

NORTH CAROLINA
COUNTY OF MECKLENBURG

**LEASE AGREEMENT for
CANIPE PROPERTY**

THIS LEASE AGREEMENT (this "Lease"), made as of the 21st day of January, 2004, by and between **Mecklenburg County**, a political subdivision of the State of North Carolina (hereinafter the "County"), and the **Town of Huntersville**, a municipal corporation of the State of North Carolina (hereinafter "Huntersville");

WITNESSETH:

WHEREAS, the County owns undeveloped park property known as the "Canipe" property (Parcel #01309101) near Bradley Middle School on Beatties Ford Road in Huntersville as shown in Exhibit A hereto (the "Premises") consisting of approximately 42 acres; and

WHEREAS, Huntersville proposes the construction of improvements to the Premises in order to provide recreational facilities on the Premises and increase the use by the public of the Premises as a public park and soccer complex; and

WHEREAS, to pursue funding of improvements for public park purposes through potential sources such as the North Carolina Park and Recreation Trust Fund, or by entering into installment financing contracts, Huntersville has requested a lease with a term sufficient to accommodate the application for such funds; now, therefore,

IN CONSIDERATION of the sum of One Dollar (\$1.00) paid by Huntersville to the County, Huntersville and the County agree as follows:

1. The County does hereby lease unto Huntersville the Premises, which is shown on the attachment marked as Exhibit A. Huntersville and any successor in interest thereto shall operate and use the Premises only as a public park, and shall use it in accordance with ordinances and regulations of Huntersville and this Lease. As used herein, "public park" shall include facilities for passive and active recreational and sports activities either operated

by Huntersville or, under agreement with Huntersville, by one or more organizations, groups or leagues, such as a soccer league, little league, or similar organization. In addition, nothing herein shall preclude Huntersville from permitting uses from time to time by civic or community organizations, groups or families for activities of their members and guests which are not generally open to the public.

2. Huntersville agrees that this park will be a "joint venture" park and that, in the on-site signage and in all of its promotion of the park, Huntersville will indicate that the County made the land available to Huntersville for the establishment and operation of a public park.
3. Huntersville shall be entitled to enter into agreements for joint use of the Premises or portions thereof on an ongoing basis with other public, governmental, and non-profit bodies, entities or institutions on such terms and conditions as is deemed appropriate, including participation by such institutions in the cost of construction, repair or maintenance of the Premises or any improvements thereon. Huntersville shall be entitled to sublease to, or enter into management agreements with, other organizations or entities for the operation and management of all or certain portions of the Premises, provided that such facilities are operated as a public facility, subject to the reasonable approval of the County.
4. The term of this Lease shall commence on the date hereof and end at 12:01 A.M. on January 31, 2029, unless terminated earlier pursuant to the terms hereof. At the conclusion of the stated term hereof, this Lease shall continue for successive twelve (12) month periods unless terminated by either of the parties hereto upon ninety (90) days written notice to the Manager of the other party. The County may terminate this Lease at any time upon thirty (30) days written notice to the Town Manager of Huntersville if Huntersville uses the Premises for any purpose other than a public park or otherwise defaults in its obligations under this Lease.
5. Huntersville shall provide the necessary personnel to maintain the Premises in keeping with the programming of the Huntersville Park and Recreation Department and in a similar manner in which the County maintains its recreation facilities.
6. Responsibility for maintenance and repairs shall be as follows:

Huntersville will be responsible for the general maintenance of the Premises, including mowing, cleaning, fence and playground repair, ballfield preparation and seasonal ballfield maintenance activities. Huntersville will also be responsible for the maintenance of any facility and/or amenity on the Premises, including necessary cleaning, painting, refurbishing and maintenance of plumbing and electrical systems, major repairs to the exterior grounds, including parking lot and sidewalk structural repairs and playground structural repairs, including routine maintenance.
7. Huntersville shall not be entitled or authorized to develop the Premises until the Mecklenburg County Manager has approved plans for the construction of any facilities to be developed on the Premises, including information showing any areas to be cleared of trees or other vegetation, or areas to be graded, which consent will not be unreasonably withheld. Improvements made to the Premises shall be in accordance with the Mecklenburg County Park and Recreation Department Parks Design Manual, latest edition in effect on the date that the plans are submitted for review to the County, to be provided on CD-ROM to Huntersville.

