



Recommendation

March 12, 2019

Park at Beatty Task Force – Thank you!

Ellyn Baeszler

Frank Farina

Denise Beall

Janet Makee

Dave Cable

Bill Maloney

Leah Chester-Davis

Karen Manfredi

Heidi Dietrich

Gabriel Schoen

Gary Fagan

Alice Sudduth

Professional Support – Thank you!

- **Gary Fankhauser – Viz Design**
- **P&R staff Leslie Willis, Carmen Clemsic & Charlene Minor led by Kathryn Spatz - P&R Staff**
- **Chris Matthews Mecklenburg County P&R**
- **Other Town Staff: Kim Fleming, Doug Wright, Piet Swart, Jamie Justice, Cristina Shaul, Chief Fitzgerald, Chief Dunn**



Libby Cable facilitated our ½ Day Retreat

Town Officials,
Thank you!

Mayor Knox

Board Liaisons:
Mayor Pro Tem Fuller
Commissioner Sitton

TASK FORCE CHARGE:

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Davidson that the once established Park at Beaty Street Conceptual Plan Task Force is charged with the following:

- **Sponsor** public forums to solicit community input and identify park and recreation needs along with ancillary public amenities in keeping with the natural, park-like setting and the hardwood tree canopy.
- **Investigate** park and recreation elements needed, including walking trails and other amenities.

- **Consider** ancillary uses as appropriate, respecting historic character of surrounding parcels.
- **Develop** planning level cost estimates for the various options to help setting priorities and developing financing plans.
- **Evaluate** each option on the basis of capital and operational costs, potential impacts on the natural environment, potential revenues.

- **Meet** with the Davidson Board of Commissioners for review and comment before making final recommendations.
- **Make recommendations** for the consideration of the Davidson Board of Commissioners.
- **Consider opportunities** beyond current boundaries of Beaty property portfolio that may enhance park, public spaces and natural resource experience for the community.

Completed Work Overview - Part I

- More than 1,000 points of contact for public input
- Plant inventory on property performed by
Mecklenburg County
- ½ Day Retreat including Mayor Pro Tem Fuller
and Commissioner Sitton
- Hydrology Study by Kimley-Horn
- Environmental Testing
- 2 Commissioner Updates

Completed Work Overview - Part II

- Park and Grant Research + Park visits
- 20 Task Force Meetings
- Initial inquiries into grant funding for invasive removal and storm water improvements
- Explored viability of commercial aspects for top corner with economic development officer, Kim Fleming

Agenda

1. Public Engagement + Input
2. Conserving the Park
3. Water Features
4. Conceptual Design
5. Preliminary Cost Estimates + Phasing
6. Park Research + Funding
7. Recommendations

Recommended Next Steps

1. **Evaluate** Additional Dam Options
2. **Endorse** permanent conservation of the land
3. **Adopt** Conceptual Plan/Design
4. **Rank** Park at Beaty as a high priority
5. **Charge** Task Force leadership to guide conserving,
designing and implementing the park
6. **Prioritize** the Beaty Street section of Charlotte to
Mooreville Trail (A.K.A. Potts/Sloan/Beaty Corridor)
7. **Request** Design Funding from Mecklenburg County

Public Engagement + Input

Public Input



- Informed through various media channels such as Town Message, social media, e-crier, CivicSend, local news media, and fliers & information cards placed around town
- 9 guided Beaty property hikes
- More than 850 responses to 2 online surveys and more than 1,000 points of *total* public input contact.

Public Input

- Kids Draw-a-Park World of Wonder, Davidson Farmers Market
- Back-to-School Event, Gethsemane Baptist Church
- Pinterest Inspiration Board



Public Input

- Public Input Inspiration Board, Town Hall
- Info cards distributed at Run for Green and other events
- 3 public forums: 9/17/18, 11/5/18, 2/19/19



Public Preferences

Conserve Land

Natural Amphitheater

Natural Gathering Spaces

Natural Trails

Natural Play Areas

Parking

Pavilion

Pollinator Garden

Playground

Pond

Restrooms

Small Park Building/Structure

Tree House

Tree Canopy

Conserving the Park

Why conserve the Park at Beaty?

The Task Force voted ***unanimously*** on Feb 6 to recommend permanent conservation of the Park in perpetuity.

- The public expressed a desire to conserve the land
- The property purchased with intent to make it a park
- Permanent conservation is the only way to ensure the land is kept open, undeveloped, and in the public realm, forever
- The Task Force was compelled to conserve the land by the history of the property, its vulnerability to development given its village location, and the historic & public significance of the land
- The Task Force was moved to learn that nearly all the park land in Mecklenburg County, excepting Fisher Farm, is unprotected. The recent sale of Marshall Park in Charlotte caught the attention of the TF.

A Visionary Decision

This visionary decision would protect this largest piece of land in the heart of Davidson for future generations.

According to UNCC, by the year 2030, 98% of open space in the region will disappear. There will be no more open space! It's also reported that this projection is a conservative number.

Public input strongly supports conserving this property.

There are vast environmental benefits to preserving the tree canopy for humans and wildlife.



Let's protect this natural resource and consider what many have called: "the Central Park of Davidson!"

