

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF BUNCOMBE

FILED

FILE NO.: 07 ~~CV~~ 05373

J. JEROME JENSEN, JR, DIANN LYNN JENSEN,)
 JENSEN, FREDERICK M. TEACH, SANDRA) 3: 53
 L. TEACH, BARRY SILVERSTEIN,)
 SHARON WOOD, PHILLIP E. MURPHY,)
 MARIE LOUISE MURPHY (see Attachment 1)
 listing Additional Petitioners),)

PETITION FOR REVIEW

Petitioners,)

vs.)

CITY OF ASHEVILLE, a municipal)
corporation)

Respondent.)

NOW COME the Petitioners, by and through the undersigned counsel, and pursuant to N.C.G.S. §160A-50, petition the Court to review certain actions, to wit: annexation proceedings of the Respondent, The City of Asheville, as undertaken through its governing board, the City Council for the City of Asheville (collectively hereinafter the "City"), as follows:

1. Petitioners own certain real property, as more fully described below, in Buncombe County, North Carolina, purportedly annexed by the City by adoption of an ordinance on August 21, 2007.

2. The City of Asheville is a North Carolina municipal corporation whose actions are governed by Chapter 160A of the North Carolina General Statutes, the United States Constitution, and the North Carolina Constitution, and whose governing board is the City Council.

3. Petitioners, J. Jerome Jensen, Jr. and Diann Lynn Jensen, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-8922 by the Buncombe County Tax Office and as more fully described in Deed Book 3908, Page 16 of the Buncombe County Register of Deeds.

4. Petitioners, Frederick M. Teach and Sandra L. Teach, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-5587 by the Buncombe County Tax Office and as more fully described in Deed Book 4389, Page 1779 of the Buncombe County Register of Deeds.

5. Petitioners, Barry Silverstein and Sharon Wood, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-4478 by the Buncombe County Tax Office and as more fully described in Deed Book 4133, Page 577 of the Buncombe County Register of Deeds.

6. Petitioners, Phillip E. Murphy and Marie Louise Murphy, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-2380 by the Buncombe County Tax Office and as more fully described in Deed Book 4142, Page 505 of the Buncombe County Register of Deeds.

7. Petitioners, Matthew Monday and Tracey Monday, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-5779 by the Buncombe County Tax Office and as more fully described in Deed Book 4149, Page 1469 of the Buncombe County Register of Deeds.

8. Petitioners, Edward H. Hoornstra and Tracey S. Hoornstra, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-28-9120 by the Buncombe County Tax Office and as more fully described in Deed Book 3752, Page 337 of the Buncombe County Register of Deeds.

9. Petitioners, John Poulos and Susan Poulos, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-38-1149 by the Buncombe County Tax Office and as more fully described in Deed Book 2944, Page 498 of the Buncombe County Register of Deeds.

10. Petitioners, Lawrence C. Pulliam and Rebecca H. Pulliam, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-38-1218 by the Buncombe County Tax Office and as more fully described in Deed Book 3699, Page 692 of the Buncombe County Register of Deeds.

11. Petitioner, Deborah D. Neese, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-28-8247 by the Buncombe County Tax Office and as more fully described in Deed Book 4130, Page 607 of the Buncombe County Register of Deeds.

12. Petitioners, Richard L. Purcell and Melanie Purcell, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-28-9347 by the Buncombe County Tax Office and as more fully described in Deed Book 2978, Page 886 of the Buncombe County Register of Deeds.

13. Petitioners, Ernest J. Compton and Heather O. Compton, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-50-6320 by the Buncombe County Tax Office and as more fully described in Deed Book 4183, Page 1196 of the Buncombe County Register of Deeds.

14. Petitioners, Frank T. Horn and Joyce J. Horn, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-3559 by the Buncombe County Tax Office and as more fully described in Deed Book 4098, Page 1812 of the Buncombe County Register of Deeds.

15. Petitioner, James Edrada, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-5577 by the Buncombe County Tax

Office and as more fully described in Deed Book 3737, Page 34 of the Buncombe County Register of Deeds.