8. All personal property brought onto the Premises by Huntersville shall be and remain personal property of Huntersville, except such property as shall be installed and attached to the realty so as to constitute a fixture and not be readily removable. Upon termination of this Lease, such affixed property shall remain and become property of the County. Upon termination of this Lease, Huntersville will promptly remove its property from the Premises, see to it that others allowed by Huntersville to use the Premises promptly remove their property from the Premises, and repair any damage to the Premises occasioned by said removal. Any improvements to the Premises not removed by Huntersville at the end of the term of this Lease shall belong to the County.
9. The County makes no warranty or representation as to the condition or safety of the Premises or of any structure located thereon. Property left or operations conducted by Huntersville or others allowed to use the Premises by Huntersville, including any purchaser at foreclosure sale of the Leasehold Interest, shall be entirely at Huntersville's risk or the risk of others allowed to use the property by Huntersville.
10. Huntersville will initially either purchase liability insurance or self-insure against liability for the following perils at the following levels: For perils covered by commercial general liability coverage in amounts not less than \$1,000,000, including contractual liability coverage, bodily injury, and property damage. Huntersville will maintain workers compensation coverage in accordance with the statutory levels for all employees who might be employed to work on the Premises. Huntersville agrees to insure, or self-insure, at full replacement value, against loss or damage to the Premises. Such insurance or self-insurance programs, or similar coverage will be kept in force during the term of this Lease, and the amounts increased from time to time to maintain equivalent levels of protection over the term of this Lease. County Manager has the authority to determine from time to time whether the levels of coverage must be increased.
11. The County acknowledges that the granting by Huntersville of a deed of trust on its Leasehold Interest would be deemed by any lender to be an essential factor in the lender's willingness to provide the financing for the park improvements under an installment financing contract. In order to induce a lender to enter into an installment financing contract, should Huntersville decide to pursue such a method financing the improvements, the County agrees that Huntersville or any successor to its interest under this Lease, including, particularly, in the case of an event of default under an installment financing contract, a lender or any purchaser at foreclosure sale of the Leasehold Interest, shall, so long as it shall duly observe and perform all the terms, covenants, conditions, provisions, stipulations and agreements of this Lease obligatory upon it, have, hold and enjoy, during the term hereof peaceful, quiet and undisputed possession of the Premises, without hindrance or molestation by anyone claiming by or through the County, and the County shall from time to time take all necessary action to that end.
12. If, at any time during the term of this Lease, the County determines to sell the Premises, or any part thereof, to any person (which includes conveyance without consideration to another public entity), then and in such event, the County shall communicate this proposal to the Town of Huntersville and Huntersville shall have a prior right to match any bona fide offer made to the County for the purchase or acquisition of this Premises or such part thereof, and the County shall convey the Premises or such part thereof to Huntersville on the same terms and conditions as the proposed transaction with such person.

13. Huntersville shall not assign this lease or sublet the Premises without the prior written consent of the County. This shall not preclude Huntersville entering into contracts for use of portions of the Premises by concessionaires or subcontractors for services and goods to the users of the Premises or operators of facilities or equipment deemed by Huntersville to be appropriate for the maintenance and operation of the Premises.
14. The County agrees that Huntersville and any successor to its interest under this Lease, including a lender or any purchaser at foreclosure sale of the Leasehold Interest, may charge facilities fees for the use of the Premises by groups or organizations, and shall be authorized to enter into agreements, contracts, or franchises as it deems appropriate for the provision of services and concessions to the users of the Premises. Huntersville may authorize the providers and concessionaires to charge fees. In all instances, Huntersville shall retain the net income.
15. Ad valorem taxes, if any, which are levied on the Premises or on the improvements made to the Premises during the term of this Lease shall be paid by Huntersville.
16. **A. Definitions.** For purposes of this Lease, "Environmental Laws" shall mean any one or more of the following statutes, any amendments thereto and any regulations promulgated thereunder, and any other applicable federal, state and local laws concerning pollution or protection of the environment including but not limited to the: Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 9601 et seq.; Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6901 et seq.; Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq.; Toxic Substances Control Act, 15 U.S.C. 2601 et seq.; and Clean Air Act, 42 U.S.C. 7501 et seq.
B. Huntersville's Representations. Huntersville represents that (i) it will operate the Premises in compliance with all applicable Environmental Laws and that it will not conduct any activity on the Premises in violation of any applicable Environmental Laws; and (ii) it shall promptly give the County oral and written notice in the event that Huntersville receives any communication from any governmental agency, entity, or any other party with regard to any alleged violations of Environmental Laws.
C. Environmental Condition. Huntersville acknowledges that it has been provided with the opportunity to evaluate the historic uses and the environmental condition of the Premises and accepts the Premises subject to the environmental condition of the Premises as of the Effective Date (the "Environmental Condition"). Huntersville hereby waives and releases any and all claims, demands, damages, injuries, actions, causes of action, liabilities and penalties it may have against the County, caused by or related to the Environmental Condition.