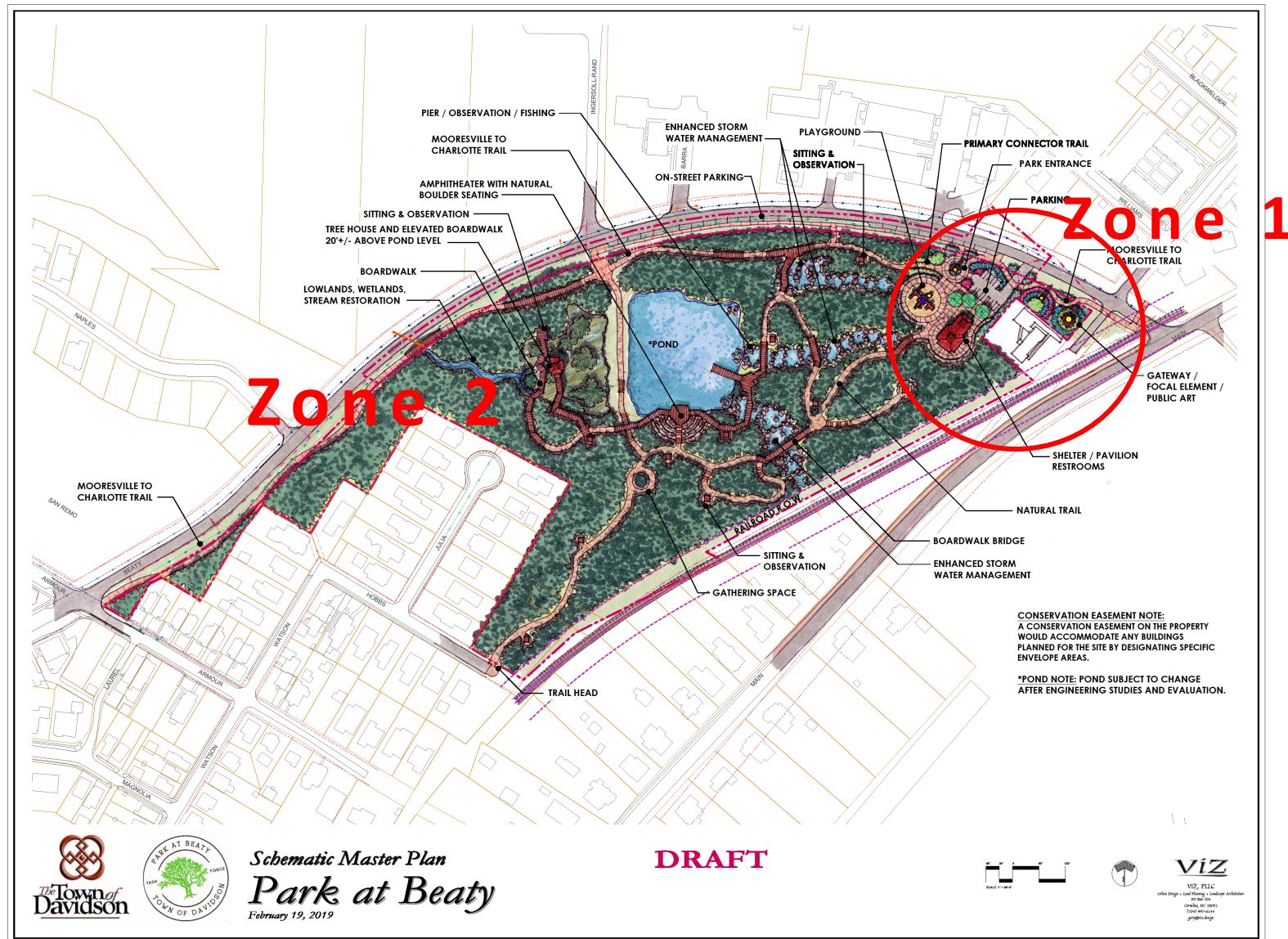
Land Conservation

- Conservation easements (CE) vs. deed restrictions vs. fee simple
- Easements are permanent, irrevocable, very difficult to amend; can only be undone by judicial action
- 55 million U.S. acres preserved by CE
- Terms of the CE will be specific to Beaty Park, its conservation values, and park use
- Stewardship endowment fund & monitoring
- Legal defense fund & enforcement

Steps to Conserving Beaty Park

- ✓ Task Force voted unanimously to recommend conservation of 20+ acres of Park land
- 1. Town Board conceptual approval & agency selection
- 2. Draft recommended terms of easement
- 3. Review & approval by Task Force
- 4. Town Board review, edit, approval
- 5. Conservation agency (DLC is local) committee & Board review
- 6. Baseline analysis, survey (of zones, if needed) & title search
- 7. Execute and record conservation easement
- 8. Stewardship and funding, annual monitoring

Conceptual Conservation Plan



Conservation Easement Recommendation

Task Force voted *unanimously* to recommend permanently protecting all 6 parcels (20+acres) that make up the Beaty Property with a conservation easement.

Conserving the Park

The Park at Beauty Task Force's #1
Priority is to protect the land in
perpetuity.

The public expressed consistent
desire to protect the land
in perpetuity.

The Task force
recommends
conservation agency
partner:



Water Features

Analysis of Water Features

Existing Conditions

- Pond, Dam, Storm Water Run-off, Public Preferences

Questions Addressed by the Study

Three Options & Cost-Benefit Analyses

- Pond, Wetland, Stream Restoration

Task Force Recommendation for Water Feature

Pond is Centerpiece of Park at Beaty



Existing Conditions of Pond Partially Drained & Breached Embankment



Recent Conditions

Pond is Probably Spring Fed



Severely Eroding Upstream Ditches



Beaty Street Pond Existing Conditions

- The dam is breached, is classified as ‘high hazard,’ and needs immediate repair. Repair costs initially estimated at \$60,000
- Doing nothing to the dam is not an option
- The pond provides some water quality and storm water control benefits but they are not optimized. Improvements are needed to enhance pollutant capture and retention, and limit erosion.

Beaty Street Pond & Dam - Key Questions Addressed by Kimley Horn

- A. What is required to create a durable dam structure? Will simply repairing the existing breach solve the problem?
- B. Is there sufficient water budget (in the watershed) to support an aesthetically pleasing pond and wildlife?
- C. What are the options for water features for the Park at Beaty, and the costs and benefits (\$, aesthetic, ecological) of each?
- D. What can be done to enhance the water quality of Lake Davidson?

