

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: 19 October 2011

SUBJECT: Offer to purchase "Nuckolls" Building

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Copy of offer, including GIS materials on 201 N. Main Street

SUMMARY OF REQUEST:

The County has received an offer to purchase the "Nuckolls" building, the land and structure at 201 North Main Street in Hendersonville. The proposed purchase price is \$700,000.00.

The Board has in the past followed a process, in conformity with N.C. Gen. Stat. §153A-176 and Article 12 of Chapter 160A of the General Statutes, as follows:

- 1) The Board receives an offer, and determines whether to give preliminary acceptance to it. This preliminary acceptance expressly does not bind the County, and merely starts into motion the process described below. If the Board does not give preliminary acceptance, the process ends.
- 2) If the Board does give preliminary acceptance, a notice of the bid and its preliminary acceptance is published in a newspaper. The notice describes the property potentially to be sold, and the amount of the offer. The notice further states that the within ten (10) days of the first publication of the offer anyone may submit a new, increased offer (and "upset bid") for the property. (The upset bid must exceed the first offer by at least 5% of the first offer plus \$50, and must be accompanied by a deposit of 5% of the new offer price, and also, according to previous board policy, the estimated cost of the future advertisement of the new bid.)
- 3) If an upset bid is received within the ten days, the deposit from the first offer is returned, and a new notice of the upset bid is published in the newspaper, starting upon its publication a new ten (10) day period for new upset bids to be received. (Again, any subsequent upset bid must exceed the amount of the most recent bid by at least 5% of the such bid plus \$50, and must be accompanied by a deposit of 5% of the newest bid.) This process continues until no new bids are received.
- 4) The highest bid received then comes back before the Board for final determination – approval of a sale at that price, or not. If the Board approves the final bid, that becomes the contract price.

County staff will present further information on this matter.

BOARD ACTION REQUESTED:

Determination of whether to start the process noted above for sale of the property.

If the Board is so inclined, the following motion is suggested:

I move that the Board give preliminary approval to offer to purchase the property at 201 North Main Street in Hendersonville, and begin the process for upset bids set out in the material accompanying this agenda item.

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

OFFER TO PURCHASE AND CONTRACT

Robert H. Quattlebaum, as Buyer, hereby offers to purchase, and The **County of Henderson, North Carolina**, a North Carolina body corporate, as Seller, agrees to sell and convey, all of that plot, piece or parcel of land described below, together with all improvements located thereon and such fixtures and personal property as are listed below (collectively referred to as the "Property"), upon the terms and conditions set forth herein. This offer shall become a binding contract on the date of final acceptance by Seller, after a legally required upset bid requirements have been met. Such date shall be referred to herein as the "Effective Date."

1. **REAL PROPERTY:** Located in Henderson County, North Carolina, having the street address of 201 N. Main St, Hendersonville, North Carolina, being Henderson County parcel number 011 3798, and such property being more particularly described as all that property described in that instrument recorded in Book 898, at Page 071, of the Henderson County Registry, and being commonly known as "Main Street Sheriff's Office".

2. **FIXTURES:** The following items, if any, and if owned by the Seller, are included in the purchase price free of liens: any built-in appliances, light fixtures, ceiling fans, attached floor coverings, blinds, shades, drapery rods and curtain rods, brackets and all related hardware, window and door screens, storm windows, combination doors, awnings, antennas, satellite dishes and receivers, burglar/fire/smoke alarms, pool and spa equipment, solar energy systems, attached fireplace screens, gas logs, fireplace inserts, electric garage door openers with controls, outdoor plants and trees (other than in movable containers), basketball goals, storage sheds, mailboxes, wall and/or door mirrors, attached propane gas tank, invisible fencing including all related equipment, lawn irrigation systems and all related equipment, water softener/conditioner and filter equipment, and any other items attached or affixed to the Property.

3. **PERSONAL PROPERTY:** The following personal property is included in the purchase price: _____

4. **PURCHASE PRICE:** The purchase price is \$700,000.00, and shall be paid in U.S. Dollars. Should any check or other funds paid by Buyer be dishonored, for any reason, by the institution upon which the payment is drawn, Buyer shall have one (1) banking day after written notice to deliver good funds to the payee. In the event Buyer does not timely deliver good funds, the Seller shall have the right to terminate this contract upon written notice to the Buyer. The purchase price shall be paid as follows:

- (a) \$35,000.00 paid as earnest money to be credited toward the purchase price.
- (b) \$665,000.00, in cash or certified funds at closing.