16. Petitioners, Alan Fowler and Bonnie Fowler, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-3470 by the Buncombe County Tax Office and as more fully described in Deed Book 3337, Page 306 of the Buncombe County Register of Deeds.

17. Petitioners, Sandra S. Delen Living Trust and Francis A. Delen Living Trust, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-4300 by the Buncombe County Tax Office and as more fully described in Deed Book 3189, Page 662 of the Buncombe County Register of Deeds.

18. Petitioners, Edward R. Panek and Michelle E. Panek, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-5282 by the Buncombe County Tax Office and as more fully described in Deed Book 3568, Page 559 of the Buncombe County Register of Deeds.

19. Petitioners, Kenneth L. Blevins and Peggy C. Blevins, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-7347 by the Buncombe County Tax Office and as more fully described in Deed Book 3164, Page 737 of the Buncombe County Register of Deeds.

20. Petitioners, Phillip Salinas and Caroline N. Salinas, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-6169 by the Buncombe County Tax Office and as more fully described in Deed Book 4465, Page 349 of the Buncombe County Register of Deeds.

21. Petitioners, Lewis Clay and Pattie Clay, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-7135 by the Buncombe County Tax Office and as more fully described in Deed Book 3021, Page 376 of the Buncombe County Register of Deeds.

22. Petitioners, Daniel C. Grammatico and Donna D. Grammatico, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-8324 by the Buncombe County Tax Office and as more fully described in Deed Book 4382, Page 1166 of the Buncombe County Register of Deeds.

23. Petitioners, Brian H. Ponder and Molly D. Ponder, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-8123 by the Buncombe County Tax Office and as more fully described in Deed Book 3062, Page 128 of the Buncombe County Register of Deeds.

24. Petitioners, Rodney John Kwiatkowski and Kimberly Ann Kwiatkowski, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-9195 by the Buncombe County Tax Office and as more fully described in Deed Book 3577, Page 604 of the Buncombe County Register of Deeds.

25. Petitioner, Christina Lief, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-0456 by the Buncombe County Tax Office and as more fully described in Deed Book 4154, Page 968 of the Buncombe County Register of Deeds.

26. Petitioners, John B. Christoph and Joanna M. Christoph, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-1505 by the Buncombe County Tax Office and as more fully described in Deed Book 3327, Page 121 of the Buncombe County Register of Deeds.

27. Petitioners, Christopher G. Pfeiffer and Jane E. Pfeiffer, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-2463 by the Buncombe County Tax Office and as more fully described in Deed Book 4086, Page 1156 of the Buncombe County Register of Deeds.

28. Petitioners, James T. Meyer and Cana Claire, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-5705 by the Buncombe County Tax Office and as more fully described in Deed Book 4183, Page 1225 of the Buncombe County Register of Deeds.

29. Petitioners, Jay A. Alvaro and Regina O. Alvaro, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-6728 by the Buncombe County Tax Office and as more fully described in Deed Book 4291, Page 640 of the Buncombe County Register of Deeds.

30. Petitioners, Deepak Poplai and Mona Saranathan, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-50-5061 by the Buncombe County Tax Office and as more fully described in Deed Book 3928, Page 274 of the Buncombe County Register of Deeds.

31. Petitioner, Meredith Richmond, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-8988 by the Buncombe County Tax Office and as more fully described in Deed Book 3845, Page 201 of the Buncombe County Register of Deeds.

32. Petitioners, Glenn Lee and Hilda Lee, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-50-8231 by the Buncombe County Tax Office and as more fully described in Deed Book 3823, Page 250 of the Buncombe County Register of Deeds.

33. Petitioners, Nelson E. Sartoris and Mary Lou Sartoris, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-50-9065 by the Buncombe County Tax Office and as more fully described in Deed Book 3849, Page 82 of the Buncombe County Register of Deeds.

