choose where benches can be placed. If a bench is moved for any reason, the City of Cherryville will assume the benches property and resale the space.



**PROPOSED FEES FOR CHERRYVILLE MEMORIAL COURTYARD**

The following fees will apply for the Memorial Courtyard effective **January 1, 2022** and will remain in effect until further notice.

**PURCHASE PRICE FOR 2 X 2 CREMATION SPACE** Inside Resident \$ 500.00?



Price includes 2 X 2 marker Outside Resident \$1,000.00?

**OPENING & CLOSING FOR 2 X 2 CREMATION** \$ 500.00?

The 2 X 2 markers for this section are already in place for engraving.

**PURCHASE PRICE FOR NICHE (ROWS 2-5)** Inside Resident \$1,500.00?  
Outside Resident \$2,000.00?

**PURCHASE PRICE FOR NICHE (ROWS 1 & 6)** Inside Resident \$1,200.00?  
Outside Resident \$1,700.00?

**OPENING & CLOSING FOR NICHE** \$ 200.00?

**MAINTENANCE FEE (for cremation grave space & niche)** Inside Resident No Fee  
Outside Resident \$ 500.00?

**ENGRAVING FEES (LIMITED TO THREE (3) (2) LINES)** \$ 250.00?

All engraving will be of uniform design and inscriptions

Additional engraving on original marker \$ 190.00?

**SCATTERING PERMIT (ISSUED BY CITY CLERK)** \$ 20.00?

An additional fee of \$600.00 will be charged to have a grave opened on the following holidays – New Year’s Day, Independence Day, Thanksgiving Day, Memorial Day and Labor Day.

In order to insure quality workmanship we ask for at least 36 hours’ notice to open a grave.

**Notice of less than 24 hours will incur an additional charge passed on from Greene & Son, Inc.**

Funerals scheduled to begin after 4:00 pm, will incur an additional charge of \$500.00. **Funerals lingering in the cemetery, deterring contracted staff from closing of the plot after 5:00 pm will be subject to additional charges passed on from the contractor.**

**Due to the increased demand for Saturday and Sunday funerals, holding bodies for the weekend, there is an additional \$100.00 charge for graves on these days.**

We do not perform burials on Easter Sunday, Thanksgiving or Christmas day.

If there are any questions concerning the above fee schedule and the city’s policies relating to the Cherryville Memorial Courtyard, please call City Clerk Paige Green at 704-435-1709.

After reviewing the proposed changes, Councilmember Puett made a motion to approve all changes in red and the prices for plots will be reviewed closer to budget time. Councilmember Parker seconded the motion and the vote was unanimous. Below is a copy of the approved changes:





**FEEES FOR CHERRYVILLE CITY MEMORIAL PARK**

The following fee changes for the Cherryville Memorial Cemetery will be effective **January 1, 2022** and will remain in effect until further notice.

<b><u>PURCHASE PRICE FOR ALL GRAVE SPACES:</u></b>	Inside Residence	\$ 600.00
	Outside Residence	\$1,000.00

**FEEES FOR GRAVE OPENING AND CLOSINGS:** (CHARGES PRIOR TO INTERMENT)

Cremation Grave Opening	\$ 400.00
Baby Grave Opening	\$ 375.00
Adult Grave Opening	\$ 675.00
Oversized Adult Grave Opening	\$ 775.00

<b>Maintenance Fee for Inside City Residence:</b>	\$ 0.00
<b>Maintenance Fee for Outside City Residence:</b>	\$ 700.00

An additional fee of \$600.00 will be charged to have a grave opened on the following holidays – New Year’s Day, Independence Day, Thanksgiving Day, Memorial Day and Labor Day.

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\$300.00

ALL MARKERS FOR CREMATION REMAINS MUST BE A FLAT 2 x 2 MARKER.

**BENCHES:**

Customers will purchase bench.

Space for bench in the City Cemetery will be \$400.00

City will meet with the family and choose where benches can be placed. If a bench is moved for any reason, the City of Cherryville will assume the benches property and resale the space.



**FEES FOR CHERRYVILLE MEMORIAL COURTYARD**

The following fees will apply for the Memorial Courtyard effective **January 1, 2022** and will remain in effect until further notice.

<b>PURCHASE PRICE FOR 2 X 2 CREMATION SPACE</b>	Inside Resident	\$ 500.00
Price includes 2 X 2 marker	Outside Resident	\$1,000.00

<b>OPENING &amp; CLOSING FOR 2 X 2 CREMATION</b>	\$ 500.00
The 2 X 2 markers for this section are already in place for engraving.	

<b>PURCHASE PRICE FOR NICHE (ROWS 2-5)</b>	Inside Resident	\$1,500.00
	Outside Resident	\$2,000.00

<b>PURCHASE PRICE FOR NICHE (ROWS 1 &amp; 6)</b>	Inside Resident	\$1,200.00
	Outside Resident	\$1,700.00

<b>OPENING &amp; CLOSING FOR NICHE</b>	\$ 200.00
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<b>MAINTENANCE FEE (for cremation grave space &amp; niche)</b>	Inside Resident	No Fee
	Outside Resident	\$ 500.00

<b>ENGRAVING FEES (LIMITED TO THREE (2) LINES)</b>	\$ 250.00
All engraving will be of uniform design and inscriptions	
Additional engraving on original marker	\$ 190.00

<b>SCATTERING PERMIT (ISSUED BY CITY CLERK)</b>	\$ 20.00
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Due to the increased demand for Saturday and Sunday funerals, holding bodies for the weekend, there is an additional \$100.00 charge for graves on these days.

We do not perform burials on Easter Sunday, Thanksgiving or Christmas day.

If there are any questions concerning the above fee schedule and the city’s policies relating to the Cherryville Memorial Courtyard, please call City Clerk Paige Green at 704-435-1709.

**UPDATE ON CONDITIONAL USE PERMIT FOR STROUP ACRES, PLANNING & ZONING DIRECTOR DERRICK MACKEY:**

Planning & Zoning Director Derrick Mackey approached the podium to share that the City of Cherryville is in the process of finalizing the special use permit submitted by Wellsprings. We have Centralina Government assisting and waiting on final documentation for the conclusion of the process. Wellsprings have been very cooperative and in agreement with all proposals brought forth. We are asking for a continuation in this matter until the January 10, Council Meeting.

Councilmember Parker made a motion to continue the public hearing for a conditional use permit for Stroupe Acres until January 10, 2022. Councilmember Abernethy seconded the motion and the vote was unanimous.

**CONSIDERATION OF APPOINTMENT TO PLANNING & ZONING BOARD/BOARD OF ADJUSTMENTS, PLANNING & ZONING DIRECTOR DERRICK MACKEY:**

Planning & Zoning Director Derrick Mackey approached the podium and asked for consideration for Mr. Kelly Beam of 1009 North Mountain Street. Mr. Mackey went on to say that Mr. Kelly Beam will fill the position left by Mr. Ben Blackburn. Ben stepped down due to various obligations.

Councilmember Freeman asked what Mr. Beam’s qualifications were. Mr. Mackey shared that Mr. Beam owns several properties in town and is well aware of planning & zoning codes.

Councilmember Abernethy made a motion to appoint Mr. Kelly Beam to the planning & zoning board. Councilmember Parker seconded the motion and the vote was unanimous.

**CONSIDERATION TO CANCEL DECEMBER WORK SESSION MEETING ON DECEMBER 28, 2021,  
MAYOR H.L. BEAM:**

Mayor Beam asked for a motion to cancel the December 28, work session meeting.

Councilmember Parker made a motion to cancel the December 28 work session meeting. Councilmember Puett seconded the motion and the vote was unanimous.

**OTHER BUSINESS:**

Mayor Beam shared that Councilmember Freeman will be showing his paintings in Lexington until January. Mr. Freeman shared that he was one of the eleven chosen to show their paintings.

City Clerk Paige H. Green shared that she had received a call earlier in the day from N'Tonya Houser regarding Bill Edwards Park. Ms. Houser shared that she is part of a group that is interested in adopting that park to make improvements. Mrs. Green told Ms. Houser that she would share at this meeting and get back to her.

Councilmember Abernethy asked about the second leaf truck and wanted to know if anyone had been hired to run it. Public Works Director Brandon Abernathy stated that he has not been able to hire anyone.

Councilmember Freeman mentioned that he had talked to Darin & Brooke Aldridge regarding a mural in honor of them. Councilmember Parker shared that he had talked to them as well and he would like to discuss this more later.

**ADJOURNMENT:**

Councilmember made a motion to adjourn the meeting. Councilmember seconded the motion and the vote was unanimous. The meeting adjourned at

Adopted this 10 day of January 2022.

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H.L. Beam, Mayor

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Paige H. Green, CMC, NCCMC, City Clerk

(SEAL)





**2021-2022 BUDGET AMENDMENT**

**BE IT ORDAINED** by the City Council of the City of Cherryville:

Section 1. The 2021-2022 Budget Ordinance of the City of Cherryville adopted on June 14, 2021 is amended by increasing and decreasing the following appropriations due to carryover from FY 2021, grants, donations and insurance reimbursement received to date.

<b><u>REVENUES</u></b>		<b><u>Increase</u></b>	<b><u>Decrease</u></b>
10.3412.8500	Insurance Reim-GF	\$ 4,824	
10.3431.2620	Police – Grants	\$ 3,968	
10.3431.3350	Police– Donations	\$ 134	
10.3493.3350	CMSP – Donations	\$ 22,500	
10.3412.9900	General Fund – Fund Balance	\$ 126,552	
30.3720.2620	Electric – Grants	\$ 5,000	
31.3713.8500	Insurance Reim - Water/Sewer	\$ 83,448	

**EXPENDITURES**

10.4140.3530	Public Works – Auto Maint/Repair	\$ 3,142	
10.4310.3530	Police – Auto Maint/Repair	\$ 1,682	
10.4310.6900	Police – Grants	\$ 3,968	
10.4310.6930	Police - Donations	\$ 1,284	
10.4930.6930	CMSP - Donations	\$ 67,950	
10.4740.4400	Cemetery-Contract Services	\$ 6,250	
10.6120.6930	Recreation – Donations	\$ 73,702	
30.7200.6900	Electric –Grants	\$ 5,000	
31.7130.3520	Water/Sewer- Equipment Maintenance	\$ 83,448	

Section 2. This ordinance is effective upon its adoption this January 10, 2022.

\_\_\_\_\_  
Paige H. Green, CMC, NCCMC, City Clerk

\_\_\_\_\_  
H.L. Beam, Mayor

(SEAL)



**2021-2022 BUDGET AMENDMENT**

**BE IT ORDAINED** by the City Council of the City of Cherryville:

Section 1. The 2021-2022 Budget Ordinance of the City of Cherryville adopted on June 14, 2021 is amended by increasing and decreasing the following appropriations due to the award of the State Capital and Infrastructure Fund Directed Grant.

<b><u>REVENUES</u></b>		<b><u>Increase</u></b>	<b><u>Decrease</u></b>
10.3412.2620	Administration – Grants	\$ 422,800	
<b><u>EXPENDITURES</u></b>			
10.6120.6900	Recreation – Grants (Storage/Mower)	\$ 22,800	
10.6120.6900	Recreation – Grants (Westgate Park)	\$ 350,000	
10.4120.6900	Administration – Grants (Local Grant)	\$ 50,000	

Section 2. This ordinance is effective upon its adoption this January 10, 2022.

\_\_\_\_\_  
Paige H. Green, CMC, NCCMC, City Clerk

\_\_\_\_\_  
H.L. Beam, Mayor

(SEAL)

Good Afternoon Paige,

Donna Beringer asked me to send this to be put on the City Council Agenda for January for nominations for the Architectural Review Board.

The ARB bylaws require the Chairperson from the Cherryville Main Street make the nominations to the city council. These are 3-year terms, and can be renominated after the term is complete.