D. Indemnity Obligations. Huntersville agrees to indemnify, defend and hold harmless County from and against any and all damage, cost (including attorneys' fees, court costs and the costs of environmental consultants, engineers and contractors), claim, demand, penalty, fine, liability, loss, expense, order or judgment which arises out of or relates in any way to a violation by Huntersville of any Environmental Laws, or to a default by Huntersville of any obligation under this Paragraph.

17. Huntersville agrees and hereby certifies that it will comply with the Americans With Disabilities Act, Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, where applicable, Title 43, Part 17 of the Code of Federal Regulations, Subparts A and B, and the laws of the State of North Carolina, to the end that no person shall, on the grounds of race, creed, national origin, political affiliation, marital status, sex, age, or handicap, be subject to discrimination under the privileges and uses granted by this Lease or under any project, program, or activity conducted on the Premises.

18. Huntersville and the County agree that their staffs shall engage in program coordination and joint planning in order to reduce or eliminate duplication of services and competition for users.

19. The Parties will record this Lease in the office of the Register of Deeds for Mecklenburg County, North Carolina.

IN WITNESS WHEREOF, this Lease Agreement has been executed in duplicate originals by Mecklenburg County and the Town of Huntersville pursuant to authority duly given all as of the date first above written.

MECKLENBURG COUNTY

ATTEST:

Janica Paige
Clerk to Board of
Commissioners

By: *[Signature]*
County Manager

(SEAL)

Approved as to Form:

M A Bethune
County Attorney

TOWN OF HUNTERSVILLE

ATTEST:

Janet Poirson
Town Clerk

By: *[Signature]*
Mayor

(SEAL)

Approved as to Form:

Alex B. Rhye
Town Attorney

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

[Signature]
Finance Director

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, JANET R. WEAKS, a Notary Public of the County and State aforesaid, certify that **JANICE S. PAIGE** personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners of Mecklenburg County, a political subdivision of the State of North Carolina, and that by authority duly given and as the act of the County, the foregoing instrument was signed in its name by **Harry L. Jones, Sr.**, County Manager, sealed with its County Seal, and attested by her as the Clerk to the Board.

WITNESS my hand and official seal this 28th day of January, 2004.

Janet R. Weak
Notary Public

My Commission Expires:

3-31-07

(SEAL)

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Noema C Pryor, a Notary Public of the County and State aforesaid, certify that Janet Pierson personally came before me this day and acknowledged that she is the Clerk to the Town of Huntersville, a political subdivision of the State of North Carolina, and that by authority duly given and as the act of the Town of Huntersville, the foregoing instrument was signed in its name by Kim Phillips, Mayor of the Town of Huntersville, sealed with its Town Seal, and attested by her as the Clerk to the Town.

WITNESS my hand and official seal this 28 day of JAN., 2004.

Noema C Pryor
Notary Public

My Commission Expires:

Jan. 01, 07

EXHIBIT A

Description of the property

EXHIBIT A
TO
DEED FROM
JAMES A. CANIPE AND WIFE, JANE C. CANIPE
TO
MECKLENBURG COUNTY

Being located in Mecklenburg County and being more particularly described as follows:

BEGINNING at a P.K. nail set in the center line of Beatties Ford Road (60-foot public right-of-way) which point is the northeasterly corner of the property conveyed to Charlotte-Mecklenburg Board of Education dated September 27, 1996 recorded in Book 8764 at Page 845 in the Mecklenburg County Public Registry; thence running with the northerly line of said Board of Education property S. 74-18-22 W. crossing a found concrete monument at 28.50 feet, a total distance of 1,546.30 feet to a found bent concrete monument, the northwesterly corner of said Board of Education property; which point is the northeasterly corner of the property conveyed to W. Edward Cauthen, Jr. and Dorothy Crum Cauthen by deed recorded in Book 6285 at Page 503 in said Registry; thence running with the northerly line of the Cauthen property S. 74-25-38 W. 502.87 feet to an iron pin found in the northwesterly corner of said Cauthen property, which point is the northeasterly corner of the property conveyed to Latta G. Kidd and Sheila C. Kidd by deed recorded in Book 8383 at Page 127; thence with the northerly line of the Kidd property S. 74-46-23 W. 572.89 feet to an iron pipe found, which point is the southeasterly corner of the property conveyed to Anthony David Kidd by deed recorded in Book 3740 at Page 885 in said Registry; thence with the easterly line of said Kidd property N. 13-34-25 W. 540.03 feet to an iron pin found which point is the southwesterly corner of the property conveyed to John D. Kaiser and Judy C. Kaiser by deed recorded in Book 6947 at Page 198 in said Registry; thence with the southerly line of said Kaiser property N. 67-59-28 E. 614.40 feet to an iron pin found, which point is the southeasterly corner of said Kaiser property, and which point is the southwesterly corner of the property conveyed to Michael R. Bradley and Quieda C. Bradley by deed recorded in Book 7764 at Page 849 in said Registry; thence with the southerly line of said Bradley property and the southerly lines of properties conveyed to said Michael R. Bradley and Janice Quieda Bradley (Deed Book 5764 at Page 757), and Charles A. Hege and Noteka W. Hege (Deed Book 5422 at Page 767) and Donald J. Poplaski (Deed Book 10859 at Page 354) N. 67-55-55 E. 2061.96 feet to a P.K. nail set in the center line of Beatties Ford Road; thence with the center line of Beatties Ford Road S. 13-41-58 E. 842.41 feet to a P.K. nail set, the point or place of BEGINNING, containing 42.1327 acres as shown on a boundary survey by Andrew G. Zoutewelle, N.C. PLS dated June 15, 2001 to which reference is hereby made.