34. Petitioner, Carol C. Matthews, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-0260 by the Buncombe County Tax

Office and as more fully described in Deed Book 4287, Page 859 of the Buncombe County Register of Deeds.

35. Petitioners, Shirley J. White and Gwendolyn H. Jones, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-5-92928 by the Buncombe County Tax Office and as more fully described in Deed Book 3922, Page 459 of the Buncombe County Register of Deeds.

36. Petitioners, Michael C. Krimmelgein and Cynthis S. Krimmelgein, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-50-4035 by the Buncombe County Tax Office and as more fully described in Deed Book 3969, Page 431 of the Buncombe County Register of Deeds.

37. Petitioners, Frederick C. N. Littleton, Jr. and Terry Anne Littleton, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-3867 by the Buncombe County Tax Office and as more fully described in Deed Book 3851, Page 100 of the Buncombe County Register of Deeds.

38. Petitioners, Kyle F. Brady and Lori D. Brady, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-1804 by the Buncombe County Tax Office and as more fully described in Deed Book 4152, Page 1707 of the Buncombe County Register of Deeds.

39. Petitioners, John F. Stock and Eliana C. Stock, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-39-7235 by the Buncombe County Tax Office and as more fully described in Deed Book 3168, Page 523 of the Buncombe County Register of Deeds.

40. Petitioners, Earl W. Hall and Nancy B. Hall Trustees, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-39-9545 by the Buncombe County Tax Office and as more fully described in Deed Book 3275, Page 9545 of the Buncombe County Register of Deeds.

41. Petitioners, Thomas M. Costello and Marcia M. Costello, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-1578 by the Buncombe County Tax Office and as more fully described in Deed Book 3380, Page 161 of the Buncombe County Register of Deeds.

42. Petitioners, John J. Robinson and Barbara C. Robinson, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-1629 by the Buncombe County Tax Office and as more fully described in Deed Book 3541, Page 225 of the Buncombe County Register of Deeds.

43. Petitioners, Thomas L. Laird and Sharon K. Laird, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-39-9807 by the Buncombe County Tax Office and as more fully described in Deed Book 3875, Page 22 of the Buncombe County Register of Deeds.

44. Petitioners, C. L. Foley, Jr. and Patricia Foley, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-0279 by the Buncombe County Tax Office and as more fully described in Deed Book 4230, Page 1457 of the Buncombe County Register of Deeds.

45. Petitioners, Marvin Herman Tennefoss and Carolyn Gillio Tennefoss, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-38-6111 by the Buncombe County Tax Office and as more fully described in Deed Book 4292, Page 1912 of the Buncombe County Register of Deeds.

46. Petitioner, Diane H. Andtade, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-37-2893 by the Buncombe County Tax Office and as more fully described in Deed Book 4293, Page 1835 of the Buncombe County Register of Deeds.

47. Petitioners, Matthew Koops and Brooke Koops, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-50-0601 by the Buncombe County Tax Office and as more fully described in Deed Book 4225, Page 1795 of the Buncombe County Register of Deeds.

48. Petitioners, Matthew Cammisa and Pamela Cammisa, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-50-1630 by the Buncombe County Tax Office and as more fully described in Deed Book 4193, Page 1120 of the Buncombe County Register of Deeds.

49. Petitioners, Rhett A. and Candace M. Blanchard, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-50-1496 by the Buncombe County Tax Office and as more fully described in Deed Book 2278, Page 366 of the Buncombe County Register of Deeds.

50. Petitioners, Terry Lucas and Elizabeth Ashe-Lucas, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-47-5157 by the Buncombe County Tax Office and as more fully described in Deed Book 4341, Page 36 of the Buncombe County Register of Deeds.

51. Petitioners, Robert B. Bell and Tina H. Bell, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-7814 by the Buncombe County Tax Office and as more fully described in Deed Book 4100, Page 003 of the Buncombe County Register of Deeds.

52. Petitioners, David L. Rathbone and Joan B. Rathbone, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-9815 by the Buncombe County Tax Office and as more fully described in Deed Book 4107, Page 374 of the Buncombe County Register of Deeds.