Analysis of Water Features



Pond, Wetland, Stream Restoration all have
equivalent environmental consequences.

Beaty Street Pond & Dam - Key Questions

A. What is required to create a durable dam structure? Will simply repairing the existing breach solve the problem?

- Borings of the dam reveal poor soil conditions below the embankment. Total removal and replacement of the soil and embankment are needed to keep the dam.
- Repairing the existing breach will not solve the problem and is likely a waste of money.
- Doing nothing is not an option.

Beaty Street Pond & Dam - Key Questions

B. Is there sufficient water budget (in the watershed) to support an aesthetically pleasing pond and wildlife?

- Yes. Rainfall and flow from the 40+ acre watershed combined with the likely presence of a spring in the pond are deemed adequate to support a viable pond.
- Any shortfall would likely be addressed with a pond liner.

Beaty Street Pond & Dam - Key Questions

- C. What are the options for water features for the Park at Beaty, and the costs and benefits (\$, aesthetic, ecological) of each?
- What are the options for water features for the Park at Beaty, and the costs and benefits (\$, aesthetic, ecological) of each?

Option 1 – Replace the Dam and Rebuild the Pond



McDowell Creek Park and Colonel Francis Beaty Park, Mecklenburg County, NC (photo credit: Newsandobserver.com)

Option 2 – Convert Pond to a Storm Water Wetland



McDowell Creek Park and Colonel Francis Beatty Park, Mecklenburg County, NC (photo credit: Newsandobserver.com)

Option 3 – Remove Dam and Pond and Restore the Streams



Country Club Lake with Failed Dam , Fayetteville, NC



Country Club Lake – 5 years After Dam Removal

Cost – Benefit Analyses of Options

Financial – Preliminary and subject to change with further study

Alternative	Opinion of Design, Permitting and Construction Cost	Opinion of Annual Maintenance Cost
Pond Rebuild (~2 Acres)	\$1,200,00 - \$1,500,000 ¹	\$10,000 - \$15,000 per year
Stormwater Wetland (~2 Acres)	\$1,200,000 - \$1,600,000	\$12,000 - \$18,000 per year
Dam Removal/Restoration	\$550,000 - \$800,000	\$2,000 - \$5,000 per year
¹ Cost of pond rebuild includes improving/replacing the culvert under <u>Beaty</u> Street to help remove the pond for the NC lists of high hazard dams		

Ecological

The ecological impacts of the options are roughly the same. Enhancements to the existing site drainage are needed for improved water quality, independent of the Option implemented.

Aesthetic

Debatable and personal. Prior to the hydrology study the public input favored keeping and enhancing the pond. Question raised about the aesthetic qualities of stream restoration.

Beaty Street Pond & Dam – Key Questions

D. What can be done to enhance the water quality of Lake Davidson?



- Address eroding ditches above the pond.
- Forebays in streams, wetland shelf around pond, de-energize flows, pond aeration, downstream enhancements.

Task Force Discussion Points

The Task Force considered many factors in its rich discussion of the water feature options, including:

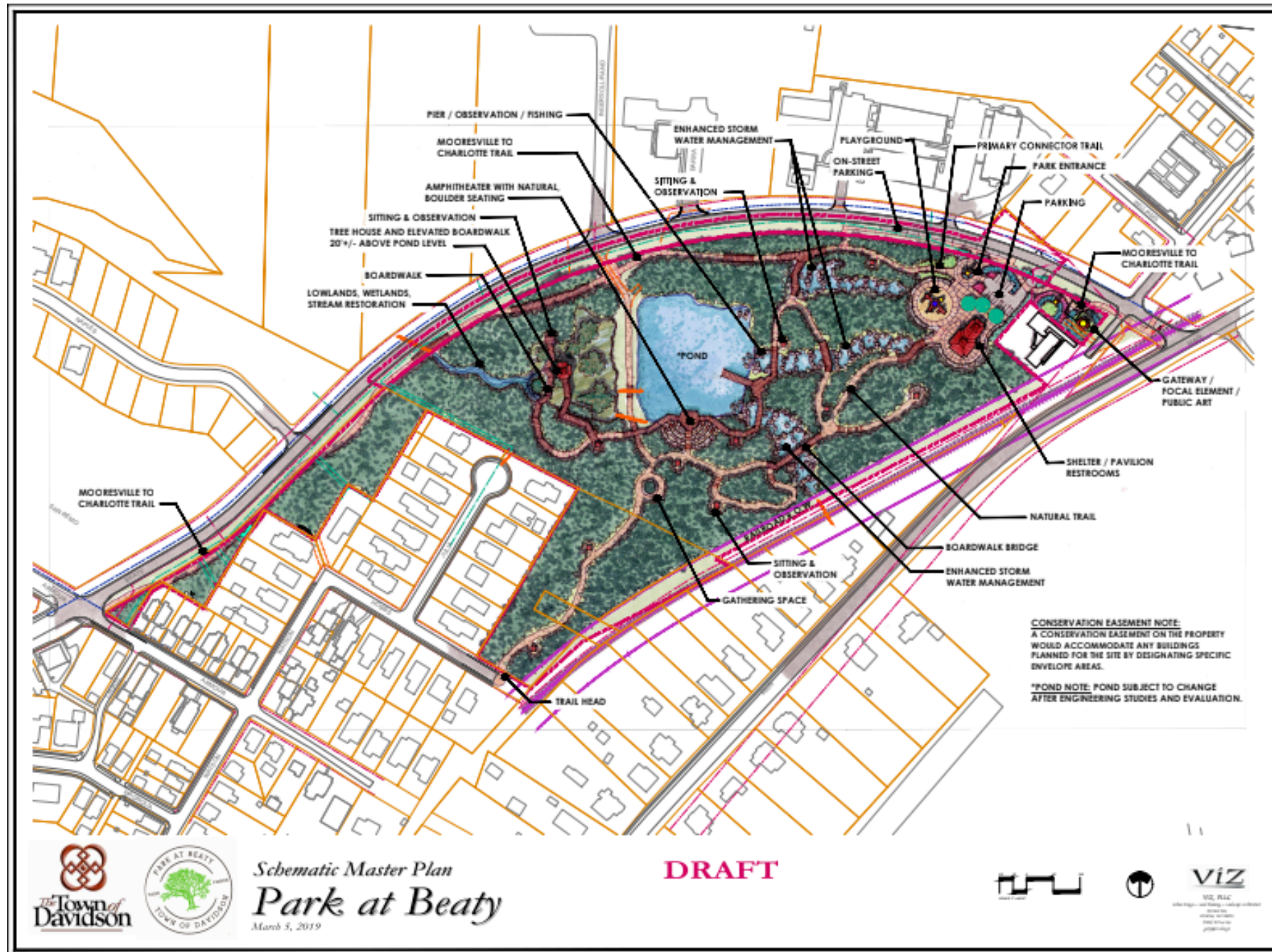
- Public's preference for a pond
- Relative costs of all options, and the high cost of the pond
- Stronger aesthetics of the pond as a Park centerpiece
- Environmental disruption of each option
- Recent research questioning the environmental benefits and long-term costs of stream restoration
- Risks of dry stream, no spring, and insufficient water for stream
- Potential to reclaim land and expand tree cover with stream
- Pond as a complement to some stream restoration (above pond) and wetland (below the pond)
- Close proximity of Lake Davidson and the pond at Roosevelt Wilson Park
- Potential funding sources for each option
- The Town Board is uniquely positioned to make fiscal decisions about the Park

