

July 6, 2021 (Pre-Agenda)

**MINUTES
BURKE COUNTY BOARD OF COMMISSIONERS
PRE-AGENDA MEETING**

The Burke County Board of Commissioners held a pre-agenda meeting on July 6, 2021 at 3:00 p.m. in the County Board Room, Burke Services Building, 110 N. Green Street in Morganton, N.C. The meeting was streamed live on the County's YouTube channel, BurkeCountyNC, and it was broadcast later on the local cable systems. The agenda, in its entirety, was posted to the County's website, www.burkenc.org, several days prior to the meeting as usual. Both Burke County and the State of North Carolina had previously declared a state of emergency which was ongoing as of July 6, 2021 due to the global COVID-19 pandemic. Those present were:

COMMISSIONERS PRESENT: Jeffrey C. Brittain, Chairman
Scott Mulwee, Vice Chairman
Wayne F. Abele, Sr.
Johnnie W. Carswell

COMMISSIONERS ABSENT: Maynard M. Taylor (Family reunion.)

STAFF PRESENT: Bryan Steen, County Manager
Margaret Pierce, Deputy County Manager/Finance Director
J.R. Simpson, II, County Attorney
Kay Honeycutt Draughn, Clerk to the Board

CALL TO ORDER

Chairman Brittain called the meeting to order at 3:04 p.m.

APPROVAL OF THE AGENDA

Motion: To approve the agenda with the addition of Consent Item No. 9, Appointment Recommendation for the Hickory Regional Planning Commission.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Scott Mulwee, Vice Chairman
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr., and Johnnie W. Carswell
ABSENT:	Maynard M. Taylor

PRESENTATIONS

HEALTH - INTRODUCTION OF NEW LOCAL HEALTH DIRECTOR (PLACE HOLDER)

Chairman Brittain presented the following item:

The Board of Health appointed a new Local Health Director on June 9, 2021. The BOH Chairperson, Susan Bingham, will introduce Mr. Danny Scalise, II to the Board and briefly review his prior work experience and credentials. Mr. Scalise's first day of employment is July 12th.

RESULT:	MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM
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SCHEDULED PUBLIC HEARINGS

COMM. DEV. - ZONING TEXT AMENDMENT ZTA 2021-02 & PUBLIC HEARING - 6:00 PM

Shane Prisby, Interim Planning Director, presented information regarding ZTA 2021-02 as follows:

Shortly after the Board of Commissioners' June 15th regular meeting, the Community Development Department was made aware of an issue with the newly adopted County Zoning Ordinance. While the new County Zoning Ordinance was formally adopted at the meeting, it did not contain the recommended additions and changes from the Planning Board.

Upon learning of the issues, Community Development Staff conducted a review of the adoption process and confirmed that all required procedures were followed, and all legal benchmarks were met for the adoption of the Zoning Ordinance. The error occurred between the Planning Board Meeting and Commissioner's meeting when the agenda packet was not updated with the recommended changes approved by the Planning Board. Ultimately, the board approved the earlier edition of the new County Zoning Ordinance as shown in the agenda packet. This does not affect the legality or enforceability of the newly enacted Zoning Ordinance, but it does mean that some of the language is out of sync with intended changes and minor clerical updates.

The Community Development Department did not update the agenda packet with the recommended changes approved by the Planning Board and accepts full responsibility for the mistake. The department consulted the UNC School of Government on what could be done to rectify the situation. Staff was informed that because the Planning Board had already voted on the intended copy of the Zoning Ordinance, the Board of Commissioners could amend the County Zoning ordinance to reflect what the Planning Board approved. The amendment may only contain the changes between the two (2) documents. However, the amendment also includes a few proposed changes recommended by the County Manager and Clerk.

The department has prepared a list of all the text changes between the two (2) documents for consideration of adoption by the Board of Commissioners.

An Ordinance Amending the Official Burke County Zoning Ordinance ZTA 2021-02

Be it ordained that the Burke County Zoning Ordinance is hereby amended as follows:

The Burke County Zoning Ordinance is amended to include the changes as shown in Exhibit A to include the recommended changes as approved by the Burke County Planning Board at their May 27, 2021 meeting.

ZTA 2021-02 Exhibit A reads as follows:

New text is shown in red font. Text to be removed contains a strike-through mark. Text changes recommended by the County Manager & Clerk are highlighted in gray.

Article 5.0 - Use Standards

Section 5.1 - Accessory Dwellings

(Addition and correction of alphabetical sequence in this section. No other changes to items a - i.)

(j) Accessory dwelling shall not be used as short-term rentals.

Section 5.4 – Short-term Rentals

Zoning Compliance Permit Regulations (Revised and corrected numbering sequence for this section.)

~~3.~~ **7.** All ~~Dedicated~~ STRs existing before the adoption of this ordinance shall have **one (1) year** ~~three (3) years~~ to come into compliance and obtain the proper permits.

~~4.~~ **8.** Grounds for Denial: Burke County may deny an application for a STR permit if any of the following has occurred:

- A. The property owner submits an incomplete application; or
- B. The proposed STR fails to meet a specified standard set forth in this ordinance.

A property owner may appeal the denial of a STR permit to the Board of Adjustment pursuant to the Article 9 **8**, Administration & Appeals of this Ordinance.

Section 5.4 – Short-term Rentals

Owner Occupied STR Operational Requirements

5. Maximum Rental Duration. (Revised)

The maximum rental duration shall be **eighty-nine (89)** ~~ninety (90)~~ consecutive days.

Section 5.4 – Short-term Rentals

Events (Revised)

Short-term rentals shall not be used to hold events. This includes parties, weddings, reunions, **and large gatherings that exceed the occupancy limits of the dwelling or permit.**

Section 5.4 – Short-term Rentals

Verified Complaints (Addition)

Short-term rental complaints should be accompanied by a complaint form and submitted in person, via mail, or online on the County's website. Short-term rental complaints shall be verified by the Zoning Administrator or their designee. All STR complaints will be

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investigated within seventy-two (72) hours or within three business days of receipt.

Section 5.19 - Advertising Signs and Structures
Signs Exempt from A Zoning Permit – Temporary Signs (Revised)

(No changes to items 1 & 2.)

3. The posting and removal of political signs shall comply with NC General Statutes ~~Political signs may be erected sixty (60) days prior to the election and removed promptly sixty (60) days afterward and shall not exceed sixteen (16) square feet. (see example below);~~

(No changes to items 4 and 5.)

Note (Addition)



Signs erected on personal property that display personal expressions or opinions and that do not exceed the size limitation for exempt signs are not subject to enforcement from this ordinance.

Article 6 - Non-Residential Design Standards
Section 6.1 Non-Residential Building Design Standards
Building Setbacks and Height
Building Height (Revised)

Non-residential buildings that exceed ~~thirty-five (35)~~ **fifty (50)** feet in height require a special use permit.

Section 6.2 Industrial Design Standards
Building Setbacks and Height
Building Height (Revised)

Non-residential buildings that exceed ~~thirty-five (35)~~ **fifty (50)** feet in height require a special use permit.

Article 8 - Administration, Appeals, and Enforcement
Section 8.16 The Board of Adjustment (Revised)

~~A Board of Adjustment consisting of seven (7) members shall be appointed by the Board of Commissioners, with appointments and terms of office as follows.~~

~~1. The Board of Adjustment members appointed shall serve for terms of one (1) year for one (1) member, two (2) years for three (3) members, and three (3) years for three (3) members. Subsequent appointments shall be for terms for three (3) years each. Members may be re-appointed to succeed themselves but may not serve more than four (4) consecutive terms.~~

~~2. The members of the Board of Adjustment shall be residents of the County.~~

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~~3. A member whose term expires shall continue to serve until a successor is appointed.~~

~~4. The secretary of the Board of Adjustment shall notify the Board of Commissioners in advance of the expiration of any term of office, if a vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term.~~

~~5. Any member may be removed for misconduct while in office, failure to perform the duties of office, or for other just cause, in a hearing held by the Board of Commissioners at least fifteen (15) days of the notice.~~

Note: The County Manager and Clerk recommend the following changes shown in gray to clarify that the membership is 7, not 9.

A Board of Adjustment consisting of seven (7) members (5 regular & 2 alternate members) shall be appointed by the Board of Commissioners, with appointments and terms of office as follows.

1. The five (5) Board of Adjustment members appointed shall serve for terms of one (1) year for one (1) member, two (2) years for two (2) members, and three (3) years for two (2) members. Subsequent appointments shall be for terms for three (3) years each. Members may be re-appointed to succeed themselves but may not serve more than four (4) consecutive terms.

2. The Board of Commissioners shall also appoint two (2) alternate members to serve on the Board of Adjustment in the absence, of any regular member. The alternate members shall be appointed for three (3) year terms. In the case of the first appointment of alternate members, one (1) shall be appointed for a two (2) year term, and one (1) shall be appointed for a three (3) year term. Alternate members of the Board of Adjustment serving in the absence of any regular member shall have and exercise all the powers and duties of the absent member.

3. The members of the Board of Adjustment shall be residents of the county. Two (2) members shall be from the eastern portion of the County and two (2) members shall be from the western portion of the County. The fifth (5th) member shall serve at large. The alternates will be at-large seats.

4. A member whose term expires shall continue to serve until a successor is appointed.

5. The secretary of the Board of Adjustment shall notify the Board of Commissioners in advance of the expiration of any term of office, and if a vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term.

6. Any member may be removed for misconduct while in office, failure to perform the duties of office, or for other just cause, by the Board of

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Commissioners once a hearing is held at least fifteen (15) days ~~of~~ **after** the notice.

Section 8.25 - The Planning Board (Revised)

Planning Board Membership and Duties

~~A Planning Board consisting of seven (7) members shall be appointed by the Board of Commissioners with appointments and terms of office as follows:~~

~~1. The Planning Board members appointed shall serve for terms of one (1) year for one member, two (2) years for three members, and three (3) years for three members. Subsequent appointments shall be for terms of three (3) years each. Members can be re-appointed to succeed themselves but may not serve more than two consecutive terms.~~

~~2. The members of the Planning Board shall be residents of the County.~~

~~3. A member whose term expires shall continue to serve until a successor is appointed.~~

~~4. The secretary of the Planning Board shall notify the Board of Commissioners in advance of the expiration of any term of office, if a vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term,~~

~~5. Any member may be removed for misconduct while in office, failure to perform the duties of office, or for other just cause, by the Board of Commissioners once a hearing is held at least fifteen (15) days of after notice.~~

Planning Board Membership and Duties

A Planning Board consisting of seven (7) members shall be appointed by the Board of Commissioners with appointments and terms of office as follows:

1. The Planning Board members appointed shall serve for terms of one (1) year for one (1) member, two (2) years for three (3) members, and three (3) years for three (3) members. Subsequent appointments shall be for terms of three (3) years each. Members can be re-appointed to succeed themselves but may not serve more than two (2) consecutive terms.

2. The members of the Planning Board shall be residents of the County. Three (3) members shall be from the eastern portion of the County and three (3) members shall be from the western portion of the County. The seventh (7th) member shall serve at large.

3. A member whose term expires shall continue to serve until his successor qualifies and is appointed.

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4. The secretary of the Planning Board shall notify the Board of Commissioners in advance of the expiration of any term of office, and if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term.

Any member may be removed for misconduct while in office, failure to perform the duties of office, or for other just cause, by the Board of Commissioners once a hearing is held at least fifteen (15) days after notice.

Regarding the changes suggested by the Clerk and County Manager, Mr. Prisby said the intent of those suggestions were to clarify some of the language regarding the Planning Board / Board of Adjustment to be in concert with the intended number of seats and for clarity. Chairman Brittain opened the floor for questions and comments from the Board. Mr. Prisby then responded to a question from Chairman Brittain concerning the proposed text amendment. After commenting on the changes suggested by the Clerk / County Manager in article 8.16 / 8.25, the Clerk advised that for accuracy and transparency, both sections are being removed and replaced, which makes it appear as if there are more changes than there really are. However, there are only a few minor changes that are highlighted in gray. Chairman Brittain then inquired about modifications to the short-term rentals section for events. Mr. Prisby advised that the changes reflect what was approved by the Planning Board and the department will monitor the situation this year and determine if the text amendment is producing the intended result. Commissioner Carswell expressed support for waiting to see if the text amendment addresses complaints and hoped that the relationships in the neighborhood will improve. Commissioner Carswell asked if the Planning Board approved the suggested changes from the Clerk / County Manager. Mr. Prisby said no, and in response to a follow up question from Commissioner Carswell, Mr. Prisby said it is his understanding that it is the Board's prerogative to make changes. Vice Chairman Mulwee asked what the difference is between changing the maximum rental duration from 90 to 89 days. Jennifer Forney, Planner, said after 89 days it goes into another category / tax bracket, noting that short-term is one (1) to 89 days.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM
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COMM. DEV. - ZONING MAP AMENDMENT ZMA 2021-02 & PUBLIC HEARING - 6:00 P.M.

Shane Prisby, Interim Planning Director, presented information regarding ZMA 2021-02 as follows:

In 2005 the Venture Capital, LLC (property owner) petitioned Burke County to rezone approximately 243 acres of land off NC Highway 126 and Gwaltney Road in the Linville Township into a Parallel Conditional Planned Mixed-Use District (PRMU-CD). The petition also included a Master Development Plan for five (5) phases of development.

The rezoning and development plan was approved (*with conditions*) by the Burke County Planning Board on October 27, 2005, and by the Board of Commissioners

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on November 1, 2005. The final plat for Phase I of the subdivision was approved by the Planning Board in October of 2006.

Development of Phase I took place between 2007-2008. The American economy went into a deep recession in late 2007, early 2008. The recession for the most part remained in Burke County until late 2011, early 2012. As such, sales of lots within Phase I of the Hawksbill subdivision were, and have remained, stagnate with few exceptions.

Venture Capital has since sold off some of the land that was originally platted as "Future Phases" of the Hawksbill subdivision. Venture Capital and another majority land holder of the remaining "Future Phase" of the Hawksbill property holdings (High Country Lumber & Mulch), now wish to sell off those parcels.

Because these parcels are being sold to separate individuals/companies not related to the Hawksbill subdivision, Venture Capital, High County Lumber, and Morganton Federal Savings are petitioning the County to rezone those parcels from the Planned Residential Mix-Use Parallel Conditional District (PRMU-CD) and remove the approved zoning standards and conditions under the original ZMA 2005-06 rezoning as stated within Section 9A13 of the Zoning Ordinance.

REZONING REVISION – per County Commission

On June 4, 2019, the Burke County Commission heard an earlier rezoning petition at their pre-agenda meeting. During the meeting, the Board asked why all parcels within Hawksbill were not included in the rezoning. Staff stated that their rationale was that the parcels would remain Planned Use Residential Mixed Use-Conditional District since they were already platted that way. The Commissioners suggested those parcels also be rezoned to the Residential One (R-1) zoning district to be consistent with surrounding parcels. The rezoning petition was sent back to the Planning Board for reconsideration but was withdrawn by the applicant before the Planning Board took the matter up again.

CURRENT REZONING REQUEST

Now two (2) years later, the applicant is making the same rezoning request for all parcels that are part of the original Hawksbill Subdivision. The Community Development Dept. is requesting that those parcels no longer owned by Venture Capital, LLC also be rezoned for the area to have consistent zoning for the community and the surrounding area.