53. Petitioners, Brian Debold and Shea Debold, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-7730 by the Buncombe

County Tax Office and as more fully described in Deed Book 4080, Page 820 of the Buncombe County Register of Deeds.

54. Petitioners, David T. Starkey and Leslie M. Starkey, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-9759 by the Buncombe County Tax Office and as more fully described in Deed Book 4139, Page 1345 of the Buncombe County Register of Deeds.

55. Petitioners, Ryan Bullock and Ami Bullock, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-7673 by the Buncombe County Tax Office and as more fully described in Deed Book 4144, Page 578 of the Buncombe County Register of Deeds.

56. Petitioners, Joseph Kevin Bock and Kelly J. Banther, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-1555 by the Buncombe County Tax Office and as more fully described in Deed Book 3816, Page 97 of the Buncombe County Register of Deeds.

57. Petitioners, James Harbison and Carole Harbison, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-9460 by the Buncombe County Tax Office and as more fully described in Deed Book 4177, Page 1401 of the Buncombe County Register of Deeds.

58. Petitioners, Brian T. Rider and Melanie A. Rider, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-2409 by the Buncombe County Tax Office and as more fully described in Deed Book 3845, Page 776 of the Buncombe County Register of Deeds.

59. Petitioners, Reginald W. Butcher and Joan W. Butcher, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-1300 by the Buncombe County Tax Office and as more fully described in Deed Book 3912, Page 733 of the Buncombe County Register of Deeds.

60. Petitioners, Lorraine Flynn Memoli and John Memoli, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-2463 by the Buncombe County Tax Office and as more fully described in Deed Book 3832, Page 007 of the Buncombe County Register of Deeds.

61. Petitioner, Patricia A. Ziebell 2005 Trust, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-2292 by the Buncombe County Tax Office and as more fully described in Deed Book 4093, Page 289 of the Buncombe County Register of Deeds.

62. Petitioners, James M. Lloyd and Nancy Lee Lloyd, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-5292 by the Buncombe County Tax Office and as more fully described in Deed Book 2059, Page 519 of the Buncombe County Register of Deeds.

63. Petitioners, William A. Hawkins and Jeanene C. Hawkins, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-5299 by the Buncombe County Tax Office and as more fully described in Deed Book 944, Page 329 of the Buncombe County Register of Deeds.

64. Petitioners, Arthur L. Salido and Tiffany Salido, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-6422 by the Buncombe County Tax Office and as more fully described in Deed Book 4290, Page 1583 of the Buncombe County Register of Deeds.

65. Petitioners, Brent T. Peterson and Jennifer B. Peterson, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-4881 by the Buncombe County Tax Office and as more fully described in Deed Book 4247, Page 1366 of the Buncombe County Register of Deeds.

66. Petitioners, Howard L. Dennis and Patricia S. Dennis, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-7710 by the Buncombe County Tax Office and as more fully described in Deed Book 4153, Page 1556 of the Buncombe County Register of Deeds.

67. Petitioners, Brian C. Courcelle and Mary B. Courcelle, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-6578 by the Buncombe County Tax Office and as more fully described in Deed Book 4133, Page 1010 of the Buncombe County Register of Deeds.

68. Petitioner, Linnae Harris, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-4744 by the Buncombe County Tax Office and as more fully described in Deed Book 4193, Page 1098 of the Buncombe County Register of Deeds.

69. Petitioners, Craig J. Cender and Dawn E. Cender, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-7852 by the Buncombe County Tax Office and as more fully described in Deed Book 3730, Page 777 of the Buncombe County Register of Deeds.

70. Petitioners, Thomas Keller and Sherry D. Keller, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-7624 by the Buncombe County Tax Office and as more fully described in Deed Book 4351, Page 506 of the Buncombe County Register of Deeds.

71. Petitioners, Dennis Kwiatkowski and Mariene H. Kwiatkowski, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-9825 by the Buncombe County Tax Office and as more fully described in Deed Book 3019, Page 821 of the Buncombe County Register of Deeds.

