Attachment B

CHARLOTTE

October 8, 2012

Mr. James Garges, Director
Mecklenburg County Park and Recreation Department
5841 Brookshire Boulevard
Charlotte, NC 28216-2403

Re: Charlotte Area Transit System, Northeast Corridor Blue Line Extension – Toby Creek Greenway Connector

Dear Mr. Garges:

CATS recently met with Gwen Cook of Mecklenburg County Park and Recreation (MCPR) and UNC Charlotte staff regarding planned changes to the easement for the Toby Creek Greenway Connector. At the greenway access point along North Tryon Street, the greenway is located on UNC Charlotte Foundation property. This property is considered privately held land, and is located adjacent to the intersection of JW Clay Blvd and North Tryon Street and the UNC Charlotte campus.

The greenway on the UNC Charlotte Foundation property is part of the Toby Creek Greenway Connector that currently provides a connection from North Tryon Street to the Toby Creek Greenway, located on the campus of UNC Charlotte. During these meetings, MCPR expressed its intent to preserve this easement, and to also maintain a permanent access point from North Tryon Street as close as possible to the current location.

CATS informed MCPR that the construction of the LYNX Blue Line Extension light rail project (LYNX BLE) would require that the greenway access point be temporarily closed and reconstructed due the shift in the North Tryon Street lanes to accommodate light rail in the median. As such, CATS coordinated with MCPR to develop a solution to both preserve the permanent access to the greenway and ensure a temporary access to the greenway during construction. MCPR staff have reviewed the design and agreed to CATS' proposal.

Due to right-of-way constraints, the greenway cannot be reconstructed to MCPR design standards, which require a five foot shoulder. MCPR and CATS have agreed that CATS will reconstruct the greenway to include a two foot shoulder with handrail and construct a new set of stairs that will improve the connection and access to the greenway. The attached design plan shows the proposed reconstruction of the greenway access at North Tryon Street. CATS will reconstruct the greenway as indicated in the attached design, as part of the LYNX BLE project. MCPR and UNC Charlotte have agreed to modify the easement to accommodate the relocation of the greenway.

During temporary closure of the greenway access at North Tryon Street, temporary routing to the Toby Creek Greenway will be provided using the sidewalks along JW Clay Boulevard Extension and Phillips Road. CATS will include in the LYNX BLE contract specifications a

CATS CHARLOTTE AREA TRANSIT SYSTEM

600 East Fourth Street
Charlotte, North Carolina 28202
Telephone: (704) 336-6917
Fax: (704) 353-0797

requirement for the contractor to notify CATS and MCPR 48 hours in advance of the temporary closure of the greenway access. CATS will work with MCPR to communicate the temporary closure and route to greenway users, including notices on the project and MCPR websites and signage in the area. In addition, CATS has agreed to ensure that pedestrian access across the North Tryon Street/JW Clay Blvd intersection be maintained during construction.

CATS has coordinated with FTA to review any possible implications to the current Section 4(f) determination, since the assessment in the LYNX BLE Final Environmental Impact Statement (Final EIS) was based on earlier information that the plans for the expansion of the UNC Charlotte campus would require the relocation of the greenway, and therefore the greenway would not have been impacted by the LYNX BLE.

FTA has reviewed the proposed design and determined that Section 4(f) of the USDOT Act of 1966 would not apply. According to Section 774.13(d) of the Section 4(f) regulations, the conditions outlined below must be satisfied to conclude that an action does not rise to the level of being a use for purposes of Section 4(f); FTA believes that all of these conditions have been or will be satisfied:

1) Duration must be temporary, i.e., the impact is less than the time needed to construct the project and would not result in a change in ownership (temporary impacts during re-construction of North Tryon Street in this segment of the project);
2) Scope of work must be minor, any changes to the resource must be minor (the scope of work reconstructs a short segment of the greenway to re-establish access to and from North Tryon Street once the lanes have been shifted);
3) There are no anticipated permanent adverse physical impacts, nor will there be interference with the activities or purposes of the resource, on either a temporary or permanent basis (there will be an alternate route during temporary closure of the greenway access at North Tryon Street); and,
4) The land being used must be fully restored, i.e., the greenway connection must be returned to a condition which is at least as good as that which existed prior to the project (the greenway will be re-constructed according to the attached design plan).