The Hawksbill properties are proposed to be rezoned as follows:

REQUEST #1

Burke County Community Development staff is requesting the rescission of the Hawksbill Master Development Plan and to remove "all" development "standards" and "conditions" approved under the original rezoning ZMA 2005-06, approved by the Burke County Board of County Commissioners on November 1, 2005. Removal of the subsequent amendment to the original "Conditions" approved on April 6, 2010, by the Board of County Commissioners.

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REQUEST #2

Rezone thirty-five (35) parcels of land in the Linville Township. All parcels are currently zoned Planned Residential Mixed Use-Conditional District. The proposed zoning is Residential One (R-1). The parcel list specifically identifies all parcels to be rezoned.

REQUEST #3

Rezone two parcels (2) parcels corresponding to (REID# 63769) and (REID# 54237) from Planned Residential Mixed-Use Conditional District (PRMU-CD) to the General Business (G-B) Zoning District.

REQUEST #4

Rezone the parcel corresponding to (REID# 63485) from Planned Residential Mixed-Use Conditional District to the Planned Residential Mixed-Use District (PRMU). If the rezoning is approved, the land use of the subject properties will be regulated under the zoning standards of each proposed "General" Zoning District and the "Scenic Overlay" District.

SURROUNDING AREA

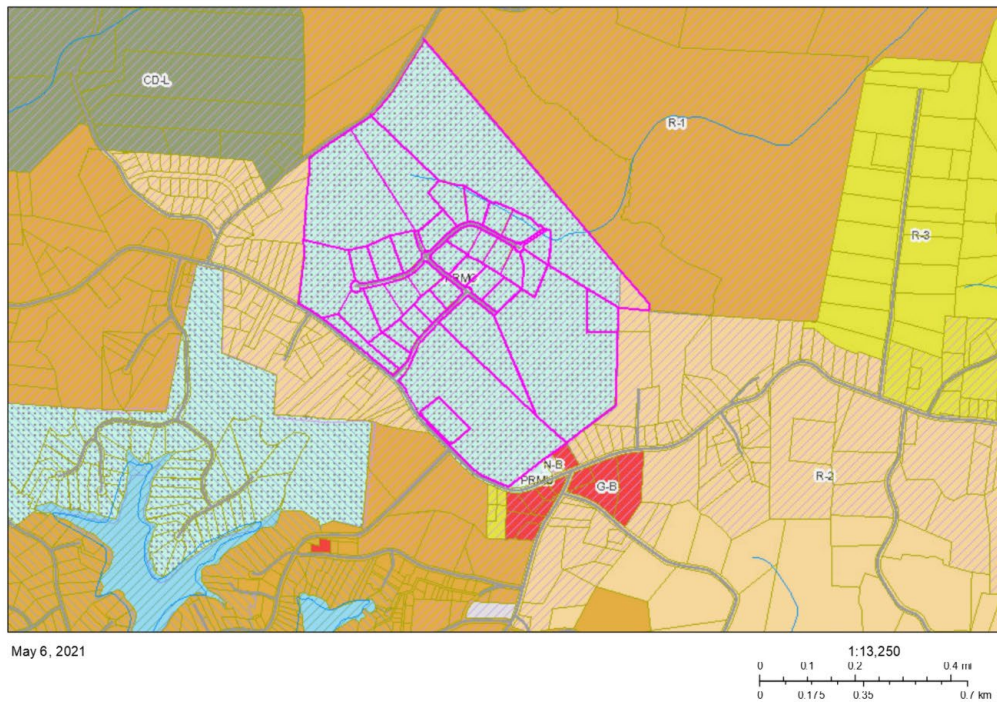
The subject parcels are surrounded by a mixture of land uses and zoning districts. Most of this area was rezoned as a result of recommendations made within the 2002 Lake James Phase I Land Use Plan and 2004 Phase II Small Area Plan. Crescent Resources subsequently rezoned several thousand acres surrounding Lake James. For the most part, those re-zoned districts remain the same today.

Existing Zoning and Land Uses within the Surrounding Area		
	Current Zoning	Existing Land Uses
North	R-1	Vacant / Wooded
South	R-1 / R-2 / G-B	Scattered site residences / Vacant wooded land
East	N-B / G-B / R-2	Mixed Commercial / Public Utility / Scattered residential
West	PRMU-CD / R-2 / CD-L	Scattered residential / Vacant wooded land

Parcels Subject to ZMA 2021-02

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Hawsbill Rezoning Map



The Existing Land Use Map below shows all but one of the subject parcels as vacant land.

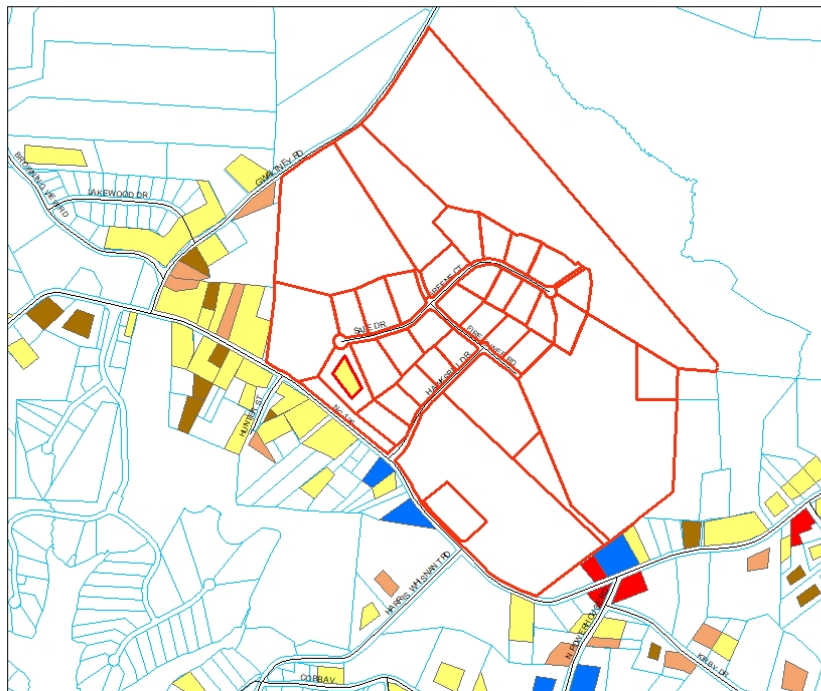


Burke County, NC Zoning Administration
Existing Land Use Map

ZMA 2021-02

Applicant:
Venture Capital

REID#
Multiple



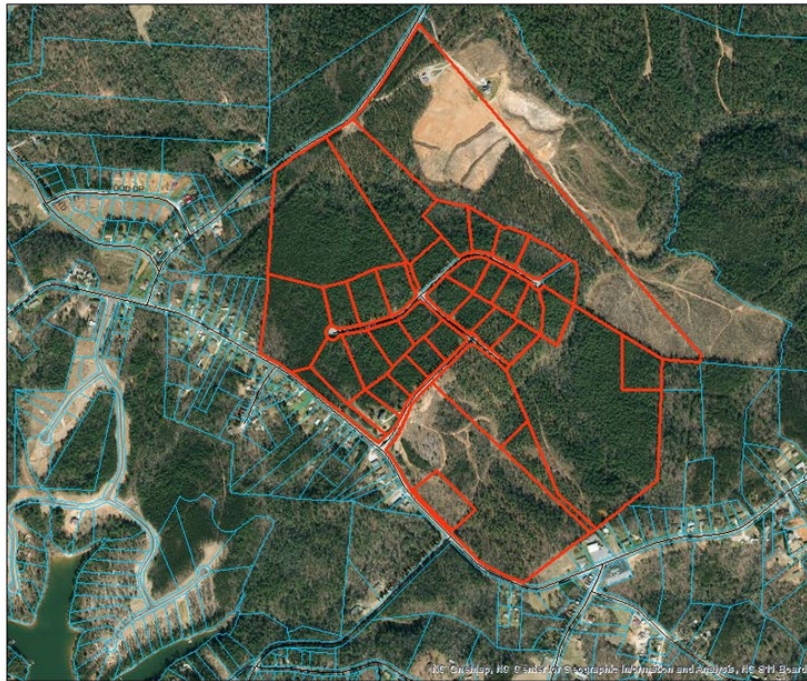
011020 440 660 880
Feet
Burke County assumes no legal responsibility for the
information contained on this map.
This map is not to be used for land conveyance.

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Burke County, NC Zoning Administration
Aerial Land Use Map

ZMA 2021-02



Applicant:
Venture Capital

REID#
Multiple



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Feet

Burke County assumes no legal responsibility for the information contained on this map. This map is not to be used for land conveyance.

CONFORMITY WITH THE BURKE COUNTY ZONING ORDINANCE

Section 9A13 of the Zoning Ordinance is the guiding standard for how this rezoning is to be addressed. In order for the Board to understand the context of this section, the language is provided below.

"It is intended that the property shall be reclassified to a parallel conditional zoning district only in light of firm plans to develop the property. Therefore, subject to any vested right in favor of the property owner and no sooner than two (2) years after the date of approval of the application, the Planning Board may examine the progress made toward developing the property in accordance with the approved application and any conditions attached to the approval. If the Planning Board determines that progress has not been made toward developing the property in accordance with the approved application and conditions, the Planning Board shall forward to the Board of Commissioners a report, which may recommend that the property be rezoned. The Board of Commissioners may then hold a duly noticed public hearing and vote to rezone the property to a general zoning district".

The developers of the Hawksbill Subdivision have not proposed any development of this land since 2010. That proposal never made it beyond the preliminary review stage. That was almost eleven (11) years ago. Venture Capital has since sold off some of the parcels shown as "Future Development" on the original Subdivision Plan. As there are no plans to develop the subject parcels, it is clear that the subject parcels should be rezoned to a "general" zoning district.

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The zoning request would then take on the usual review for appropriateness. The proposed rezoning request is outlined in the two aforementioned requests.



Burke County, NC Zoning Administration Current Zoning Map

ZMA 2021-02

Applicant:
Venture Capital

REID#
Multiple

Legend

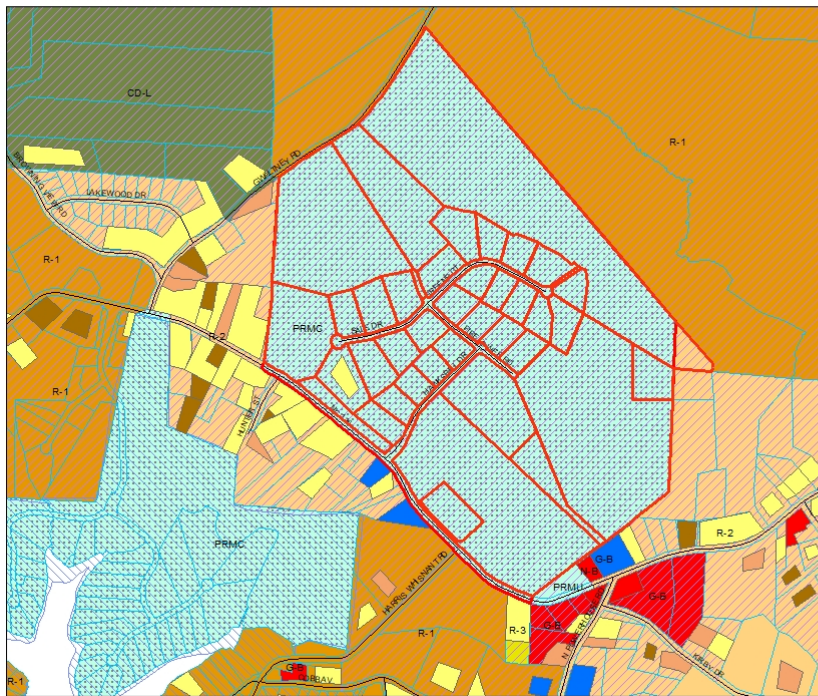
- Streets
- parcel_polygons
- Lake Overlay
- Scenic Overlay
- I-40 Overlay
- Airport Overlay
- R-1 Residential Low Density
- R-2 Residential Medium Density
- R-3 Residential
- R-MU Rural Mixed Use
- PRMU Planned Residential Mixed-Use
- PRMU Conditional
- CD-L Low Density Conservation
- CD-L Conditional
- CD-E Estate Lots
- CD-E Conditional
- N-B Neighborhood Business
- G-B General Business
- GB Conditional
- O-I Office & Institutional
- O-I Conditional
- L-I Light Industrial
- IND Industrial
- IND Conditional



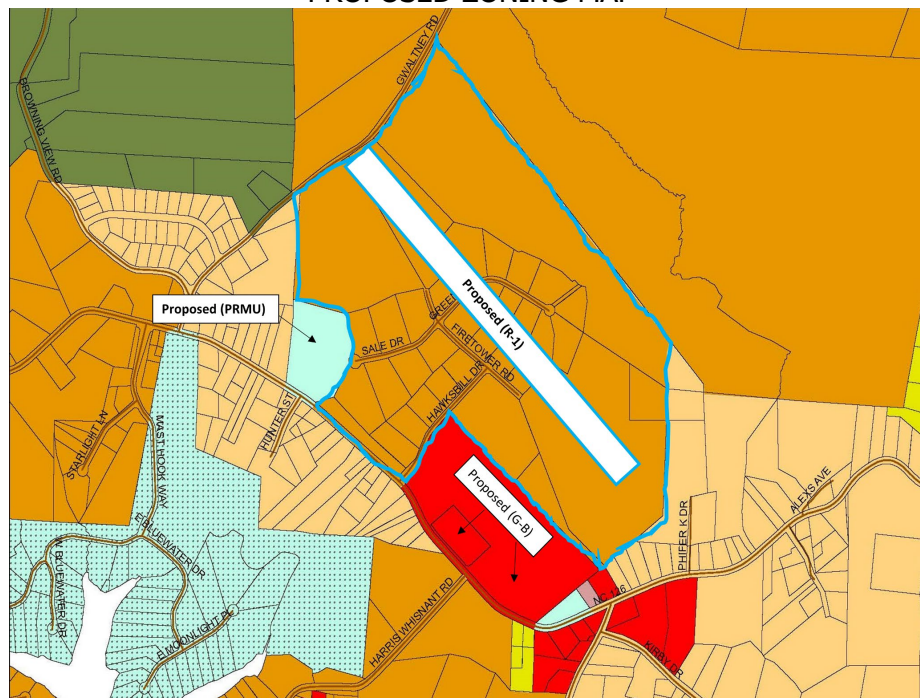
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Burke County assumes no legal responsibility for the information contained on this map. This map is not to be used for land conveyance.



