

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: March 1, 2021

SUBJECT: Western Carolina Community Action lease (former Etowah Library building)

PRESENTER: Marcus Jones

ATTACHMENT(S): Proposed lease

SUMMARY OF REQUEST:

Proposed are terms agreed to by WCCA for the long-term lease of the former Etowah branch library building. The Board recently approved a short-term lease of this facility to WCCA. In this lease:

1. WCCA has had a lease on the premises, ending June 2021.
2. Under the lease, WCCA used the property as its Etowah Children's Center, at a monthly rent of \$2,000.00, plus utilities, insurance and maintenance.
3. WCCA desires a lease renewal, renewal with new terms to account for improvements they have recently made to the facility. The facility's parking lot and access drives have been improved to enhance safety. The improvements were made under the design and inspection of a licensed engineer, verified by staff, and are reported to cost \$62,500.

Based on the improvements, the new terms are proposed to change as follows: \$1750 monthly payment for a 10-year term. The email indicates, these terms will reimburse WCCA a portion of their cost for the improvements over the period of the lease.

County staff will present further information on this matter.

BOARD ACTION REQUESTED:

Lease approval. If the Board is so inclined, the following motion is suggested:

I move the Board authorize the Chairman to execute a lease prepared by the County Attorney with the proposed terms of \$1,750 per month for 10 years effective July 1, 2021.

Marcus Jones

From: Linda Carter <lincarter@wcca.org>
Sent: Tuesday, February 2, 2021 11:25 AM
To: Marcus Jones
Cc: David White
Subject: Etowah Children's Center- Lease
Attachments: Etowah Parking Lot study-expansion.pdf; 2-12-09.pdf; Site Plan with Aerial.pdf

Good Morning Marcus,

I hope you are doing well! I wanted to follow up on the lease agreement that WCCA has with the County for the former Etowah Library, now Etowah Children's Center. The attached lease agreement was drawn up in 2009 and is due for an update. As we look to update the lease, there are factors and requests we respectfully ask to be considered.

In the fall of 2020, WCCA made substantial (\$62,500) improvements in the parking lot at the Etowah site. The parking lot now has a safe entry and exit (approximately 12 car links long) with 3 additional parking spaces. I have attached the engineering plans used for the upgrade. While this was at a significant cost to the agency, we did so for the safety of families and staff using the lot Monday through Friday year round. Prior to these improvements, traffic backed up on Brickyard Road at the start and end times of our preschool. Exiting cars would narrowly miss people, or in some incidents over the years, did not miss parked cars.

For consideration, WCCA respectfully requests an extended lease period of 15 years or to the year 2036. Just knowing the center can stay a viable part of the Etowah community and continue to serve families with young children for years to come fits with the mission of WCCA and our strategic planning for other building improvements of the facility in coming years. The families served at the Etowah Children's Center are some of the community's most vulnerable and whose annual income is at 100 % of the Federal Poverty threshold or 75% of the State median income for NC PreK. For our Early Head Start/Head Start families, this would equate to \$26,500 annually for a family of four or \$53,250 for an NC PreK family of four.

To help offset some of the costs associated with the parking lot improvements, we are requesting a reduction of \$250 in the monthly rent or \$3,000 annually. Over the course of the 15 year lease would total \$45,000 or 72% of the total investment.

WCCA greatly values our partnership to be able to provide quality early childhood education in Henderson County. Should additional information be needed, just let me know.