Pursuant to Section 774.13(d), as the appropriate official with jurisdiction over the resource, CATS is seeking your agreement that the above conditions have been or will be satisfied, and that the proposed impact, as described above, would not rise to the level of being a use for purposes of Section 4(f). If you concur, please sign and date this letter in the space below and return a copy.

We appreciate your Department's continued participation in the planning process. If you have any questions or concerns, please contact me at (704) 336-3513 or kgoforth@charlottenc.gov.

Sincerely,

Kelly R. Goforth
Project Development Manager
LYNX Blue Line Extension Light Rail Project

Enclosures (2)

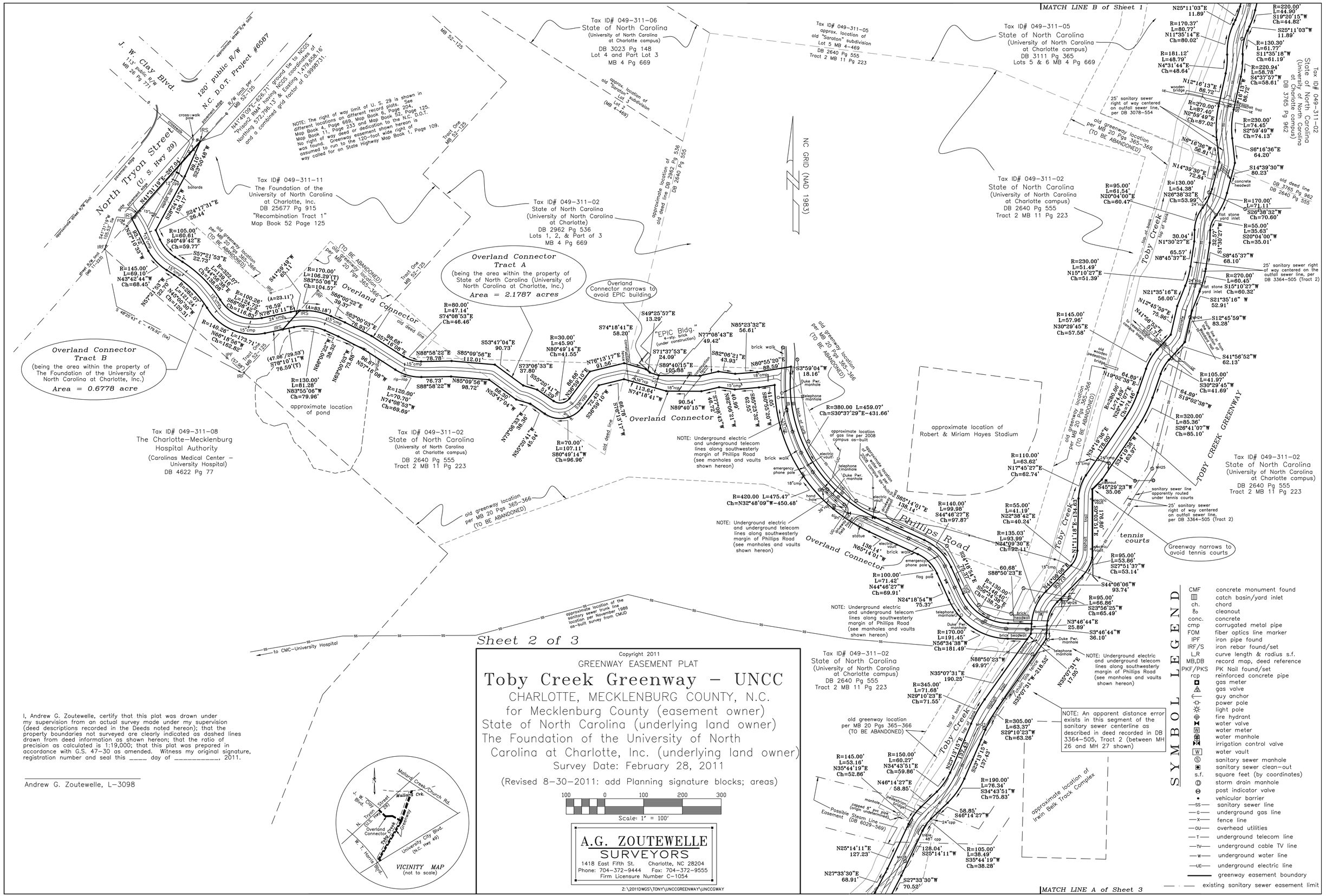
Cc: Dale Youngkin, FTA Region IV
Danny Rogers, CATS
Gwen Cook, Mecklenburg County Park and Recreation
Jacqueline McNeil, Mecklenburg County BSA – Real Estate Management