Being the same property conveyed to James A. Canipe by deed from Walter Mulligan and wife, Linda Mulligan dated December 4, 1982 recorded in Book 4604 at Page 661 in said Registry.

Drawn by and Mail to: Hamlin L. Wade Attorney, RUFF, BOND, COBB, WADE & BETHUNE,
L.L.P., 2100 Two First Union Center, 301 South Tryon Street, Charlotte, North
Carolina 28282-8283 (ROD Box 24)

Tax Code Number: 013-091-01

Excise Tax: \$1,496.00

Brief Description: 42.1327 Acres - Beatties Ford Road

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 16th day of August, 2001, by and between JAMES A. CANIPE and wife, JANE C. CANIPE, GRANTOR and MECKLENBURG COUNTY, a political subdivision of the State of North Carolina, 600 East Fourth Street, Charlotte, North Carolina, 28202, GRANTEE, (the designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context).

WITNESSETH:

That the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Charlotte, Mecklenburg County, North Carolina, and more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to enforceable restrictions and easements of record.

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IN WITNESS WHEREOF, the Grantor has hereunto executed and sealed this Deed the day and year first above written.

James A. Canipe (SEAL)
James A. Canipe

Jane C. Canipe (SEAL)
Jane C. Canipe

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, W. Herbert Brown, Jr., a Notary Public for Mecklenburg County, North Carolina, certify that JAMES A. CANIPE and wife, JANE C. CANIPE, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal this 16th day of August, 2001.

W. Herbert Brown Jr.
Notary Public
My Commission Expires: 10-21-2002

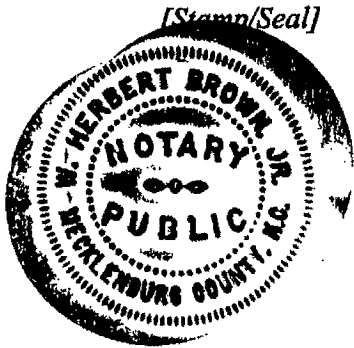
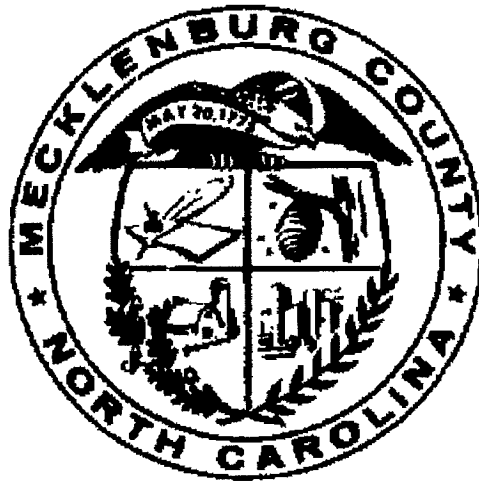


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TO
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Being the same property conveyed to James A. Canipe by deed from Walter Mulligan and wife, Linda Mulligan dated December 4, 1982 recorded in Book 4604 at Page 661 in said Registry.