Task Force Recommendation

Vote: The Task Force voted 10-1 to recommend Option 1 – restore the dam and enhance the pond.

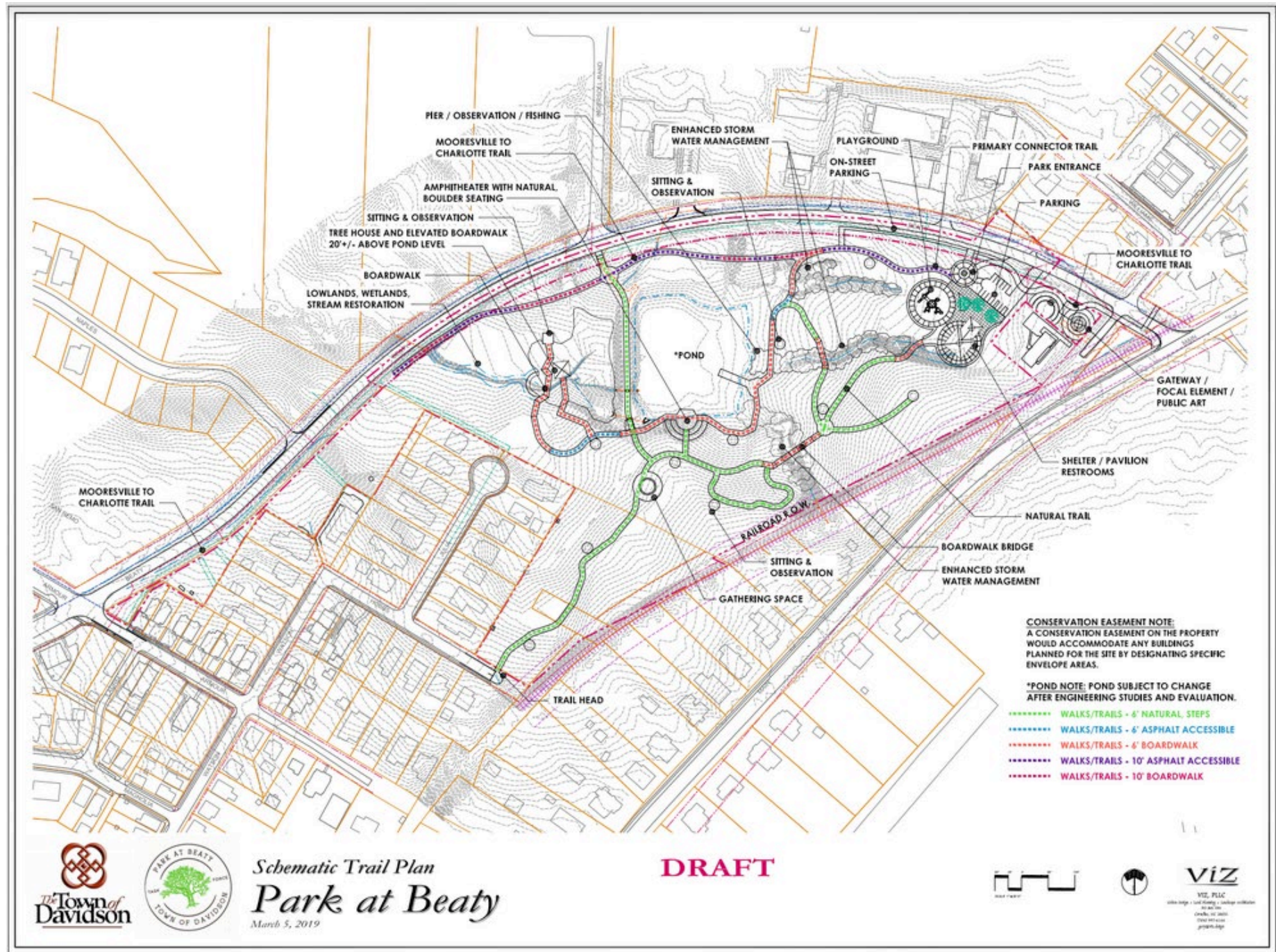
Message: The pond optimizes many factors and provides the best and most-favored amenity. The Task Force acknowledges that the costs of the pond are high, and that the fiscal decision about the Park ultimately rests with the Town Board. Phasing the project over a number of years may help manage elevated costs.