**This year's Nominations:**

Doug Blackburn - January 2022 - December 2024  
Vickie Spurling - January 2022 - December 2024  
Bess Thornburg - January 2022 - December 2024  
Scott Beam - January 2022 - December 2023

2nd Term for Doug Blackburn  
2nd Term for Vickie Spurling  
2nd Term for Bess Thornburg  
1st Term for Scott Beam (replacing and finishing Chad Cash's term)

**Term still current:**

Stan Bumgarner - January 2021 - December 2023  
Tim Moss January - 2020 - December 2022

1st Term for Stan Bumgarner  
1st Term for Tim Moss

**Chair Recommendation:**

Donna also recommends that Vickie Spurling be selected as chairperson for this Architectural Review Board Chairperson. She has been the chair for 3 years and has done an outstanding job. The city council's appoints the chair.

Please let me know if you have any questions.

Regards

David Day  
Downtown / Economic Development Director, Cherryville NC  
Cherryville Main Street Program  
[dday@cityofcherryville.com](mailto:dday@cityofcherryville.com)  
Cell 704 473 1271  
Office 704 435-3451



**CITY OF CHERRYVILLE**  
**CONDITIONAL USE PERMIT (CUP) APPLICATION**

Application Number: \_\_\_\_\_ Date of Application: 11-10-21

**Applicant Information:**

Name: Cherryville Main St. LLC

Address: 211 E Main St

Telephone: 704-477-7563 Home: \_\_\_\_\_ Cell: \_\_\_\_\_

**Property Information:**

Property Location: 126 W Main St.

Gaston County Tax Book: \_\_\_\_\_ Page: \_\_\_\_\_ Parcel ID# 129707

Deed Book: 5080 Page: 2214

Existing Use: Longterm VACANT Proposed Use: Residential  
ZONED B-1 zoning allows residential but  
for entire Bldg Res need CU permit

Property Size: 30 X 106 (Sq. Ft. / Acres) .08

Is a Rezoning application being submitted with the CUP application?

YES OR **(NO)** (circle) Not needed





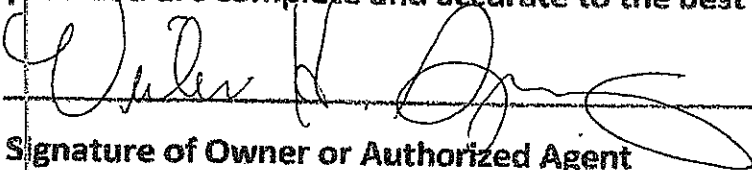
**CITY OF CHERRYVILLE**  
**CONDITIONAL USE PERMIT (CUP) APPLICATION**

**Other Required Information (attach the following)**

A preliminary site plan shall be submitted along with the application to the Zoning Administrator for review. Said site plan shall contain the following:

1. Name, address, and phone number of the applicant and the property owner (if different than the applicant), deed book and page number of the property description.
2. A scaled boundary survey showing the total acreage, present zoning classification (s), date and arrow north.
3. The owner's names, addresses, tax parcel numbers, and existing land uses of all adjoining properties.
4. All existing easements, reservations, and right-of-ways on the properties.
5. Proposed primary circulation patterns showing locations and arrangements of access points to nearby streets.
6. The proposed location of buildings and total square footages.
7. Buffering and landscaping plans at all front, rear, and side yards.
8. Proposed phasing of the development.
9. Other information offered by the applicant(s) or requested by the Planning Board of the City Council.

I, the undersigned owner or authorized representative, hereby submit this application with the attached information. The information and documents provided are complete and accurate to the best of my knowledge.

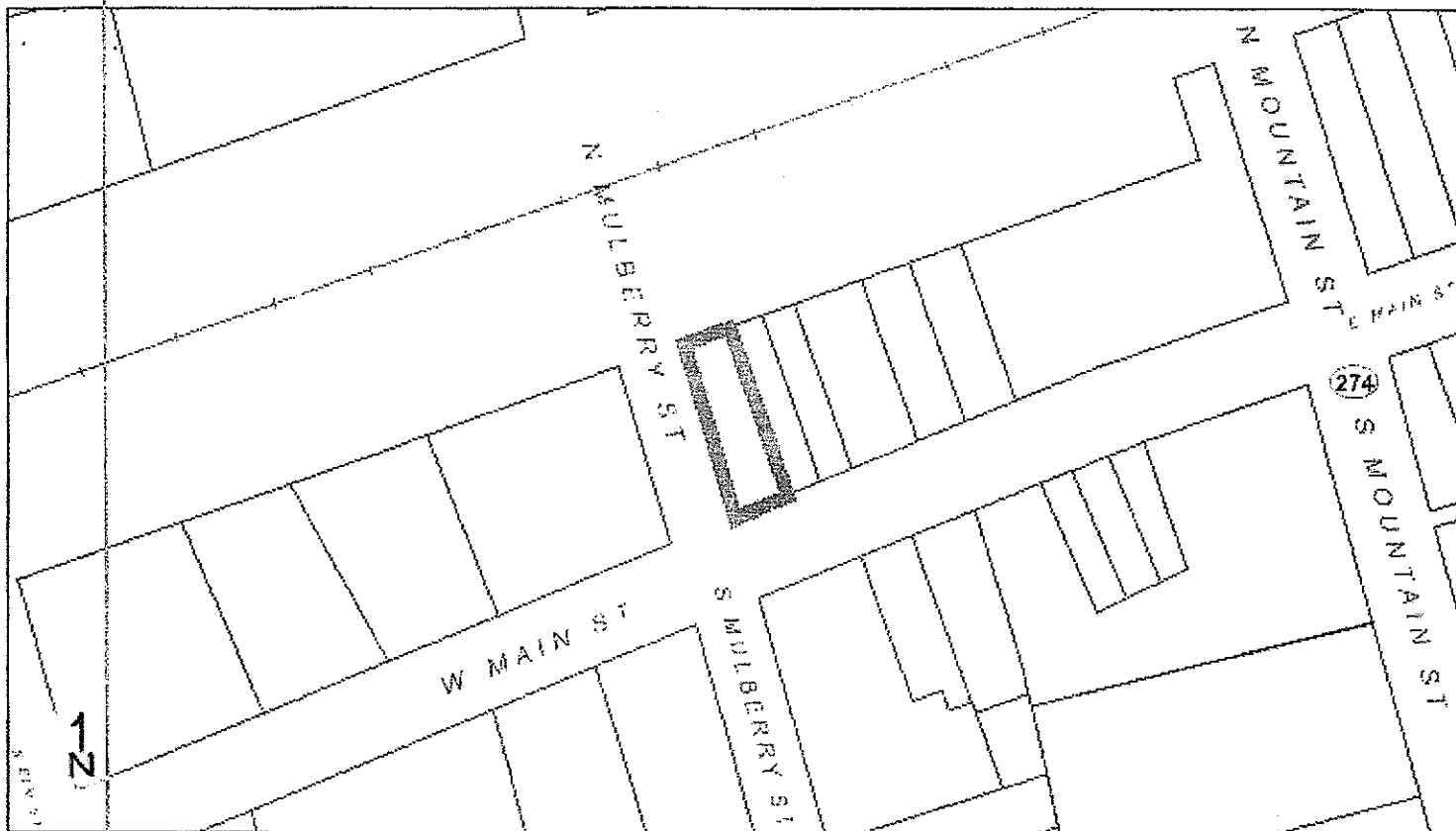
  
Signature of Owner or Authorized Agent

11-10-2021

Date







**Primary Property Address**

126 W MAIN ST CHERRYVILLE, NC 28021

**Tax Information**

PARCEL #: 129707

PIN #: 2690014218

CURRENT OWNERS: CHERRYVILLE MAIN ST LLC

MAILING ADDRESS: 6711 E CAMELBACK RD UNIT 12 SCOTTSDALE, AZ 85251-

NBHD #: CV001

NBHD NAME: DOWNTOWN CHERRYVILLE

TOWNSHIP: CHERRYVILLE TOWNSHIP

LEGAL DESC: . 06 005 134 00 000

**Tax Information**

DEED BOOK: 5080 PAGE: 2214

DEED RECORDING DATE: 11/12/2019

SALES AMOUNT: \$0

PLAT BOOK: PAGE:

STRUCTURE TYPE: RETAIL GENERAL

YEAR BUILT: 1924

VACANT: IMPROVED

SQUARE FOOTAGE: 8820

BASEMENT: NO

BED: 0 BATH: 0 HALF-BATH: 0

MULTI-STRUCTURES: NO

ACREAGE: 0.08

TAX DISTRICT: CHERRYVILLE CITY

VOLUNTARY AG DISTRICT: NO

PROPERTY USE: COMMERCIAL

**Tax Values**

MARKET LAND VALUE: \$13,070

MARKET IMPR. VALUE: \$49,980

MARKET VALUE: \$63,050

FARM DISCOUNT: NO

EXEMPTION: NO

TAXABLE VALUE: \$63,050

**Election Information**

PRECINCT NAME: CHERRYVILLE III

POLLING PLACE: FIRST PRESBYTERIAN CHURCH FELLOWSHIP HALL

POLLING ADDRESS: 107 W. ACADEMY ST

WARD #: 2

CONGRESS REPRESENTATIVE: VIRGINIA FOXX

CONGRESSIONAL DISTRICT: 5

HOUSE REPRESENTATIVE: KELLY E. HASTINGS

HOUSE DISTRICT: 110

SENATOR: KATHY HARRINGTON

SENATE DISTRICT: 43

**Parcel Information**

CITY LIMITS: CHERRYVILLE

ETJ: NOT IN ETJ

POLICE DISTRICT: CHERRYVILLE

FIRE DISTRICT: CHERRYVILLE

FLOOD:

LOCAL WATERSHED: MUDDY CREEK

CENSUS TRACT: 307

Disclaimer: The information provided is not to be considered as a legal document or description. The map & parcel data is believed to be accurate, but Gaston County does not guarantee its accuracy. Values shown are as of January 1, 2019. - Document created for printing on 11/10/2021

# UPLAND ARCHITECTS

250 E. MAIN STREET, SUITE 13  
 AORTON, MASSACHUSETTS 02766  
 331 SOUTH WASHINGTON STREET  
 WELLESLEY, NORTH CAROLINA 28150  
 774-483-5389 MA  
 817-983-1163 NC  
 WWW.UPLANDARCHITECTS.COM

### DISCLAIMER

CONSIDERATION OF LOCALITIES, ZONING ORDINANCES, REGULATIONS, DEEDS, RECORDS AND TAXES, AND THE PROPERTY OF THE LAND AND THE RIGHTS OF THE ADJACENT OWNERS, HAS BEEN MADE BY THE ARCHITECT AND HIS FIRM FOR THE PURPOSE OF THE DESIGN AND CONSTRUCTION OF THE PROJECTS. THE ARCHITECT AND HIS FIRM MAKE NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.

