

# Attachment H



December 13, 2011

James E. Merrifield  
Managing Partner

704-561-5241  
jmerrifield@mpvre.com

Brian Smart  
Federal Transit Administration  
230 Peachtree Street, NW, Suite 800  
Atlanta, GA 30303-1512

Via Email: brian.smart@dot.gov

Re: CATS Blue Line Northeast extension

Dear Mr. Smart,

RM 36th Street Investors, LLC, the owner of the Grinnell Building at 430 East 36th Street, is responding to CATS letter dated November 29<sup>th</sup>.

In our November 14<sup>th</sup> letter we asserted that the 16 foot depression on 36<sup>th</sup> Street as part of the CATS Blue Line Northeast extension will cause an indirect adverse effect on the Grinnell building and a direct adverse effect on the North Charlotte Historic District, as defined in 36 C.F.R. § 800.5(a)(1) and further clarified in 36 C.F.R. § 800.5(a)(2)(v). The November 29<sup>th</sup> letter from CATS did not respond to our identification of potential adverse effects. We request again that the Federal Transit Authority make a determination on these adverse effects as prescribed in 36 C.F.R. § 800.5(a).

Additional research on the North Carolina fire and life safety code has revealed that the proposed CATS Blue line extension will compromise the continued use of the Grinnell building. Lowering 36<sup>th</sup> Street will force the door and loading dock on 36<sup>th</sup> Street to be closed off or else people exiting will fall 16 feet down to the new road level. The north-side of the property, which borders the railroad tracks, is an existing North Carolina Railroad right of way. The site plans for the 36<sup>th</sup> Street Station (see attachments) indicate that the right of way extends all the way to the edge of the Grinnell building. CATS intends to use this right of way for the light rail tracks and the 36<sup>th</sup> Street Station. Consequently, the entrances on the north side of the Grinnell Building will also have to be closed. The result of closing the entrances on both the northern and eastern sides of the building is that this section of the building, which was the original circa 1910 building, will no longer meet North Carolina fire and life safety code. The fire code states that from any point on the interior of the building, there must be an exit to the exterior of the building within 100 feet. By complying with the fire code, large portions of the building will no longer be habitable, leaving these sections of the building vacant. This change of use to the building is a clear adverse effect as described in 36 C.F.R. § 800.5(a)(2)(iv).

Furthermore, since a majority of the property will no longer be useable, the demolition of the building becomes inevitable. This foreseen demolition is an adverse effect, as indicated by 36 C.F.R. § 800.5(a)(2)(i) and 36 C.F.R. § 800.5(a)(1) which states that "adverse effects may include

reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.” We request again that the Federal Transit Authority make a determination on this adverse effect as prescribed in 36 C.F.R. § 800.5(a).

Included for your convenience, is the link to the complete [36 C.F.R. § 800](#) regulations.

We hope that you will address these concerns before issuing a Record of Decision and continuing with this project. We look forward to working with you to find ways to avoid adverse effects to the Grinnell Building.

Sincerely,

RM 36th Street Investors, LLC

By: Merrifield Partners, LLC, Manager

A handwritten signature in black ink that reads "James E. Merrifield". The signature is written in a cursive style with a large initial "J" and "M".

By:

James E. Merrifield, Manager

CC: Kelly Goforth [kgoforth@ci.charlotte.nc.us](mailto:kgoforth@ci.charlotte.nc.us)  
Kelly Merrifield [kelly.merrifield@gmail.com](mailto:kelly.merrifield@gmail.com)

**From:** [Goforth, Kelly](#)  
**To:** [Rogers, Danny](#); [Mock, Andrew](#); [Hennessey, Kevin](#); [Rushing, Laura M](#); [Reid, Jeff L.](#); [Boone, Mark](#); [Makoid, Meghan](#); [Brim, Jill M.](#); [Cornett, Kathleen D.](#); [Dellert-OKeef, Judy](#)  
**Cc:** [LYNX BLE Records](#)  
**Subject:** FW: CATS Blue Line Northeast extension  
**Date:** Tuesday, December 13, 2011 2:56:59 PM

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Fyi

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**From:** brian.smart@dot.gov [mailto:brian.smart@dot.gov]  
**Sent:** Tuesday, December 13, 2011 2:49 PM  
**To:** JMerrifield@mpvre.com  
**Cc:** Goforth, Kelly; kelly.merrifield@gmail.com  
**Subject:** RE: CATS Blue Line Northeast extension

Dear Mr. Merrifield,

We are in receipt of the attached letter dated December 13, 2011. We are currently conducting some background research and further coordination to address your concerns. I will forward your correspondence to the North Carolina SHPO and FTA legal counsel for FTA Region IV, so that we can arrange a meeting for the early part of January 2012 to resolve your concerns about the potential effects of the subject project on your property and your interests in the North Charlotte Historic District. Some preliminary vetting revealed that all of the individuals from each agency who need to be present during this meeting or conference call will not be available until after the beginning of the New Year.