JUDITH A. GIBSON
REGISTER OF DEEDS , MECKLENBURG COUNTY
COUNTY & COURTS OFFICE BUILDING
720 EAST FOURTH STREET
CHARLOTTE NC 28202

Filed For Registration: 08/17/2001 12:01 PM

Book: RE 12566 Page: 462-465

Document No.: 2001138189

DEED 4 PGS \$12.00

NC REAL ESTATE EXCISE TAX: \$1,496.00

Recorder: SERENA ROSS

State of North Carolina, County of Mecklenburg

The foregoing certificate of W. HERBERT BROWN, JR. Notary is certified to be correct. This 17TH of August 2001

JUDITH A. GIBSON, REGISTER OF DEEDS By: _____
Deputy/Assistant Register of Deeds

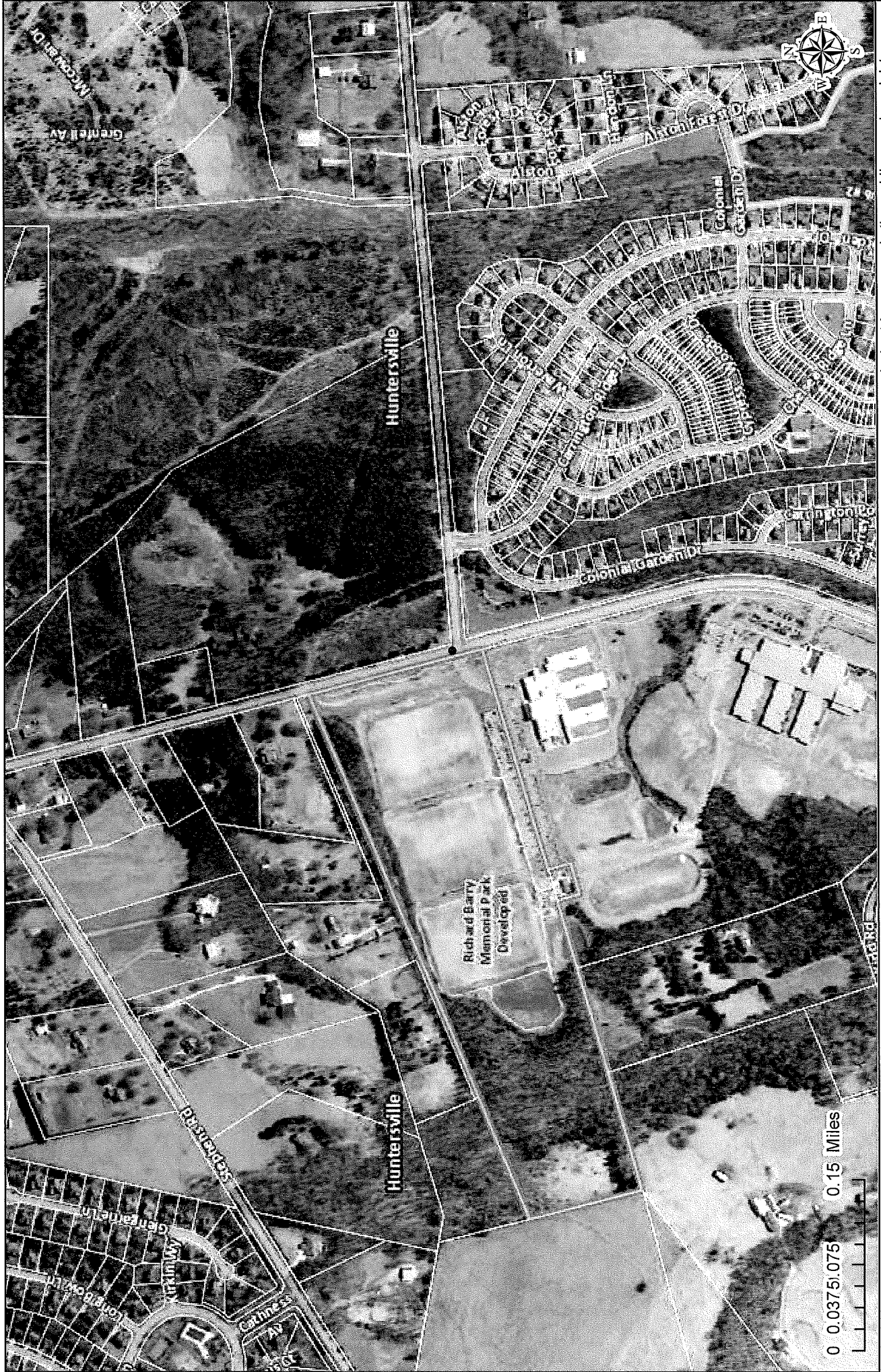


2001138189

Polaris 3G Map – Mecklenburg County, North Carolina

Richard Barry Memorial Park - 13707 Beatties Ford Rd

Date Printed: 4/28/2017 10:18:30 AM



This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the abovementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.