5. **OTHER CONDITIONS:**

- (a) There must be no restriction, easement, zoning or other governmental regulation that would prevent the reasonable use of the Property for commercial purposes.
- (b) The Property must be in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted.
- (c) All deeds of trust, liens and other charges against the Property, not assumed by Buyer, must be paid and satisfied by Seller prior to or at Closing such that cancellation may be promptly obtained following Closing. Seller shall remain obligated to obtain any such cancellations following Closing.
- (d) Title must be delivered at Closing by GENERAL WARRANTY DEED unless otherwise stated herein, and must be fee simple marketable and insurable title, free of all encumbrances except: ad valorem taxes for the current year (prorated through the date of Closing); utility easements and unviolated restrictive covenants that do not materially affect the value of the Property; and such other encumbrances as may be assumed or specifically approved by Buyer. The Property must have legal access to a public right of way.

6. **PRORATIONS AND ADJUSTMENTS:** Unless otherwise provided, the following items shall be prorated and either adjusted between the parties or paid at Closing: (a) Ad valorem taxes on real property shall be prorated on a calendar year basis through the date of Closing; (b) Ad valorem taxes on personal property for the entire year shall be paid by the Seller unless the personal property is conveyed to the Buyer, in which case, the personal property taxes shall be prorated on a calendar year basis through the date of Closing; (c) All late listing penalties, if any, shall be paid by Seller; (d) Rents, if any, for the Property shall be prorated through the date of Closing.

7. **EXPENSES:** Unless otherwise agreed, Buyer shall be responsible for all costs with respect to any loan obtained by Buyer, appraisal, title search, title insurance, recording the deed and for preparation and recording of all instruments required to secure the balance of the purchase price unpaid at Closing. Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this agreement, and for excise tax (revenue stamps) required by law.

8. **EVIDENCE OF TITLE:** Seller agrees to use its best efforts to deliver to Buyer as soon as reasonably possible copies of all title information in possession of or available to Seller, including but not limited to: title insurance policies, attorney's opinions on title, surveys, covenants, deeds,

notes and deeds of trust and easements relating to the Property. Seller authorizes (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; and (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys.

9. LABOR AND MATERIAL: Seller shall furnish at Closing an affidavit and indemnification agreement in form satisfactory to Buyer showing that all labor and materials, if any, furnished to the Property within 120 days prior to the date of Closing have been paid for and agreeing to indemnify Buyer against all loss from any cause or claim arising therefrom.

10. PROPERTY DISCLOSURE: Buyer has NOT received a signed copy of the N.C. Residential Property Disclosure Statement prior to the signing of this Offer to Purchase and Contract as this property is not residential in nature.

11. PROPERTY INSPECTION/INVESTIGATION:

(a) Property Condition: As to all permanent improvements except: _____,

_____ it is a condition of this contract that (i) the built-in appliances, electrical system, plumbing system, heating and cooling systems, roof coverings (including flashing and gutters), doors and windows, exterior building surfaces, structural components (including foundations, retaining walls, columns, chimneys, floors, walls, ceilings and roofs), porches and decks, fireplaces and flues, crawl space and attic ventilation systems (if any), water and sewer systems (public and private), shall be performing the function for which intended and shall not be in need of immediate repair; (ii) there shall be no unusual drainage conditions or evidence of excessive moisture adversely affecting the structure(s); and (iii) there shall be no friable asbestos or existing environmental contamination.