Please refer to the following website

<http://charmeck.org/CITY/CHARLOTTE/CATS/PLANNING/BLE/OVERVIEW/Pages/default.aspx> for an update on the project. FTA issued the Record of Decision (ROD) for the project on December 5, 2011.

When you have some time, please forward some dates/times that you and Kelly Merrifield may be available for a meeting or conference call. The goal for this meeting will be to resolve your concerns about the potential impacts from the project on your property and the North Charlotte Historic District. Further FTA actions, including but not limited to, additional mitigation commitments and supplemental environmental documentation for FTA's ROD on December 5, 2011 may be needed to resolve your concerns.

Please let me know if you have any questions or concerns.

Thank you,  
Brian

**Brian C. Smart**  
Environmental Protection Specialist  
Federal Transit Administration, Region IV  
230 Peachtree Street, NW - Suite 800

Atlanta, GA 30303  
Phone: 404.865.5607  
Fax: 404.865.5605  
Email: [brian.smart@dot.gov](mailto:brian.smart@dot.gov)

 Please consider the environment before printing this e-mail.

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**From:** Fran Ciotti [mailto:[fciotti@mpvre.com](mailto:fciotti@mpvre.com)] **On Behalf Of** Jim Merrifield  
**Sent:** Tuesday, December 13, 2011 2:04 PM  
**To:** Smart, Brian (FTA)  
**Cc:** Jim Merrifield; [kgoforth@charlottenc.gov](mailto:kgoforth@charlottenc.gov); Kelly Merrifield  
**Subject:** CATS Blue Line Northeast extension

Please see attached letter.

Fran Ciotti *on behalf of Jim Merrifield*  
Administrative Manager  
**Merrifield Patrick Vermillion**  
521 East Morehead Street, Suite 400, Charlotte, NC 28202  
Direct: 704-561-5204  
Fax: 704-248-2101  
[fciotti@mpvre.com](mailto:fciotti@mpvre.com)



pedestrian access to Grinnell/Newco from 36<sup>th</sup> Street; sight lines; disturbance of existing streetscape; and indirect impact to Grinnell/Newco relative to street orientation.

-After reviewing impacts with all in attendance, R. Gledhill-Early maintained concurrence with previous finding that impacts do not adversely affect the North Charlotte Historic District.

-Discussed ingress/egress to building relative to fire code violations, particularly along 36<sup>th</sup> Street. K. Goforth reported meeting with Fire Marshall/Code Enforcement regarding this. Relayed that CATS/STV subsequently developed a proposal to address concerns by providing a path/sidewalk between the building and the proposed retaining wall on 36<sup>th</sup> Street to retain pedestrian access to the door. Approximately 5.5 feet exists between the building and retaining wall. Fire Marshall indicated that this would be a reasonable solution.

-J. Merrifield to review proposal for path/sidewalk and provide response within 30 days.

-Noted that loss of access to the loading dock does not affect fire code concerns.

-B. Smart concluded that concerns are of economic nature and not historic/Section 106. Action items are unchanged from previous meetings. CATS will include MPV/J. Merrifield in station area planning and loss of access to loading dock will be mitigated through real estate compensation process per the ROD.

-Discussed monitoring of mitigation commitment and station area process. E. Matos noted that quarterly meetings are held between FTA and CATS, at which time CATS has to provide a project status update, including on-going demonstration of compliance with mitigation commitments outlined in the ROD.



