

**From:** Jon Creighton <Jon.Creighton@buncombecounty.org>  
**Sent:** 10/3/2017 9:07:58 AM  
**To:** Cathy Ball <cball@ashevillenc.gov>  
**Cc:**  
**Subject:** RE: FW: Deed restriction between Henderson to Buncombe County / 137.21 acre Ferry Road property

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You would and I think Frue is talking to your attorney. I'll get you a copy.

**From:** Cathy Ball [mailto:cball@ashevillenc.gov]  
**Sent:** Tuesday, October 03, 2017 8:34 AM  
**To:** Jon Creighton <Jon.Creighton@buncombecounty.org>; Sam Powers <spowers@ashevillenc.gov>; Todd Okolichany <tokolichany@ashevillenc.gov>; Jannice Ashley <jashley@ashevillenc.gov>; Robin Currin <rcurrin@ashevillenc.gov>  
**Subject:** Re: FW: Deed restriction between Henderson to Buncombe County / 137.21 acre Ferry Road property

Thanks Jon. Sounds like the City would need to do the same thing before we approve the rezoning. Can you get a copy of Hendersonville resolution after it is approved.

Cathy

Cathy D. Ball, PE  
Assistant City Manager  
City of Asheville  
P.O. Box 7148  
Asheville, NC 28802  
(W) 828-259-5939  
(C) 828-691-4623

On Tue, Oct 3, 2017 at 8:05 AM, Jon Creighton <[Jon.Creighton@buncombecounty.org](mailto:Jon.Creighton@buncombecounty.org)> wrote:

FYI

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**From:** Russ Burrell [mailto:[rburrell@hendersoncountync.org](mailto:rburrell@hendersoncountync.org)]  
**Sent:** Monday, October 02, 2017 6:12 PM  
**To:** Michael C. Frue <[Michael.Frue@buncombecounty.org](mailto:Michael.Frue@buncombecounty.org)>  
**Cc:** Jon Creighton <[Jon.Creighton@buncombecounty.org](mailto:Jon.Creighton@buncombecounty.org)>  
**Subject:** RE: Deed restriction between Henderson to Buncombe County / 137.21 acre Ferry Road property

Good evening â€”

I spoke with each Board member before tonight's meeting, and all were in favor. They added to the consent agenda an item approving removal of the condition upon successful rezoning.

Russ

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**From:** Michael C. Frue [mailto:[Michael.Frue@buncombecounty.org](mailto:Michael.Frue@buncombecounty.org)]  
**Sent:** Friday, September 29, 2017 11:51 AM

**To:** Russ Burrell <[rburrell@hendersoncountync.org](mailto:rburrell@hendersoncountync.org)>  
**Cc:** Jon Creighton <[Jon.Creighton@buncombecounty.org](mailto:Jon.Creighton@buncombecounty.org)>  
**Subject:** Deed restriction between Henderson to Buncombe County / 137.21 acre Ferry Road property

Dear Russ -

Thank you for the taking the time to speak with me this morning regarding this matter. As you recall, Henderson County conveyed a 137.21 acre parcel of land as same is set forth and described in plat recorded in Plat Book 50, Page 107 Buncombe County Registry by Special Warranty Deed to Buncombe County dated April 24, 2015 and recorded in Book 5310, Page 500 in said registry. Since that time Buncombe County has been unable to sell that parcel to any commercial or industrial firm despite continued efforts. The reason being that the lay of the land does not lend itself to such uses without extensive and expensive grading. Therefore, it appears to be more suitable for residential or other private uses.

Buncombe County has a prospective buyer and is in the process of requesting that the City of Asheville rezone the parcel to residential. This request appears to be on a favorable track. However, there is concern regarding a restriction in the referenced deed which comes from an Inter-Local Agreement between Henderson County and the City of Asheville. That restriction, as contained in said deed, reads:

"3. Any conveyance of the Property shall be pursuant to NCGS 158-7.1, and shall be subject to the following:

a. Specific conditions or covenants on the use of the property for an economic development purpose, pursuant to NCGS 158-7.1."

Buncombe County requests that Henderson County release this property from such restriction should any prospective grantee or its title insurance carrier desire such release. Frankly, I am not sure what purpose maintaining this restriction serves at this point given the history of the property and the current state of affairs.

Thank you for your consideration and I look forward to hearing back from you.

Michael C. Frue  
Buncombe County  
Senior Staff Attorney  
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