Thank you for your assistance Marcus,

Linda

Linda Carter
Children's Services Director



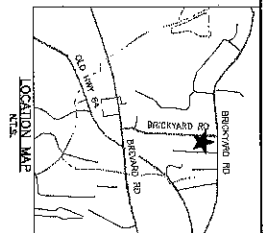
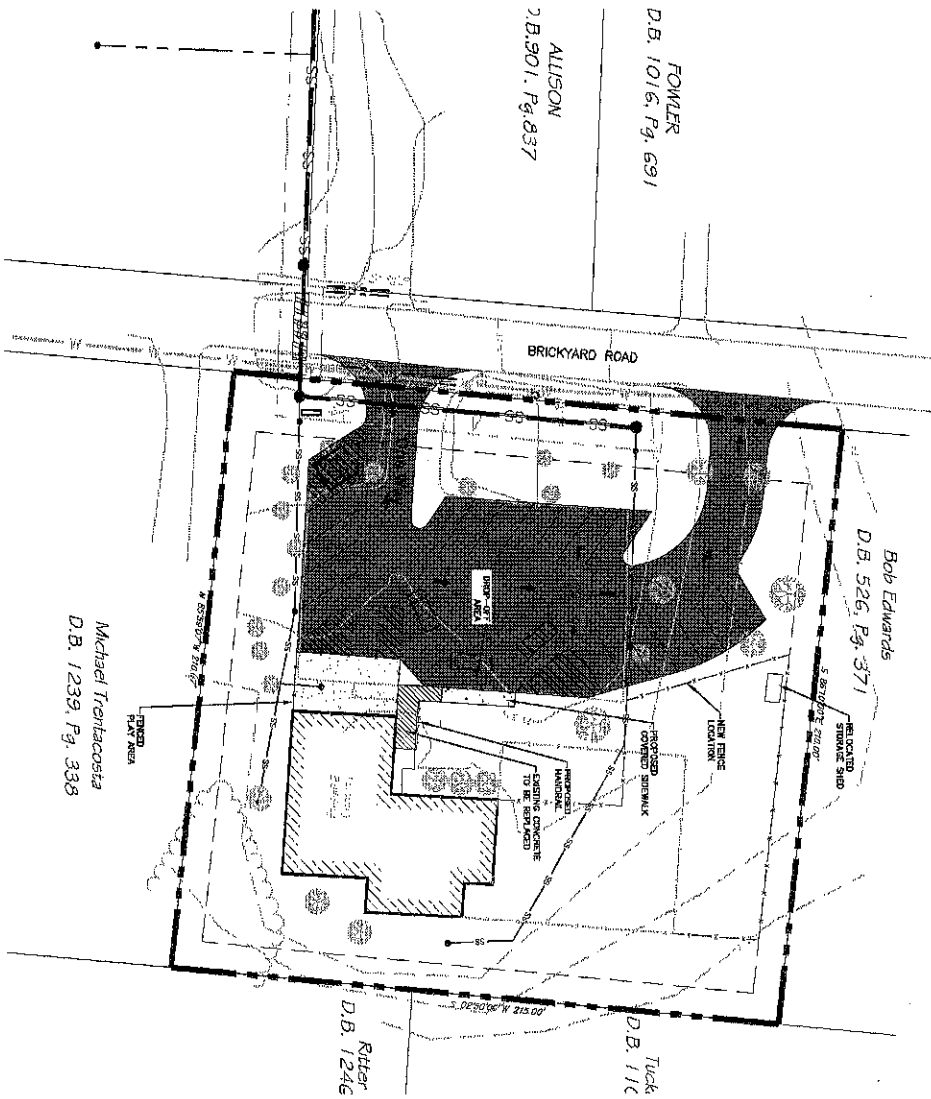
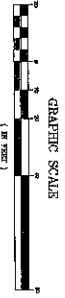
*P.O. Box 685
Hendersonville, NC 28793-0685
828/693-1711, ext. 132*

FAX: 828/697-4277



<https://www.facebook.com/WCCANC/>

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PROJECT SUMMARY
 WCCA PARKING STUDY
 PROJECT NAME: WCCA PARKING STUDY
 PLAN # 14/123
 DATE: 11/12
 ZONING: N1
 OWNER: HENDERSON COUNTY PUBLIC LIBRARY
 ADDRESS: 724 5TH AVENUE WEST
 HENDERSONVILLE, NC 28753
 AREA: 0.80 AC
 ADJACENT LOTS: 1
 WATER SYSTEM: ON SITE (PUBUC) CITY OF HENDERSONVILLE
 SEWER SYSTEM: ON SITE (PUBUC) CITY OF HENDERSONVILLE
 BUILDING SETBACKS: FRONT 10 FT
 SIDE 5 FT
 REAR 5 FT
 MAX ALLOWABLE BUILDING HEIGHT: 30'
 PROPOSED BUILDING HEIGHT: ---
 (MAXIMUM HEIGHT 35 FT)
 (MINIMUM HEIGHT 5 FT)
 SPECIAL PROVISIONS: 15 SPACES
 LOADS REQUIRED: 2
 WCCAs: WCCAs ARE ALLOWED ---
 WCCAs: WCCAs ARE ALLOWED ---
 WCCAs: WCCAs ARE ALLOWED ---

WGIA
 Engineering

WGIA ENGINEERING, PLLC
 724 5TH AVENUE WEST
 HENDERSONVILLE, NC 28753
 (704) 887-1177
 WWW.WGIA.COM
 NC LICENSE #K-1542

WCCA
 Parking Study

Mills River Township
 Eppah
 North Carolina



| DATE | DESCRIPTION |
|------|-------------|
| | |
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| | |
| | |