March 5, 2013



Ms. Renee Gledhill-Earley  
Environmental Review Coordinator  
NC State Historic Preservation Office  
4617 Mail Service Center  
Raleigh, NC 27699

ER 06-1957

Re: LYNX-Blue Line Extension Northeast Corridor Light Rail Project  
Historic Evaluation, ER # 06-1957

+ RYE 3/13/13

Dear Ms. Gledhill-Earley:

+ 3/22/13

The purpose of this letter is to document our discussion on February 25, 2013 regarding changes to the property acquisition for the Grinnell Manufacturing Building, a contributing resource of the North Charlotte Historic District.

The attached exhibit shows the current proposed easements needed for the LYNX Blue Line Extension Project. As previously presented in May 2011, CATS plans to build a retaining wall along 36th Street, adjacent to the Grinnell Manufacturing Building. In an effort to protect this historic resource, the LYNX BLE project will install an underpinning system of helical pier supports beneath the foundations of the building to support the building and protect it from deflections of the retaining wall. Previously, CATS planned to acquire temporary construction easements for the installation of the underpinning system. Currently, CATS plans to acquire permanent easements for the underpinning system to ensure long-term protection of the building and retaining wall, so that the underpinning is not removed without CATS' permission (Permanent Easement = 2,350 sq ft). In addition, a temporary construction easement is needed for the entire area of the building to conduct a pre-construction survey to document the condition of building (TCE 1 = 112,567 sq ft).

Other changes in property acquisition have been identified as follows. Temporary construction easements are needed for a temporary utility pole on the northwest corner of the property and for re-construction of the driveway at the southeast corner along 36<sup>th</sup> Street (TCE 2 = 1,8000 ft); and a permanent storm drainage easement is needed along the northwest property line adjacent to the NCRR ROW (SDE = 6,567 sq ft).

Regarding the property owner's water and sewer lines located with the NCRR ROW, we received clarification from our engineers that we will not need to relocate the property owner's water and sewer lines. CATS will re-establish the property's water and sewer line connection to the water and sewer main along 36<sup>th</sup> Street as part of the BLE project, similar to other re-connections we are making due to the project. The property owner will be notified by NCRR that they must apply for a license for the water and sewer line within NCRR ROW. NCRR has indicated they are willing to grant the license. This will follow a similar process to other encroachments along the NCRR ROW.

Continued next page . . .



www.ridetransit.org  
600 East Fourth Street  
Charlotte, NC 28202  
PH: 704-336-6917  
FAX: 704-353-0797

Based on our discussion, you found that the previously-determined finding of No Adverse Effect for the North Charlotte Historic District remains valid. To document this concurrence, please sign and return this letter. If you have any questions or need more information, please contact me at 704-336-3513.

Sincerely,

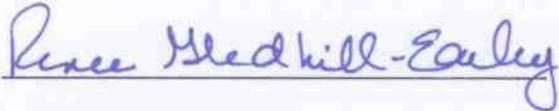


Kelly Goforth  
Project Development Manager

Enclosure

c: Danny Rogers, Project Director, CATS  
Keith Melton, Community Planner, FTA Region IV  
Dale Youngkin, Environmental Protection Specialist, FTA Region IV