(b) Inspections/Repair Negotiations: Buyer, at Buyer's expense, may inspect or obtain such inspections of the Property as Buyer deems appropriate. Only items covered by subsections (a)(i), (a)(ii), and (a)(iii) above ("Necessary Repairs") are included in repair negotiations under this contract. All inspections, including but not limited to any additional inspections recommended by Buyer's inspector(s), shall be completed and written notice of Necessary Repairs shall be given to Seller on or before thirty (30) days prior to the Closing Date (the "Repair Notice Date"). Seller shall have the option of completing Necessary Repairs or refusing to complete them. Seller shall provide written notice to Buyer of Seller's response within ten (10) days of Buyer's notice, TIME BEING OF THE ESSENCE. Seller's failure to provide said notice as required shall constitute an election by the Seller not to complete Necessary Repairs. If Seller elects not to complete all Necessary Repairs, then Buyer shall have the option of (a) accepting the Property in its present condition, (b) accepting Seller's offer to make repairs to the extent and as described in the Seller's response, or (c) terminating this contract, in which case all earnest monies shall be refunded. The Buyer shall deliver the Buyer's written decision to Seller within five (5) days after receiving the Seller's written response, or Seller's failure to respond, TIME BEING OF THE ESSENCE. Failure of Buyer to provide this written decision by the time stated herein shall constitute acceptance of Seller's agreement to make repairs to the extent and as described in the Seller's response. Buyer shall have the right to verify that any Necessary Repairs have been completed in a good and workmanlike manner.

(c) Wood-Destroying Insects: Buyer shall have the option of obtaining, at Buyer's expense, a report from a licensed pest control operator on a standard form in accordance with the regulations of the North Carolina Structural Pest Control Committee, stating that as to all structures there was no visible evidence of wood-destroying insects and containing no indication of visible damage therefrom. The report must be obtained on or before the Repair Notice Date. If the report indicates that there is visible evidence of wood-destroying insects or visible damage therefrom, Seller shall have the option of performing any required treatment or completing Necessary Repairs, or refusing to perform any required treatment or complete Necessary Repairs. If Seller elects not to perform required treatment or complete Necessary Repairs, Buyer shall have the option of accepting the Property without the required treatment or Necessary Repairs, or terminating the contract, in which case all earnest monies shall be refunded. Buyer and Seller shall exercise their respective rights under this subsection (c) in the same manner and within the same time limitations as set forth in subsection (b) above. The Buyer is advised that the inspection report described in this paragraph may not always reveal either structural damage or damage caused by agents or organisms other than wood-destroying insects.

(d) Radon Inspection: Buyer shall have the option, at Buyer's expense, to have the Property tested for radon on or before the Repair Notice Date. The test result shall be deemed satisfactory to Buyer if it indicates a radon level of less than 4.0 pico curies per liter of air (as of January 1, 1997, EPA guidelines reflect an "acceptable" level as anything less than 4.0 pico curies per liter of air). If the test result exceeds the above-mentioned level, Seller shall have the option of: a) remediating to bring the radon level within the satisfactory range; or b) refusing to remediate. Upon the completion of remediation, Buyer may have a radon test performed at Seller's expense, and if the test result indicates a radon level less than 4.0 pico curies per liter of air, it shall be deemed satisfactory to the Buyer. If Seller elects not to remediate, or if remediation is attempted but fails to bring the radon level within the satisfactory range, Buyer shall have the option of: a) accepting the Property with its then current radon level; or b) terminating the contract, in which case all earnest monies shall be refunded. Buyer and Seller shall exercise their respective rights under this subsection (d) in the same manner and within the same time limitations as set forth in subsection (b) above.

(e) Cost Of Repair Contingency: In addition to the above, Buyer shall have the right to terminate this contract if a reasonable estimate obtained by Buyer of the total cost of Necessary Repairs equals or exceeds \$5,000.00. This right may be exercised by Buyer without regard to any decision by Seller to complete, or refuse to complete, Necessary Repairs. Buyer shall notify the Seller in writing of its decision to terminate this contract under this Cost of Repair Contingency no later than seven (7) days following the Repair Notice Date, TIME BEING OF THE ESSENCE, in which case all earnest monies shall be refunded to Buyer. Neither the cost of wood-destroying insect treatment under subsection (c) above nor the cost of radon remediation under subsection (d) above shall be included in the cost of repairs under this subsection (e).

(f) Environmental: Seller represents and warrants that it has no actual knowledge of the presence or disposal, except as in accordance with applicable law, within the buildings or on the Property of hazardous or toxic waste or substances, which are defined as those substances, materials, and wastes, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or such substances, materials and wastes, which are or become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. §1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601). Seller has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts. Should the results of the testing of the Property by the Purchaser indicate the presence of hazardous or toxic waste or substances, the Purchaser shall, prior to the end of the examination period, report the same to Seller in writing of the contents of the report. Seller shall have until the date thirty (30) days prior to the date of prior closing, to cure only the presence of such hazardous or toxic waste or substances which are reported in writing prior to the expiration of the examination period. If Seller does not cure said presence reported as required by this subparagraph by the date which is thirty (30) days prior to closing, then the Purchaser may terminate this Agreement. It is specifically not a condition precedent to the Purchaser's obligation to perform that Seller cure such presence which is not reported prior to the expiration of the examination period.