Conceptual Design



Preliminary Cost Estimates + Phasing

Phase I Concept



Park Research + Funding

Total Cost Snapshot

Phase	Improvements	Sub-Total*
Preparation	Conservation easement, stabilize dam, further evaluate dam options	\$200,000
Phase I	Parking, trails, restrooms, some upstream restoration.	\$1,344,000
Phase II	Playground, trails, boardwalks, partial upstream restoration, picnic area	\$1,586,000
Phase III	Amphitheater	\$164,000
Phase IV	Treehouse, boardwalk connector, gardens	<u>\$609,000</u>
Total (assuming interim dam repair):		\$3,903,000
Dam Replacement Option		<u>\$1,350,000</u>
Total:		\$5,253,000**

* Rough, preliminary estimates; reliable cost estimates will require further analysis and detailed design.

* * Does not include ongoing maintenance.

Dam Replacement Option

Feature	Budget	Potential Funding Grants
Replace/Repair Dam	\$1,350,000	U.S. Fish & Wildlife Migratory Birds

- Task force faces dilemma of enhancing the pond while providing an immediate park benefit to the community.
- Full replacement at this time may be cost prohibitive and could slow park progress.
- Task force is hopeful for a hybrid solution.
- Task force recognizes its limitations on understanding the fiscal landscape of Town of Davidson.

Phase I

Feature	Budget*	Potential Funding Grants
Parking Lot	\$90,000	
Remediate Invasive Plants	\$25,000	Mecklenburg County
Paths & ADA Trails	\$180,000	NC PARTF
Educational Signage	\$10,000	NC Trails Grant, Southwood
Upstream Restoration	\$100,000	NC Clean Water Mgmt. Trust Fund Duke Energy Water Resource Corporate Sustainability
Restrooms, pavilion, paving	\$500,000	NC PARTF
35% Permitting, design, mobilization, erosion control, landscaping	\$317,000	
10% Contingency	<u>\$122,000</u>	
Total:	\$1,344,000	

* Rough, preliminary estimates; reliable cost estimates will require further analysis and detailed design.

Phase II

Feature	Budget*	Potential Funding Grants
Playground	\$150,000	GameTime, Cunningham, Playcore
Trails & Boardwalks, partial upstream restoration	\$865,000	NC PARTF, NC Clean Water Management Trust Fund
Picnic Tables / Benches	\$43,000	Fundraising
Educational Signage	\$10,000	NC Trails Grant, Southwood
35% Permitting, design, mobilization, erosion control, landscaping	\$374,000	
10% Contingency	<u>\$144,000</u>	
Total:	\$1,586,000	

* Rough, preliminary estimates; reliable cost estimates will require further analysis and detailed design.

Phase III

Feature	Budget	Potential Funding Grants
Amphitheater	\$100,000	L o w e ' s C o m m u n i t y G r a n t
Educational Signage	\$10,000	N C T r a i l s G r a n t , S o u t h w o o d C o r p .
35% Permitting, design, mobilization, erosion control, landscaping	\$39,000	
10% Contingency	<u>\$15,000</u>	
Total:	\$164,000	

* Rough, preliminary estimates; reliable cost estimates will require further analysis and detailed design.

Phase IV

Feature	Budget	Potential Funding Grants
Treehouse	\$250,000	Connect NC Bond Grant, Cornell Land Trust Alliance
Gardens (Pollinator, Botanical)	\$150,000	Association for Butterflies, B.W. Wells Stewardship Fund
Educational Signage	\$10,000	NC Trails Grant
35% Permitting, design, mobilization, erosion control, landscaping	\$144,000	
10% Contingency	<u>\$55,000</u>	
Total:	\$609,000	

* Rough, preliminary estimates; reliable cost estimates will require further analysis and detailed design.

Park Research

Robbins Preserve & Jetton Parks - Cornelius, NC

Frick Park - Pittsburgh, PA

Spencer Woods- Spencer, NC

NC Arboretum- Asheville, NC

Latta, Freedom, & Romare Bearden Parks,

UNCC Botanical Garden - Charlotte, NC

Mac Anderson Park- Statesville, NC

Museum of Life and Science- Durham, NC

Park Research

Funding Ideas

General Fundraising

Specific Amenity Sponsorships:

- Patio
- Benches
- Trails

Corporate, Neighborhood, or Organization

Sponsorships



Park Research

Potential Grant Funding Examples

NC Clean Water Management Trust Fund

Duke Energy Water Resource Fund

NC Urban and Community Forestry Grant

NC Parks and Recreation Trust fund: PARTF

Recreational Trails Program

Mecklenburg County

Park Research

Robbins Park – P.A.R.T.F. Grant







Educational Forest and Nature Preserve

Rules and Regulations

- Park hours are from 7 AM till dusk. The parking gate is locked nightly. No trespassing after dark.
- Preserve and protect your park, leave natural areas the way you find them.
- No littering.
- No fishing.
- Dogs and other domestic animals must be on a leash at all times. Be sure to pick up after your animals.
- The use of tobacco is prohibited in this park.
- No alcoholic beverages of any kind are allowed.
- No amplified noise of any kind is permitted. This includes the parking lot.
- Motorized vehicles and golf carts are prohibited off roadways and beyond parking areas.
- Use of shelters are on a first come, first serve basis. Parties of 10 or more require a deposit, use fee, and an advanced reservation. Reservations can be made at Town Hall. For more information call (704) 633-2231.



Park Research

Spencer Woods

Fred and Alice Stanback Educational Forest and Nature Preserve received P.A.R.T.F. grants in 2012 and 2014.