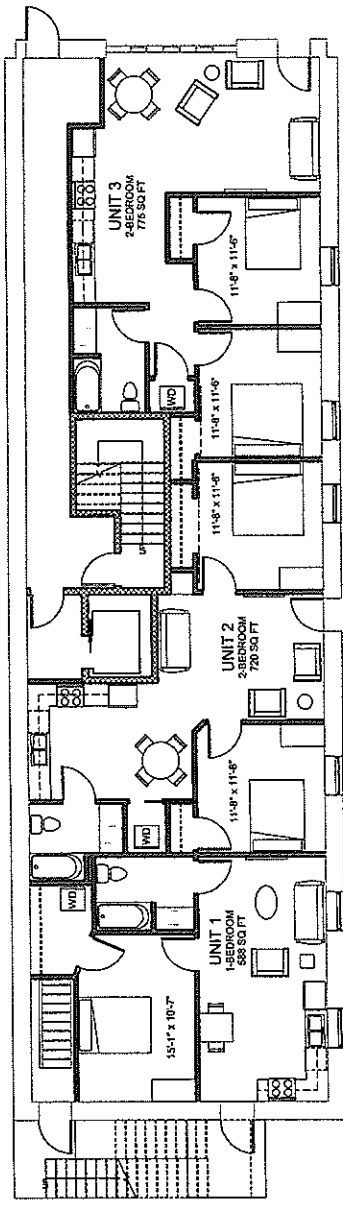
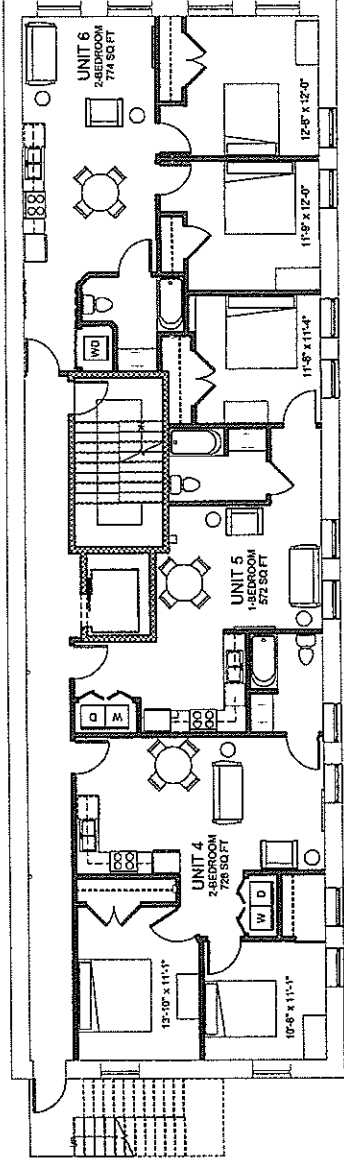
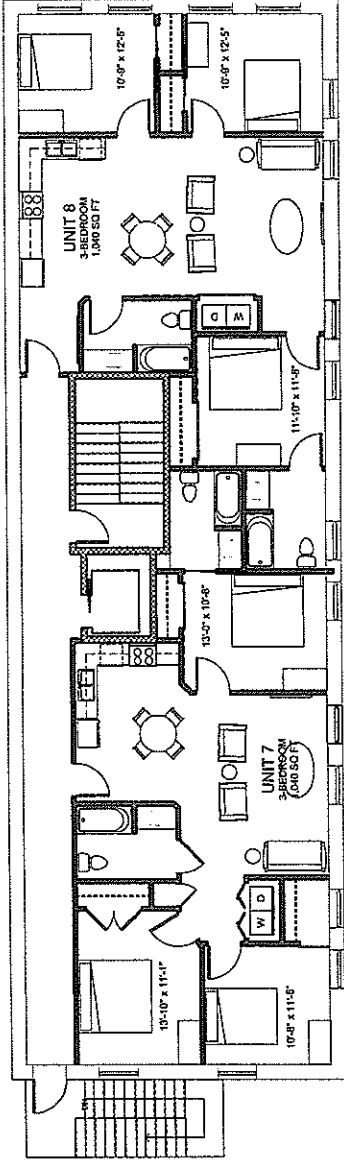
REVISION	DATE	DESCRIPTION

REVISIONS  
 DATE ISSUED: 02/27/17  
 PROJECT NUMBER: 17020117  
 PROJECT TITLE: RENOVATIONS TO 126 W. MAIN STREET

126 W. MAIN ST.  
 CHERRYVILLE, NC 28021

PROPOSED FLOOR PLANS  
 OPTION A

PRINT DATE: 02/08/17  
 DRAWN BY: JACB  
 CHECKED BY: JACB  
 DRAWING NUMBER: A103





- c. Other uses - same as the R-9 District
4. Minimum Rear Yard Setback
- a. Amateur Radio Towers- A minimum rear yard setback of at least 1.5 times the height of the tower.
  - b. Telecommunication Towers and Facilities- See Section 5.23
  - c. All other uses - twenty-five (25) feet
5. Minimum Lot Width (As measured at the required front setback); at least thirty-five (35) feet of lot width measured at the street right-of-way line shall be required except as noted)
- a. Office buildings, museums, funeral home, florist, laboratory, photocopying and offset printing, and multi-family dwelling - one hundred (100) feet with at least fifty (50) feet at the street right-of-way line
  - b. Two-family dwellings - eighty (80) feet
  - c. Churches and schools - one hundred-twenty (120) feet with at least fifty (50) feet at the street right-of-way line
  - d. Other uses - seventy (70) feet
6. Maximum Building Height
- a. Amateur Radio Tower- Fifty (50) feet.
  - b. All other uses - thirty-five (35) feet, except as provided in Section 5.9 of this Ordinance

**7.7.4 Screening:**

Screening, as provided in Section 5.2 of this Ordinance shall be required.

**Section 7.8 B-1 Central Business District**

7.8.1 The following uses are permitted by right:

**Retail Uses**

- A. Antique store

- B. Appliance and appliance repair store
- C. Arts and crafts store
- D. Automobile and boat supply store
- E. Automobile service station
- F. Bakeries (retail)
- G. Bicycle store
- H. Beauty supply store
- I. Book and stationery store
- J. Camera shop
- K. Clock shop
- L. Clothing shop
- M. Computer service store
- N. Convenience store (no fuel sales)
- O. Curtain and drape store
- P. Delicatessen
- Q. Dressmaking shop
- R. Drugstore
- S. Dry cleaning stores (pick-up and delivery only)
- T. Dry goods shop
- U. Florist and gift shop
- V. Floor covering, lighting, wallpaper, paint and window covering store
- W. Food store
- X. Formal wear store
- Y. Furniture store
- Z. Furrier
- AA. Gun shop
- BB. Hardware store
- BBB. Bar, Nightclub, Tavern, Brewpub, Micro-brewery, Liquor store, Wine store and Beer store
- CC. Hobby store
- DD. Household goods shop
- EE. Jewelry and jewelry repair shop
- FF. Key shop
- GG. Linen shop
- HH. Luggage and leather shop
- II. Medical supply store
- JJ. Music store
- KK. Notion and fabric store
- LL. Office supply and equipment
- MM. Pawn shop
- NN. Postal store
- OO. Restaurant
- PP. Second-hand shop (excluding pawn shop)
- QQ. Shoe store
- RR. Shoe repair shop
- SS. Sporting goods and trophy shop
- TT. Tailor and alteration shop

- UU. Toy store
- VV. Variety and department store
- WW. Video rental and sales shop
- XX. Shopping centers, Class A

**Services**

- A. Automobile parking lot
- B. Barber shop
- BBB. Bar, Nightclub, Tavern, Brewpub, Micro-brewery, Liquor store, Wine store and Beer store
- C. Beauty shop
- D. Commercial schools providing training in any of the arts, sciences, trades or professions, conducted indoors, with up to fifty (50) enrolled students
- E. Essential Services, Classes 1 and 2
- F. Finance company
- G. Financial institution
- H. Film processing shop
- I. Fitness Center and/or Tanning Salon
- J. Interior decorating studio
- K. ~~Laundromat~~ deleted by City Council 7-14-2014
- L. Library
- M. Locksmith
- N. Maintenance Services
- O. Medical clinic
- P. Museum
- Q. Offices and office buildings for business, professional and public services with a maximum gross floor area of ten thousand (10,000) square feet
- R. Opticians and optical services
- S. Photocopying and offset printing services
- T. Post office
- U. Public safety station
- V. ~~Recycling depository~~ deleted by City Council 7-14-2014
- W. Studios (for artists, musicians, etc.)
- X. Travel agency

**Residential Uses**

- A. Residential apartments located in the same building and on top of a commercial or office use provided all building and fire codes are met and that at least one (1) off-street parking space is provided per residential unit.

**7.8.2** The following uses are permitted subject to the issuance of a special use permit by the City Council in accordance with Part 13 of this Ordinance:

### Residential Uses

- A. Any multi-family dwelling or development not associated with a commercial use

### Retail Uses

- A. Shopping centers, Class A and B
- B. Pet store

### Services

- A. Commercial schools providing training in any of the arts, sciences, trades or professions, conducted indoors, with over fifty (50) enrolled students
- B. Automobile parts supply store
- C. Auction houses, indoors (excluding livestock auctions)
- D. Office buildings containing over ten thousand (10,000) square feet of gross floor area
- E. Arcade or amusement center or game room
- F. ~~Telecommunication Towers and Facilities~~ deleted by City Council 7-14-14
- G. Tire Sales (added as amendment 9-14-2009)

### **7.8.3 Yard Requirements**

(NOTE: Yard and height requirements for telecommunication towers and facilities shall be as provided in Section 5. 23.)

- 1. Minimum lot size - none
- 2. Maximum gross floor area of any individual principal use - ten thousand (10,000) square feet
- 3. Minimum lot width - none
- 4. Minimum front yard setback - none
- 5. Minimum side yard setback - none, except ten (10) feet shall be required on all corner lots and twenty (20) feet on side yards which abut any Residential (R) District
- 6. Minimum rear yard setback - none, except twenty (20) feet shall be required on all lots whose rear yard abuts any Residential (R) District
- 7. Maximum building height - fifty (50) feet, except as permitted in Section 5.9 of this Ordinance
- 8. Off-street parking and loading - all off-street parking and loading

## Residential Uses

- A. Residential apartments located in the same building and on top of a commercial or office use provided all building and fire codes are met and that at least one (1) off-street parking space is provided per residential unit.

7.8.2 The following uses are permitted subject to the issuance of a conditional use permit by the City Council in accordance with Part 13 of this Ordinance:

### Residential Uses

- A. \* Any multi-family dwelling or development not associated with a commercial use \*

### Retail Uses

- A. Shopping centers, Class A and B
- B. Pet store

### Services

- A. Commercial schools providing training in any of the arts, sciences, trades or professions, conducted indoors, with over fifty (50) enrolled students
- B. Automobile parts supply store
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1. Minimum lot size - none
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3. Minimum lot width - none
4. Minimum front yard setback - none
5. Minimum side yard setback - none, except ten (10) feet shall be required on all corner lots and twenty (20) feet on side yards which abut any



CITY OF CHERRYVILLE  
116 SOUTH MOUNTAIN STREET  
CHERRYVILLE, NC 28021

cash1 10/11/2021 13:31

Receipt: 572789

VICKIE SPURLING

NEW CHARGES  
ZONING FEE 250.00  
-----  
TOTAL: 250.00  
=====

PAYMENTS  
CHECK PAYMENT 250.00  
-----  
TOTAL: 250.00  
=====

TENDERED: 250.00  
APPLIED: 250.00  
-----  
CHANGE DUE: 0.00  
BALANCE 0.00



**SPECIAL USE PERMIT  
FINDINGS OF FACT**

PROPERTY LOCATION: 126 West Main St. Parcel #129707

USE: Any multi-family dwelling or development not associated with commercial use B-1 (Central Business District)

**FINDINGS OF FACT**

	<b>YES</b>	<b>NO</b>
1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and	___	___
2. The use meets all required conditions and specifications, and	___	___
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and	___	___
4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Cherryville Land Development Plan.	___	___

After having held a Public Hearing on \_\_\_\_\_ and in light of the Finding of Fact listed herein, the following action was taken by Cherryville City Council:

\_\_\_\_\_  
H.L. Beam, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Paige H. Green, CMC, NCCMC, City Clerk

ATTEST:

**PUBLIC HEARING  
STAFF REPORT  
Cherryville City Council Meeting – January 10, 2022**

OWNER: Stroup Acres, LLC  
APPLICANT: Montrose LLC, Michael Foess  
PROPOSED ACTION: Rezone from R-40 to CU R-9 Cluster, CU RMF, and B-2  
LOCATION: 1404 Shelby Highway, Cherryville  
TRACT SIZE: Approximately 176.62 acres  
PARCELS: 160116, 160117, 160120, 216819, 305089

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Background

- On October 18, 2021, the Cherryville Planning Board held a public hearing to review the proposed development. The Board did not provide a recommendation on the proposed development.
  - On November 8, 2021, the Cherryville City Council voted to continue the public hearing. The developer made some modifications to the plan.
  - On December 14, 2021, the Cherryville City Council voted to continue the public hearing to take into consideration recent changes to the development proposal. The rezoning was readvertised for public hearing on January 10, 2022.
  - The purpose of the hearing today is to consider rezoning the subject properties per the application provided to the City of Cherryville.
  - The City Council is being asked to:
    - Approve/Disapprove/Modify the rezoning to CU R-9 Cluster, CU RMF, and B-2 or continue the hearing.
- 

Site Description and Adjoining Properties

The property is vacant, heavily wooded and accessed from a Shelby Highway/Highway 150. The property is bisected by several streams and the topography is gently rolling. The property is generally bounded to the west by Doc Wehunt Road and to the east by Brown Road. Surrounding properties include rural land, single family residential, and commercial uses along Highway 150. The property is currently zoned by Cherryville as R-40.