PROPOSED ZONING MAP

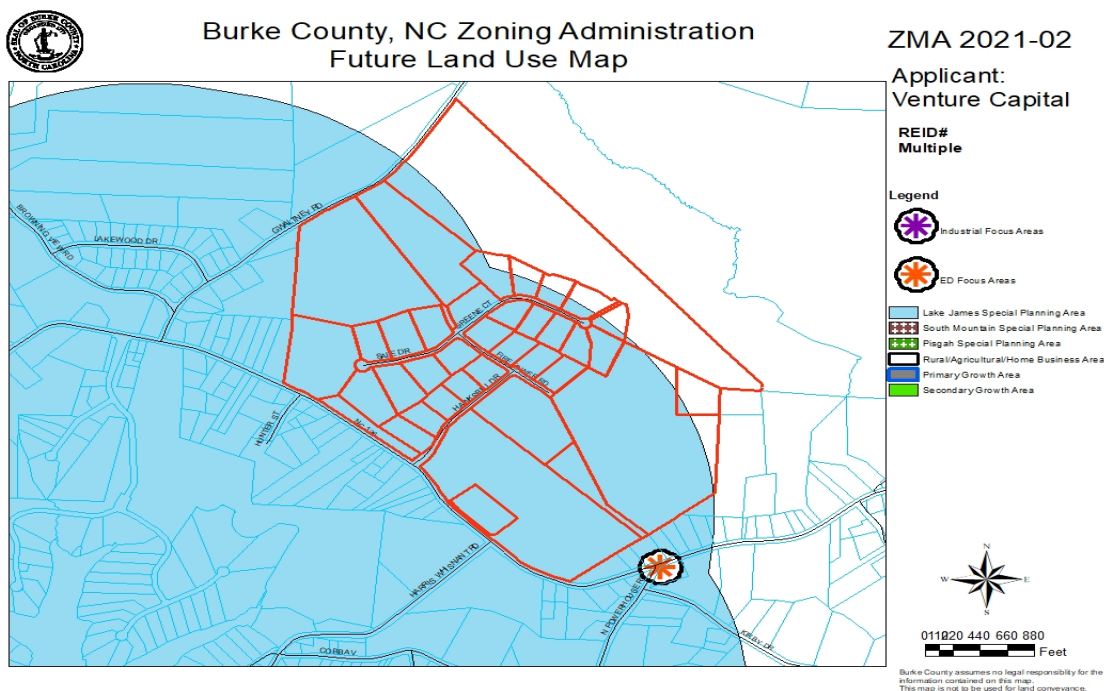


CONFORMITY WITH THE COMPREHENSIVE PLAN

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The 2016-2030 Burke County Strategic Land Use Plan is the most recent planning document to guide future development of Burke County. Within that Plan, all but two of the subject parcels are shown to be within the Lake James Special Planning Area. This area includes Lake James and parts of the surrounding lake overlay and scenic overlay zoning districts as well as Lake James State Park and some lands belonging to North Carolina Wildlife. It is necessary to balance development and recreational uses while maintaining the area's natural resources.

The Future Land Use Map (below) also shows an "Economic Development Area" or "node" at the corner of N. Powerhouse Rd. and NC 126. At the request of those property owners, County staff has proposed (REID# 54237) and (REID# 63769) be rezoned from PRMU-CD to the General Business (G-B) Zoning District. The property owner of (REID# 63486) is requesting the Planned Residential Mixed-Use District as they have future intentions to use the property for mixed use development.



PLANNING BOARD RECOMMENDATION

The Burke County Planning Board Met on May 27, 2021 to hear this rezoning case. There was no one present at the Public Comment portion of the meeting. The Planning Board voted 6/0 to recommend approval of all proposed rezonings.

STAFF COMMENTS

The proposed rezoning is primarily being initiated in order to bring the subject parcels into compliance with G.S. 160D, compatibility with surrounding zoning, and property owner requests. All property owners subject to the rezoning have been notified of the proposed rezoning by mail. Staff recommends approval of the proposed rezonings.

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ADDITIONAL INFORMATION

Please refer to the application, driving directions, and map(s) for more information.

Chairman Brittain opened the floor for questions and comments from the Board. He asked how this zoning would differ from the other zonings in the subdivision. Mr. Prisby said it would be consistent with different parcels in the area with the majority of parcels are going to be R-1, and he noted that one (1) parcel wants to stay PRMU, two (2) want to be rezoned to General Business (G-B), and one (1) parcel is being used to store boats.

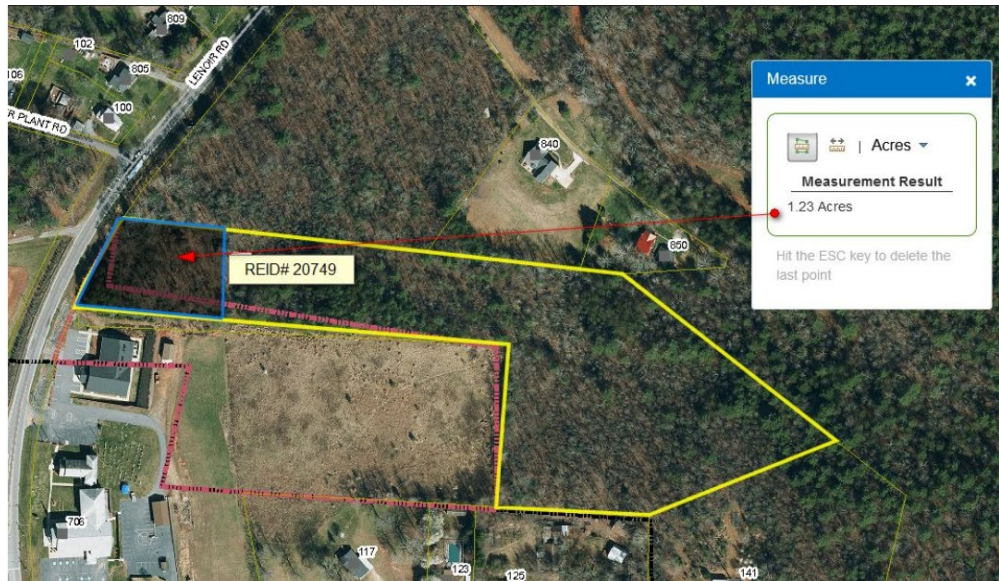
RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

COMM. DEV. - ZONING MAP AMENDMENT ZMA 2021-03 & PUBLIC HEARING - 6:00 P.M.

Shane Prisby, Interim Planning Director, presented information regarding ZMA 2021-03 as follows:

REQUEST

Staff has received a rezoning application from Tyler Campbell to rezone a 1.23 portion of one parcel of land totaling 9.86 acres. The request is to rezone the property from its current zoning of Residential Two (R-2) to the General Business (G-B) zoning district.



BACKGROUND AND SITE ANALYSIS

The applicant is requesting the rezoning in order to establish a commercial use of the front portion of the property. The applicant has a Tree Service business. The parcel is described as follows: The parcel is further identified in county records as (REID# 20749). The parcel 911 address is: 796 NC18/US64 Morganton, NC 28655. The parcel is located within the Quaker Meadows Township and the Chesterfield Fire District of Burke County. The parcel is located within a WS-IV PA Water Supply Watershed. Records indicate that the property can be served

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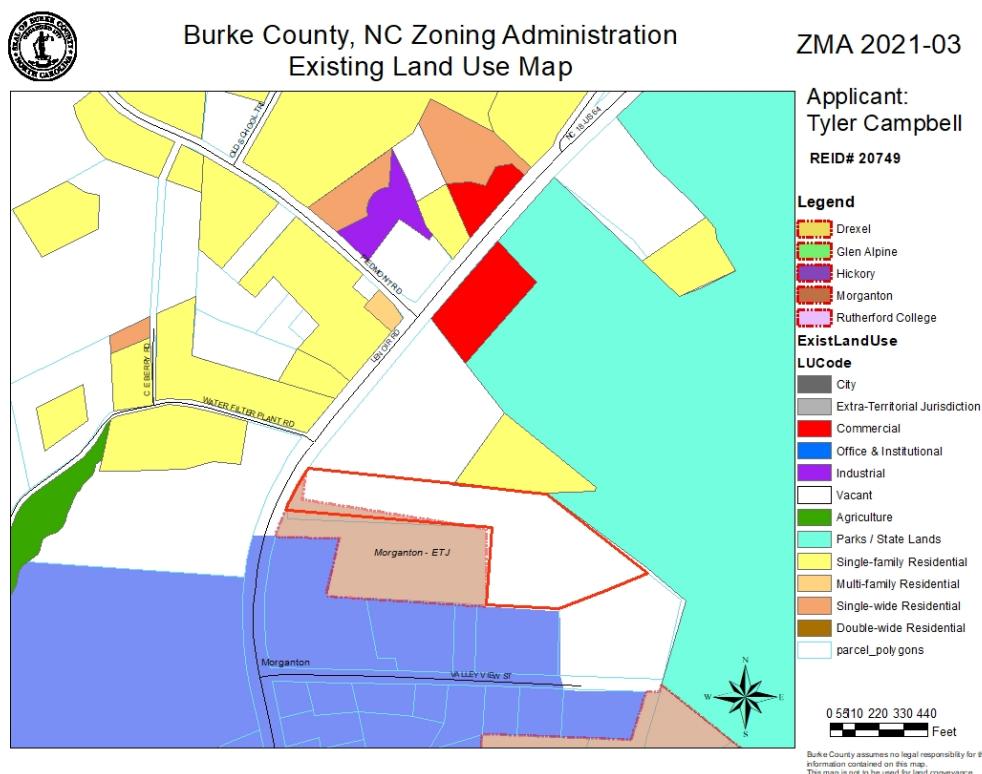
by public water and private onsite septic. The parcel has approximately 217 linear feet of frontage on NC18/US64. This road is a state-maintained US Route. The parcel is not located within any Overlay District.

SURROUNDING AREA

There is a mixture of county and municipal zoning in this area. The subject parcel borders the City of Morganton's Extra-Territorial Jurisdiction to the south. The Morganton zoning is the Low Intensity District (LID). This district is established primarily for single-family residential uses at a variety of densities. It is also the intent of this district to allow for certain types of nonresidential community facilities and services that would not be detrimental to the residential character of the district. The county zoning in this area consists of Residential-Two (R-2), Residential Three (R-3), Estate Lot Conservation, General Business, and Neighborhood Business Districts.

Existing Zoning and Land Uses within the Surrounding Area		
	Current Zoning	Existing Land Uses
North	R-2, G-B, N-B, R-3	Vacant Land / Residences / Businesses
South	LID-Morganton, R-2 County	Church / Residences / Vacant Land
East	CD-E	Vacant Land / State of North Carolina
West	R-2	Residences / Public School / Vacant

The Existing Land Use Map (Below) provides a visual representation of the existing uses outlined in the "Existing Zoning and Land Uses within the Surrounding Area" table (Above).



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The Aerial Land Use Map (below) depicts the vacant state of North Carolina land to the east, the church and residences to the south (Morganton ETJ). There is a small unnamed subdivision and a Public School (Walter Johnson) to the west. To the north is a convenience store, a small manufacturing facility, a used car sales lot, and a telecommunications tower.



Burke County, NC Zoning Administration
Aerial Land Use Map

ZMA 2021-03



Applicant:
Tyler Campbell

REID#
20749



0 50 100 200 300 400
Feet

Burke County assumes no legal responsibility for the information contained on this map. This map is not to be used for land conveyance.

CONFORMITY WITH THE COMPREHENSIVE PLAN

The current land use plan for Burke County is the 2016-2030 Blueprint Burke Strategic Land Use Plan. The subject parcel is located in the Secondary Growth Area (see map below). Secondary Growth Areas have many of the same attributes as Primary Growth Areas such as infrastructure, utilities, and transportation corridors. The Primary Growth Area (gray color) is within the city of Morganton's city limits and ETJ. One of the fundamental policies of the Land Use Plan is to allow and promote multiple types of economic development opportunities. A diverse economy can appeal to a wide range of population groups. This could be achieved through higher density and mixed-use type developments. In addition to residential uses, commercial, institutional, and industrial development can be expected in these areas as needed to support the other uses within this area.

This space is intentionally left blank.

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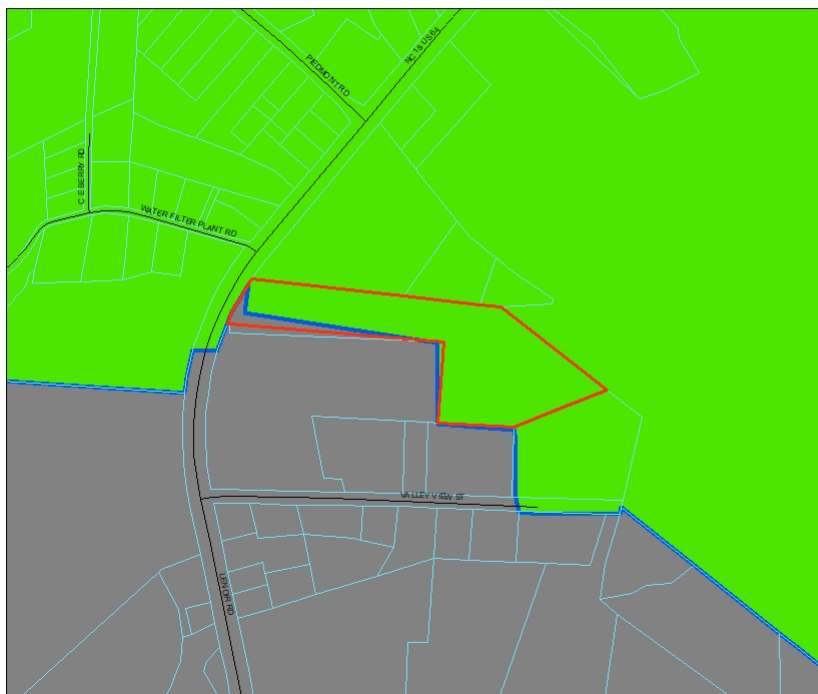


Burke County, NC Zoning Administration Future Land Use Map

ZMA 2021-03

Applicant:
Tyler Campbell

REID# 20749



Legend

- Streets
- parcel_polygons
- Industrial Focus Areas
- ED Focus Areas
- Lake James Special Planning Area
- South Mountain Special Planning Area
- Plagah Special Planning Area
- Rural/Agricultural/Home Business Area
- Primary Growth Area
- Secondary Growth Area



0 50 100 200 300 400
Feet

Burke County assumes no legal responsibility for the information contained on this map.
This map is not to be used for land conveyance.

CONFORMITY WITH THE BURKE COUNTY ZONING ORDINANCE

The current Zoning Map (below) shows the zoning for the subject parcel and surrounding area. As stated earlier, the "current" zoning district for this parcel is Residential Two (R-2). The applicant wishes to keep the majority of the parcel in the R-2 district as they have future plans to reside there one day. As mentioned earlier, the subject parcel has frontage on NC18/US64. This route is a vital corridor in Burke County. This road classification is primarily designed to move medium volumes of traffic back and forth from Morganton to Lenoir. The Burke County Thoroughfare Plan classifies this state route as a minor arterial road. Minor arterials serve to connect activity centers, but they also serve less intense development areas like small retail centers, office centers, and industrial/business parks. Minor arterials provide traffic service for moderate trip lengths. Although residences have been established along this route, commercial development can be expected along this corridor as well.