Each grant was \$200K.

Spencer Woods is permanently conserved with a conservation easement.

Park Research - Mecklenburg County Considerations

- This Park is the North Entrance to County
- Grant Funding
- Land Acquisition Assistance
- Partnering with Town of Davidson for planning, development and/or maintenance

Park Non-Profit

Non-Profit models to supplement park fundraising and management.



Recommended Next Steps

1. **Evaluate** Additional Dam Options
2. **Endorse** permanent conservation of the land
3. **Adopt** Conceptual Plan/Design
4. **Rank** Park at Beaty as a high priority
5. **Charge** Task Force leadership to guide conserving,
designing and implementing the park
6. **Prioritize** the Beaty Street section of Charlotte to
Mooreville Trail (A.K.A. Potts/Sloan/Beaty Corridor)
7. **Request** Design Funding from Mecklenburg County

Additional Recommendations

1. Mobility

- Improve Beaty/115 Intersection
- Traffic Study
- Public Safety, including pedestrian and bike safety
- Sidewalk Access on Beaty (Armour to Main Street)
- Study/Explore Safety of on-street parking

2. Consider opportunities beyond current boundaries of the Beaty property that may enhance park, public spaces and natural resource for the community.

Questions & Answer

Supporting Materials

Town Minutes + Historical Documents

Historical Public Engagement

1980-85 Search for Town park property, Parks & Rec stresses “need to acquire now while still available and affordable.”

1985 Purchased property from Clontz family.

1997 Citizens Petition against residential development on the Beaty parcels

2015 Beaty parcels rezoned

2017 Commercial and hotel development proposed and spur public protests

Leading up to the Beaty land purchase, the Town of Davidson Board of Commissioners spent nearly 5 years defining requirements and reviewing prospective locations for the future Town Park. The documents below highlight the process was not a snap decision, but very intentional.

5/19/80 – After considerable discussion on the need and requirements for a Town Park, 3 possible park properties discussed. "purchase of park land should not be unduly delayed". Town decides to continue looking for better candidate locations.

Commissioner Withers then discussed three locations which may be suitable for a town park - the Potts property on Potts Street, the Shelton property on Jetton Street, and the Kelly property on South Street. Commissioner Withers advised that the Kelly property consisting of 19.7 acres might be purchased for \$7,000 per acre and perhaps the town would like to take a one year option on this tract. He pointed out that this property was adjacent to presently owned town property and as the cemetery expands, it would likely force McEver Field to be moved. He also advised that the Kelly property was the only one of the three tracts which is presently available and he thought purchase of park land should not be unduly delayed.

Considerable discussion followed with one of the major objections to the Kelly property being the limited access which would result in the unwanted additional traffic along Walnut and South Streets.

The board discussed several other possible locations and, by consensus, requested the Parks and Recreation Committee to continue to pursue other location alternatives, leaving the present three alternatives open. The board also elected to withhold action until the county reaches a decision on the location of their north end park.

9/8/81 – Parks & Rec stresses need for "acquiring land now" for "future years". 6 possible properties are reviewed, includes Clontz's

Peter Nicholls appeared before the Board and read a statement for Chairman of the Parks and Recreation Committee, Bruce Wright, who could not be present. The Parks and Recreation Committee recommended in the statement continued support for the Davidson Community Center and McEver Field and also acquiring land now, while it is available, for development for recreational purposes in future years. The committee identified possible properties in order of desirability as follows: (1) Potts Street, (2) Armour Street - lake end, (3) Griffith and Beaty Streets, (4) South Street (across from McEver Field), (5) Beaty and North Main Streets (Clontz property), and (6) South Thompson Street (Thompson Pond). By consensus, the Board requested the Parks and Recreation Commissioners to investigate these properties more closely and determine such things as acreage, tax values, appropriateness of the land for recreation, etc. and report their recommendations.

Davidson, N. C.
June 14, 1983

PUBLIC HEARING AND REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF
THE TOWN OF DAVIDSON

A Public Hearing was held by the Board of Commissioners of the Town of Davidson in the Town Hall on June 14, 1983 at 7:30 p.m. Purpose of the hearing was to receive citizen input regarding the Town Budget for fiscal year 1983-84.

The following members of the Board were present: Mayor MacCormac, presiding, and Commissioners Kincaid, Knox, Mayhew, Ward and Withers. Town Attorney Kline was also present.

As no citizen appeared before the Board, the mayor declared the budget hearing closed.

The Regular Monthly Meeting followed immediately with the same members of the Board present. Minutes of the meetings of 5-10-83 and 5-31-83 were approved as distributed.

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Peter Nicholls, Chairman of the Parks and Recreation Committee, requested a referendum to spend \$150,000 to \$200,000 to acquire and develop land for a park on the Clontz property located on Beaty Street across from Oakhill Apartments. Mr. Nicholls emphasized that this land may not always be available if purchase was put off too long. Commissioner Knox moved that this matter be referred to the Commissioners Park and Recreation Committee for study and recommendation, including exploration of a bond or mortgage route to raise money to acquire the land. Commissioner Mayhew seconded and the motion carried unanimously.

Comm
budget ordinance (attached) which includes a tax rate of 24¢.
Commissioner Knox seconded and the ordinance passed unanimously.

Clontz and Clontz
Attorneys and Counselors at Law
Suite One Justice Building
225 S. McDowell Street
Charlotte, N. C. 28204-2294

Ralph G. Clontz, Jr.
Ralph G. Clontz III

In Reply, Please Refer To
My File Number R-84-25C2

Office Telephone
Area Code 704
376-0045

Wm. Walt Pettit

October 2, 1984

Richard J. Kline, Esquire
Cannon, Kline & Blair, P.A.
221 South Tryon Street
Charlotte, N.C. 28202-3247

Re: Sale of Property to Town of Davidson, N.C.