(g) Except as to matters covered in "Environmental", subparagraph (f), above, CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION UNLESS PROVISION IS OTHERWISE MADE IN WRITING.

12. REASONABLE ACCESS/RESTORATION AND INDEMNITY: Seller will provide reasonable access to the Property (including working, existing utilities) through the earlier of Closing or possession by Buyer. Buyer and Buyer's agents and contractors shall have the right to enter upon the Property for the purpose of appraising and evaluating the Property, and performing the tests and inspections permitted in this contract. Buyer shall, at Buyer's expense, promptly repair any damage to the Property resulting from any activities of Buyer and Buyer's agents and contractors, but Buyer shall not be responsible for any damage caused by accepted practices either approved by the NC Home Inspector Licensure Board or applicable to any other NC licensed professional performing the inspection that reveal Necessary Repairs as defined under Alternative 1 of paragraph 16. Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property except for any loss, damage, claim, suit or cost arising out of pre-existing conditions of the Property and/or out of Seller's negligence or willful acts or omissions. This repair obligation and indemnity shall survive this contract and any termination hereof. Buyer may conduct a walk-through inspection of the Property prior to Closing.

13. CLOSING: Closing shall be defined as the date and time of recording of the deed and shall be on or before the date specified by the Purchaser, but not later than one hundred twenty (120) days after the Effective Date hereof. The deed is to be made to Robert H. Quattlebaum or assign. Absent agreement to the contrary in this contract or any subsequent modification thereto, the following terms shall apply: If either party is unable to close by the Closing Date, then provided that the party is acting in good faith and with reasonable diligence to proceed to closing, such party shall be entitled to reasonable delay of the Closing Date and shall give as much notice as possible to the non-delaying party and closing agent. In such event, however, either party for whom the Closing Date is delayed shall have a maximum of ten (10) days from the Closing Date, or any extension of the Closing Date agreed-upon in writing, in which to close without payment of interest. Following expiration of the ten-day period, the party not ready to close shall be responsible for paying to the other party (if ready, willing and able to close) interest on the purchase price at the rate of eight percent (8%) per annum accruing from the end of the ten-day period until closing occurs or the contract is terminated. Should the delay in closing continue for more than thirty (30) days from the Closing Date or the last agreed-upon extension of the Closing Date, then the non-delaying party shall have the unilateral right to terminate the contract and receive the earnest money, but the right to such receipt shall not affect any other remedies available to the non-delaying party for such breach.

14. POSSESSION: Possession shall be delivered at Closing. Seller shall remove, by Closing, all personal property which is not a part of the purchase and all garbage and debris from the Property.

15. RISK OF LOSS: The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller. If the improvements on the Property are destroyed or materially damaged prior to Closing, Buyer may terminate this contract by written notice delivered to Seller or Seller's agent and all deposits shall be refunded to Buyer. In the event Buyer does NOT elect to terminate this contract, Buyer shall be entitled to receive, in addition to the Property, any of the Seller's insurance proceeds payable on account of the damage or destruction applicable to the Property being purchased. Seller is advised not to cancel existing insurance on the Property until after confirming recordation of the deed.

16. ASSIGNMENTS: This contract may not be assigned without the written consent of all parties, but if assigned by agreement, then this contract shall be binding on the assignee and his heirs and successors.

17. TAX-DEFERRED EXCHANGE: In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging party shall be responsible

for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision. (NOTE: If Alternative 2 under paragraph 16 of this contract will apply, Seller should seek advice concerning the taxation of the Option Fee.)

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

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

20. ENTIRE AGREEMENT: This contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties.

Date: _____

Date: 10/10/11

COUNTY OF HENDERSON

ROBERT H QUATTLEBAUM.