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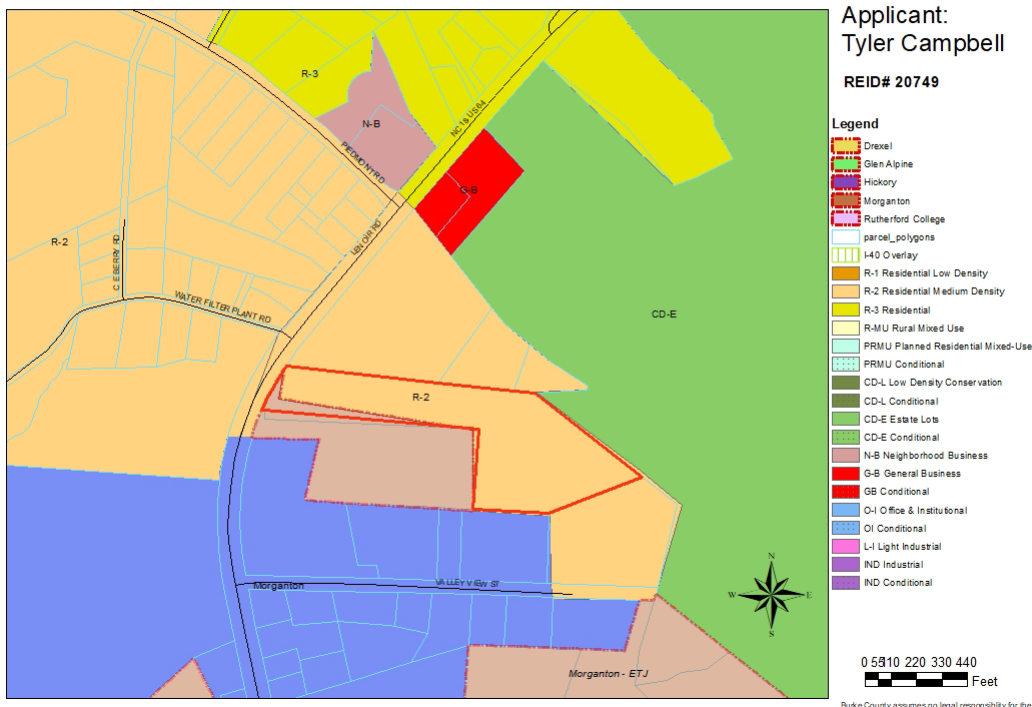


Burke County, NC Zoning Administration Current Zoning Map

ZMA 2021-03

Applicant:
Tyler Campbell

REID# 20749



PLANNING BOARD RECOMMENDATION

The Burke County Planning Board met to hear this rezoning request on May 27, 2021. There was no one from the public present to speak during the public comment portion of the meeting. The Planning Board voted 6/0 to recommend Approval of the rezoning request.

STAFF COMMENTS

The majority of the subject parcel will maintain its current zoning of Residential-Two. In staff's opinion, rezoning the 1.2-acre portion of the parcel fronting on NC18/US64 to the General Business zoning district would not change the overall character of the area. Staff can foresee the potential for additional commercial rezoning applications along this corridor in the future.

To assist the Board in their decision, staff has provided the following considerations:

- Is there a public need for additional land to be zoned to the requested classification?
- What is the impact on public services, facilities, infrastructure, fire and safety, and topography?
- What are the nearby development/zoning patterns?
- Consider the full range of uses allowed by the proposed district versus the uses allowed within the current zoning district.
- Is the rezoning request compatible with the character of the surrounding area and suitable with the property for certain use?

STATEMENT OF CONSISTENCY

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When a local government adopts development regulations, including zoning maps, there must be a rational basis for determining what those regulations should be. To make rational and informed choices in adopting and later amending these regulations, there should be careful consideration of many factors, including what infrastructure is needed to support development, how the land uses relate to one another, what the community's goals, objectives, and vision for the future are, and so forth.

The statement must take one of three forms:

1. A statement approving the proposed zoning amendment and describing its consistency with the plan;
2. A statement rejecting the proposed zoning amendment and describing its inconsistency with the plan; or
3. A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community taken into account in the zoning amendment.

ADDITIONAL INFORMATION

Please refer to the application, driving directions, photos, and map(s) for more information.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

CONSENT AGENDA

BOC - DESIGNATION OF VOTING DELEGATE FOR THE NCACC ANNUAL CONFERENCE

Chairman Brittain presented the following item:

The 114th Annual Conference of the North Carolina Association of County Commissioners will be held in New Hanover County, August 12-14, 2021. The Business Session will be held on Saturday, August 14, at 12:45 p.m. Each county is asked to designate one (1) voting delegate prior to the conference to vote on items that come before the membership. An alternate voting delegate may also be assigned.

After brief discussion, it was decided that he and Vice Chairman Mulwee would be the delegate / alternate, respectively.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

CLERK - APPOINTMENTS OR REAPPOINTMENTS TO ANIMAL ADVISORY BOARD

Clerk Draughn reported the terms for the following seats on the Animal Advisory Board (AAB) end on July 31, 2021:

- Seat # 2: Veterinarian, Dr. Linda Schilkowsky
 Seat # 4: At-large Pet Owner, Debbie Hawkins

The Commissioners added/modified the following seats to the AAB on June 15th and are vacant:

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Seat # 6: At-large, Breeder
 Seat # 8: At-large, Large Animal Owner

Continuation of Dr. Schilkowsky's membership on the AAB is undetermined. However, Ms. Hawkins is willing to serve another term. Other applications are on file for this seat. One application was received for the breeder seat (No. 6) and one was received for the larger animal owner seat (No. 8). However, although the applicant for Seat 8 works with horses daily in her job, she does not actually own any large animals currently. Terms are for two (2) years. Clerk Draughn reported there are two (2) additional applications on file for seat No. 4, Felcia Cobb and Denise Smith

Chairman Brittain opened the floor for questions and comments from the Board. He encouraged the Board to let any potentially interested veterinarians / large animal owners know about the vacant / potential vacant seats. He said the Board could perhaps make an exception for seat No. 8 if need be. Commissioner Carswell asked if a decision was made on adding another 501(c)3 seat back on the AAB. Chairman Brittain said he believes that they Board decided to seat this current AAB and allow them to bring those ordinance recommendations back to the Board of Commissioners. Clerk Draughn said because there are multiple applications on file, this item will need to be moved to items for decision.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM AS A DECISION ITEM

FINANCE - ACCEPTANCE OF AMERICAN RESCUE PLAN FUNDS

Margaret Pierce, Deputy County Manager/Finance Director, reported the American Rescue Plan (ARP) Act awarded funds to Burke County in the amount of \$17,575,650. Per NCGS 160A-17.1, the Board is required to accept these funds and delegate authority to the manager to execute any contracts or agreements on behalf of the Board to secure the funds. Staff plans to hold a work session with the Board once the final restrictions are released, July 16, 2021, to determine the appropriate projects to be funded. In closing, she further reported these funds were included in the FY 22 budget and requested ratification of the acceptance of the ARP funds in the amount of \$17,575,650.

Chairman Brittain opened the floor for questions and comments from the Board. He asked if the County has received all the American Rescue Plan (ARP) funding yet. Ms. Pierce said they have received half, the other half will be received 12 months after the first, June of 2022. In response to another question from Chairman Brittain, Ms. Pierce said a grant project ordinance will come before the Board once projects have been selected most likely sometime in August. One possible project she mentioned was improving the air quality in county buildings as well as numerous improvements to the water and sewer system. Although the preliminary rules have changed five (5) times since May, staff should have a good idea of allowable projects when the final rules are issued in mid-July. In response to an inquiry from Chairman Brittain concerning ARP funding for nonprofits, Ms. Pierce reviewed the five (5) categories the funding can be used for, and stated the County, like the CARES Act Funding, will be the responsible party if a nonprofit fails to comply with the rules. Further, she expressed concern that many nonprofits may not have the expertise to navigate 140 pages of technical regulations. County Manager Steen said until they get the final rules, it is all speculation at this point. He said once the rules are received in mid-July, staff will take a week or so to review the rules, develop a summary for the Board, and schedule a workshop in August to review everything and get the Board's

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thoughts / input. He noted that the County has until December 2026 to have all the projects completed. Commissioner Carswell said he wants to make sure the County does not miss out on any matching funds from the state based on what the Governor stated in a previous meeting. Ms. Pierce said she along with the deputy finance director are attending as many virtual meetings as possible regarding ARP funding. Discussion continued on the ARP rules and broadband. Commissioner Carswell noted there is pending litigation that if approved, would enable counties to undertake broadband activities.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

FINANCE - MASTER PLAN/SPACE NEEDS ASSESSMENT CONTRACT

Margaret Pierce, Deputy County Manager/Finance Director, presented information regarding the master plan / space needs assessment as follows:

On April 5, 2021, a Request for Qualifications (RFQ) was posted on the County website requesting submissions for the creation of a Master Facility Plan/Space Needs Assessment. The purpose of the plan is to seek a comprehensive vision for space allocation that will address needs for a minimum of 5 years and maximum of 50 years. This vision must lay out the most efficient, effective, and functional plan for space needed by County employees for the provision of County and related agencies or services. The vision will evaluate the best and highest use for our existing buildings, land holdings, and available space and offer alternatives for the use of any vacated County-owned asset. The comprehensive vision thus encompasses the best arrangement of the physical environment and building facilities where with such arrangement form follows function, to the extent possible, and produces the highest level of excellence in the delivery of services to Burke County citizens. Submissions were received from six (6) companies and after evaluating all the proposals the selection committee has selected Moseley Architects as the preferred vendor for the project.

Firms that submitted proposals are as follows:

Creech & Associates
 Peterson-Gordon Architects
 CPL (Clark, Patterson, Lee)
 Moseley Architects
 Boomerang Design
 CBSA Architects

Note: Funds for this project were included in the FY 21-22 budget.

Ms. Pierce said the committee that reviewed the RFQs was comprised of County Manager Steen, Ms. Pierce, General Services Director, Mark Delehant, IT Director, Scott Black, and Purchasing Agent, Brian Niefert. Ms. Pierce said the recommended architect, Moseley Architects, completed a study for Davie County last year and they are beginning studies with Johnston and Yancy Counties. She noted they have the most experience with this type of work and are one of the few firms that focus on space needs. She said they spent an entire day with the firm and toured different buildings to ensure they understood the County's facilities before they

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committed. Ms. Pierce said after negotiations with the firm, the price they gave was \$185,000 and the study should be done within six (6) months.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

GENERAL SERVICES - SOLID WASTE DIVISION - LABELLA ASSOCIATES ANNUAL SERVICES FY21-22

Mark Delehant, General Services Director, reported Burke County has operated a Construction and Demolition (C&D) landfill at the John's River Waste Management Facility since 1998. The operation of a C&D landfill comes with State requirements for monitoring and reporting. These services are necessary to continue the operation of the landfill. The services are provided on an annual basis by LaBella Associates. Additional work required by the State includes quarterly landfill gas monitoring at Johns River, East Burke and Kirksey Drive Landfills; and design of Landfill Gas remediation at East Burke/Kirksey Dr. Landfills. A contract is needed to perform the engineering tasks required by NCDEQ Division of Waste Management. (Note: Contracts over \$90,000 require Board approval.) Funding for this expenditure was included in the FY 21-22 budget.

Task 01 - General Consulting (estimated)	\$ 20,000
Task 02 - Semiannual Water Quality Sampling & Analysis (fixed)	\$ 67,000
Task 03 - Semiannual Water Quality Reporting (fixed)	\$ 26,500
Task 04 - Quarterly Landfill Gas Monitoring (fixed)	\$ 9,000
Task 05 - Landfill Gas Extraction System O&M (fixed)	\$ 5,500
Task 06 - Landfill Gas Remediation for East Burke and Kirksey Drive Landfills (estimated)	\$ 30,000
Total of proposed tasks	\$158,000

Chairman Brittain opened the floor for questions and comments from the Board. Vice Chairman Mulwee commended the company for their work and asked how much the contract was last year. Mr. Delehant said it varies year to year, discussion ensued, Clerk Draughn said last year's agenda item was for \$191,000.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

PARTNERS' - JOINT RESOLUTION OF THE BOARDS OF COUNTY COMMISSIONERS OF BURKE, CATAWBA, CLEVELAND, GASTON, IREDELL, LINCOLN, RUTHERFORD, SURRY AND YADKIN COUNTIES & APPROVAL OF AMENDED BYLAWS

Tara Conrad, PHM, presented information regarding the joint resolution as follows:

Partners' Board on May 20, 2021, approved revised bylaws to add a voting member for each new county joining Partners' Catchment Area or Region, which would include as of September 1, 2021, Cabarrus, Union, and Stanly Counties and foreseeably one more county thereafter, bringing the total catchment population to over the 1,250,000 minimum needed for a statutory exception. The revised Partners bylaws would thereby exceed that maximum of 21 voting members, but otherwise make no other substantive changes and would continue with compliance with the other legal board requirements in that statute. The

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following resolution states that the Boards of County Commissioners of Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Rutherford, Surry, and Yadkin Counties do not object to this statutory exception. Further, the resolution also states that Partners' board of directors may be appointed in a manner or with a composition other than as required by N.C. Gen. Stat. 122C-118.1, including that the voting members of Partners' board of directors may exceed the twenty-one (21) maximum stated in that statute and as reflected in the Partners-approved bylaws.

JOINT RESOLUTION
OF THE BOARDS OF COUNTY COMMISSIONERS
OF BURKE, CATAWBA, CLEVELAND, GASTON, IREDELL, LINCOLN,
RUTHERFORD, SURRY, AND YADKIN COUNTIES

WHEREAS, Partners Health Management ("Partners") is the Area Authority and Local Management Entity/Managed Care Organization (LME/MCO) for Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Rutherford, Surry, and Yadkin Counties, consistent with N.C. Gen. Stat. §§ 122C-3(1), (20b) and (20c) and -116(a);

WHEREAS, current state law at N.C. Gen. Stat. §122C-118.1 limits the maximum number of voting members of an Area Authority board of directors to twenty-one (21), absent approval by the Boards of County Commissioners of that Area Authority and the Secretary of the North Carolina Department of Health and Human Services (NCDHHS) "to appoint members of the area board in a manner or with a composition other than as required by [that statute]";

WHEREAS, Partners' Board on May 20, 2021, approved revised bylaws to add a voting member for each new county joining Partners' Catchment Area or Region, which would include as of September 1, 2021, Cabarrus, Union, and Stanly Counties and foreseeably one more county thereafter, bringing the total catchment population to over the 1,250,000 minimum needed for a statutory exception;

WHEREAS, the revised Partners bylaws would thereby exceed that maximum of 21 voting members, but otherwise make no other substantive changes and would continue with compliance with the other legal board requirements in that statute.

WHEREAS, the Boards of County Commissioners of Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Rutherford, Surry, and Yadkin Counties do not object to this statutory exception;

NOW, THEREFORE, BE IT RESOLVED JOINTLY THAT Partners' board of directors may be appointed in a manner or with a composition other than as required by N.C. Gen. Stat. 122C-118.1, including that the voting members of Partners' board of directors may exceed the twenty-one (21) maximum stated in that statute and as reflected in the Partners-approved bylaws.

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This Joint Resolution shall be effective immediately when signed, and no later than September 1, 2021.

ADOPTED AND RATIFIED in counterparts by the Boards of County Commissioners of Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Rutherford, Surry, and Yadkin Counties.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

TAX DEPT. - TAX COLLECTION REPORT FOR JUNE 2021

Danny Isenhour, Tax Administrator, presented the tax collection report for June 2021 as follows:

Category	Annual Budget	Amount Collected YTD	% Collected	Balance to Collect
Property Tax	\$44,250,000.00	\$44,920,556.79	101.52%	\$670,556.79
Motor Vehicle Tax	\$4,600,000.00	\$5,529,970.38	120.22%	\$929,970.38
Current Year Taxes	\$48,850,000.00	\$50,450,527.17	103.28%	\$1,600,527.17
Delinquent Taxes	\$700,000.00	\$813,824.99	116.26%	\$113,824.99
Late List Penalty	\$300,000.00	\$462,947.64	154.32%	\$162,947.64

The Tax Levy is the total property tax value not including motor vehicles times the tax rate. This amount changes monthly with the addition of discoveries, other changes, or corrections, and when Public Utility Values are added, typically during September.