Transmitted via email on October 8, 2012

As the official with jurisdiction over the referenced park resource, I agree that the conditions described in 23 CFR 774.13(d) have been satisfied, and the planned changes to the easement for the Toby Creek Greenway Connector as a result of the LYNX Blue Line Extension project will not rise to the level of being a use for purposes of Section 4(f). I have been informed that, based on my concurrence, the FTA finds that Section 4(f) of the USDOT Act of 1966 does not apply to this resource.

Signature: _____

Date: 10.22.12



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GREENWAY EASEMENT PLAT

Toby Creek Greenway – UNCC

CHARLOTTE, MECKLENBURG COUNTY, N.C.

for Mecklenburg County (easement owner)

State of North Carolina (underlying land owner)

The Foundation of the University of North Carolina at Charlotte, Inc. (underlying land owner)

Survey Date: February 28, 2011

(Revised 8-30-2011: add Planning signature blocks; areas)

100 0 100 200 300

Scale: 1' = 100'

A.G. ZOUTEWELLE SURVEYORS

1418 East Fifth St. Charlotte, NC 28204

Phone: 704-372-9444 Fax: 704-372-9555

Firm Licensure Number C-1054

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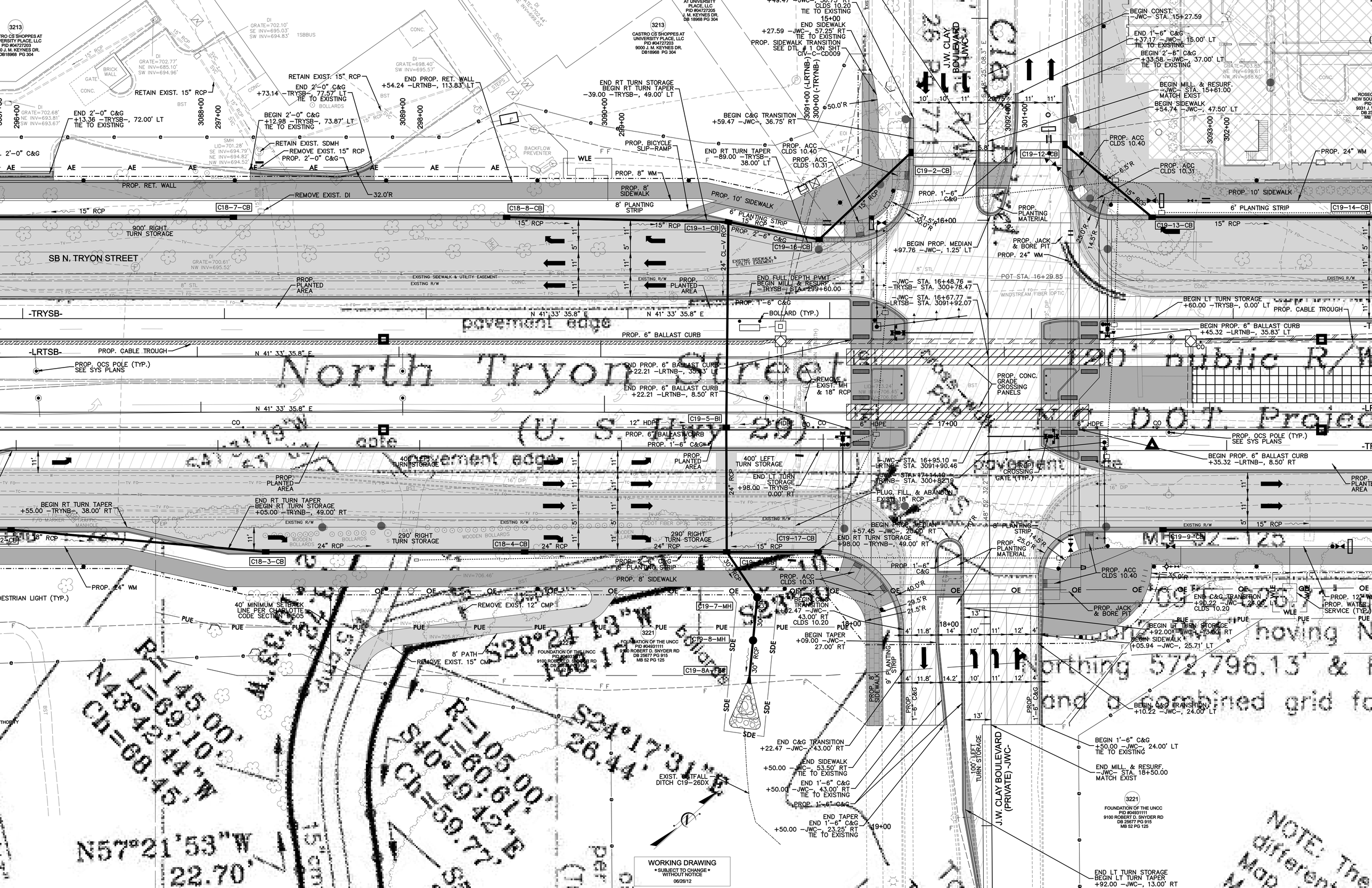