Land Use Plan

The Cherryville Future Land Use Map indicates that this area should be general business along Shelby Highway (Highway 150), rural preservation on the west side of the property, rural residential through the center of the site, and traditional residential/two-family residential for the northern portion of the site. Rural preservation is intended for low-density residential uses and limited small-scale commercial or industrial uses suited to blend with rural environments. Equestrian subdivisions are encouraged. Rural residential is intended for residential densities that do not need public water and sewer. Traditional single/two-family residential is for smaller to medium side lots. The future land use plan does not indicate attached housing for this area.

Attached housing can be used as a buffer land use between detached homes and non-residential development when well designed.

Transportation

Shelby Highway/Highway 150 is considered a major thoroughfare by the Gaston-Cleveland-Lincoln Metropolitan Planning Organization (GCLMPO) and is identified as a bicycle on road corridor in the Comprehensive Transportation Plan and as a bike-pedestrian project in the 2045 Metropolitan Transportation Plan.

Proposed Request

The applicant proposes to develop the property for up to 386 single family residential detached homes, 104 townhomes and 5.3 acres of commercial property (490 dwelling units total). For the detached homes, the lots will be a minimum of 50’ wide. Street access would be from Shelby Highway/Highway 150, via two connections. Improvements to Shelby Highway have not been addressed, however a binding traffic impact analysis has been added to the development conditions, with improvements that are phased based on the development phases and final NCDOT permits. Street stub outs are proposed to several adjacent properties.

The site plan draws a donut hole around a single family residential property owned by Joe Millwood. The existing driveway to this residence would become a public street into the site. Streets for the single family residential section will be public and private streets are noted for the townhome area. Homeowner association responsibilities have not been addressed. Street diagrams have been included. Public water and sewer are required for this development and will be installed by the developer and maintained by the City of Cherryville.

<b>Updates to Development Conditions For January 10, 2022</b>
Total homes – 490 total dwelling units with up to 386 detached and 104 single family attached.
Single family detached front setback increased to 22’ to avoid cars parking on sidewalk.
Added additional 30 feet buffer to residents of Eaker Circle
Added 100 feet buffer to Pecan Ridge Farm (Mr. Gunnel’s farm)
Added active open space requirements, (Note E.9 and Sheet RZ-2)
Added permanent gate to Eaker Circle with Knox Box lock to restrict to emergency access only
Added Residential Architectural Requirements (Notes I.1 through I.6)
Added typical roadway cross sections (Sheet RZ-2)
Added sample residential elevations (Sheet RZ-3)
<b>Updates to Development Conditions For December 6, 2021</b>
Total homes – 490 total dwelling units with up to 120 single family attached (reduced from 674 total and up to 204 single family attached)
Residential Care Facilities and Yard sales removed as uses
Two-car driveways added for all residential (increased from one-car driveways)



Thirty (30) foot tree save area adjacent to Eaker Circle lots
One hundred (100) foot tree save area adjacent to Gunnel farm
Added street trees on every single family detached lot and every fifty (50) feet along common open space and sides of corner lots
Sidewalks installed along Hwy 150 and on one side of all residential streets.
Added open space amenity maintenance language (City or HOA).
Added options for open space amenities but not quantified.
Traffic impact analysis included (notes H.1 and H.2).
Gate will be installed at Eaker Circle to prevent construction traffic from using access.

## Issues to Consider

### Residential

- Adequate buffering for townhomes that back up to public streets is needed. If not addressed here, this issues should be addressed in the subdivision phase.
- Representative elevations are representative only. Materials are not limited, but conditions do dictate a mix of two materials on the front façade, roof materials and pitch.

### Infrastructure

- There is a conflict between the conditions for street width and the graphics displayed. For all residential and commercial street sections, staff recommends a minimum of 34' face of curb to face of curb to mirror residential collector street standards outlined by NCDOT ([NCDOT Subdivision Roads Minimum Construction Standards, rev July 2020](#)).
- Open access to Eaker Circle is fundamental to safety and access principles for this many homes. If open access to Eaker Circle is required by the traffic analysis, there will be two conflicting conditions (one that notes emergency access only and one that notes that all requirements of the traffic analysis be constructed). To alleviate this issue, consider adding a phrase to the traffic analysis condition that “construction of improvements required by the study will occur unless in direct conflict with a written condition herein.”
- Add a condition to note that “all other specifications and general provisions shall be met as required by the City of Cherryville Ordinances” (this is required regardless, but adding the condition provides clarity for future property owners, developers and builders).

-----

Statement of consistency and reasonableness (motion to approve): The proposed rezoning is consistent with the City of Cherryville Comprehensive Plan, which recommends residential growth in this area. In light of the new transportation corridors and expected growth, the Board considers an affirmative vote to be reasonable and in the public interest.

Statement of consistency and reasonableness (motion to deny): The proposed rezoning is inconsistent with the City of Cherryville Comprehensive Plan, which calls for lower density residential, and the proposed project is a much higher density than envisioned in this area, therefore the Board considers an affirmative vote to not be reasonable and not in the public interest.



## AN ORDINANCE TO ANNEX CERTAIN CONTIGUOUS AREAS TO THE CITY OF CHERRYVILLE, NORTH CAROLINA

(Stroupe Acres)

---

**WHEREAS**, the City Council has been petitioned under N.C.G.S 160A-58.1 as amended, to annex the area described herein; and

**WHEREAS**, THE City Council has by resolution directed the City Clerk to investigate the sufficiency of said 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 the Cherryville Community Building at 6:00 p.m. in the W.J. Allran Chambers on the 8 day of November 2021, after due notice by publication in the Cherryville Eagle on Wednesday November 3, 2021; and

**WHEREAS**, the City Council does hereby find as a fact that said petition meets the requirements of N.C.G.S. 160A-58.1, as amended, namely (i) the area described herein meets all of the standards set out in N.C.G.S. 160A-58.1 (ii) the petition bears the signatures of all the owners of real property within the area proposed for annexation; (ii) the petition is otherwise valid; (iv) the public health, safety, and welfare of the inhabitants of the city and the area proposed for annexation will be best served by the annexation;

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of Cherryville, North Carolina;

**Section 1.** By virtue of the authority granted by N.C.G.S. 160A-58.1, as amended, the following describe territory is hereby annexed and made part of the City of Cherryville as of the 8 day of November 2021:

*See Exhibit A attached hereto for a metes and bounds description of the subject tract*

**Section 2.** Upon effective date, the above description territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Cherryville and shall be entitled to the same privileges and benefits as other parts of the City of Cherryville. Said territory shall be subject to municipal taxes according to N.C.G.S. 160-A-31(e).

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

Adopted this 10 day of January 2022.

---

H.L. Beam, Mayor

ATTEST:

APPROVED AS TO FORM:

---

Paige H. Green, CMC, NCCMC, City Clerk

---

Palmer Huffstetler Jr., City Attorney





## CITY OF CHERRYVILLE SCHOOL CHOICE WEEK

**WHEREAS**, all children in Cherryville should have access to the highest-quality education possible; and,

**WHEREAS**, the City of Cherryville recognizes the important role that an effective education plays in preparing all students in Cherryville to be successful adults; and,

**WHEREAS**, quality education is critically important to the economic vitality of the City of Cherryville; and,

**WHEREAS**, the City of Cherryville is home to a multitude of high quality public and nonpublic schools from which parents can choose for their children, in addition to families who educate their children in the home; and

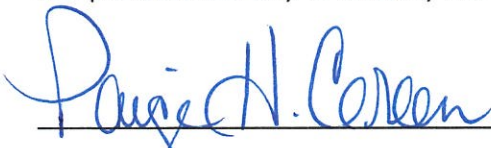
**WHEREAS**, educational variety not only helps to diversify our economy, but also enhances the vibrancy of our community; and,

**WHEREAS**, the City of Cherryville has many high-quality teaching professionals in all types of school settings who are committed to educating our children; and,


**WHEREAS**, School Choice Week is celebrated across the country by millions of students, parents, educators, schools and organizations to raise awareness of the need for effective educational options;

**NOW, THEREFORE**, I, Henry L. Beam, Mayor of Cherryville, do hereby recognize January 23 – January 29, 2022 as City of Cherryville School Choice Week, and I call this observance to the attention of all of our citizens.

Adopted this 10 day of January 2022.

  
\_\_\_\_\_

Paige H. Green, CMC, NCCMC, City Clerk

  
\_\_\_\_\_

H.L. Beam, Mayor







**RESOLUTION AUTHORIZING UPSET BID PROCESS FOR LOT ON W.MAIN STREET**  
**(CORNER OF W. MAIN ST. & S. MULBERRY ST.)**

**WHEREAS**, the City of Cherryville owns the lot on W. Main Street and

**WHEREAS**, North Carolina General Statute 160A-269 permits the city to sell property by upset bid, after receipt of an offer for the property; and

**WHEREAS**, the City of Cherryville has received an offer to purchase the property described above, in the amount of \$30,000, along with a commitment to construct and maintain a parking lot on the subject property, submitted by Cherryville Main Street LLC; and

**WHEREAS**, Cherryville Main Street LLC has paid the required five percent (5%) deposit on their offer;

**THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRYVILLE RESOLVES THAT:**

1. The City Council authorizes sale of the property described above through the upset bid procedure of North Carolina General Statute § 160A-269.

2. The city clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.

3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the city clerk within 10 days after the notice of sale is published. At the conclusion of the 10-day period, the city clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

4. If a qualifying higher bid is received, the city clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the City Council.

5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer. Said bid must also agree to the same commitment to construct and maintain a parking lot on the subject property.

6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The city will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The city will return the deposit of the final high bidder at closing.

7. The terms of the final sale are that
- the City Council must approve the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed, and
  - the buyer must pay with cash at the time of closing.

8. The city reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.

9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate city officials are authorized to execute the instruments necessary to convey the property to Cherryville Main Street LLC.

Adopted January 10, 2022.

(SEAL)

---

Paige H. Green, CMC, NCCMC, City Clerk

---

H.L. Beam III, Mayor

**OFFER TO PURCHASE AND CONTRACT - VACANT LOT/LAND**  
**[Consult "Guidelines" (Form 12G) for guidance in completing this form]**

**NOTE:** This contract is intended for unimproved real property that Buyer will purchase only for personal use and does not have immediate plans to subdivide. It should not be used to sell property that is being subdivided unless the property has been platted, properly approved and recorded with the register of deeds as of the date of the contract. If Seller is Buyer's builder and the sale involves the construction of a new single family dwelling prior to closing, use the standard Offer to Purchase and Contract--New Construction (Form 800-T) or, if the construction is completed, use the Offer to Purchase and Contract (Form 2-T) with the New Construction Addendum (Form 2A3-T).

For valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Buyer offers to purchase and Seller upon acceptance agrees to sell and convey the Property on the terms and conditions of this Offer To Purchase and Contract and any addendum or modification made in accordance with its terms (together the "Contract").

**1. TERMS AND DEFINITIONS:** The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) **"Seller":** Cherryville, City of

(b) **"Buyer":** Cherryville Main Street LLC

(c) **"Property":** The Property shall include all that real estate described below together with all appurtenances thereto including the improvements located thereon.

**NOTE:** If the Property will include a manufactured (mobile) home(s), Buyer and Seller should consider including the Manufactured (Mobile) Home provision in the Additional Provisions Addendum (Standard Form 2A11-T) with this offer.

Street Address: W Main St  
City: Cherryville Zip: 28021  
County: \_\_\_\_\_, North Carolina

**NOTE:** Governmental authority over taxes, zoning, school districts, utilities and mail delivery may differ from address shown.