Category	Tax Levy	Amount Collected YTD	% Collected	Balance to Collect
Property Tax	\$45,571,384.00	\$44,920,556.79	98.57%	\$649,923.98

Mr. Isenhour said, looking at the tax level collection rate of 98.57 percent, that it is the greatest number the County has had since he has been with the County. Chairman Brittain opened the floor for questions and comments from the Board. Vice Chairman Mulwee inquired as to why the motor vehicle tax collection rate is 120.22 percent. Mr. Isenhour said people are registering more vehicles and values are increasing on vehicles.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

TAX DEPT. - RELEASE REFUND REPORT FOR JUNE 2021

Danny Isenhour, Tax Administrator, presented the release refund report for June 2021 as follows:

Tax System Refunds and Releases				
	Report Amount	Rebilled Amount	Net Release	Refund Amount
Releases (TR-304)	\$4,186.72	\$2,242.55	\$1,944.17	\$239.49

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VTS Refunds Over \$100	
	Refund Amount
VTS Adjustments	\$149.60

*Note: The net loss amount is a result of the report amount minus the rebilled amount.

Mr. Isenhour responded to a question from Chairman Brittain.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

CLERK - RECOMMENDATION FOR REAPPOINTMENT TO HICKORY REGIONAL PLANNING COMMISSION

Clerk Draughn reported Robert L. Weaver currently serves on the Hickory Regional Planning Commission and is willing to serve another term. The Hickory Planning Director reports Mr. Weaver is an excellent member, and the Hickory City Council will reappoint him once a favorable recommendation from the County Commissioners is received.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

ITEMS FOR DECISION

COMM. DEV. - REMEDIATION AUTHORITY REQUEST FOR COMPLIANCE OF CONDEMNATION ORDER - CASE FILE 072-19

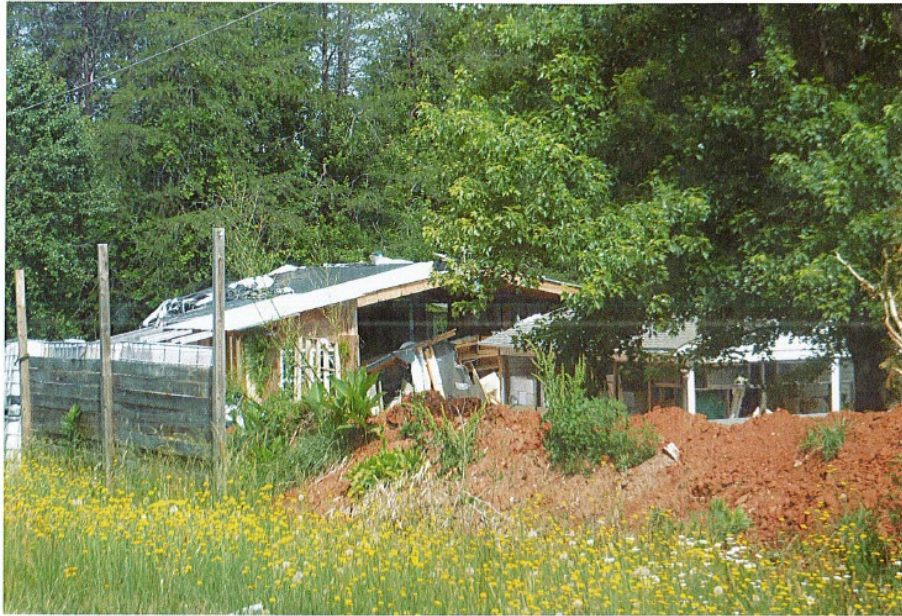
Bradley Kirkley, Zoning Administrator, and Steve Holden, Chief Building Inspector, presented information regarding the condemnation order for case file 072-19 as follows:

In reference to failing to complete the required demolition and cleanup requested by the Board of Commissioners on April 20, 2021 concerning the Condemnation of a dwelling damaged by fire at 2372 Ridgecreek Drive (PIN 1782634121), Community Development is requesting the authority to seek remediation and cleanup of the property to remove the remaining damaged portions of the structure, and all solid waste from the property, as originally ordered by Building Inspections on March 30, 2021. The property owner, Jerry Lee Flynn, has completed some demolition on the site since the decision of the Commissioners was issued. Mr. Flynn, to the knowledge of staff, rented equipment, removed the center portion of the dwelling, and had some debris removed from the site via Republic Services. Mr. Flynn also moved portions of dirt to create a buffer along the fence/property line, which has now caused damage to the existing fence along Ridgecreek Drive. With work failing to be completed within the allotted sixty (60) day timeframe, and with continued reports of trash, debris, and nuisances reported for the site, Community Development is requesting the authority to seek demolition bids for the site, remove all solid waste, and close this long-standing violation file.

Budgetary Effect: The total cost for removal or demolition of the structure is unknown at this time. If approved by the Board, bids would be sought with

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multiple demolition contractors. The cost for removal shall include all demolition work, solid waste removals, and cleanup for the parcel lot.



Chairman Brittain opened the floor for questions and comments from the Board. In response to a comment from Vice Chairman Mulwee, Mr. Kirkley said that neither he nor Mr. Holden have been onto the property since the ruling was issued, noting that the photos they have were taken from the road right-of-way. He said according to some of the neighbors, Mr. Flynn did rent some equipment. He noted this is likely when the dirt was moved, and a berm was created to block the view. Mr. Kirkley further stated there is a rumor that the debris has been dumped at the back of the property and if the Board grants their request, they will procure an administrative warrant to go onto the property to see what is actually behind the house. Mr. Kirkley said they are hoping that bids will come in below \$25,000 but due to the large amount

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of debris on the property, they asked for the larger amount so they would not have to come back before the Board to ask for additional funds.

In response to a question from Chairman Brittain, James Reid Simpson, II, County Attorney, said Mr. Flynn's attorney has not filed an appeal to superior court and the time to do so has expired.

RESULT: MOVED WITHOUT OBJECTION TO THE REGULAR MEETING ON JULY 20, 2021 AT 6:00 PM

REPORTS

OTHER DISCUSSION ITEMS

Chairman Brittain reminded the Board that there may be a few discussions held in August regarding American Rescue Plan (ARP) projects and funds. He reminded everyone to not litter and to secure their loads, adopt / foster a pet from the Animal Services Center, there is an adoption event taking place July 30 and July 31, and Commissioner Carswell's birthday is on July 11.

Commissioner Carswell took a moment of personal privilege to commend Animal Services staff for their help in returning his dog, Jasper.

CLOSED SESSION

A closed session was needed to discuss threatened or pending litigation (Case # 19-23649), to preserve the attorney-client privilege, to discuss economic development matters, to discuss contractual matters (land acquisition) and to discuss personnel matters as authorized by NCGS 143-318.11(a)(3),(4), (5) and (6).

Chairman Brittain invited Nate Hall, Environmental Services Supervisor, Rhonda Lee, HR Director, and Alan Wood, BDI President & CEO to join the Board in closed session.

Motion: To go into closed session.

RESULT: APPROVED [UNANIMOUS]
MOVER: Wayne F. Abele, Sr., Commissioner
AYES: Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr. and Johnnie W. Carswell
ABSENT: Maynard M. Taylor

Motion: To come out of closed session.

RESULT: APPROVED [UNANIMOUS]
MOVER: Wayne F. Abele, Sr., Commissioner
AYES: Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr. and Johnnie W. Carswell
ABSENT: Maynard M. Taylor

RETURN TO OPEN SESSION

REVISION TO SECTION 3.07, EFFECT OF LABOR MARKET CONDITIONS, BURKE CO. PERSONNEL POLICY

July 6, 2021 (Pre-Agenda)

Motion: To revise the Burke County Personnel Policy, Section 3.07, Effect of Labor Market Conditions on Positions, as follows:

Note: Text to be deleted is printed in bold and contains a strikethrough mark. New text is printed in bold and highlighted in yellow.

Section 3.07 - Effect of Labor Market Conditions on Positions

Upon the documentation of adverse labor market conditions on a position(s), the County Manager may increase salaries of said position(s) up to ~~4%~~ **the midpoint of the pay grade** to retain existing personnel. Such an increase shall not result in an employee being paid at a rate above the Maximum for the pay grade. The practice shall be used to remain competitive within the labor market and to avoid costs associated with recruiting and training for such competitive positions. The County Manager may request such documentation and recommendation from the Human Resources Director and Department Head as is necessary in making a decision. The County Manager shall report such actions taken to the Board in Closed Session within thirty (30) days of said action.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Johnnie W. Carswell, Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr. and Johnnie W. Carswell
ABSENT:	Maynard M. Taylor

Motion: To approve the Purdue Pharma Chapter 11 plan of reorganization as approved and recommended by our national counsel.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Scott Mulwee, Vice Chairman
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr. and Johnnie W. Carswell
ABSENT:	Maynard M. Taylor

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54014-01

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

Chapter 11

PURDUE PHARMA L.P., *et al.*,¹

Case No. 19-23649 (RDD)

Debtors.

(Jointly Administered)

**NOTICE OF HEARING TO CONSIDER
CONFIRMATION OF THE FIFTH AMENDED CHAPTER 11 PLAN FILED BY THE
DEBTORS AND RELATED VOTING AND OBJECTION DEADLINES**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On June 3, 2021, the United States Bankruptcy Court for the Southern District of New York (the “Court”) entered an order (the “**Disclosure Statement Order**”), (a) authorizing Purdue Pharma L.P. and its affiliated debtors and debtors in possession (collectively, the “**Debtors**”), to solicit acceptances for the *Fifth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and Its Affiliated Debtors* (as modified, amended or supplemented from time to time, the “**Plan**”); (b) approving the *Disclosure Statement for Fifth Amended Chapter 11 Plan for Purdue Pharma L.P. and Its Affiliated Debtors* (the “**Disclosure Statement**”)² as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code; (c) approving the solicitation materials and documents to be included in the solicitation packages; and

¹ The Debtors in these cases, along with the last four digits of each Debtor’s registration number in the applicable jurisdiction, are as follows: Purdue Pharma L.P. (7484), Purdue Pharma Inc. (7486), Purdue Transdermal Technologies L.P. (1868), Purdue Pharma Manufacturing L.P. (3821), Purdue Pharmaceuticals L.P. (0034), Imbrium Therapeutics L.P. (8810), Adlon Therapeutics L.P. (6745), Greenfield BioVentures L.P. (6150), Seven Seas Hill Corp. (4591), Ophir Green Corp. (4594), Purdue Pharma of Puerto Rico (3925), Avrio Health L.P. (4140), Purdue Pharmaceutical Products L.P. (3902), Purdue Neuroscience Company (4712), Nayatt Cove Lifescience Inc. (7805), Button Land L.P. (7502), Rhodes Associates L.P. (N/A), Paul Land Inc. (7425), Quidnick Land L.P. (7584), Rhodes Pharmaceuticals L.P. (6166), Rhodes Technologies (7143), UDF LP (0495), SVC Pharma LP (5717) and SVC Pharma Inc. (4014). The Debtors’ corporate headquarters is located at One Stamford Forum, 201 Tresser Boulevard, Stamford, CT 06901.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan or Disclosure Statement, as applicable.

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54014-01

(d) approving procedures for soliciting, receiving and tabulating votes on the Plan and for filing objections to the Plan.

2. The hearing at which the Court will consider Confirmation of the Plan (the “**Confirmation Hearing**”) will commence on **August 9, 2021, at 10:00 a.m., prevailing Eastern Time**, before the Honorable Robert D. Drain, in the United States Bankruptcy Court for the Southern District of New York, located at 300 Quarropas Street, White Plains, New York 10601-4140; *provided* that, pursuant to General Order M-543, dated March 20, 2021 (Morris, C.J.) (“**General Order M-543**”), such Confirmation Hearing shall be conducted via **Zoom videoconference** for those who will be participating in the Confirmation Hearing³ so long as General Order M-543 is in effect or unless otherwise ordered by the Bankruptcy Court.⁴ The Confirmation Hearing may be continued from time to time by the Court or the Debtors **without further notice** other than by such adjournment being announced in open court, by Agenda filed with the Court, and/or by a Notice of Adjournment filed with the Court and served on all parties entitled to notice.

3. The Plan contemplates a Shareholder Settlement by and among the Debtors, the Master Disbursement Trust, and certain of the Shareholder Released Parties (including **members of the Sackler families** and certain other individuals and related entities). The Plan provides for the release of any actual or potential claims or causes of action against the Shareholder Released Parties relating to the Debtors (including claims in connection with Opioid-Related Activities) and

³ Parties or members of the public who wish to participate in the Confirmation Hearing should consult the Court’s calendar with respect to the day of the Confirmation Hearing at <https://www.nysb.uscourts.gov/calendars/rdd.html> for information regarding how to be added as a participant. Members of the public who wish to listen to, but not participate in, the Hearing free of charge may do so telephonically at a number to be provided on the Debtors’ case website at: <https://restructuring.primeclerk.com/purduepharma>.

⁴ A copy of General Order M-543 can be obtained by visiting <http://www.nysb.uscourts.gov/news/court-operationsunder-exigent-circumstances-created-covid-19>.

July 6, 2021 (Pre-Agenda)

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the channeling injunction described below, in exchange for the payment by certain of the Shareholder Released Parties of \$4.275 billion and the relinquishment of their equity interests in the Debtors.

4. The deadline for filing objections to the Plan is **July 19, 2021, at 4:00 p.m., prevailing Eastern Time** (the “**Plan Objection Deadline**”). All objections to the relief sought at the Confirmation Hearing **must** (a) be in writing, (b) conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, (c) be filed with the Court (i) by attorneys practicing in the Bankruptcy Court, including attorneys admitted pro hac vice, electronically in accordance with General Order M-399 (which can be found at <http://www.nysb.uscourts.gov>), and (ii) by all other parties in interest, on a CD-ROM, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and (d) be served in accordance with the *Second Amended Order Establishing Certain Notice, Case Management, and Administrative Procedures* entered on November 18, 2019 [D.I. 498], on (i) counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017 (Attention: Marshall S. Huebner, Benjamin S. Kaminetzky, Eli J. Vonnegut and Christopher S. Robertson), (ii) counsel to the Creditors Committee, (A) Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York 10036 (Attention: Arik Preis, Mitchell P. Hurley, Sara L. Brauner and Edan Lisovicz) and (B) Cole Schotz P.C., 500 Delaware Avenue, Suite 1410, Wilmington, Delaware 19801 (Attention: Justin R. Alberto), and (iii) the Office of the U.S. Trustee for the Southern District of New York, 201 Varick Street, Suite 1006, New York, New York 10014 (Attention: Paul K. Schwartzberg), so as to be actually received on or before the Plan Objection Deadline.

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5. Pursuant to the Order, the Court approved the use of certain materials in the solicitation of votes to accept or reject the Plan and certain procedures for the tabulation of votes to accept or reject the Plan. Subject to the Master Ballot Solicitation Procedures (pursuant to which (among other things) your Law Firm may be casting a vote on your behalf), if you are a holder of a Claim against the Debtors as of **March 10, 2021**, and entitled to vote, you have received with this Notice, a ballot form (a “**Ballot**”) and instructions for completing the Ballot.