I, Andrew G. Zoutewelle, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed descriptions recorded in the Deeds noted hereon); that the property boundaries not surveyed are clearly indicated as dashed lines drawn from deed information as shown hereon; that the ratio of precision as calculated is 1:19,000; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, 2011.

Andrew G. Zoutewelle, L-3098

VICINITY MAP (not to scale)


SB N. TRYON STREET
North Tryon Street
(U. S. Hwy. 29)
120' public R/W
N.C.D.O.T. Project
J.W. CLAY BOULEVARD (PRIVATE) -JWC-
900' RIGHT TURN STORAGE
290' RIGHT TURN STORAGE
400' LEFT TURN STORAGE
100' LEFT TURN STORAGE
PROP. 10' SIDEWALK
PROP. 8' SIDEWALK
6' PLANTING STRIP
8' PLANTING STRIP
PROP. RET. WALL
PROP. 8" WM
PROP. 24" WM
PROP. CABLE TROUGH
PROP. 6" BALLAST CURB
PROP. OCS POLE (TYP.) SEE SYS PLANS
PROP. CONC. GRADE CROSSING PANELS
PROP. PLANTED AREA
PROP. PLANTING MATERIAL
PROP. JACK & BORE PIT
PROP. BICYCLE SLIP-RAMP
PROP. 12" WM PROP. WATER SERVICE (TYP.)
40' MINIMUM SETBACK LINE PER CHARLOTTE CODE SECTION 9.505
FOUNDATION OF THE UNCC PID #04931111 9100 ROBERT D. SNYDER RD DB 25677 PG 915 MB 52 PG 125
CASTRO CS SHOPPES AT UNIVERSITY PLACE, LLC PID #04727203 9000 J. M. KEYNES DR. DB 18968 PG 304
WORKING DRAWING
* SUBJECT TO CHANGE * WITHOUT NOTICE
06/26/12