By: _____
Chairman of Board of Commissioners

By: 

Attest:

Attest:

Clerk to the Board of Commissioners

NOTICE INFORMATION

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

SELLER NOTICE ADDRESS:

Mailing Address: Attn: County Attorney
1 Historic Courthouse Square, Suite 5
Hendersonville, NC 28792

BUYER NOTICE ADDRESS:

Mailing Address: Robert H. Quattlebaum
PO Box 5007
Hendersonville, NC 28793



If you have questions or comments please let us know: http://ww2.hendersoncountync.org/ca/contact_us.pdf

Prints best in landscape mode.

Monday, October 10, 2011

[Home](#)

Henderson County Real Property Data

Property Summary

[Go Maps](#)
[Tax Bills](#)



Data last updated on: 10/10/2011
Ownership current as of: 9/13/2011

[Property Search](#)

Parcel Number **0113798** PIN # **9568779521**

Location Address
201 N MAIN ST

Property Description
Lot # NUCKOLLS BUILDING

[Search Results](#) [New Search](#)

- Parcel
- Buildings
- Land
- Deeds
- Notes
- Sales
- Photos
- Tax Bill
- Map

Go

Property Owner: HENDERSON COUNTY	Owner's Mailing Address 100 KING STREET HENDERSONVILLE NC 28792	Property Location Address 201 N MAIN ST
Administrative Data	Transfer Information	Property Value
Old Map# 9568.08	Deed Date 06/06/1996	Total Appraised \$311,400
VCS C100A	Deed Book 000898	Land Value
City HENDERSONVILLE	Deed Page 00071	Total Appraised \$770,500
Fire District	Revenue Stamps 386.00	Building Value
Township DOWNTOWN-MAIN ST	Package Sale Date	Total Appraised Value \$1,081,900
Land Class GOVERNMENTAL	Package Sale Price	Elderly Exclusion
Spec District 1 SPDSD13	Land Sale Date	Other Exemptions \$1,081,900
Spec District 2	Land Sale Price	
History Parcel Number 1	Improvement Summary	
History Parcel Number 2	Total Units 0	Use Value Deferred
Acreage 0.13	Heated Area 18,000	Historic Value Deferred
Permit Date		Total Deferred Value
Permit #		Total Assessed Value

If you have questions or comments please let us know: http://ww2.hendersoncountync.org/ca/contact_us.pdf

Prints best in landscape mode.