6. The deadline for voting on the Plan is on **July 14, 2021, at 4:00 p.m., prevailing Eastern Time** (the “**Voting Deadline**”). If you received a Solicitation Package, including a Ballot and intend to vote on the Plan you **must** (a) follow the Ballot instructions carefully; (b) complete **all** of the required information on the Ballot; and (c) execute and return your completed Ballot according to and as set forth in detail in the voting instructions so that it (or the Master Ballot submitted on your behalf, as applicable) is **actually received** by the Debtors’ Solicitation Agent, Prime Clerk LLC (the “**Solicitation Agent**”) on or before the Voting Deadline. **A failure to follow such instructions may disqualify your vote.**

7. Please note that if you hold a Claim in Classes 4, 5, 6, 7, 8, 9, 10(a) and/or 10(b) as of the Voting Record Date that is otherwise allowed for voting purposes and you are represented by an attorney, it is possible that your attorney has elected, through exercising the option in the Solicitation Directive, to cast a vote on your behalf through a Master Ballot. If your attorney elects to vote your claim by Master Ballot, it is possible that you may not receive a copy of the Plan, Disclosure Statement, Disclosure Statement Order and/or a Ballot. Therefore, if you hold a Claim in Classes 4, 5, 6, 7, 8, 9, 10(a) and/or 10(b) as of the Voting Record Date that is otherwise allowed for voting purposes and you did not receive a Plan, Disclosure Statement, Disclosure Statement

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Order and/or a Ballot and wish to receive any of the aforementioned materials, you are encouraged to contact your attorney.

8. If a controversy arises regarding whether any Claim is properly classified under the Plan, the Bankruptcy Court shall, upon proper motion and notice, determine such controversy at the Confirmation Hearing. If the Bankruptcy Court finds that the classification of any Claim is improper, then such Claim shall be reclassified and the Ballot previously cast by the holder of such Claim shall be counted in, and the Claim shall receive the treatment prescribed in, the Class in which the Bankruptcy Court determines such Claim should have been classified, without the necessity of resoliciting any votes on the Plan. Notwithstanding the fact that your Claim would otherwise satisfy the definition of another type of Claim, or your receipt of a ballot or notice, which identifies your Claim as belonging to a specific Class for voting and distribution purposes, any Claim that satisfies the definition of Co-Defendant Claim under Sections 1.1 and 4.16 of the Plan shall be a Co-Defendant Claim and any Claim that satisfies the definition of an Other Subordinated Claim under Sections 1.1 and 4.17 of the Plan shall be an Other Subordinated Claim.

9. If any claimant wishes to challenge the disallowance of its Claim for voting purposes, such claimant must file a motion with the Court for an order pursuant to Bankruptcy Rule 3018(a) temporarily allowing such claim for voting purposes (a "**Rule 3018 Motion**"). Any Rule 3018 Motion must be filed on or before 4:00 p.m. (prevailing Eastern Time) on July 19, 2021 (the "**Rule 3018(a) Motion Filing Deadline**") and served in accordance with the *Second Amended Order Establishing Certain Notice, Case Management, and Administrative Procedures* entered on November 18, 2019 [D.I. 498].

10. The Debtors will file the Plan Supplement (as defined in the Plan) on or before **July 7, 2021**, and will serve notice on all holders of Claims entitled to vote on the Plan and all known

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holders of other Released Claims, Shareholder Released Claims, or Channeled Claims, which will (a) inform parties that the Debtors filed the Plan Supplement; (b) list the information contained in the Plan Supplement; and (c) explain how parties may obtain copies of the Plan Supplement.

11. If confirmed, the Plan shall bind all holders of Claims and Interests to the maximum extent permitted by applicable law, whether or not such holder will receive or retain any property or interest in property under the Plan, has filed a Proof of Claim in these Chapter 11 Cases, or failed to vote to accept or reject the Plan or voted to reject the Plan.

12. **Sections 10.6, 10.7, 10.8, 10.9, 10.10, 10.11, 10.12, and 10.13 of the Plan contain release, shareholder release, exculpation, injunction, channeling injunction, MDT insurer injunction, Settling MDT insurer injunction and shareholder channeling injunction provisions.** For your convenience, such provisions are set forth on Exhibit 1 hereto. Pursuant to the Plan, certain parties are releasing the Released Parties, which include certain third parties, and the Shareholder Released Parties (subject to and in accordance with the terms of the Shareholder Settlement) from certain Claims and Causes of Action. The Releasing Parties include all holders of Claims and Interest under the Plan. The Released Parties include, collectively, (i) the Debtors, (ii) each of the Debtors' Related Parties and (iii) solely for purposes of the Releases by the Debtors in Section 10.6(a) of the Plan, the Supporting Claimants, the Creditors' Committee and the Creditors' Committee's members and each of their respective professionals, in each case solely in their respective capacities as such; *provided, however*, that, notwithstanding the foregoing or anything herein to the contrary, no Excluded Party or Shareholder Release Snapback Party shall be a Released Party in any capacity or respect. For the avoidance of doubt, the Released Parties referenced in clause (ii) of this definition of Released Parties include Persons referenced in clause (ii) of the definition

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of Related Parties only to the extent (x) a claim arises from actions taken by such Person in its capacity as a Related Party of a Person referenced in clause (i) of the definition of Related Parties and (y) the underlying claim against the Released Party is released against the Person to which the Related Party is related.

13. If confirmed, the Plan will conclusively, absolutely, unconditionally, irrevocably, and forever release the Shareholder Released Parties from actual or potential claims or causes of action relating to the Debtors (including Purdue prescription opioids, like OxyContin, or other prescription opioids manufactured, marketed or sold by Purdue, or any other claims in connection with Opioid-Related Activities) subject to the conditions set forth in the Plan, including Sections 10.7(a) and (b) thereof. Holders of such actual or potential claims or causes of action will be bound by the releases and Channeling Injunctions in the Plan, whether or not such holders will receive or retain any property or interest in property under the Plan, have filed a Proof of Claim in these Chapter 11 Cases or failed to vote to accept or reject the Plan or voted to reject the Plan.

14. If you should have any questions or if you would like to obtain additional solicitation materials at no charge, please contact the Debtors' Solicitation Agent, by (a) calling the Debtors' restructuring hotline at (844) 217-0912 (toll-free) or (347) 859-8093 (international); (b) visiting the Debtors' restructuring website at <https://restructuring.primeclerk.com/purduepharma>; (c) writing to Purdue Pharma Ballot Processing, c/o Prime Clerk LLC, One Grand Central Place, 60 East 42nd Street, Suite 1440, New York, New York 10165; and/or (d) emailing purduepharmainfo@primeclerk.com. You may also obtain copies of any pleadings filed in these Chapter 11 Cases for a fee via PACER at: <http://www.nysb.uscourts.gov>. Please be advised that the Solicitation Agent is authorized to

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answer questions about, and provide additional copies of, solicitation materials, but may **not** advise you as to whether you should vote to accept or reject the Plan.

Dated: June 3, 2021
New York, New York

DAVIS POLK & WARDWELL LLP

By: /s/ Eli J. Vonnegut

450 Lexington Avenue
New York, New York 10017
Marshall S. Huebner
Benjamin S. Kaminetzky
Eli J. Vonnegut
James I. McClammy
Christopher S. Robertson
Counsel to the Debtors and Debtors in Possession

If you have questions about this notice, please contact the Debtors' Claims and Noticing Agent, Prime Clerk LLC, at 844-217-0912 (toll-free), +1 347-859-8093 (international), or by email at purduepharmainfo@primeclerk.com. You may also find out more information at <https://restructuring.primeclerk.com/purduepharma>.

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EXHIBIT 1**Section 10.6(a) Releases by Debtors**

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Released Parties before and during the Chapter 11 Cases to facilitate the reorganization of the Debtors and the implementation of the Restructuring Transactions, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the Debtors and their Estates from any and all Claims, claims, counterclaims, disputes, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, Liens, remedies, losses, contributions, indemnities, rights of subrogation, costs, liabilities, attorneys' fees and expenses, in each case, of any kind, character or nature whatsoever, including any derivative claims asserted or assertible by or on behalf of any Debtor or any of their Estates (including any Causes of Action arising under chapter 5 of the Bankruptcy Code) and including any claims that any Debtor or any of their Estates, or that any other Person or party claiming under or through any Debtor or any of their Estates, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Debtor or any of their Estates or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, choate or inchoate, whether in law or equity, whether sounding in tort or contract or based on any other legal or equitable theory or principle (including fraud, negligence, gross negligence, recklessness, reckless disregard, deliberate ignorance, public or private nuisance, breach of fiduciary duty, avoidance, willful misconduct, veil piercing, alter-ego theories of liability, unjust enrichment, disgorgement, restitution, contribution, indemnification, right of subrogation and joint liability), whether in rem, quasi in rem, in personam or otherwise, or whether arising under federal or state statutory or common law, or any other applicable international, foreign or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, regardless of where in the world accrued or arising, from the beginning of time, in each case, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (as such Entities existed prior to or after the Petition Date), their Estates or the Chapter 11 Cases, including, without limitation, (i) the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, (ii) the business or contractual arrangements or interactions between any Debtor and any Released Party (including historical business or contractual arrangements or interactions, any direct or indirect distributions or transfers by any Debtor, and any exercise of any common law or contractual rights of setoff or recoupment by any Released Party at any time on or prior to the Effective Date), (iii) any employment or retention of any Released Party by the Debtors (including any service as a director, officer, executive, consultant or advisor to the Debtors or service in any similar capacity), (iv) any direct or indirect beneficial ownership of any equity interest in or debt obligation of the Debtors, (v) the Restructuring Transactions, (vi) the Pending Opioid Actions, (vii) Opioid-Related Activities or the Debtors' development, production, manufacture, licensing, labeling, marketing, advertising, promotion, distribution or sale of non-opioid products or the use or receipt of any proceeds therefrom, in each case, including the Debtors' interactions with regulators and regardless of where in the world any such activities or any result, loss, injury or damage resulting therefrom occurred, (viii) any past, present or future use or misuse of any opioid, whether sold by the Debtors or by NewCo or any of its Subsidiaries or otherwise, to the extent arising from an act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing, (ix) the restructuring of any Claim or Interest before or during the Chapter 11 Cases, (x) the

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Disclosure Statement and the Plan and related agreements, instruments and other documents (including the Plan Documents) and the negotiation, formulation, preparation or implementation thereof, (xi) the solicitation of votes with respect to the Plan, or (xii) any other act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, TopCo and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Releases set forth in this Section 10.6(a).

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim and (y) nothing in this Section 10.6(a) shall (A) release any Cause of Action against any Shareholder Release Snapback Party, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan or (C) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreement.

Section 10.6(b) Releases by Releasing Parties

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, including, without limitation, the service of the Released Parties before and during the Chapter 11 Cases to facilitate the reorganization of the Debtors and the implementation of the Restructuring Transactions, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released by the Releasing Parties from any and all Claims, claims, counterclaims, disputes, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, Liens, remedies, losses, contributions, indemnities, rights of subrogation, costs, liabilities, attorneys' fees and expenses, in each case, of any kind, character or nature whatsoever, including any derivative claims asserted or assertible by or on behalf of the Debtors or their Estates (including any Causes of Action arising under chapter 5 of the Bankruptcy Code) and including any claims that any Releasing Party, or that any other Person or party claiming under or through any Releasing Party, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Releasing Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, choate or inchoate, whether in law or equity, whether sounding in tort or contract or based on any other legal or equitable theory or principle (including fraud, negligence, gross negligence, recklessness, reckless disregard, deliberate ignorance, public or private nuisance, breach of fiduciary duty, avoidance, willful misconduct, veil piercing, alter-ego theories of liability, unjust enrichment, disgorgement, restitution, contribution, indemnification, right of subrogation and joint liability), whether *in rem*, *quasi in rem*, *in personam* or otherwise, or whether arising under federal or state statutory or common law, or any other applicable international, foreign or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, regardless of where in the world accrued or arising, from the beginning of time, in each case, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (as such Entities existed prior to or after the Petition Date), their Estates or the Chapter 11 Cases, including, without limitation, (i) the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, (ii) the business

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or contractual arrangements or interactions between any Debtor and any Released Party (including historical business or contractual arrangements or interactions, any direct or indirect distributions or transfers by any Debtor, and any exercise of any common law or contractual rights of setoff or recoupment by any Released Party at any time on or prior to the Effective Date), (iii) any employment or retention of any Released Party by the Debtors (including any service as a director, officer, executive, consultant or advisor to the Debtors or service in any similar capacity), (iv) any direct or indirect beneficial ownership of any equity interest in or debt obligation of the Debtors, (v) the Restructuring Transactions, (vi) the Pending Opioid Actions, (vii) Opioid-Related Activities or the Debtors' development, production, manufacture, licensing, labeling, marketing, advertising, promotion, distribution or sale of non-opioid products or the use or receipt of any proceeds therefrom, in each case, including the Debtors' interactions with regulators and regardless of where in the world any such activities or any result, loss, injury or damage resulting therefrom occurred, (viii) any past, present or future use or misuse of any opioid, whether sold by the Debtors or by NewCo or any of its Subsidiaries or otherwise, to the extent arising from an act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing, (ix) the restructuring of any Claim or Interest before or during the Chapter 11 Cases, (x) the Disclosure Statement and the Plan and related agreements, instruments and other documents (including the Plan Documents) and the negotiation, formulation, preparation or implementation thereof, (xi) the solicitation of votes with respect to the Plan, or (xii) any other act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing.

For the avoidance of doubt and without limitation of the foregoing, each Person that is a Governmental Unit or a Tribe shall be deemed to have released all Released Claims that have been, are or could have been brought by (1) such Governmental Unit or Tribe in its own right, in its *parens patriae* or sovereign enforcement capacity, or on behalf of or in the name of another Person or (2) any other governmental official, employee, agent or representative acting or purporting to act in a *parens patriae*, sovereign enforcement or quasi-sovereign enforcement capacity, or any other capacity on behalf of such Governmental Unit or Tribe.

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim and (y) nothing in this Section 10.6(b) shall (A) release any Cause of Action against (I) any Shareholder Release Snapback Party or (II) any Holder of Co-Defendant Claims, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan or (C) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreement.

Notwithstanding anything herein to the contrary, the Debtors shall not be released from liability for any Claim that is or may be covered by any Purdue Insurance Policy; *provided* that recovery for any such Claim, including by way of settlement or judgment, shall be limited to the available proceeds of such Purdue Insurance Policy (and any extra-contractual liability of the Insurance Companies with respect to the Purdue Insurance Policies), and no Person or party shall execute, garnish or otherwise attempt to collect any such recovery from any assets other than the available proceeds of the Purdue Insurance Policies. The Debtors shall be released automatically from a Claim described in this paragraph upon the earlier of (x) the abandonment of such Claim and (y) such a release being given as part of a settlement or resolution of such Claim, and shall be released automatically from all Claims described in this paragraph upon the exhaustion of the available proceeds of the Purdue Insurance Policies (notwithstanding the nonoccurrence of either event described in the foregoing clauses (x) and (y)).

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Section 10.6(c) Releases by Debtors of Holders of Claims

As of the Effective Date, all Holders of Channeled Claims (excluding, in all respects, any Excluded Party, Shareholder Release Snapback Party, Co-Defendant or MDT Insurer) are hereby released by the Debtors and their Estates from any and all Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, remedies, losses and liabilities for any Claim in connection with, or arising out of, (i) the administration of the Chapter 11 Cases; the negotiation and pursuit of the Restructuring Transactions, the Plan, the Master Disbursement Trust, the Creditor Trusts (including the trust distribution procedures and the other Creditor Trust Documents) and the solicitation of votes with respect to, and confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan and the property to be distributed under the Plan; and the wind-up and dissolution of the Liquidating Debtors and the transactions in furtherance of any of the foregoing or (ii) such Holder's participation in the Pending Opioid Actions. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, TopCo and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Releases set forth in this Section 10.6(c).