Legal Description: (Complete ALL applicable)  
Plat Reference :Lot/Unit \_\_\_\_\_, Block/Section \_\_\_\_\_, Subdivision/Condominium \_\_\_\_\_  
\_\_\_\_\_, as shown on Plat Book/Slide \_\_\_\_\_ at Page(s) \_\_\_\_\_  
The PIN/PID or other identification number of the Property is: 129790  
Other description: \_\_\_\_\_  
Some or all of the Property may be described in Deed Book 4885 at Page 0260

(d) **"Purchase Price":**

\$ 30,000.00

\$ \_\_\_\_\_

\$ 1,500.00

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ 28,500.00

paid in U.S. Dollars upon the following terms:  
BY DUE DILIGENCE FEE made payable and delivered to Seller by the Effective Date by  cash  personal check  official bank check  wire transfer  electronic transfer (*specify payment service:* \_\_\_\_\_ )  
BY INITIAL EARNEST MONEY DEPOSIT made payable and delivered to Escrow Agent named in Paragraph 1(f) by  cash  personal check  official bank check  wire transfer,  electronic transfer, EITHER  by the Effective Date OR  within five (5) days of the Effective Date of this Contract.  
BY (ADDITIONAL) EARNEST MONEY DEPOSIT made payable and delivered to Escrow Agent named in Paragraph 1(f) by cash, official bank check, wire transfer or electronic transfer no later than 5 p.m. on \_\_\_\_\_, **TIME BEING OF THE ESSENCE.** by  cash  official bank check  wire transfer  electronic transfer  
BY ASSUMPTION of the unpaid principal balance and all obligations of Seller on the existing loan(s) secured by a deed of trust on the Property in accordance with the attached Loan Assumption Addendum (Standard Form 2A6-T).  
BY SELLER FINANCING in accordance with the attached Seller Financing Addendum (Standard Form 2A5-T).  
BALANCE of the Purchase Price in cash at Settlement (some or all of which may be paid with the proceeds of a new loan).



This form jointly approved by:  
**North Carolina Bar Association**  
**North Carolina Association of REALTORS®, Inc.**  
Buyer initials PJG Seller initials \_\_\_\_\_





If the parties agree that Buyer will pay any fee or deposit described above by electronic transfer, Seller agrees to cooperate in effecting such transfer, including the establishment of any necessary account and providing any necessary information to Buyer, provided, however, Buyer shall be responsible for additional costs, if any, associated with such transfer.

Should Buyer fail to deliver either the Due Diligence Fee or any Initial Earnest Money Deposit by their due dates, or should any check or other funds paid by Buyer be dishonored, for any reason, by the institution upon which the payment is drawn, Buyer shall have one (1) banking day after written notice to deliver cash, official bank check, wire transfer or electronic transfer to the payee. In the event Buyer does not timely deliver the required funds, Seller shall have the right to terminate this Contract upon written notice to Buyer, and Seller shall be entitled to recover the Due Diligence Fee together with all Earnest Money Deposit paid or to be paid in the future. In addition, Seller may be entitled to recover reasonable attorney fees and court costs. See paragraph 20 for a party's right to attorneys' fees incurred in collecting the Earnest Money Deposit or Due Diligence Fee.

(e) **"Earnest Money Deposit"**: The Initial Earnest Money Deposit, the Additional Earnest Money Deposit and any other earnest monies paid or required to be paid in connection with this transaction, collectively the "Earnest Money Deposit", shall be deposited promptly and held in escrow by Escrow Agent until Closing, at which time it will be credited to Buyer, or until this Contract is otherwise terminated. In the event: (1) this offer is not accepted; or (2) a condition of any resulting contract is not satisfied, then the Earnest Money Deposit shall be refunded to Buyer. See paragraph 20 for a party's right to the Earnest Money Deposit, and attorneys' fees incurred in collecting the Earnest Money Deposit, in the event of breach of this Contract by the other party.

(f) **"Escrow Agent"** (insert name): Palmer Huffstetler Jr. Attorney  
Buyer and Seller consent to disclosure by the Escrow Agent of any material facts pertaining to the Earnest Money Deposit to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

**NOTE:** In the event of a dispute between Seller and Buyer over the disposition of the Earnest Money Deposit held in escrow, a licensed real estate broker ("Broker") is required by state law (and Escrow Agent, if not a Broker, hereby agrees) to retain the Earnest Money Deposit in the Escrow Agent's trust or escrow account until Escrow Agent has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. Alternatively, if a Broker or an attorney licensed to practice law in North Carolina ("Attorney") is holding the Earnest Money Deposit, the Broker or Attorney may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. §93A-12.

THE PARTIES AGREE THAT A REAL ESTATE BROKERAGE FIRM ACTING AS ESCROW AGENT MAY PLACE THE EARNEST MONEY DEPOSIT IN AN INTEREST BEARING TRUST ACCOUNT AND THAT ANY INTEREST EARNED THEREON SHALL BE DISBURSED TO THE ESCROW AGENT MONTHLY IN CONSIDERATION OF THE EXPENSES INCURRED BY MAINTAINING SUCH ACCOUNT AND RECORDS ASSOCIATED THEREWITH.

(g) **"Effective Date"**: The date that: (1) the last one of Buyer and Seller has signed or initialed this offer or the final counteroffer, if any, and (2) such signing or initialing is communicated to the party making the offer or counteroffer, as the case may be. The parties acknowledge and agree that the initials lines at the bottom of each page of this Contract are merely evidence of their having reviewed the terms of each page, and that the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement.

(h) **"Due Diligence"**: Buyer's opportunity to investigate the Property and the transaction contemplated by this Contract, including but not necessarily limited to the matters described in Paragraph 2 below, to decide whether Buyer, in Buyer's sole discretion, will proceed with or terminate the transaction.

(i) **"Due Diligence Fee"**: A negotiated amount, if any, paid by Buyer to Seller with this Contract for Buyer's right to terminate the Contract for any reason or no reason during the Due Diligence Period. It shall be the property of Seller upon the Effective Date and shall be a credit to Buyer at Closing. The Due Diligence Fee shall be non-refundable except in the event of a material breach of this Contract by Seller, or if this Contract is terminated under Paragraph 20(b) or as otherwise provided in any addendum hereto. Buyer and Seller each expressly waive any right that they may have to deny the right to conduct Due Diligence or to assert any defense as to the enforceability of this Contract based on the absence or alleged insufficiency of any Due Diligence Fee, it being the intent of the parties to create a legally binding contract for the purchase and sale of the Property without regard to the existence or amount of any Due Diligence Fee. See paragraph 20 for a party's right to attorneys' fees incurred in collecting the Due Diligence Fee.

(j) **"Due Diligence Period"**: The period beginning on the Effective Date and extending through 5:00 p.m. on none **TIME BEING OF THE ESSENCE.**

(k) **"Settlement"**: The proper execution and delivery to the closing attorney of all documents necessary to complete the transaction contemplated by this Contract, including the deed, settlement statement, deed of trust and other loan or conveyance documents, and the closing attorney's receipt of all funds necessary to complete such transaction.

Buyer initials PS Seller initials \_\_\_\_\_



(l) "**Settlement Date**": The parties agree that Settlement will take place on 21 days from final acceptance (the "Settlement Date"), unless otherwise agreed in writing, at a time and place designated by Buyer.

**NOTE:** See paragraph 9, **DELAY IN SETTLEMENT/CLOSING** for conditions under which Settlement may be delayed.

(m) "**Closing**": The completion of the legal process which results in the transfer of title to the Property from Seller to Buyer, which includes the following steps: (1) the Settlement (defined above); (2) the completion of a satisfactory title update to the Property following the Settlement; (3) the closing attorney's receipt of authorization to disburse all necessary funds; and (4) recordation in the appropriate county registry of the deed(s) and deed(s) of trust, if any, which shall take place as soon as reasonably possible for the closing attorney after Settlement. Upon Closing, the proceeds of sale shall be disbursed by the closing attorney in accordance with the settlement statement and the provisions of Chapter 45A of the North Carolina General Statutes. If the title update should reveal unexpected liens, encumbrances or other title defects, or if the closing attorney is not authorized to disburse all necessary funds, then the Closing shall be suspended and the Settlement deemed delayed under Paragraph 9 (Delay in Settlement/Closing).

**WARNING:** The North Carolina State Bar has determined that the performance of most acts and services required for a closing constitutes the practice of law and must be performed only by an attorney licensed to practice law in North Carolina. State law prohibits unlicensed individuals or firms from rendering legal services or advice. Although non-attorney settlement agents may perform limited services in connection with a closing, they may not perform all the acts and services required to complete a closing. A closing involves significant legal issues that should be handled by an attorney. Accordingly it is the position of the North Carolina Bar Association and the North Carolina Association of REALTORS® that all buyers should hire an attorney licensed in North Carolina to perform a closing.

(n) "**Special Assessments**": A charge against the Property by a governmental authority in addition to ad valorem taxes and recurring governmental service fees levied with such taxes, or by an owners' association in addition to any regular assessment (dues), either of which may be a lien against the Property.

**NOTE:** Buyer's and Seller's respective responsibilities for the payment of Special Assessments are addressed in paragraphs 4(a) and 6(k).

2. **BUYER'S DUE DILIGENCE PROCESS:**

**WARNING:** BUYER IS STRONGLY ENCOURAGED TO CONDUCT DUE DILIGENCE DURING THE DUE DILIGENCE PERIOD. If Buyer is not satisfied with the results or progress of Buyer's Due Diligence, Buyer should terminate this Contract, *prior to the expiration of the Due Diligence Period*, unless Buyer can obtain a written extension from Seller. SELLER IS NOT OBLIGATED TO GRANT AN EXTENSION. Although Buyer may continue to investigate the Property following the expiration of the Due Diligence Period, Buyer's failure to deliver a Termination Notice to Seller prior to the expiration of the Due Diligence Period will constitute a waiver by Buyer of any right to terminate this Contract based on any matter relating to Buyer's Due Diligence. Provided however, following the Due Diligence Period, Buyer may still exercise a right to terminate if Seller fails to materially comply with any of Seller's obligations under paragraph 6 of this Contract or for any other reason permitted under the terms of this Contract or North Carolina law.

(a) **Loan:** Buyer, at Buyer's expense, shall be entitled to pursue qualification for and approval of the Loan if any.

**NOTE:** Buyer's obligation to purchase the Property is not contingent on obtaining a Loan. Therefore, Buyer is advised to consult with Buyer's lender prior to signing this offer to assure that the Due Diligence Period allows sufficient time for the appraisal to be completed and for Buyer's lender to provide Buyer sufficient information to decide whether to proceed with or terminate the transaction.

(b) **Property Investigation:** Buyer or Buyer's agents or representatives, at Buyer's expense, shall be entitled to conduct all desired tests, surveys, appraisals, investigations, examinations and inspections of the Property as Buyer deems appropriate, including but NOT limited to the following:

- (i) **Soil And Environmental:** Reports to determine whether the soil is suitable for Buyer's intended use and whether there is any environmental contamination, law, rule or regulation that may prohibit, restrict or limit Buyer's intended use.
- (ii) **Septic/Sewer System:** Any applicable investigation(s) to determine: (1) the condition of an existing sewage system, (2) the costs and expenses to install a sewage system approved by an existing Improvement Permit, (3) the availability and expense to connect to a public or community sewer system, and/or (4) whether an Improvement Permit or written evaluation may be obtained from the County Health Department for a suitable ground absorption sewage system.

Buyer initials PS Seller initials \_\_\_\_\_

36



- (iii) **Water:** Any applicable investigation(s) to determine: (1) the condition of an existing private drinking water well, (2) the costs and expenses to install a private drinking water well approved by an existing Construction Permit, (3) the availability, costs and expenses to connect to a public or community water system, or a shared private well, and/or (4) whether a Construction Permit may be obtained from the County Health Department for a private drinking water well.
- (iv) **Review of Documents:** Review of the Declaration of Restrictive Covenants, Bylaws, Articles of Incorporation, Rules and Regulations, and other governing documents of any applicable owners' association and/or subdivision. If the Property is subject to regulation by an owners' association, it is recommended that Buyer review the completed Owners' Association And Addendum (Standard Form 2A12-T) provided by Seller prior to signing this offer. It is also recommended that the Buyer determine if the owners' association or its management company charges fees for providing information required by Buyer's lender or confirming restrictive covenant compliance.
- (v) **Appraisals:** An appraisal of the Property.
- (vi) **Survey:** A survey to determine whether the property is suitable for Buyer's intended use and the location of easements, setbacks, property boundaries and other issues which may or may not constitute title defects.
- (vii) **Zoning and Governmental Regulation:** Investigation of current or proposed zoning or other governmental regulation that may affect Buyer's intended use of the Property, adjacent land uses, planned or proposed road construction, and school attendance zones.
- (viii) **Flood Hazard:** Investigation of potential flood hazards on the Property, and/or any requirement to purchase flood insurance in order to obtain the Loan.
- (ix) **Utilities and Access:** Availability, quality, and obligations for maintenance of utilities including electric, gas, communication services, storm water management, and means of access to the Property and amenities.
- (x) **Streets/Roads:** Investigation of the status of the street/road upon which the Property fronts as well as any other street/road used to access the Property, including: (1) whether any street(s)/road(s) are public or private, (2) whether any street(s)/road(s) designated as public are accepted for maintenance by the State of NC or any municipality, or (3) if private or not accepted for public maintenance, the consequences and responsibility for maintenance and the existence, terms and funding of any maintenance agreements.