72. Petitioners, Melvin E. Drane, III and Peggy P. Drane, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-30-5226 by the Buncombe County Tax Office and as more fully described in Deed Book 4150, Page 1594 of the Buncombe County Register of Deeds.

73. Petitioners, Jeffrey J. Smith and Marianne F. Smith, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-39-7911 by the Buncombe County Tax Office and as more fully described in Deed Book 3722, Page 372 of the Buncombe County Register of Deeds.

74. Petitioners, Kevin H. Epley and Vicki W. Epley, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-39-4799 by the Buncombe County Tax Office and as more fully described in Deed Book 3645, Page 403 of the Buncombe County Register of Deeds.

75. Petitioners, Peter Schaper and Heike Schaper, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-30-5099 by the Buncombe County Tax Office and as more fully described in Deed Book 4195, Page 71 of the Buncombe County Register of Deeds.

76. Petitioner, Hilda M. Cannon, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-30-2253 by the Buncombe County Tax Office and as more fully described in Deed Book 3591, Page 492 of the Buncombe County Register of Deeds.

77. Petitioners, Stewart E. Altman and Valerie Poulett Altman, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-30-5316 by the Buncombe County Tax Office and as more fully described in Deed Book 4334, Page 249 of the Buncombe County Register of Deeds.

78. Petitioners, Philip B. Coulter and S. Mignon Coulter, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-30-1439 by the Buncombe County Tax Office and as more fully described in Deed Book 4190, Page 233 of the Buncombe County Register of Deeds.

79. Petitioners, Craig F. McDonald and Elaine L. McDonald, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-30-1772 by the Buncombe County Tax Office and as more fully described in Deed Book 4060, Page 99 of the Buncombe County Register of Deeds.

80. Petitioners, Kenneth D. Murphy and Verna Y. Murphy, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.17-21-2065 by the Buncombe County Tax Office and as more fully described in Deed Book 2664, Page 0610 of the Buncombe County Register of Deeds.

81. Petitioners, William M. Newman and Cynthia M. Newman, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.17-20-4761

by the Buncombe County Tax Office and as more fully described in Deed Book 2945, Page 102 of the Buncombe County Register of Deeds.

82. Petitioners, Dan H. Satterwhite and Gypsy H. Satterwhite, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-39-2820 by the Buncombe County Tax Office and as more fully described in Deed Book 953, Page 349 of the Buncombe County Register of Deeds.

83. Petitioner, Everett W. Clark, Jr., owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-39-2694 by the Buncombe County Tax Office and as more fully described in Deed Book 1346, Page 0712 of the Buncombe County Register of Deeds.

84. Petitioners, Randall S. Brown and Kelly B. Brown, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-39-5210 by the Buncombe County Tax Office and as more fully described in Deed Book 4078, Page 0898 of the Buncombe County Register of Deeds.

85. Petitioner, Dieter H. Buehler Living Trust, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-4693 by the Buncombe County Tax Office and as more fully described in Deed Book 4379, Page 110 of the Buncombe County Register of Deeds.

86. Petitioners, William P. Clark and Pamela J. Clark, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-2720 by the Buncombe County Tax Office and as more fully described in Deed Book 4121, Page 512 of the Buncombe County Register of Deeds.

87. Petitioners, Harold G. Jacobs, Jr. and Pamela K. Jacobs, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-3701 by the Buncombe County Tax Office and as more fully described in Deed Book 3494, Page 078 of the Buncombe County Register of Deeds.

88. Petitioners, Maury L. Gilmore and John R. Gilmore, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-5755 by the Buncombe County Tax Office and as more fully described in Deed Book 4262, Page 1509 of the Buncombe County Register of Deeds.

89. Petitioners, Douglas W. Sherry and Claudia J. Sherry, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-0920 by the Buncombe County Tax Office and as more fully described in Deed Book 3814, Page 315 of the Buncombe County Register of Deeds.