As of the Effective Date, all Holders of PI Channeled Claims and Holders of NAS Monitoring Channeled Claims (excluding, in all respects, any Excluded Party, Shareholder Release Snapback Party, Co-Defendant or MDT Insurer) are hereby released by the Debtors and their Estates from any and all Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, remedies, losses and liabilities for any Claim in connection with, or arising out of, the Debtors (as such Entities existed prior to or after the Petition Date), their Estates or the Chapter 11 Cases, including, without limitation, (i) the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, (ii) the Restructuring Transactions, (iii) the Pending Opioid Actions, (iv) Opioid-Related Activities or the Debtors' development, production, manufacture, licensing, labeling, marketing, advertising, promotion, distribution or sale of non-opioid products or the use or receipt of any proceeds therefrom, in each case, including the Debtors' interactions with regulators and regardless of where in the world any such activities or any result, loss, injury or damage resulting therefrom occurred, (v) any past use or misuse of any opioid, whether sold by the Debtors or any of its Subsidiaries or otherwise, to the extent arising from an act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing, (vi) the restructuring of any Claim or Interest before or during the Chapter 11 Cases, (vii) the Disclosure Statement and the Plan and related agreements, instruments and other documents (including the Plan Documents) and the negotiation, formulation, preparation or implementation thereof, or (viii) any other act, conduct, occurrence or continuing condition in any way relating to any of the foregoing.

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim and (y) nothing in this Section 10.6(c) shall (A) release any contractual Estate Cause of Action or any Estate Cause of Action that is commercial in nature and unrelated to the subject matter of the Pending Opioid Actions, (B) release any Estate Cause of Action against a Holder of a Claim against a Debtor, to the extent such Estate Cause of Action is necessary for the administration and resolution of such Claim solely in accordance with the Plan, (C) release any claim or right arising in the ordinary course of the Debtors' or NewCo's business, including, without limitation, any such claim with respect to taxes or (D) be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreement.

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Section 10.7(a) Shareholder Releases - Releases by Debtors

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Shareholder Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (z) of the last paragraph of this Section 10.7(a), by the Debtors and their Estates from any and all Claims, claims, counterclaims, disputes, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, Liens, remedies, losses, contributions, indemnities, rights of subrogation, costs, liabilities, attorneys' fees and expenses, in each case, of any kind, character or nature whatsoever, including any derivative claims asserted or assertible by or on behalf of any Debtor or any of their Estates (including any Causes of Action arising under chapter 5 of the Bankruptcy Code) and including any claims that any Debtor or any of their Estates, or that any other Person or party claiming under or through any Debtor or any of their Estates, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Debtor or any of their Estates or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, choate or inchoate, whether in law or equity, whether sounding in tort or contract or based on any other legal or equitable theory or principle (including fraud, negligence, gross negligence, recklessness, reckless disregard, deliberate ignorance, public or private nuisance, breach of fiduciary duty, avoidance, willful misconduct, veil piercing, alter-ego theories of liability, unjust enrichment, disgorgement, restitution, contribution, indemnification, right of subrogation and joint liability), whether *in rem*, *quasi in rem*, *in personam* or otherwise, or whether arising under federal or state statutory or common law, or any other applicable international, foreign or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, regardless of where in the world accrued or arising, from the beginning of time, in each case, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (as such Entities existed prior to or after the Petition Date), their Estates or the Chapter 11 Cases, including, without limitation, (i) the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, (ii) the business or contractual arrangements or interactions between any Debtor and any Shareholder Released Party (including historical business or contractual arrangements or interactions, any direct or indirect distributions or transfers by any Debtor, and any exercise of any common law or contractual rights of setoff or recoupment by any Shareholder Released Party at any time on or prior to the Effective Date), (iii) any employment or retention of any Shareholder Released Party by the Debtors (including any service as a director, officer, executive, consultant or advisor to the Debtors or service in any similar capacity), (iv) any direct or indirect beneficial ownership of any equity interest in or debt obligation of the Debtors, (v) the Restructuring Transactions, (vi) the Pending Opioid Actions, (vii) Opioid-Related Activities or the Debtors' development, production, manufacture, licensing, labeling, marketing, advertising, promotion, distribution or sale of non-opioid products or the use or receipt of any proceeds therefrom, in each case, including the Debtors' interactions with regulators and regardless of where in the world any such activities or any result, loss, injury or damage resulting therefrom occurred, (viii) any past, present or future use or misuse of any opioid, whether sold by the Debtors or by NewCo or any of its Subsidiaries or otherwise, to the extent arising from an act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing, (ix) the restructuring of any Claim or Interest before or during the Chapter 11 Cases, (x) the Disclosure Statement and the Plan and related agreements, instruments and other documents (including the Plan Documents) and the negotiation, formulation, preparation or implementation thereof, (xi) the solicitation of votes with

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respect to the Plan, or (xii) any other act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing. The Debtors, the Plan Administration Trust, the Master Disbursement Trust, the Creditor Trusts, NewCo, TopCo and any other newly-formed Persons that shall be continuing the Debtors' businesses after the Effective Date shall be bound, to the same extent the Debtors are bound, by the Shareholder Releases set forth in this Section 10.7(a).

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) nothing in this Section 10.7(a) shall be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreement and the Separation Agreements; and (z) upon the filing of a Notice of Shareholder Release Snapback, (A) the Shareholder Releases set forth in this Section 10.7(a) shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to all members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, (B) the *status quo ante* shall be restored in all respects for the Debtors and the Master Disbursement Trust with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties (C) the Master Disbursement Trust shall be deemed to have received and accepted all of the rights with respect to any member of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties, in each case, that the Debtors and their Estates had prior to the Effective Date and that the Master Disbursement Trust would have pursuant to the transfer of the MDT Shareholder Rights to the Master Disbursement Trust if the Shareholder Releases of this Section 10.7(a) had never been granted, which rights the Debtors and their Estates shall be deemed to have irrevocably transferred, granted and assigned to the Master Disbursement Trust; *provided that*, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the Shareholder Releases shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Shareholder Released Parties other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties.

Section 10.7(b) Shareholder Releases - Releases by Non-Debtors

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Shareholder Released Parties shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (z) of the last paragraph of this Section 10.7(b), by the Releasing Parties from any and all Claims, claims, counterclaims, disputes, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, Liens, remedies, losses, contributions, indemnities, rights of subrogation, costs, liabilities, attorneys' fees and expenses, in each case, of any kind, character or nature whatsoever, including any derivative claims asserted or assertible by or on behalf of the Debtors or their Estates (including any Causes of Action arising under chapter 5 of the Bankruptcy Code) and including any claims that any Releasing Party, or that any other Person or party claiming under or through any Releasing Party or any other Person, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Releasing Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, choate or inchoate, whether in law or equity, whether sounding in tort or contract or based on any other legal or equitable theory or principle (including fraud, negligence, gross negligence, recklessness,

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reckless disregard, deliberate ignorance, public or private nuisance, breach of fiduciary duty, avoidance, willful misconduct, veil piercing, alter-ego theories of liability, unjust enrichment, disgorgement, restitution, contribution, indemnification, right of subrogation and joint liability), whether *in rem*, *quasi in rem*, *in personam* or otherwise, or whether arising under federal or state statutory or common law, or any other applicable international, foreign or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, regardless of where in the world accrued or arising, from the beginning of time, in each case, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (as such Entities existed prior to or after the Petition Date), their Estates or the Chapter 11 Cases, including, without limitation, (i) the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, (ii) the business or contractual arrangements or interactions between any Debtor and any Shareholder Released Party (including historical business or contractual arrangements or interactions, any direct or indirect distributions or transfers by any Debtor, and any exercise of any common law or contractual rights of setoff or recoupment by any Shareholder Released Party at any time on or prior to the Effective Date), (iii) any employment or retention of any Shareholder Released Party by the Debtors (including any service as a director, officer, executive, consultant or advisor to the Debtors or service in any similar capacity), (iv) any direct or indirect beneficial ownership of any equity interest in or debt obligation of the Debtors, (v) the Restructuring Transactions, (vi) the Pending Opioid Actions, (vii) Opioid-Related Activities or the Debtors' development, production, manufacture, licensing, labeling, marketing, advertising, promotion, distribution or sale of non-opioid products or the use or receipt of any proceeds therefrom, in each case, including the Debtors' interactions with regulators and regardless of where in the world any such activities or any result, loss, injury or damage resulting therefrom occurred, (viii) any past, present or future use or misuse of any opioid, whether sold by the Debtors or by NewCo or any of its Subsidiaries or otherwise, to the extent arising from an act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing, (ix) the restructuring of any Claim or Interest before or during the Chapter 11 Cases, (x) the Disclosure Statement and the Plan and related agreements, instruments and other documents (including the Plan Documents) and the negotiation, formulation, preparation or implementation thereof, (xi) the solicitation of votes with respect to the Plan, or (xii) any other act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing.

For the avoidance of doubt and without limitation of the foregoing, each Person that is a Governmental Unit or a Tribe shall be deemed to have released all Shareholder Released Claims that have been, are or could have been brought by (1) such Governmental Unit or Tribe in its own right, in its *parens patriae* or sovereign enforcement capacity, or on behalf of or in the name of another Person or (2) any other governmental official, employee, agent or representative acting or purporting to act in a *parens patriae*, sovereign enforcement or quasi-sovereign enforcement capacity, or any other capacity on behalf of such Governmental Unit or Tribe.

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) nothing in this Section 10.7(b) shall be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreement and the Separation Agreements; and (z) upon the filing of a Notice of Shareholder Release Snapback, (A) the Shareholder Releases set forth in this Section 10.7(b) shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to all members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties and (B) the *status quo ante* shall be restored in all respects for the Releasing Parties with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties; *provided that*, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the Shareholder Releases shall

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continue in effect for, and shall be fully enforceable by and for the benefit of, all other Shareholder Released Parties other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties.

Section 10.7(c) Shareholder Releases - Releases by Shareholder Released Parties

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise explicitly provided in the Plan or in the Confirmation Order, the Reciprocal Releasees shall be conclusively, absolutely, unconditionally, irrevocably, fully, finally, forever and permanently released, subject to clause (z) of the last paragraph of this Section 10.7(c), by the Shareholder Released Parties from any and all Claims, claims, counterclaims, disputes, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, Liens, remedies, losses, contributions, indemnities, rights of subrogation, costs, liabilities, attorneys' fees and expenses, in each case, of any kind, character or nature whatsoever, including any derivative claims asserted or assertible by or on behalf of the Debtors or their Estates (including any Causes of Action arising under chapter 5 of the Bankruptcy Code) and including any claims that any Shareholder Released Party, or that any other Person or party claiming under or through any Shareholder Released Party or any other Person, would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively) or on behalf of any Shareholder Released Party or any other Person, notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereinafter arising, choate or inchoate, whether in law or equity, whether sounding in tort or contract or based on any other legal or equitable theory or principle (including fraud, negligence, gross negligence, recklessness, reckless disregard, deliberate ignorance, public or private nuisance, breach of fiduciary duty, avoidance, willful misconduct, veil piercing, alter-ego theories of liability, unjust enrichment, disgorgement, restitution, contribution, indemnification, right of subrogation and joint liability), whether *in rem*, *quasi in rem*, *in personam* or otherwise, or whether arising under federal or state statutory or common law, or any other applicable international, foreign or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, regardless of where in the world accrued or arising, from the beginning of time, in each case, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (as such Entities existed prior to or after the Petition Date), their Estates or the Chapter 11 Cases, including, without limitation, (i) the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, (ii) the business or contractual arrangements or interactions between any Debtor and any Shareholder Released Party (including historical business or contractual arrangements or interactions, any direct or indirect distributions or transfers by any Debtor, and any exercise of any common law or contractual rights of setoff or recoupment by any Shareholder Released Party at any time on or prior to the Effective Date), (iii) any employment or retention of any Shareholder Released Party by the Debtors (including any service as a director, officer, executive, consultant or advisor to the Debtors or service in any similar capacity), (iv) any direct or indirect beneficial ownership of any equity interest in or debt obligation of the Debtors, (v) the Restructuring Transactions, (vi) the Pending Opioid Actions, (vii) Opioid-Related Activities or the Debtors' development, production, manufacture, licensing, labeling, marketing, advertising, promotion, distribution or sale of non-opioid products or the use or receipt of any proceeds therefrom, in each case, including the Debtors' interactions with regulators and regardless of where in the world any such activities or any result, loss, injury or damage resulting therefrom occurred, (viii) any past, present or future use or misuse of any opioid, whether sold by the Debtors or by NewCo or any of its Subsidiaries or otherwise, to the extent arising from an act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing, (ix) the restructuring

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of any Claim or Interest before or during the Chapter 11 Cases, (x) the Disclosure Statement and the Plan and related agreements, instruments and other documents (including the Plan Documents) and the negotiation, formulation, preparation or implementation thereof, (xi) the solicitation of votes with respect to the Plan, or (xii) any other act, conduct, omission, event, transaction, occurrence or continuing condition in any way relating to any of the foregoing.

Notwithstanding anything herein to the contrary, (x) nothing in the Plan shall release any Excluded Claim; (y) nothing in this Section 10.7(c) shall be construed to impair in any way the Effective Date or post-Effective Date rights and obligations of any Person under the Plan, the Plan Documents, the Confirmation Order or the Restructuring Transactions, including the Shareholder Settlement Agreement and the Separation Agreements, and including the rights of any Shareholder Released Party that is a current or former director, officer or employee of the Debtors but is not a Sackler Family Member relating to plan treatment of any Claims held by such party; and (z) upon the filing of a Notice of Shareholder Release Snapback and the commencement or continuation of any action or proceeding against a member of a Breaching Shareholder Family Group or a Designated Shareholder Released Party by any Reciprocal Releasee, (A) the releases set forth in this Section 10.7(c) of any Reciprocal Releasee that has commenced or continued any such action shall be entirely null and void, revoked and invalidated, as of the Effective Date, with respect to the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties and (B) the *status quo ante* shall be restored in all respects for the members of the Breaching Shareholder Family Group and the Designated Shareholder Released Parties with respect to any Reciprocal Releasee that has commenced or continued any such litigation; *provided* that, for the avoidance of doubt, notwithstanding the nullification, voiding, revocation and invalidation pursuant to the foregoing clause (A), the releases set forth in this Section 10.7(c) shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Reciprocal Releasees, and shall be binding on, and enforceable against, all other Shareholder Released Parties, including any members of the Breaching Shareholder Family Group with respect to any Reciprocal Releasee that has not commenced any such litigation.

Section 10.8 Channeling Injunction

In order to supplement the injunctive effect of the Plan Injunction, the Releases and the Shareholder Releases set forth in Sections 10.5, 10.6 and 10.7 of the Plan, the Confirmation Order shall provide for the following permanent injunction to take effect as of the Effective Date:

(a) **Terms.** In order to preserve and promote the settlements contemplated by and provided for in the Plan and to supplement, where necessary, the injunctive effect of the Plan Injunction, the Releases and the Shareholder Releases described in Sections 10.5, 10.6 and 10.7 of the Plan, and pursuant to the exercise of the equitable jurisdiction and power of the Bankruptcy Court under section 105(a) of the Bankruptcy Code, all Persons that have held or asserted, that hold or assert or that may in the future hold or assert any Channeled Claim shall be permanently and forever stayed, restrained and enjoined from taking any action for the purpose of directly or indirectly collecting, recovering or receiving payments, satisfaction, recovery or judgment of any form from or against any Protected Party with respect to any Channeled Claim, including:

(i) commencing, conducting or continuing, in any manner, whether directly or indirectly, any suit, action or other proceeding, in each case, of any kind, character or nature, in any forum in any jurisdiction with respect to any Channeled Claims, against or affecting any Protected Party, or any

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property or interests in property of any Protected Party with respect to any Channeled Claims;

(ii) enforcing, levying, attaching, collecting or otherwise recovering, by any means or in any manner, either directly or indirectly, any judgment, award, decree or other order against any Protected Party or against the property of any Protected Party with respect to any Channeled Claims;

(iii) creating, perfecting or enforcing, by any means or in any manner, whether directly or indirectly, any Lien of any kind against any Protected Party or the property of any Protected Party with respect to any Channeled Claims;

(iv) asserting or accomplishing any setoff, right of subrogation, indemnity, contribution or recoupment of any kind, whether directly or indirectly, in respect of any obligation due to any Protected Party or against the property of any Protected Party with respect to any Channeled Claims; and

(v) taking any act, by any means or in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan Documents, with respect to any Channeled Claims.