**Concurrence: Finding of No Adverse Effect - North Charlotte Historic District**



Renee Gledhill-Earley  
NC State Historic Preservation Office

3-13-13

Date

# EXHIBIT A

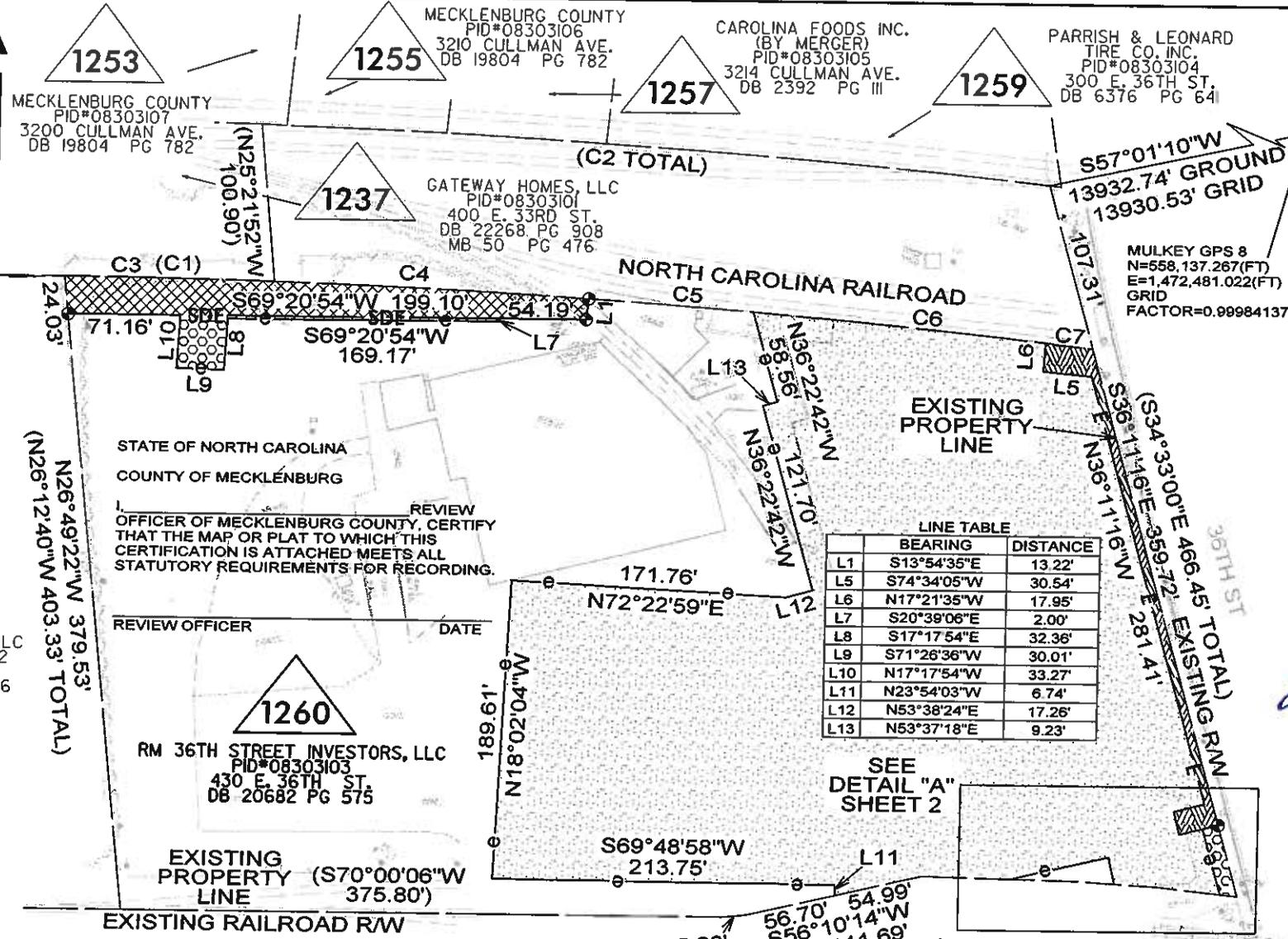
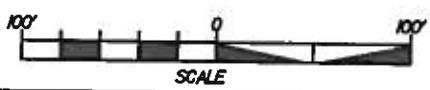
## LEGEND

- e- TEMP. CONSTRUCTION EASEMENT LINE
- SDE- STORM DRAINAGE EASEMENT LINE
- E- PERMANENT EASEMENT LINE
- - - EXIST. PROPERTY LINE
- [Hatched Box] TEMP. CONSTRUCTION EASEMENT 1
- [Dotted Box] TEMP. CONSTRUCTION EASEMENT 2
- [Cross-hatched Box] STORM DRAINAGE EASEMENT
- [Diagonal-hatched Box] PERMANENT EASEMENT
- ⊕ NAIL SET



1238  
NODA YARDS LLC  
PID #08303142  
E. 33RD ST.  
MB 50 PG 476

- NOTES:
- BEARINGS AND DISTANCES SHOWN IN PARENTHESIS ARE BASED ON RECORDED MAP INFORMATION.
  - TOTAL AREA = 303,942 SQ.FT.
  - TEMPORARY CONSTRUCTION EASEMENT 1 = 112,567 SQ.FT.
  - TEMPORARY CONSTRUCTION EASEMENT 2 = 1,800 SQ.FT.
  - STORM DRAINAGE EASEMENT = 6,567 SQ.FT.
  - PERMANENT EASEMENT = 2,350 SQ.FT.
  - AREA REMAINING = 303,942 SQ.FT.
  - POINTS NOT SET AROUND PERMANENT EASEMENT THAT FALL IN THE EXISTING BUILDING.