Dear Rick:

I wish to thank you for your letter of October 1 by which you forwarded in duplicate the Offer to Purchase a portion of my mother's property in Davidson. The property in question is the approximately 17.42 acres "around the pond."

About three years ago, my mother agreed to sell this property to the Town of Davidson for \$6,000 per acre. The Town has been "dilly-dallying" ever since that time. Russell Knox finally brought things to a head so that the sale can proceed.

Despite the fact that the property obviously has appreciated in value over the past several years, my mother is willing to sell the property to the Town of Davidson at the same price per acre she was willing to accept earlier because of the special place Davidson has in our hearts.

The Addendum attached to the Offer is inaccurate and probably results from a breakdown in communications between Russell and you.

1. The purchase price will be \$6,000 per acre, with the total acreage (and price) to be determined by a current, accurate survey of the property to be obtained and furnished by the Buyer. I am sure Russell understands that the Town is responsible for obtaining the survey. As explained to him, I felt that they would want a new separate survey made and recorded as was done when we sold a portion of the property some years ago.

2. While everyone agrees that the total acreage should be 17.42 acres, based upon the last survey that was made, the Town of Davidson would not pay the total estimated amount of \$104,500 if the survey showed the total acreage to be less than estimated nor would my mother accept less than the \$6,000 per acre price if

the survey should show more acres to be included. What's sauce for the goose is sauce for the gander - or vice versa! We're probably "talking about pennies or peanuts," but right is right.

3. I also would correct paragraph 3.(a) by changing it to state that "the net acreage of the property shall be the gross acreage conveyed to Purchaser less any portion of the property lying within any public road or street right-of-way." I have simply inserted "public" to make it more specific.

4. In paragraph 3.(c), you indicate that the interest rate shall be set "annually" and shall be equal to the interest rate paid by First Union National Bank ("FUNB") on twelve (12) month CDs. That is somewhat imprecise since FUNB's 12-month-CD-rate varies from time to time throughout the period of a year. The intent of the parties is that my mother receive the 12-month-CD-rate on the unpaid principal balance just as she would if she were investing the total sale price in such a CD. The interest rate applicable at the time of payment of an annual installment obviously would be the rate for the CDs for the first day of the prior year.

Thus, I would suggest that the second sentence be changed to read as follows:

The interest rate shall be set annually, in advance, and shall be equal to the interest rate paid by First Union National Bank ("FUNB") on twelve (12) month certificates of deposit for amounts equal to the unpaid principal balance of the note. For example, if the first annual installment were due on January 5, 1986, the interest rate on the unpaid principal balance for this installment would be the interest rate paid by FUNB on such certificates of deposit on January 5, 1985.

5. Finally, as noted in Paragraph 12 on the reverse side, all closing expenses, except for the cost of preparation of a deed and the revenue stamps, are to be paid by the Town of Davidson. The Town is thereby responsible for the cost of the title search. Taking this into account plus the Town's obligation to provide the survey, paragraph 13 on the reverse side would seem to be inappropriate.

I assure you that I am not trying to nit-pick, but this transaction involves my very best and most important client, aged 68, which means that I have to make certain that her interests are fully protected.

In order to enable you to make these changes, I am returning both copies of the Offer to Purchase and Contract herewith.

With warm personal regards, I remain

Cordially yours,

CLONTZ AND CLONTZ



RALPH C. CLONTZ, JR.

RCC/lm

Encl: Offer to Purchase and Contract (Duplicate)

cc: Mrs. Venie W. Clontz (W/O Encl)
Ralph C. Clontz III, Esq. (W/cc/Encl)

P.S. My son and I (most reluctantly) are foregoing a reservation of hunting and fishing rights!

CANNON, KLINE & BLAIR, P. A.

ATTORNEYS AT LAW

221 SOUTH TRYON STREET

CHARLOTTE, NORTH CAROLINA 28202-3247

WILLIAM H. CANNON
RICHARD J. KLINE
W. BRADLEY BLAIR II
R. SCOTT MCCUTCHEON
PAUL A. REICH
BENTFORD E. MARTIN
JOSEPH G. PIEMONT

TELEPHONE
(704) 376-9111

October 1, 1984

Mr. Ralph C. Clontz Jr.
Clontz and Clontz
Suite 1
225 S. McDowell Street
Charlotte, North Carolina 28204

Re: Town of Davidson, N.C.

Dear Ralph:

I am enclosing herewith in duplicate an Offer to Purchase the real property located on Beaty Street.

The Town Board has authorized the purchase of this property at a price of \$6,000.00 per acre with a maximum purchase price of \$104,500.00.

As you know the Town has been interested in this property as a potential park site for some time. The purchase money note will allow the Town to budget the purchase price so as to have the least impact upon the Town's taxpayers.

I appreciate your consideration of this offer. If there are any questions please contact either Russell or myself.

Very truly yours,

CANNON, KLINE & BLAIR, P.A.

COPY

Clontz and Clontz
Attorneys and Counsellors at Law
Suite One Justice Building
225 S. McDowell Street
Charlotte, N. C., 28204-2294

Ralph C. Clontz, Jr.
Ralph C. Clontz III

Wm. Walt Pettit

In Replying, Refer To
My File Number R-84-25C2

December 8, 1984

Office Telephone
Area Code 704
376-0045

Richard J. Kline, Esquire
Cannon, Kline & Blair, P.A.
221 South Tryon Street
Charlotte, N.C. 28202-3217

Re: Sale of My Mother's Property to Town of Davidson
Clarification of Acreage Being Sold

Dear Rick:

They say that "Confession is good for the soul but damned poor for the reputation," and my confession of not having originally properly focused on some portion of the wording of your proposed contract vividly calls this old adage to mind.