(b) **Reservations.** Notwithstanding anything to the contrary in this Section 10.8 or the Confirmation Order, this Channeling Injunction shall not stay, restrain, bar or enjoin:

(i) the rights of Holders of Channeled Claims to the treatment afforded them under the Plan and the Plan Documents, including the rights of Holders of Channeled Claims to assert such Channeled Claims solely in accordance with Section 6.21 of the Plan, the Master TDP and the Creditor Trust TDPs, in each case whether or not there are funds to make Distributions in respect of such Channeled Claims and whether or not such rights entitle such Holders to Abatement Distributions or any other form of Distributions;

(ii) the rights of Persons to assert any claim, debt, litigation or liability for payment of Creditor Trust Operating Expenses solely against the applicable Creditor Trust;

(iii) the rights of Persons to assert any claim, debt or litigation against any Excluded Party;

(iv) the rights of the Master Disbursement Trust to pursue and enforce the MDT Shareholder Rights, the MDT Insurance Rights and the MDT Causes of Action;

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- (v) the rights of the parties to the LRP Agreement to enforce the terms thereof in accordance with the Plan;
 - (vi) the Creditor Trusts from enforcing their respective rights against the Master Disbursement Trust under the Plan and the MDT Documents;
 - (vii) the Master Disbursement Trust from enforcing its rights, on behalf of itself and the Private Creditor Trusts, against NewCo and TopCo under the Plan and the NewCo Credit Support Agreement; or
 - (viii) NOAT or the Tribe Trust from enforcing their respective rights against TopCo under the TopCo Operating Agreement.
- (c) **Notice of Shareholder Release Snapback.** Upon the filing of a Notice of Shareholder Release Snapback, the Channeling Injunction shall terminate, be rescinded and have no application, without further order of the Bankruptcy Court, to any suit, action or other proceeding, in each case, of any kind, character or nature, brought against any member of the Breaching Shareholder Family Group or any Designated Shareholder Released Party; *provided, however*, that the extension of time provided by Section 10.9(a) of the Plan shall continue in effect in accordance with its terms; and *provided further* that, for the avoidance of doubt, notwithstanding the termination and rescission pursuant to this Section 10.8(c), the Channeling Injunction shall continue in effect for, and shall be fully enforceable by and for the benefit of, all other Protected Parties, including all other Shareholder Released Parties, other than the Breaching Shareholder Family Group and the Designated Shareholder Released Parties.
- (d) **Modifications.** Except as expressly set forth in paragraph (c) of this Section 10.8, there can be no modification, dissolution or termination of the Channeling Injunction, which shall be a permanent injunction.
- (e) **Non-Limitation of Channeling Injunction.** Except as expressly set forth in paragraphs (b) and (c) of this Section 10.8, nothing in the Plan, the MDT Documents or the Creditor Trust Documents shall be construed in any way to limit the scope, enforceability or effectiveness of the Channeling Injunction issued in connection with the Plan.
- (f) **Bankruptcy Rule 3016 Compliance.** The Debtors' compliance with the requirements of Bankruptcy Rule 3016 shall not constitute an admission that the Plan provides for an injunction against conduct not otherwise enjoined under the Bankruptcy Code.

Section 10.9 Tolling of Shareholder Released Claims; Violations of Shareholder Releases and Channeling Injunction

- (a) **Tolling of Shareholder Released Claims.** If applicable law, an order in any proceeding or an agreement fixes a period for commencing or continuing an action or proceeding based on a Shareholder Released Claim and such Shareholder Released Claim is released pursuant to the Shareholder Releases or such action or proceeding is enjoined by the Channeling Injunction, then such period does not expire with respect to such Shareholder Released Claim with respect to the Master Disbursement Trust (or the MDT Trustees) or the Releasing Parties until the latest of (i) the end of such period; (ii) with respect to the applicable Shareholder Family Group, two hundred twenty-five (225) days after the filing of a Notice of Shareholder Release Snapback with respect to such Shareholder Family Group;

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and (iii) with respect to the applicable Shareholder Family Group, when such Shareholder Family Group fulfills its payment obligations under the Shareholder Settlement Agreement.

(b) **Violations of Shareholder Releases and Channeling Injunction.** In the event that any Person takes any action that a Shareholder Released Party believes violates the Shareholder Releases or Channeling Injunction as it applies to any Shareholder Released Party, such Shareholder Released Party shall be entitled to make an emergency application to the Bankruptcy Court for relief, and may proceed by contested matter rather than by adversary proceeding. The Bankruptcy Court shall have jurisdiction and authority to enter final orders in connection with any dispute over whether an action violates the Shareholder Releases or Channeling Injunction. Upon determining that a violation of the Shareholder Releases or Channeling Injunction has occurred, the Bankruptcy Court, in its discretion, may award any appropriate relief against such violating Person, including, but not limited to, (i) disgorgement from the violating Person of any funds, assets or other value received, directly or indirectly, pursuant to the Plan or Plan Documents (including fees and expenses paid pursuant to the Plan or Plan Documents on account of legal or other advisory services rendered to or for the benefit of the violating Person); (ii) the termination of any rights of the violating Person to receive any funds, assets or other value pursuant to the Plan or Plan Documents; (iii) the reduction of any payments owed by any Shareholder Released Parties under the Shareholder Settlement Agreement to the violating Person in an amount equal to the amount of disgorgement ordered from, or the reduction of future payments ordered to be made to, or on account of, the violating Person (subject to the right of the violating Person to request that any amounts actually disgorged from such violating Person offset any reduction of future payments ordered to be made to, or on account of, such violating Person); (iv) an admonition, reprimand or censure of, or citation of contempt by, the violating Person and its counsel; (v) a fine or penalty paid into the Bankruptcy Court; (vi) a bond or other security in an amount equal to any financial obligation ordered by the Bankruptcy Court in respect of the violation; (vii) an appropriate sanction on any attorney or law firm responsible for the violation; (viii) injunctive relief to prevent future violations by the Person or its counsel; and (ix) attorney and other professional fees incurred by any Shareholder Released Party arising from the violation. The provision of any one form of relief shall not preclude the provision of any other form of relief.

Section 10.10

MDT Insurer Injunction

(a) **Terms.** In accordance with section 105(a) of the Bankruptcy Code, upon the occurrence of the Effective Date, all Persons that have held or asserted, that hold or assert or that may in the future hold or assert any Claim based on, arising under or attributable to an MDT Insurance Policy shall be, and hereby are, permanently stayed, restrained and enjoined from taking any action for the purpose of directly or indirectly collecting, recovering or receiving payment or recovery on account of any such Claim based on, arising under or attributable to an MDT Insurance Policy from or against any MDT Insurer, including:

- (i) commencing, conducting or continuing, in any manner any action or other proceeding of any kind (including an arbitration or other form of alternate dispute resolution) against any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy;
- (ii) enforcing, attaching, levying, collecting or otherwise recovering, by any manner or means, any judgment, award, decree or other order against any MDT Insurer, or against the

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property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy;

(iii) creating, perfecting or enforcing in any manner any Lien of any kind against any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy;

(iv) asserting or accomplishing any setoff, right of subrogation, indemnity, contribution or recoupment of any kind, whether directly or indirectly, against any obligation due to any MDT Insurer, or against the property of any MDT Insurer, on account of any Claim based on, arising under or attributable to an MDT Insurance Policy; and

(v) taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan applicable to any Claim based on, arising under or attributable to an MDT Insurance Policy.

(b) **Reservations.** The provisions of this MDT Insurer Injunction shall not preclude the Master Disbursement Trust from pursuing any Claim based on, arising under or attributable to an MDT Insurance Policy, any other claim that may exist under any MDT Insurance Policy against any MDT Insurer, or enjoin the rights of the Master Disbursement Trust to prosecute any action based on or arising from the MDT Insurance Policies or the rights of the Master Disbursement Trust to assert any claim, debt, obligation, cause of action or liability for payment against a MDT Insurer based on or arising from the MDT Insurance Policies. The provisions of this MDT Insurer Injunction are not issued for the benefit of any MDT Insurer, and no such insurer is a third-party beneficiary of this MDT Insurer Injunction. This MDT Insurer Injunction shall not enjoin, impair or affect (i) any claims between or among MDT Insurers that are not Settling MDT Insurers; (ii) the rights of current and former directors, officers, employees and agents of the Debtors that are not Sackler Family Members that are preserved under the Plan or (iii) the terms of the Shareholder Settlement Agreement with respect to the MDT Shareholder Insurance Rights.

(c) **Modifications.** To the extent the MDT Trustees make a good faith determination that some or all of the MDT Insurance Proceeds are substantially unrecoverable by the Master Disbursement Trust, the Master Disbursement Trust shall have the sole and exclusive authority at any time, upon written notice to any affected MDT Insurer, to terminate, reduce or limit the scope of this MDT Insurer Injunction with respect to any MDT Insurer, *provided* that (i) any termination, reduction, or limitation of the MDT Insurer Injunction (A) shall apply equally to all Classes of Claims, and (B) shall comply with any procedures set forth in the MDT Agreement and (ii) the termination, reduction or limitation of the MDT Insurer Injunction as it relates to the MDT Bermuda-Form Insurance Policies shall be subject to the consent (not to be unreasonably withheld, conditioned or delayed) of the Creditor Trustee for the PI Trust.

(d) **Non-Limitation of MDT Insurer Injunction.** Except as set forth in paragraphs (b) and (c) of this Section 10.10, nothing in the Plan, the MDT Documents or the Creditor Trust Documents shall be construed in any way to limit the scope, enforceability or effectiveness of the MDT Insurer Injunction issued in connection with the Plan.

Section 10.11 Settling MDT Insurer Injunction

(a) **Terms.** In accordance with section 105(a) of the Bankruptcy Code, upon the occurrence of the Effective Date, all Persons that have held or asserted, that hold or assert

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or that may in the future hold or assert any Claim based on, arising under or attributable to an MDT Insurance Policy shall be, and hereby are, permanently stayed, restrained and enjoined from taking any action for the purpose of directly or indirectly collecting, recovering or receiving payment or recovery on account of any such Claim based on, arising under or attributable to an MDT Insurance Policy from or against any Settling MDT Insurer, solely to the extent that such Settling MDT Insurer has been released from such Claim under such MDT Insurance Policy pursuant to an MDT Insurance Settlement, including:

- (i) commencing, conducting or continuing, in any manner any action or other proceeding of any kind (including an arbitration or other form of alternate dispute resolution) against any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy;
- (ii) enforcing, attaching, levying, collecting or otherwise recovering, by any manner or means, any judgment, award, decree or other order against any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy;
- (iii) creating, perfecting or enforcing in any manner any Lien of any kind against any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy;
- (iv) asserting or accomplishing any setoff, right of subrogation, indemnity, contribution or recoupment of any kind, whether directly or indirectly, against any obligation due to any such Settling MDT Insurer, or against the property of such Settling MDT Insurer, on account of such Claim based on, arising under or attributable to such MDT Insurance Policy; and
- (v) taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan applicable to such Claim based on, arising under or attributable to such MDT Insurance Policy.

(b) **Reduction of Insurance Judgments.** Any right, Claim or cause of action that an Insurance Company may have been entitled to assert against any Settling MDT Insurer but for the Settling MDT Insurer Injunction, if any such right, Claim or cause of action exists under applicable non-bankruptcy law, shall become a right, Claim or cause of action solely as a setoff claim against the Master Disbursement Trust and not against or in the name of the Settling MDT Insurer in question. Any such right, Claim or cause of action to which an Insurance Company may be entitled shall be solely in the form of a setoff against any recovery of the Master Disbursement Trust from that Insurance Company, and under no circumstances shall that Insurance Company receive an affirmative recovery of funds from the Master Disbursement Trust or any Settling MDT Insurer for such right, Claim or cause of action. In determining the amount of any setoff, the Master Disbursement Trust may assert any legal or equitable rights the Settling MDT Insurer would have had with respect to any right, Claim or cause of action.

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(c) **Modifications.** There can be no modification, dissolution or termination of the Settling MDT Insurer Injunction, which shall be a permanent injunction.

(d) **Non-Limitation of Settling MDT Insurer Injunction.** Except as set forth in paragraphs (b) and (c) of this Section 10.11, nothing in the Plan, the MDT Documents or the Creditor Trust Documents shall be construed in any way to limit the scope, enforceability or effectiveness of the Settling MDT Insurer Injunction issued in connection with the Plan.

Section 10.12 Exculpation

To the maximum extent permitted by applicable law, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from: any Claim, obligation, suit, judgment, damage, demand, debt, right, Cause of Action, remedy, loss and liability for any Claim in connection with, or arising out of, the administration of the Chapter 11 Cases; the negotiation and pursuit of the Disclosure Statement (including any information provided, or statements made, in the Disclosure Statement or omitted therefrom), the Restructuring Transactions, the Plan, the Master Disbursement Trust (including the Master TDP and the MDT Agreement), the Creditor Trusts (including the Creditor Trust TDPs and the other Creditor Trust Documents) and the solicitation of votes for, and confirmation of, the Plan; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan and the property to be distributed under the Plan; and the wind-up and dissolution of the Liquidating Debtors and the transactions in furtherance of any of the foregoing, in each case other than Claims or Causes of Action arising out of, or related to, any act or omission of an Exculpated Party that is a criminal act or constitutes fraud, gross negligence or willful misconduct. This exculpation shall be in addition to, and not in limitation of, all other Releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability. For the avoidance of doubt, this Section 10.12 shall not exculpate or release any Exculpated Party with respect to any act or omission of such Exculpated Party prior to the Effective Date that is later found to be a criminal act or to constitute fraud, gross negligence or willful misconduct, including findings after the Effective Date. Notwithstanding anything herein to the contrary, nothing in the Plan shall release any Claims or Causes of Action that may be asserted against any Excluded Party.

Section 10.13 Injunction Related to Releases and Exculpation

To the maximum extent permitted under applicable law, the Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses or liabilities released pursuant to this Plan, including, without limitation, the Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities released or exculpated in this Plan and the Claims, Interests, Liens, other encumbrances or liabilities described in Section 5.3(b), 5.4(c) or 5.6(b) of the Plan.

ADJOURN**Motion: To adjourn at 5:44 p.m.**

July 6, 2021 (Pre-Agenda)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Wayne F. Abele, Sr., Commissioner
AYES:	Jeffrey C. Brittain, Scott Mulwee, Wayne F. Abele, Sr. and Johnnie W. Carswell
ABSENT:	Maynard M. Taylor

Approved this 17th day of August 2021.



Scott Mulwee, Vice Chairman
Burke Co. Board of Commissioners

Attest:



Kay Honeycutt Draughn, CMC, NCMCC
Clerk to the Board