I, REVIEW OFFICER OF MECKLENBURG COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS ATTACHED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER \_\_\_\_\_ DATE \_\_\_\_\_

LINE TABLE	
BEARING	DISTANCE
L1	S13°54'35"E 13.22'
L5	S74°34'05"W 30.54'
L6	N17°21'35"W 17.95'
L7	S20°39'06"E 2.00'
L8	S17°17'54"E 32.36'
L9	S71°26'36"W 30.01'
L10	N17°17'54"W 33.27'
L11	N23°54'03"W 6.74'
L12	N53°38'24"E 17.26'
L13	N53°37'18"E 9.23'

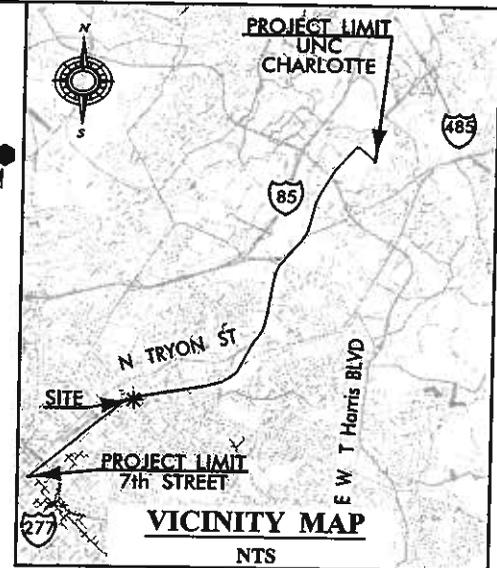
DEED CURVE TABLE				
CHORD BEARING	CHORD	RADIUS	LENGTH	CURVE DIRECTION
C1	N70°53'20"E	132.32'	5,629.48'	132.32' RIGHT
C2	N73°54'53"E	494.68'	5,729.65'	494.83' RIGHT

CURVE TABLE				
CHORD BEARING	CHORD	RADIUS	LENGTH	CURVE DIRECTION
C3	N70°13'25"E	132.30'	5,629.65'	132.30' RIGHT
C4	N71°53'49"E	196.50'	5,629.65'	196.51' RIGHT
C5	N73°25'33"E	103.96'	5,629.65'	103.96' RIGHT
C6	N74°53'26"E	183.89'	5,629.65'	183.90' RIGHT
C7	N75°58'45"E	29.98'	5,629.65'	29.98' RIGHT

PREPARED BY:  
**MULKEY**  
ENGINEERS & CONSULTANTS  
7500 E. INDEPENDENCE BOULEVARD  
SUITE 100  
CHARLOTTE, NC 28227  
(704) 537-7200  
(704) 537-2611 (FAX)  
WWW.MULKEYING.COM

**CHARLOTTE**  
ENGINEERING & PROPERTY MANAGEMENT

REVISIONS	LYNX Blueline Extension, Northeast Corridor Lightrail Project	PROJECT NO. 512-09-025
SCALE 1" = 100'		FILE NO.
DRAWN BY: CKD	PROPERTY ACQUISITION (1260) OWNER: RM 36TH STREET INVESTORS, LLC CHARLOTTE, MECKLENBURG CO., NC	SHEET 1
DATE: 08/01/12		CHECKED BY: JDL SURVEY SUPVR.: JDL



I, J. David Lee II NCPLS L-4175, certify that this plat was drawn under my supervision from an actual survey made under my supervision, and was prepared for the purpose of Right-of-Way and/or Easement Acquisition only, and is not intended to be a boundary survey of property shown.