**NOTE:** NC General Statutes Section 136-102.6(f) (the "Statute") requires that under circumstances described in the Statute, a buyer must be provided a subdivision streets disclosure statement prior to entering into an agreement to buy subdivided property described in the Statute. If Buyer or Seller are uncertain whether the sale of the Property described in this Contract is subject to the Statute, consult a NC real estate attorney.

- (xi) **Sale/Lease of Existing Property:** As noted in paragraph 3(b), this Contract is not conditioned upon the sale/lease or closing of other property owned by Buyer. Therefore, if Buyer must sell or lease other real property in order to qualify for a new loan or to otherwise complete the purchase of the Property, Buyer should seek to close on Buyer's other property prior to the end of the Due Diligence Period or be reasonably satisfied that closing on Buyer's other property will take place prior to the Settlement Date of this Contract.
  - (xii) **Special Assessments:** Investigation of the existence of Special Assessments that may be under consideration by a governmental authority or an owners' association.
- (c) **Buyer's Obligation to Repair Damage:** Buyer shall, at Buyer's expense, promptly repair any damage to the Property resulting from any activities of Buyer and Buyer's agents and contractors, but Buyer shall not be responsible for any damage caused by accepted practices applicable to any N.C. licensed professional performing reasonable appraisals, tests, surveys, examinations and inspections of the Property. This repair obligation shall survive any termination of this Contract.
- (d) **Indemnity:** Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property except for any loss, damage, claim, suit or cost arising out of pre-existing conditions of the Property and/or out of Seller's negligence or willful acts or omissions. This indemnity shall survive this Contract and any termination hereof.
- (e) **Buyer's Right to Terminate:** Provided that Buyer has delivered any agreed-upon Due Diligence Fee, Buyer shall have the right to terminate this Contract for any reason or no reason, by delivering to Seller written notice of termination (the "Termination Notice") during the Due Diligence Period (or any agreed-upon written extension of the Due Diligence Period), **TIME BEING OF THE ESSENCE**. If Buyer timely delivers the Termination Notice, this Contract shall be terminated and the Earnest Money Deposit shall be refunded to Buyer.
- (f) **CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION UNLESS PROVISION IS OTHERWISE MADE IN WRITING.**

Buyer initials PS Seller initials \_\_\_\_\_



3. BUYER REPRESENTATIONS:

(a) Funds to complete purchase:

(Check if applicable) Cash. Buyer intends to pay cash in order to purchase the Property and does not intend to obtain a loan or funds from sources other than Buyer's own assets. Verification of cash available for Settlement is  is not  attached.

**NOTE:** If Buyer does not intend to obtain a new loan(s) and/or funds from sources other than Buyer's own assets, Seller is advised, prior to signing this offer, to obtain documentation from Buyer which demonstrates that Buyer will be able to close on the Property without the necessity of obtaining a loan or funds from sources other than Buyer's own assets.

OR:

(Check if applicable) Loan(s)/Other Funds: Buyer intends to obtain a loan(s) and/or other funds to purchase the Property from the following sources (check all applicable sources):

First Mortgage Loan:

Buyer intends to obtain a first mortgage loan of the following type in order to purchase the Property:  Conventional

USDA  Other type: \_\_\_\_\_

\_\_\_\_\_ in the principal amount of \_\_\_\_\_.

Second Mortgage Loan:

Buyer intends to obtain a second mortgage loan of the following type in order to purchase the Property:

Other funds:

Buyer intends to obtain funds from the following other source(s) in order to purchase the Property: \_\_\_\_\_

\_\_\_\_\_

**NOTE:** Buyer's obligations under this Contract are not conditioned upon obtaining any loan(s) or other funds from sources other than Buyer's own assets. Some mortgage loan programs and other programs providing funds for the purchase of property selected by Buyer may impose repair obligations and/or additional conditions or costs upon Seller or Buyer, and more information may be needed.

Material changes with respect to funding the purchase of the Property that affect the terms of the contract are material facts that must be disclosed.

(b) Other Property: Buyer  DOES  DOES NOT have to sell or lease other real property in order to qualify for a new loan or to complete the purchase. (Complete the following only if Buyer DOES have to sell or lease other real property:)

Other Property Address: \_\_\_\_\_

(Check if applicable) Buyer's other property IS under contract as of the date of this offer, and a copy of the contract has either been previously provided to Seller or accompanies this offer. (Buyer may mark out any confidential information, such as the purchase price and the buyer's identity, prior to providing a copy of the contract to Seller.) Failure to provide a copy of the contract shall not prevent this offer from becoming a binding contract; however, SELLER IS STRONGLY ENCOURAGED TO OBTAIN AND REVIEW THE CONTRACT ON BUYER'S PROPERTY PRIOR TO ACCEPTING THIS OFFER.

(Check if applicable) Buyer's other property IS NOT under contract as of the date of this offer. Buyer's property (check only ONE of the following options):

is listed with and actively marketed by a licensed real estate broker.

will be listed with and actively marketed by a licensed real estate broker.

Buyer is attempting to sell/lease the Buyer's Property without the assistance of a licensed real estate broker.

**NOTE:** This Contract is NOT conditioned upon the sale/lease or closing of Buyer's other property. If the parties agree to make this Contract conditioned on a sale/lease or closing of Buyer's other property, an appropriate contingency addendum should be drafted by a North Carolina real estate attorney and added to this Contract.

(c) Performance of Buyer's Financial Obligations: To the best of Buyer's knowledge, there are no other circumstances or conditions existing as of the date of this offer that would prohibit Buyer from performing Buyer's financial obligations in accordance with this Contract, except as maybe specifically set forth herein.

Buyer initials PS Seller initials \_\_\_\_\_

4. BUYER OBLIGATIONS:

- (a) **Responsibility for Special Assessments:** Buyer shall take title subject to all Special Assessments that may be approved following Settlement.
- (b) **Responsibility for Certain Costs:** Buyer shall be responsible for all costs with respect to:
  - (i) any loan obtained by Buyer, including charges by an owners association and/or management company as agent of an owners' association for providing information required by Buyer's lender;
  - (ii) charges required by an owners' association declaration to be paid by Buyer for Buyer's future use and enjoyment of the Property, including, without limitation, working capital contributions, membership fees, or charges for Buyer's use of the common elements and/or services provided to Buyer, such as "move-in fees";
  - (iii) determining restrictive covenant compliance;
  - (iv) appraisal;
  - (v) title search;
  - (vi) title insurance;
  - (vii) any fees charged by the closing attorney for the preparation of the Closing Disclosure, Seller Disclosure and any other settlement statement;
  - (viii) recording the deed; and
  - (ix) preparation and recording of all instruments required to secure the balance of the Purchase Price unpaid at Settlement.
- (c) **Authorization to Disclose Information:** Buyer authorizes the Buyer's lender(s), the parties' real estate agent(s) and closing attorney:(1) to provide this Contract to any appraiser employed by Buyer or by Buyer's lender(s); and (2) to release and disclose any buyer's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

5. SELLER REPRESENTATIONS:

- (a) **Ownership:** Seller represents that Seller:
  - has owned the Property for at least one year.
  - has owned the Property for less than one year.
  - does not yet own the Property.
- (b) **Owners' Association(s) and Dues:** To best of Seller's knowledge, ownership of the Property  subjects  does not subject Buyer to regulation by one or more owners' association(s) and governing documents, which impose various mandatory covenants, conditions and restrictions upon the Property and Buyer's enjoyment thereof, including but not limited to obligations to pay regular assessments (dues) and Special Assessments. If there is an owners' association, then an Owners' Association Disclosure and Addendum For Properties Exempt from Residential Property Disclosure Statement (Standard Form 2A12-T) shall be completed by Seller, at Seller's expense, and must be attached as an addendum to this Contract.
- (c) **Sewage System Permit:** (  Applicable  Not Applicable) Seller warrants that the sewage system described in the Improvement Permit attached hereto has been installed, which representation survives Closing, but makes no further representations as to the system.
- (d) **Private Drinking Water Well Permit:** (  Applicable  Not Applicable) Seller warrants that a private drinking water well has been installed, which representation survives Closing, but makes no further representations as to the well. (If well installed after July 1, 2008, attach Improvement Permit hereto.)

6. SELLER OBLIGATIONS:

- (a) **Evidence of Title, Payoff Statement(s) and Non Foreign Status:**
  - (i) Seller agrees to use best efforts to provide to the closing attorney as soon as reasonably possible after the Effective Date, copies of all title information in possession of or available to Seller, including but not limited to: title insurance policies, attorney's opinions on title, surveys, covenants, deeds, notes and deeds of trust, leases, and easements relating to the Property.
  - (ii) Seller shall provide to the closing attorney all information needed to obtain a written payoff statement from any lender(s) regarding any security interest in the Property as soon as reasonably possible after the Effective Date, and Seller designates the closing attorney as Seller's agent with express authority to request and obtain on Seller's behalf payoff statements and/or short-pay statements from any such lender(s).
  - (iii) If Seller is not a foreign person as defined by the Foreign Investment in Real Property Tax Act, Seller shall also provide to the closing attorney a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act). In the event Seller shall not provide a non-foreign status affidavit, Seller acknowledges that there maybe withholding as provided by the Internal Revenue Code.

Buyer initials PSB Seller initials \_\_\_\_\_



(b) **Authorization to Disclose Information:** Seller authorizes: (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys, and (3) the closing attorney to release and disclose any seller's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

(c) **Access to Property:** Seller shall provide reasonable access to the Property through the earlier of Closing or possession by Buyer, including, but not limited to, allowing the Buyer and/or Buyer's agents or representatives an opportunity to (i) conduct Due Diligence, (ii) verify the satisfactory completion of negotiated repairs/improvements, and (iii) conduct a final walk-through inspection of the Property. Seller's obligation includes providing existing utilities operating at Seller's cost including any connections and dewatering. To the extent applicable, Seller shall also be responsible for timely clearing that portion of the Property required by the County to perform tests, inspections and/or evaluations to determine the suitability of the Property for a sewage system and/or private drinking water well.

**NOTE:** See WARNING in paragraph 2 above for limitation on Buyer's right to terminate this Contract as a result of Buyer's continued investigation of the Property following the expiration of the Due Diligence Period.

(d) **Removal of Seller's Property:** Seller shall remove from the Property, by the date possession is delivered, (i) all personal property which is not a part of the purchase and (ii) unless otherwise agreed, all garbage and debris.

(e) **Affidavit and Indemnification Agreement:** Seller shall furnish at Settlement an affidavit(s) and indemnification agreement(s) in form satisfactory to Buyer and Buyer's title insurer, if any, executed by Seller and any person or entity who has performed or furnished labor, services, materials or rental equipment to the Property within 120 days prior to the date of Settlement and who may be entitled to claim a lien against the Property as described in N.C.G.S. §44A-8 verifying that each such person or entity has been paid in full and agreeing to indemnify Buyer, Buyer's lender(s) and Buyer's title insurer against all loss from any cause or claim arising there from.

(f) **Designation of Lien Agent, Payment and Satisfaction of Liens:** If required by N.C.G.S. §44A-11.1, Seller shall have designated a Lien Agent, and Seller shall deliver to Buyer as soon as reasonably possible a copy of the appointment of Lien Agent. All deeds of trust, deferred ad valorem taxes, liens and other charges against the Property, not assumed by Buyer, must be paid and satisfied by Seller prior to or at Settlement such that cancellation may be promptly obtained following Closing. Seller shall remain obligated to obtain any such cancellations following Closing.