811
 Call before you dig.
 www.811.com

PROJECT NUMBER: 20136
 DATE: 6/16/12
 DRAWN BY: BR/AC
 CHECKED BY: VMS

Site Plan

C-100

SCALE: 1"=50'

HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite 1
Hendersonville, North Carolina 28792
Phone 828-697-4808 • Fax: 828-698-4443
TDD: 828-697-4580
www.hendersoncountync.org

BILL MOYER
Chairman
CHARLIE MESSER
Vice-Chairman

CHUCK McGRADY
MARK WILLIAMS
LARRY YOUNG

February 3, 2009

Nancy Berry
Administrative Assistant
Western Carolina Community Action

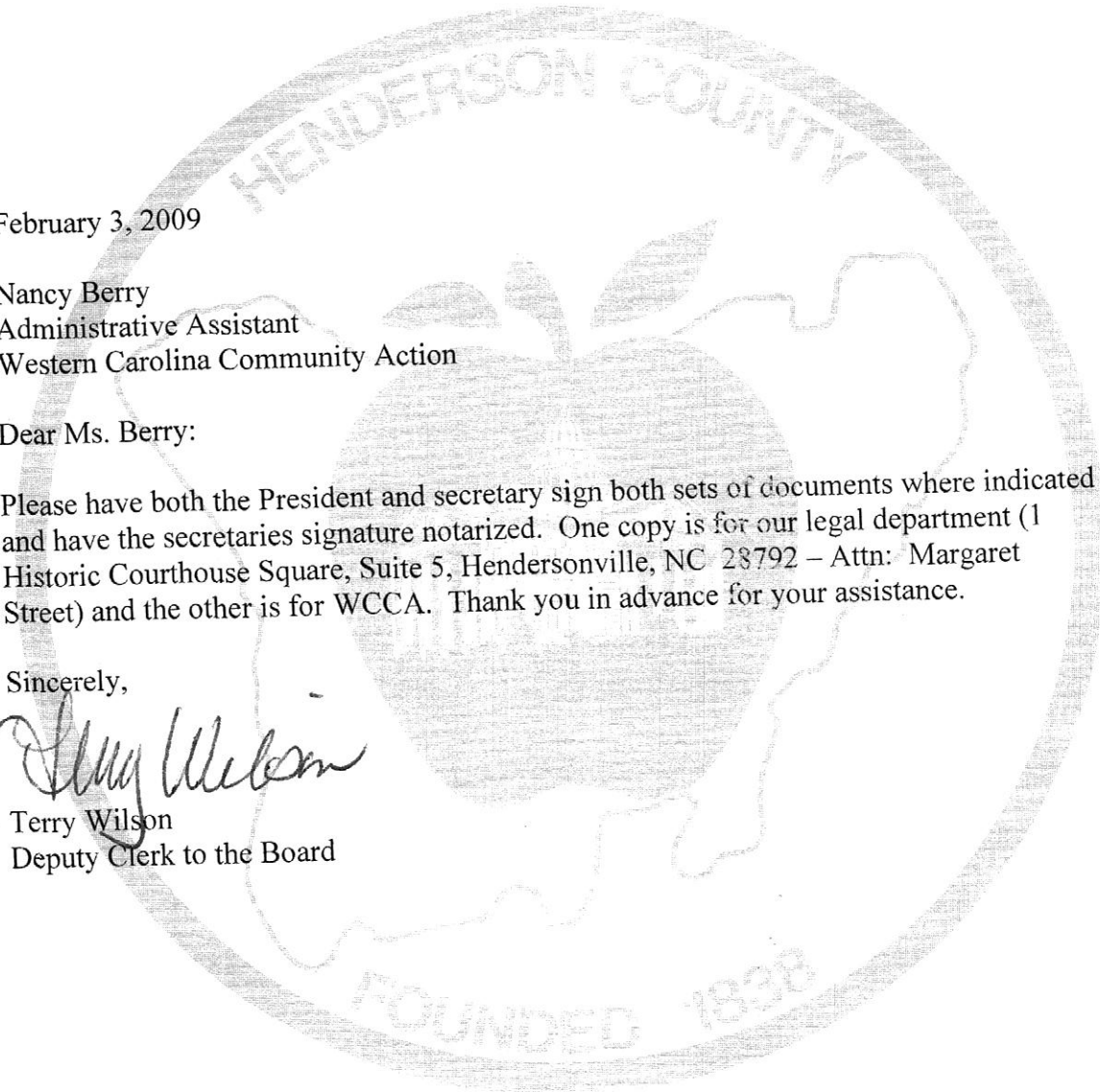
Dear Ms. Berry:

Please have both the President and secretary sign both sets of documents where indicated and have the secretaries signature notarized. One copy is for our legal department (1 Historic Courthouse Square, Suite 5, Hendersonville, NC 28792 – Attn: Margaret Street) and the other is for WCCA. Thank you in advance for your assistance.