Monday, October 10, 2011

Home

Henderson County Real Property Data

Building Summary

Data last updated on: 10/10/2011
 Ownership current as of: 9/13/2011



Parcel Number **0113798**

PIN = **9568779521**

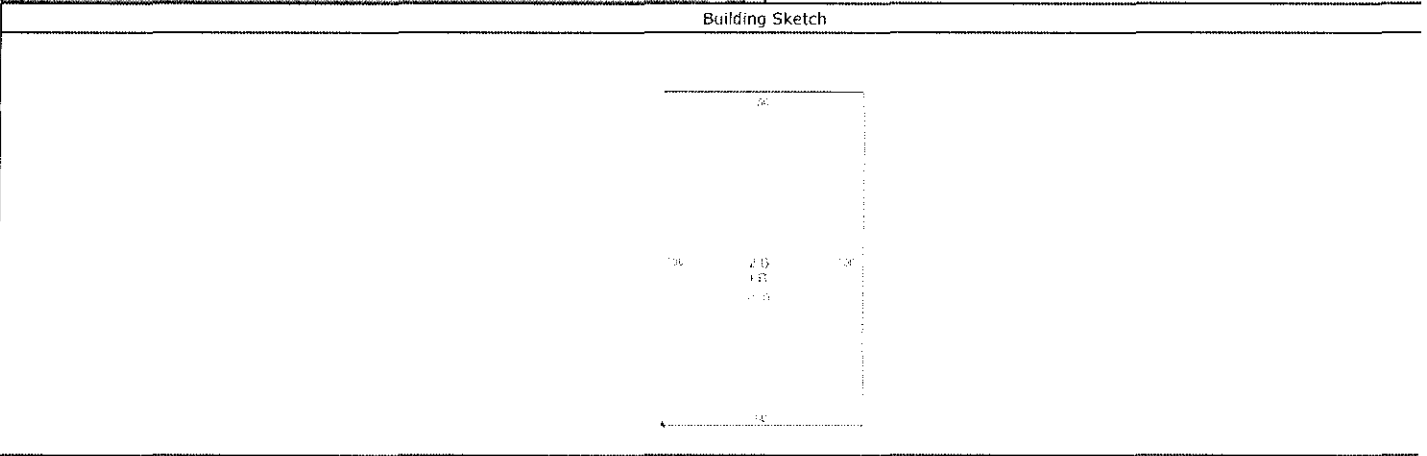
Location Address
201 N MAIN ST

Property Description
Lot # NUCKOLLS BUILDING

Search Results Row Search

Building Location Address 201 N MAIN ST		Building Description ROW OFFICE			Card 1 of 1
Bldg Type	OFFICES	Year Built	1947	Effective Year	1975
Units	0	Additions	0	Remodeled	
Heated Area	18000	Interior Adj.			
Story Height	2 STORY	Other Features			
Style	FULL				
Basement	BRICK				
Exterior	WJ				
Const Type	FORCED AIR				
Heating	CENTRAL A/C				
Air Cond	FULL: HALF:				
Plumbing					
					Base Bldg Value
					Grade
					Cond %
					Market Adj.
					Market Adj
					Accrued %
					Percentage Complete
					Current Card Value
					All Other Cards
					Assessed Land Value
					Assessed Total Value

Main and Addition Summary					Other Improvements
Story	Type	Code	Area	Inc	
2	/BRICK/FULL		6000		



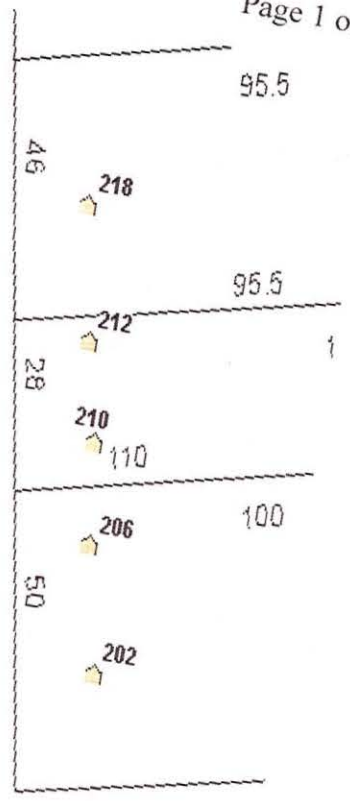
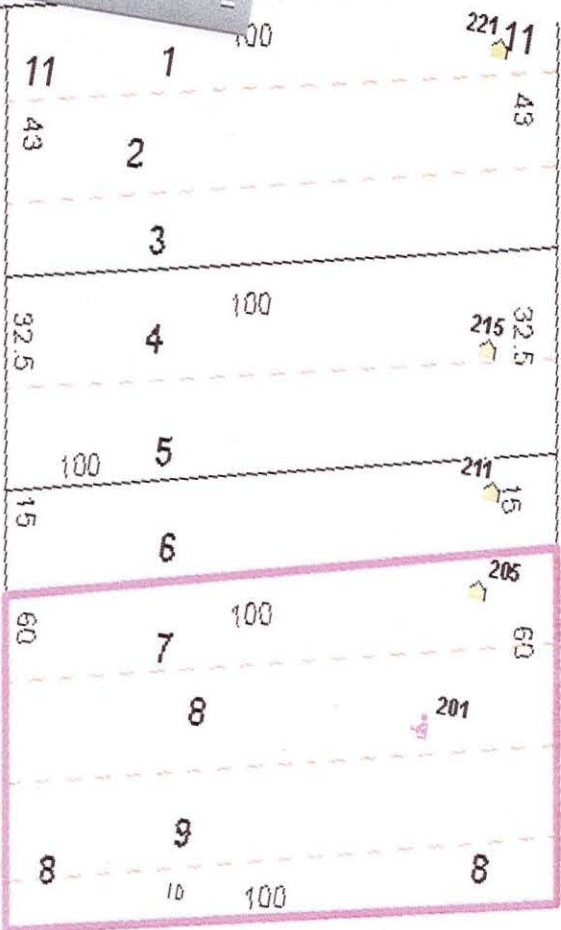
Photograph

39.36

58

92

N Main St



N Main St

2nd Ave E

2nd Ave W

20 m

50 ft

300