(g) **Good Title, Legal Access:** Seller shall execute and deliver a GENERAL WARRANTY DEED for the Property in recordable form no later than Settlement, which shall convey fee simple marketable and insurable title, without exception for mechanics' liens, and free of any other liens, encumbrances or defects, including those which would be revealed by a current and accurate survey of the Property, except: ad valorem taxes for the current year (prorated through the date of Settlement); utility easements and unviolated covenants, conditions or restrictions that do not materially affect the value of the Property; and such other liens, encumbrances or defects as may be assumed or specifically approved by Buyer in writing. The Property must have legal access to a public right of way.

**NOTE:** Buyer's failure to conduct a survey or examine title of the Property prior to the expiration of the Due Diligence Period does not relieve the Seller of their obligation to deliver good title under this paragraph.

**NOTE:** If any sale of the Property may be a "short sale," consideration should be given to attaching a Short Sale Addendum (Standard Form 2A14-T) as an addendum to this Contract.

(h) **Deed, Taxes, and Fees:** Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Contract, and for state and county excise taxes, and any deferred, discounted or rollback taxes, and local conveyance fees required by law. The deed is to be made to: Cherryville Main Street LLC

(i) **Agreement to Pay Buyer Expenses:** Seller shall pay at Settlement \$ \_\_\_\_\_ toward any of Buyer's expenses associated with the purchase of the Property, at the discretion of Buyer and/or lender, if any, including any FHA/VA lender and inspection costs that Buyer is not permitted to pay.

Buyer initials DS Seller initials \_\_\_\_\_

40

(j) **Owners' Association Fees/Charges: Seller shall pay:** (i) any fees required for confirming Seller's account payment information on owners' association dues or assessments for payment or proration; (ii) any fees imposed by an owners' association and/or a management company as agent of the owners' association in connection with the transaction contemplated by this Contract other than those fees required to be paid by Buyer under paragraph 4(b) above; and (iii) fees incurred by Seller in completing the Residential Property and Owners' Association Disclosure Statement, and resale or other certificates related to a proposed sale of the Property.

(k) **Payment of Special Assessments:** Seller shall pay, in full at Settlement, all Special Assessments that are approved prior to Settlement, whether payable in a lump sum or future installments, provided that the amount thereof can be reasonably determined or estimated. The payment of such estimated amount shall be the final payment between the Parties.

(l) **Late Listing Penalties:** All property tax late listing penalties, if any, shall be paid by Seller.

(m) **Owners' Association Disclosure and Condominium Resale Statement Addendum (Standard Form 2A12-T):** If applicable, Seller shall provide the completed Owners' Association Disclosure and Condominium Resale Statement Addendum to Buyer on or before the Effective Date.

(n) **Seller's Breach of Contract:** See paragraph 20 for Buyer's remedies in the event of breach of this Contract.

7. **PRORATIONS AND ADJUSTMENTS:** Unless otherwise agreed, the following items shall be prorated, with Seller responsible for the prorated amounts of any taxes and dues through the date of Settlement, and Seller entitled to the amount of prorated rents through the date of Settlement, and either adjusted between the parties or paid at Settlement:

- (a) **Taxes on Real Property:** Ad valorem taxes and recurring governmental service fees levied with such taxes on real property shall be prorated on a calendar year basis;
- (b) **Rents:** Rents, if any, for the Property;
- (c) **Dues:** Owners' association regular assessments (dues) and other like charges.

8. **RISK OF LOSS/CONDITION OF PROPERTY AT CLOSING:** The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller. Seller is advised not to cancel existing insurance on the Property until after confirming recordation of the deed.

Buyer's obligation to complete the transaction contemplated by this Contract shall be contingent upon the Property being in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted. If the Property is not in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted, Buyer may terminate this Contract by written notice delivered to Seller and the Earnest Money Deposit shall be refunded to Buyer. If the Property is not in such condition and Buyer does NOT elect to terminate this Contract, Buyer shall be entitled to receive, in addition to the Property, the proceeds of any insurance claim filed by Seller on account of any damage or destruction to the Property.

9. **DELAY IN SETTLEMENT/CLOSING:** This paragraph shall apply if one party is ready, willing and able to complete Settlement on the Settlement Date ("Non-Delaying Party") but it is not possible for the other party to complete Settlement by the Settlement Date ("Delaying Party"). In such event, the Delaying Party shall be entitled to a delay in Settlement and shall give as much notice as possible to the Non-Delaying Party and closing attorney. If the Delaying Party fails to complete Settlement and Closing within seven (7) days of the Settlement Date (including any amended Settlement Date agreed to in writing by the parties), then the Delaying Party shall be in breach and the Non-Delaying Party may terminate this Contract and shall be entitled to enforce any remedies available to such party under this Contract for the breach.

10. **POSSESSION:** Unless otherwise provided herein, possession, including all means of access to the Property (keys, codes, including security codes, gate openers, electronic devices, etc.) shall be delivered at Closing as defined in Paragraph 1(m). No alterations, excavations, tree or vegetation removal or other such activities may be done before possession is delivered.

11. **ADDENDA:** CHECK ALL STANDARD ADDENDA THAT MAY BE A PART OF THIS CONTRACT, IF ANY, AND ATTACH HERETO. ITEMIZE ALL OTHER ADDENDA TO THIS CONTRACT, IF ANY, AND ATTACH HERETO.

- |   |  |
|---|--|
| <input type="checkbox"/> Additional Provisions Addendum (Form 2A11-T) | <input type="checkbox"/> Owners' Association Disclosure Addendum (Form 2A12-T) |
| <input type="checkbox"/> Additional Signatures Addendum (Form 3-T)    | <input type="checkbox"/> Seller Financing Addendum (Form 2A5-T)                |
| <input type="checkbox"/> Back-Up Contract Addendum (Form 2A1-T)       | <input type="checkbox"/> Short Sale Addendum (Form 2A14-T)                     |
| <input type="checkbox"/> Loan Assumption Addendum (Form 2A6-T)        |  |

Identify other attorney or party drafted addenda: Buyer agrees to use this vacant lot as a parking lot and will have it paved at his expense.

Buyer initials PS Seller initials \_\_\_\_\_

41



**NOTE:** UNDER NORTH CAROLINA LAW, REAL ESTATE BROKERS ARE NOT PERMITTED TO DRAFT ADDENDA TO THIS CONTRACT.

12. **ASSIGNMENTS:** This Contract may not be assigned without the written consent of all parties except in connection with a tax-deferred exchange, but if assigned by agreement, then this Contract shall be binding on the assignee and assignee's heirs and successors.

13. **TAX-DEFERRED EXCHANGE:** In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Buyer and Seller shall execute such additional documents, including assignment of this Contract in connection therewith, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

14. **PARTIES:** This Contract shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

15. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

16. **ENTIRE AGREEMENT:** This Contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties. Nothing contained herein shall alter any agreement between a REALTOR® or broker and Seller or Buyer as contained in any listing agreement, buyer agency agreement, or any other agency agreement between them.

17. **CONDUCT OF TRANSACTION:** The parties agree that any action between them relating to the transaction contemplated by this Contract may be conducted by electronic means, including the signing of this Contract by one or more of them and any notice or communication given in connection with this Contract. Any written notice or communication may be transmitted to any mailing address, e-mail address or fax number set forth in the "Notice Information" section below. Any notice or communication to be given to a party herein, any fee, deposit or other payment to be delivered to a party herein, may be given to the party or to such party's agent. Delivery of any notice to a party via means of electronic transmission shall be deemed complete at such time as the sender performs the final act to send such transmission, in a form capable of being processed by the receiving party's system, to any electronic address provided for such party in the "Notice Information" section below. Seller and Buyer agree that the "Notice Information" and "Acknowledgment of Receipt of Monies" sections below shall not constitute a material part of this Contract, and that the addition or modification of any information therein shall not constitute a rejection of an offer or the creation of a counteroffer.

18. **EXECUTION:** This Contract may be signed in multiple originals or counterparts, all of which together constitute one and the same instrument.

19. **COMPUTATION OF DAYS/TIME OF DAY:** Unless otherwise provided, for purposes of this Contract, the term "days" shall mean consecutive calendar days, including Saturdays, Sundays, and holidays, whether federal, state, local or religious. For the purposes of calculating days, the count of "days" shall begin on the day following the day upon which any act or notice as provided in this Contract was required to be performed or made. Any reference to a date or time of day shall refer to the date and/or time of day in the State of North Carolina.

20. **REMEDIES:**

(a) **Breach by Buyer:** In the event of material breach of this Contract by Buyer, any Earnest Money Deposit shall be paid to Seller. The payment of any Earnest Money Deposit and any Due Diligence Fee to Seller (without regard to their respective amounts, including zero) together shall serve as liquidated damages ("Liquidated Damages") and as Seller's sole and exclusive remedy for such breach, but without limiting Seller's rights under Paragraphs 2(d) and 2(e) for damage to the Property. It is acknowledged by the parties that the amount of the Liquidated Damages is compensatory and not punitive, such amount being a reasonable estimation of the actual loss that Seller would incur as a result of a breach of this Contract by Buyer. The payment to Seller of the Liquidated Damages shall not constitute a penalty or forfeiture but actual compensation for Seller's anticipated loss, both parties acknowledging the difficulty determining Seller's actual damages for such breach.

Buyer initials PS Seller initials \_\_\_\_\_

42

(b) **Breach by Seller:** In the event of material breach of this Contract by Seller, if Buyer elects to terminate this Contract as a result of such breach, then the Earnest Money Deposit and the Due Diligence Fee shall be refunded to Buyer and Seller shall reimburse to Buyer the reasonable costs actually incurred by Buyer in connection with Buyer's Due Diligence ("Due Diligence Costs"). This provision shall not affect any other remedies available to Buyer.

(c) **Attorneys' Fees:** If legal proceedings are brought by Buyer or Seller against the other to collect the Earnest Money Deposit, Due Diligence Fee, or Due Diligence Costs, the parties agree that a party shall be entitled to recover reasonable attorneys' fees to the extent permitted under N.C. Gen. Stat. § 6-21.2. The parties acknowledge and agree that the terms of this Contract with respect to entitlement to the Earnest Money Deposit, Due Diligence Fee, or Due Diligence Costs each constitute an "evidence of indebtedness" pursuant to N.C. Gen. Stat. § 6-21.2.

**NOTE:** A party seeking recovery of attorneys' fees under N.C. Gen. Stat. § 6-21.2 must first give written notice to the other party that they have five (5) days from the mailing of the notice to pay the outstanding amount(s) without the attorneys' fees.

[THIS SPACE INTENTIONALLY LEFT BLANK]

Buyer initials PSA Seller initials \_\_\_\_\_



THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

This offer shall become a binding contract on the Effective Date. Unless specifically provided otherwise, Buyer's failure to timely deliver any fee, deposit or other payment provided for herein shall not prevent this offer from becoming a binding contract, provided that any such failure shall give Seller certain rights to terminate the contract as described herein or as otherwise permitted by law.

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

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

Buyer  
**Cherryville Main Street LLC**

Seller  
**Cherryville, City of**

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

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

Buyer \_\_\_\_\_

Seller \_\_\_\_\_

Entity Buyer:  
**Cherryville Main Street LLC**

Entity Seller:  
**Cherryville, City of**

(Name of LLC/Corporation/Partnership/Trust/etc.)

(Name of LLC/Corporation/Partnership/Trust/etc.)

By: *Patrick J O'Leary, Manager*

By: \_\_\_\_\_

Name: **Patrick J O'Leary**  
Print Name

Name: \_\_\_\_\_  
Print Name

Title: **Manager**

Title: \_\_\_\_\_

Date: **12/30/2021**

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

### WIRE FRAUD WARNING

TO BUYERS: BEFORE SENDING ANY WIRE, YOU SHOULD CALL THE CLOSING ATTORNEY'S OFFICE TO VERIFY THE INSTRUCTIONS. IF YOU RECEIVE WIRING INSTRUCTIONS FOR A DIFFERENT BANK, BRANCH LOCATION, ACCOUNT NAME OR ACCOUNT NUMBER, THEY SHOULD BE PRESUMED FRAUDULENT. DO NOT SEND ANY FUNDS AND CONTACT THE CLOSING ATTORNEY'S OFFICE IMMEDIATELY.