Sincerely,



Terry Wilson
Deputy Clerk to the Board



After recording return to:

Charles Russell Burrell
Office of the County Attorney for Henderson
County
1 Historic Courthouse Square, Suite 5
Hendersonville, North Carolina 28792

LEASE AGREEMENT

THIS LEASE AGREEMENT made this 12th day of February, 2009 (the "Agreement"), by and between the **COUNTY OF HENDERSON, NORTH CAROLINA**, a body politic and corporate and a political subdivision existing under the laws of the State of North Carolina (the "County") and **WESTERN CAROLINA COMMUNITY ACTION**, a non-profit organization existing and operating in Henderson, Polk and Transylvania counties, North Carolina ("WCCA");

WITNESSETH:

WHEREAS, the County owns a certain building and tract located on Brickyard Road in the Etowah area of Henderson County (Henderson County parcel identification number 9529810511, herein the "property" or the "Leased Premises"); and

WHEREAS, the property was formerly used as the Etowah branch of the Henderson County Public Library, but is no longer used for such purpose; and

WHEREAS, WCCA proposes to use the property to house a high quality pre-school program providing services for approximately for thirty-six children; and

WHEREAS, the parties have reached agreement for the use by WCCA of the property, as stated below;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

Section 1. Lease Term and Rental. The County does hereby demise and lease the property unto WCCA, to have and to hold for an initial term commencing on February 1, 2009, and

ending at 12:00 midnight on the last day of June, 2011. The Rental paid by WCCA shall consist of two components:

(a) In-kind rent: WCCA shall perform approximately Fifty Thousand Dollars (\$50,000.00) worth of leasehold improvements to the Leased Premises, which improvements shall become property of the County upon the expiration of this agreement. WCCA and the County shall agree by subsequent memoranda as to the exact scope of such improvements.

(b) Cash rent. Monthly cash rental payments during the term of this Agreement shall be Two Thousand Dollar (\$2,000.00), and shall be due in advance by not later than the fifth (5th) day of each month.

(c) First extension of term. In the event WCCA is not in default of the terms of this lease, WCCA has the right and option to extend this lease for an additional three (3) year period commencing at the end of the initial term set forth above and ending at 12:00 midnight on the last day of June, 2014. Rental for this additional three (3) year period shall be in cash, only, at the same monthly rate as for the initial term. At the end of this additional three (3) year period, the parties shall negotiate in good faith for further extensions of this lease, with appropriate modifications in the monthly cash rental payment.

(d) Second extension of term. In the event WCCA has chosen to extend the term of this lease until 12:00 midnight on the last day of June, 2014, and in the further event that WCCA is not in default of the terms of this lease, WCCA has the right and option to extend this lease for an additional three (3) year period commencing at the end of the initial term set forth above and ending at 12:00 midnight on the last day of June, 2017. Rental for this additional three (3) year period shall be in cash, only, at the same monthly rate as for the initial term.

Section 2. Quiet Enjoyment. During the term of this Agreement, WCCA shall peaceably and quietly have, hold and enjoy the Leased Premises without suit or hindrance from the County, except as expressly required or permitted by this Agreement. The provisions of this Section shall be subject to rights granted to the County in Section 8 hereof.

Section 3. Early Termination by WCCA.

(a) In the event that WCCA should see a loss or a substantial decrease in the "More at Four" (or substantially similar State program) funds needed to serve pre-school children in Henderson County, WCCA will have the option to end this lease upon sixty (60) day written notice to Henderson County.

(b) WCCA may in its discretion further terminate this lease for any reason upon ninety (90) days written notice to Henderson County.

Section 4. Use and Maintenance. During the term of this Agreement, the Leased Premises shall be used solely for the accomplishment of public purposes, specifically the operation of a high quality pre-school program providing services for approximately for thirty-six children.

Section 5. Utilities. WCCA shall pay all charges for gas, water, electricity, light, heat, telephone or any other utility service furnished to or used by WCCA in connection with its use of the Leased Premises.

Section 6. Insurance. WCCA shall procure and maintain throughout the term of this Agreement, fire, casualty, property damage and theft insurance as required to be maintained by the County pursuant to Article V of the Financing Contract, and shall name the County as additional insureds under any such policy. WCCA shall cooperate fully with the County in filing any proof of loss with respect to such policies. In no event shall WCCA voluntarily settle, nor consent to the settlement of, any legal proceeding arising out of any insurance claim involving the Leased Premises, without the prior written consent of the County.