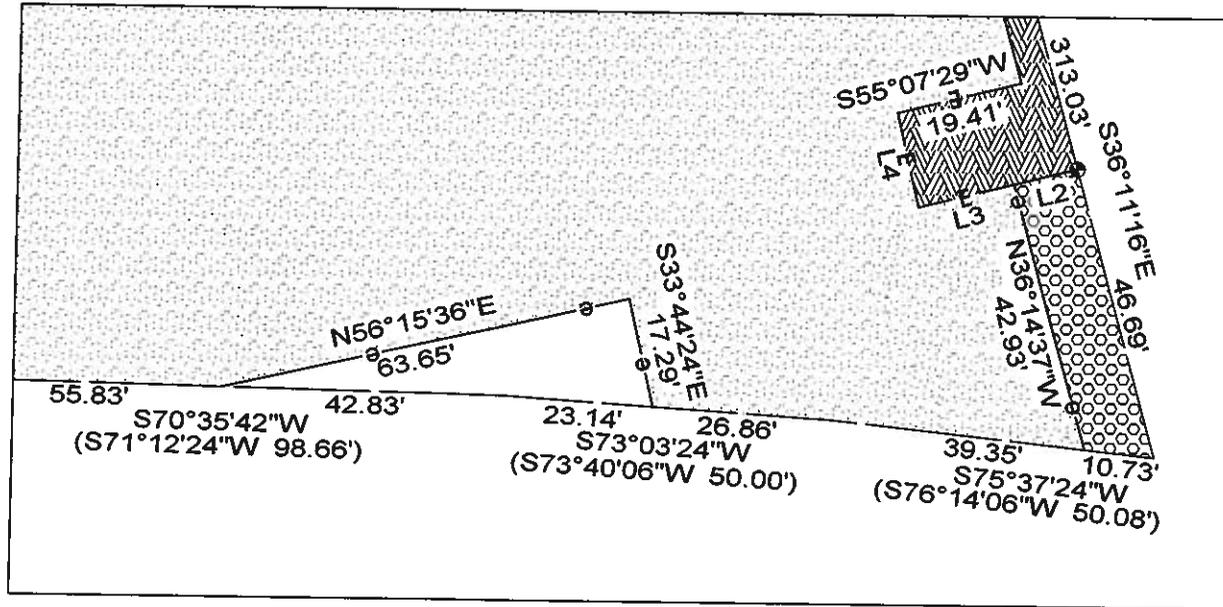
*J. David Lee II* 8-1-12  
J. David Lee II, NCPLS L-4175



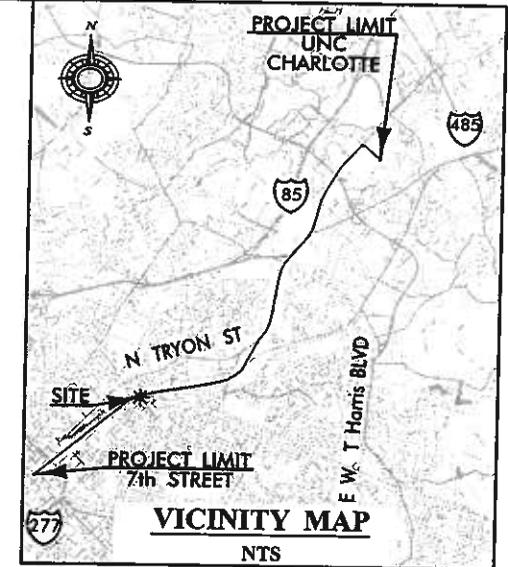
# LEGEND

- TEMP. CONSTRUCTION EASEMENT LINE
- PERMANENT EASEMENT LINE
- EXIST. PROPERTY LINE
- TEMP. CONSTRUCTION EASEMENT 1
- TEMP. CONSTRUCTION EASEMENT 2
- PERMANENT EASEMENT
- NAIL SET

DETAIL "A"  
SCALE  
NTS



LINE TABLE		
	BEARING	DISTANCE
L2	S55°07'29"W	10.00'
L3	S55°07'29"W	14.94'
L4	N34°08'07"W	15.00'



I, J. David Lee II NCPLS L-4175, certify that this plat was drawn under my supervision from an actual survey made under my supervision, and was prepared for the purpose of Right-of-Way and/or Easement Acquisition only, and is not intended to be a boundary survey of property shown.

*J. David Lee II* 8-1-12  
J. David Lee II, NCPLS L-4175



STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, \_\_\_\_\_ REVIEW OFFICER OF MECKLENBURG COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS ATTACHED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER \_\_\_\_\_ DATE \_\_\_\_\_

PREPARED BY:



REVISIONS	LYNX BlueLine Extension, Northeast Corridor Lightrail Project	PROJECT NO. 512-09-025
		FILE NO.
SCALE NTS	PROPERTY ACQUISITION (1260) OWNER: RM 36TH STREET INVESTORS, LLC CHARLOTTE, MECKLENBURG CO., NC	SHEET 2
DRAWN BY: CKD		OF 2
DATE: 08/01/12	CHECKED BY: JDL	SURVEY SUPVR.: JDL