TO SELLERS: IF YOUR PROCEEDS WILL BE WIRED, IT IS RECOMMENDED THAT YOU PROVIDE WIRING INSTRUCTIONS AT CLOSING IN WRITING IN THE PRESENCE OF THE ATTORNEY. IF YOU ARE UNABLE TO ATTEND CLOSING, YOU MAY BE REQUIRED TO SEND AN ORIGINAL NOTARIZED DIRECTIVE TO THE CLOSING ATTORNEY'S OFFICE CONTAINING THE WIRING INSTRUCTIONS. THIS MAY BE SENT WITH THE DEED, LIEN WAIVER AND TAX FORMS IF THOSE DOCUMENTS ARE BEING PREPARED FOR YOU BY THE CLOSING ATTORNEY. AT A MINIMUM, YOU SHOULD CALL THE CLOSING ATTORNEY'S OFFICE TO PROVIDE THE WIRE INSTRUCTIONS. THE WIRE INSTRUCTIONS SHOULD BE VERIFIED OVER THE TELEPHONE VIA A CALL TO YOU INITIATED BY THE CLOSING ATTORNEY'S OFFICE TO ENSURE THAT THEY ARE NOT FROM A FRAUDULENT SOURCE.

WHETHER YOU ARE A BUYER OR A SELLER, YOU SHOULD CALL THE CLOSING ATTORNEY'S OFFICE AT A NUMBER THAT IS INDEPENDENTLY OBTAINED. TO ENSURE THAT YOUR CONTACT IS LEGITIMATE, YOU SHOULD NOT RELY ON A PHONE NUMBER IN AN EMAIL FROM THE CLOSING ATTORNEY'S OFFICE, YOUR REAL ESTATE AGENT OR ANYONE ELSE.

NOTICE INFORMATION

NOTE: INSERT AT LEAST ONE ADDRESS AND/OR ELECTRONIC DELIVERY ADDRESS EACH PARTY AND AGENT APPROVES FOR THE RECEIPT OF ANY NOTICE CONTEMPLATED BY THIS CONTRACT. INSERT "N/A" FOR ANY WHICH ARE NOT APPROVED.

BUYER NOTICE ADDRESS:

Mailing Address: \_\_\_\_\_

Buyer Fax#: \_\_\_\_\_

Buyer E-mail: \_\_\_\_\_

SELLER NOTICE ADDRESS:

Mailing Address: \_\_\_\_\_

Seller Fax#: \_\_\_\_\_

Seller E-mail: \_\_\_\_\_

CONFIRMATION OF AGENCY/NOTICE ADDRESSES

Selling Firm Name: Vickie Spurling Realty
Acting as [X] Buyer's Agent [ ] Seller's(sub)Agent [ ] Dual Agent
Firm License #: C27672
Mailing Address: 211 E Main Street, Cherryville, NC 28021

Individual Selling Agent: Vickie Spurling
[ ] Acting as a Designated Dual Agent (check only if applicable)

Selling Agent License #: 164716

Selling Agent Phone#: (704)445-4888

Selling Agent Fax#: (704)445-2009

Selling Agent E-mail: vickiespurlingrealty@gmail.com

Listing Firm Name: Unrepresented Seller
Acting as [ ] Seller's Agent [ ] Dual Agent
Firm License #:
Mailing Address:

Individual Listing Agent:
[ ] Acting as a Designated Dual Agent (check only if applicable)

Listing Agent License #: \_\_\_\_\_

Listing Agent Phone#: \_\_\_\_\_

Listing Agent Fax#: \_\_\_\_\_

Listing Agent E-mail: \_\_\_\_\_

Buyer initials [initials] Seller initials \_\_\_\_\_

45

ACKNOWLEDGMENT OF RECEIPT OF MONIES

Seller: Cherryville, City of ("Seller")
Buyer: Cherryville Main Street LLC ("Buyer")
Property Address: W Main St, Cherryville, NC 28021 ("Property")

[ ] LISTING AGENT ACKNOWLEDGMENT OF RECEIPT OF DUE DILIGENCE FEE

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Due Diligence Fee in the amount of \$ \_\_\_\_\_, receipt of which Listing Agent hereby acknowledges.

Date: \_\_\_\_\_ Firm: Unrepresented Seller
By: \_\_\_\_\_
(Signature)
(Print name)

[ ] SELLER ACKNOWLEDGMENT OF RECEIPT OF DUE DILIGENCE FEE

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Due Diligence Fee in the amount of \$ \_\_\_\_\_, receipt of which Seller hereby acknowledges.

Date: \_\_\_\_\_ Seller: \_\_\_\_\_
(Signature)
Cherryville, City of
Date: \_\_\_\_\_ Seller: \_\_\_\_\_
(Signature)

[ ] ESCROW AGENT ACKNOWLEDGMENT OF RECEIPT OF INITIAL EARNEST MONEY DEPOSIT

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Escrow Agent of an Initial Earnest Money Deposit in the amount of \$ \_\_\_\_\_. Escrow Agent as identified in Paragraph 1(f) of the Offer to Purchase and Contract hereby acknowledges receipt of the Initial Earnest Money Deposit and agrees to hold and disburse the same in accordance with the terms of the Offer to Purchase and Contract.

Date: \_\_\_\_\_ Firm: Palmer Huffstetler Jr. Attorney
By: \_\_\_\_\_
(Signature)
(Print name)

[ ] ESCROW AGENT ACKNOWLEDGMENT OF RECEIPT OF (ADDITIONAL) EARNEST MONEY DEPOSIT

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Escrow Agent of an (Additional) Earnest Money Deposit in the amount of \$ \_\_\_\_\_. Escrow Agent as identified in Paragraph 1(f) of the Offer to Purchase and Contract hereby acknowledges receipt of the (Additional) Earnest Money Deposit and agrees to hold and disburse the same in accordance with the terms of the Offer to Purchase and Contract.

Date: \_\_\_\_\_ Firm: Palmer Huffstetler Jr. Attorney
Time: \_\_\_\_\_ [ ] AM. [ ] PM By: \_\_\_\_\_
(Signature)
(Print name)

46

This form is required for use in all sales transactions, including residential and commercial.



## Working With Real Estate Agents Disclosure (For Sellers)

### IMPORTANT

This form is not a contract. Signing this disclosure only means you have received it.

- # In a real estate sales transaction, it is important that you understand whether an agent represents you.
- # Real estate agents are required to (1) review this form with you at first substantial contact - before asking for or receiving your confidential information and (2) give you a copy of the form after you sign it. This is for your own protection.
- # Do not share any confidential information with a real estate agent or assume that the agent is acting on your behalf until you have entered into a written agreement with the agent to represent you. Otherwise, the agent can share your confidential information with others.

*Note to Agent: Check all relationship types below that may apply to this seller.*

           **Seller's Agency** (listing agent): The agent who gave you this form (and the agent's firm) must enter into a written listing agreement with you before they begin to market your property for sale. If you sign the listing agreement, the listing firm and its agents would then represent you. The buyer would either be represented by an agent affiliated with a different real estate firm or be unrepresented.

           **Dual Agency:** Dual agency will occur if your listing firm has a buyer-client who wants to purchase your property. If you agree in a written agency agreement, the real estate firm, and any agent with the same firm (company), would be permitted to represent you and the buyer at the same time. A dual agent's loyalty would be divided between you and the buyer, but the firm and its agents must treat you and the buyer fairly and equally and cannot help you gain an advantage over the other party.

           **Designated Dual Agency:** If you agree in a written agency agreement, the real estate firm would represent both you and the buyer, but the firm would designate one agent to represent you and a different agent to represent the buyer. Each designated agent would be loyal only to their client.

**Buyer Agent Working with an Unrepresented Seller** (For Sale By Owner, "FSBO"): The agent who gave you this form will not be representing you and has no loyalty to you. The agent will represent only the buyer. Do not share any confidential information with this agent.

*Note to Seller: For more information on an agent's duties and services, refer to the NC Real Estate Commission's "Questions and Answers on: Working With Real Estate Agents" brochure at nrec.gov (Publications, Q&A Brochures) or ask an agent for a copy of it.*

Seller's Signature  
Cherryville, City of

vickie Spurling  
Agent's Name

Seller's Signature

164716  
Agent's License No.

Date

vickie Spurling Realty  
**Unrepresented Seller**  
Firm Name

REC. 4.27 # 4/6/2021

Vickie Spurling Realty, 211 E Main Street Cherryville NC 28021  
Vickie Spurling

Produced with Lone Wolf Transactions (zipForm Edition) 231 Shearson Cr. Cambridge, Ontario, Canada N1T 1J5 [www.lwolf.com](http://www.lwolf.com)

Phone: 7044454888

Fax: 7044452009

00 Main Street

47



**UNREPRESENTED SELLER DISCLOSURE AND FEE AGREEMENT**

(Selling Agent Represents the Buyer)

This Agreement is entered into on (Date) December 30, 2021, by and between Cherryville, City of as "Seller", and Vickie Spurling Realty ("Firm")

**RECITALS:**

A. Seller is the owner of property commonly known as W Main St Cherryville, NC 28021 (the "Property").

B. Seller is endeavoring to sell the Property without the assistance of a licensed real estate agent; however, Firm has a client, Cherryville Main Street LLC ("Client") who would like to see the Property.

C. If Seller sells the Property to Firm's Client, Seller agrees to pay Firm a fee of Buyer agrees to pay the agent a flat fee of \$500 ("Fee"). DS  
P 30

**D. THE AGENT (FIRM) SHALL CONDUCT ALL BROKERAGE ACTIVITIES IN REGARD TO THIS AGREEMENT WITHOUT RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP OR FAMILIAL STATUS OF ANY PARTY OR PROSPECTIVE PARTY. FURTHER, REALTORS® HAVE AN ETHICAL DUTY TO CONDUCT SUCH ACTIVITIES WITHOUT RESPECT TO THE SEXUAL ORIENTATION OR GENDER IDENTITY OF ANY PARTY OR PROSPECTIVE PARTY.**

Accordingly, the parties agree as follows:

1. **FEE:** The Fee will be deemed earned if Seller enters into a contract to sell the Property to Firm's Client at any time within 120 days from the date Seller signs this Agreement. Once earned, the Fee will be due and payable at the earlier of closing or Seller's failure to sell the Property as a result of Seller's default on the contract. HOWEVER, if, prior to the expiration of this Agreement and the execution of a contract to sell the Property, Seller enters into a valid listing agreement with any real estate firm, Seller shall NOT be obligated to pay the Fee if the listing firm offers compensation to Firm through a multiple listing service or otherwise.

2. **BUYER AGENCY:** Seller acknowledges that Firm is the agent representing Client with respect to the Property. As the agent of Client, the Firm has the duty to act on behalf of the Client, and will not be acting on behalf of Seller. This duty requires that all information regarding this transaction given to the Firm by Seller be disclosed to Client. For example, if Seller discloses to Firm that Seller is compelled by outside circumstances to sell by a certain date, or that Seller is prepared to lower the price, the Firm would be required to disclose this information to Client. Seller is advised to keep this in mind when communicating with Firm. By signing this Agreement, Seller acknowledges that this Client agency relationship has been previously orally disclosed to Seller when Firm first discussed an appointment to show Property to Client.

[THIS SPACE INTENTIONALLY LEFT BLANK]



4/8

**DO NOT SIGN THIS FORM UNTIL YOU HAVE RECEIVED AND READ THE  
"WORKING WITH REAL ESTATE AGENTS" BROCHURE**

**Seller and Firm each acknowledge receipt of a signed copy of this document.**

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION.

**SELLER:**

**FIRM:**

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

**Vickie Spurling Realty**

Seller: \_\_\_\_\_  
Cherryville, City of

DocuSigned by:  
By: Vickie H Spurling  
Vickie Spurling

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

Date: 12/30/2021

Seller: \_\_\_\_\_

Entity Seller:  
**Cherryville, City of**  
(Name of LLC/Corporation/Partnership/Trust/etc.)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

49