As I said in my last letter of November 16, my mother was and is willing to sell for the agreed price of \$6,000 per acre for the 14.519 acres surrounding the "pond" and for the 2.54 acres adjoining and settle on the basis that the property being sold to the Town of Davidson contains 16.969 acres with a total purchase price of \$101,814.

Trying to get that letter off to you without delay, I failed to discuss the matter of your initial suggestion that the "net" acreage be determined by surveys and by excluding portions within the "public right of way" for which I apologize.

After I had written you on October 2 and (stupidly) tentatively accepted your suggested terminology, I noted the impact on my mother and its apparent unfairness to her. Not being personally experienced in handling such land sales, I consulted other attorneys who were. They agreed with me that the Town of Davidson clearly should pay my mother for her property including that portion falling within the public right of way.

The consensus was that (1) My mother received practically nothing from the State when it obtained a right of way to build the road leading over to the "General Time facilities;" (2) The property owner has the use of the right of way so long as it doesn't interfere with the State's use thereof, and (3) The

I know, and the others consulted recognized, that you properly were trying to "drive the best bargain for your client" in your proposed exclusion from the tracts being sold of the right of way portions. However, I had made it clear to both Russell Knox and the former Mayor that the 14.519 acre area around the pond would be sold for \$6,000 per acre, and the only possibility of a "reduced acreage" was if a survey showed that a lesser amount of land was included. I had misplaced the survey at this time and only located it shortly before sending it to you last month.

As I pointed out to Russell Knox and later to you, my mother's offer to sell for \$6,000 per acre was made several years ago. The Town was unable to make any firm offer to purchase and dragged its collective feet while my mother patiently awaited the possibility of the property's being sold for use as a park. She didn't have or particularly wish to sell the property since she intended leaving that "pond tract" to me in her Will (and, then, from me to her grandchildren) for sentimental reasons.

If she or I had been truly businesslike, we would have insisted on her being paid at least \$6,750 per acre to account for the obvious appreciation in value through the years following her initial offer. Her being less than businesslike was occasioned by the high regard she (and I) have for the Town of Davidson. While appreciating our sentiment, I know that the "Town Fathers/Mothers" would not expect her to add stupidity to her good will and know full well their constant intentions to do the right thing.

I also made clear to both Mayors that the Town would have to purchase "the whole package" of my mother's property in the vicinity of the "pond." We would not allow the deduction of the area north of the center line of Beatty Street. That strip would be of little future value to my mother, whereas the Town could use it, e.g., to erect a marker identifying the Town Park, etc.

I sincerely apologize for having failed to address this matter earlier. In partial explanation, I was then "heavily involved" in an appeal to the Fourth Circuit from a decision of Judge McMillan and let this matter slide even though the sale price and acreage stated in my letter of November 16 took this into account.

With warm personal regards, I remain

Cordially yours,



RALPH C. CLONTZ, JR.

cc: Ralph C. Clontz III, Esq.

OFFER TO PURCHASE AND CONTRACT

The Town of Davidson, a municipal corporation, as Buyer, hereby agrees to purchase and Venie W. Clontz, as Seller,

hereby agrees to sell and convey, all of that plot, piece or parcel of land described below, together with all improvements located thereon and such personal property as is listed below (the real and personal property are collectively referred to as "the Property"), in accordance with the Standard Provisions on the REVERSE SIDE HEREOF, and upon the following terms and conditions:

1. REAL PROPERTY: Located in the City of Davidson, County of Mecklenburg, State of North Carolina, being known as and more particularly described as:

Street Address

Legal Description: Mecklenburg County tax parcel nos. 003-284-04 and 003-263-02;

being all of Seller's property lying east and south of Beaty Street, north of Hobbs Street and west and north of Southern Railroad.

2. PERSONAL PROPERTY: none

3. PURCHASE PRICE: The purchase price is \$ 96,732.00 and shall be paid as follows:

(a) \$ in earnest money paid by (cash, bank, certified, or personal check) with the delivery of this contract, to be held in escrow by

as agent, until the sale is closed, at which time it will be credited to Buyer, or until this agreement is otherwise terminated and it is disbursed in accordance with the Standard Provisions on the REVERSE SIDE HEREOF.

(b) \$ by assumption of the unpaid principal balance and all obligations of Seller on the existing loan secured by a deed of trust on the Property;

(c) \$ 76,732.00 by a promissory note secured by a purchase money deed of trust on the Property with interest prior to default at the rate of see attached addendum % per annum, payable by payments of \$ commencing on Prepayment rights, if any, shall be prepayable at any time without penalty.

Assumption or transfer rights, if any, shall be: not assumable

(d) \$ 20,000.00 the balance of the purchase price in cash at closing.

4. CONDITIONS: (State N/A in each blank of paragraph 4 (a) and 4 (b) that is not a condition to this contract)

(a) The Buyer must be able to obtain a firm commitment effective through the date of closing for a N/A

agrees to advise Seller immediately upon his receipt of the lender's decision. In addition to any reasonable transfer fee (see STANDARD PROVISION No. 2), mortgage loan assumption and/or discount points not to exceed \$ shall be paid as follows:

(c) There must be no restrictions, easement, zoning or other governmental regulations that would prevent the reasonable use of the real property for park, play ground or other public recreational purposes.

5. ASSESSMENTS. Seller warrants that there are no encumbrances or special assessments, either pending or confirmed, for sidewalk, paving, water, sewer or other improvements on or adjoining the Property, except as follows: none

(Insert "None" or the identification of any such assessments, if any; the agreement for payment or proration of any assessments indicated is to be set forth in paragraph 6 below.)

6. OTHER PROVISIONS AND CONDITIONS:

(a) All of the Standard Provisions on the REVERSE SIDE HEREOF are understood and shall apply to this instrument, except the following numbered Standard Provisions shall be deleted: 1, 2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.