Section 7. Improvements. WCCA shall construct facilities on the Leased Premises, in addition to those referenced in Section 1(a), above, and from time-to-time, in its sole discretion, and at its own expense, modify or improve said elementary school facilities; provided that no such modification shall materially impair the effective use of or materially decrease the value of the Leased Premises. WCCA may also install items of equipment or other personal property therein.

Section 8. Access to the Leased Premises. The County and the Lender shall have the right at all reasonable times to enter upon and inspect the Leased Premises.

Section 9. Encumbrances. WCCA shall not create, incur, assume nor suffer to exist any mortgage, pledge, lien, charge or claim with respect to the Leased Premises. WCCA shall promptly, at its own expense, take such action as may be reasonably necessary to duly discharge or remove any such encumbrance, and hereby agrees to reimburse the County for any expense incurred by either of them in removing any such encumbrance which WCCA fails to remove itself within a reasonable time. WCCA may not sublease all or any portion of the Leased Premises.

Section 10. Indemnification of County. WCCA, shall defend, indemnify and hold the County harmless against any and all losses, claims, damages or liabilities, joint or several, including attorneys fees and expenses, for which the County may become liable as a result of this Agreement, WCCA's operations on the Leased Premises, or its failure to comply with the terms of this Agreement.

Section 11. Assignment. WCCA shall not assign its rights or obligations under this Agreement to any other person, firm or corporation without the prior written consent of the County.

Section 12. Recording. This Agreement or a Memorandum of this Agreement shall be recorded in the Office of the Henderson County Register of Deeds.

Section 13. Miscellaneous. (a) If any term or provision of this Agreement shall be deemed invalid or unenforceable by the court of competent jurisdiction, the remainder of this Agreement, and any other application of such term or provision, shall not be affected thereby.

(a) Headings in this Agreement are for purposes of reference only and shall not limit nor define any meaning contained thereunder.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors and assigns, during the term hereof and during any extension or renewal hereof.

Section 14. Notices. For all purposes hereunder, including specifically provision of any notice required hereby, the parties may be served at the following addresses:

County: Henderson County, North Carolina
1 Historic Courthouse Square, Suite 5
Hendersonville, NC 28792
Attention: County Attorney

WCCA: Western Carolina Community Action
Post Office Box 665
Hendersonville, North Carolina 28793
Attention: Executive Director

Remainder of this page intentionally left blank

IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year above first written.

COUNTY OF HENDERSON, NORTH CAROLINA

[SEAL]



BY: [Signature]
Chairman of Board of Commissioners

Attest:

Elizabeth W. Corn
Clerk

[SEAL]

WESTERN CAROLINA COMMUNITY ACTION

BY: [Signature]
Executive Director

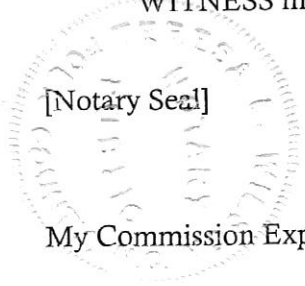
Attest:

[Signature]
Secretary

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON *Paik*

I, Teresa L. Wilson, a Notary Public for said County and State, hereby certify that Elizabeth W. Corn personally appeared before me this day and acknowledged that she is Clerk to the Board of Commissioners for the County of Henderson, North Carolina, and that by authority duly given and as the act of said County, the foregoing instrument was signed in its name by its Chairman, sealed with its seal, and attested by herself as its Clerk.

WITNESS my hand and notarial seal, this the 3rd day of February, 2008



Teresa L. Wilson
Notary Public

My Commission Expires: 10/15/2011

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

I, Nancy J Berry, a Notary Public for said County and State, hereby certify that Fred Tinsley personally appeared before me this day and acknowledged that ~~s~~he is _____ Secretary of Western Carolina Community Action and that by authority duly given and as the act of the Western Carolina Community Action, the foregoing instrument was signed in its name by its Executive Director, sealed with its seal, and attested by himself/~~herself~~ as its _____ Secretary.

WITNESS my hand and notarial seal, this the 12th day of February, 2008

Notary Public

My Commission Expires: _____

Nancy J Berry
Notary Public
My commission expires
December 21, 2013





Nancy J. Berry
Notary Public
My Commission Expires
05/31/2012

Approximate
Location of
Monument

Existing Storage
Building to be
Relocated



DRAFT

WCCA Parking
Expansion
1" = 30'