90. Petitioners, Chris L. Youngblood and Courtney S. Youngblood, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-1808 by the Buncombe County Tax Office and as more fully described in Deed Book 3972, Page 008 of the Buncombe County Register of Deeds.

91. Petitioners, Timothy R. Bennett and Charlotte L. Bennett, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-2768 by the Buncombe County Tax Office and as more fully described in Deed Book 3780, Page 512 of the Buncombe County Register of Deeds.

92. Petitioners, Dilip Kumar and Gita Patel, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-4607 by the Buncombe County Tax Office and as more fully described in Deed Book 3821, Page 828 of the Buncombe County Register of Deeds.

93. Petitioners, Ellis T. Douglas and Nancy H. Douglas, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-5537 by the Buncombe County Tax Office and as more fully described in Deed Book 3486, Page 120 of the Buncombe County Register of Deeds.

94. Petitioners, Kevin J. Monacelli and Audrey L. Monacelli, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-5572 by the Buncombe County Tax Office and as more fully described in Deed Book 3844, Page 897 of the Buncombe County Register of Deeds.

95. Petitioners, Joseph G. Capel, Jr. and Robin M. Capel, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-3367 by the Buncombe County Tax Office and as more fully described in Deed Book 3534, Page 0747 of the Buncombe County Register of Deeds.

96. Petitioner, Timothy B. Lee, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-3391 by the Buncombe County Tax Office and as more fully described in Deed Book 4321, Page 339 of the Buncombe County Register of Deeds.

97. Petitioners, Robert C. Baker and Melme Lee Baker, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-6386 by the Buncombe County Tax Office and as more fully described in Deed Book 3390, Page 505 of the Buncombe County Register of Deeds.

98. Petitioner, Suzanne P. Stokes, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-4261 by the Buncombe County Tax Office and as more fully described in Deed Book 4235, Page 1854 of the Buncombe County Register of Deeds.

99. Petitioners, Douglas C. Johnson and Cynthia L. Johnson, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-7245 by the Buncombe County Tax Office and as more fully described in Deed Book 3443, Page 27 of the Buncombe County Register of Deeds.

100. Petitioner, WDB Enterprises LLC, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-8203 by the Buncombe County Tax Office and as more fully described in Deed Book 4274, Page 1948 of the Buncombe County Register of Deeds.

101. Petitioners, Odell G. Dillard and Mary Sherman Dillard, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-8261 by the Buncombe County Tax Office and as more fully described in Deed Book 4221, Page 1793 of the Buncombe County Register of Deeds.

102. Petitioners, Scott Bobbitt and Stephanie Bobbitt, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-58-7940 by the Buncombe County Tax Office and as more fully described in Deed Book 3294, Page 617 of the Buncombe County Register of Deeds.

103. Petitioners, Harshil Patel and Zankar Patel, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-9128 by the Buncombe County Tax Office and as more fully described in Deed Book 3525, Page 186 of the Buncombe County Register of Deeds.

104. Petitioners, George M. Hayes, Jr., and Patricia Dodson Hayes, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-9186 by the Buncombe County Tax Office and as more fully described in Deed Book 3692, Page 637 of the Buncombe County Register of Deeds.

105. Petitioners, Stuart S. Yoon and Joyce Eunsoak Kim Yoon, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-0069 by the Buncombe County Tax Office and as more fully described in Deed Book 4107, Page 1188 of the Buncombe County Register of Deeds.

106. Petitioners, Clyde Dangerfield, III, and Carol K. Dangerfield, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-3123 by the Buncombe County Tax Office and as more fully described in Deed Book 4035, Page 139 of the Buncombe County Register of Deeds.

107. Petitioners, John D. Fletcher and Barbara C. Fletcher, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-3067 by the Buncombe County Tax Office and as more fully described in Deed Book 3205, Page 775 of the Buncombe County Register of Deeds.

108. Petitioners, Brunilda Largo and Orlando Nieves, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-59-3092 by the Buncombe County Tax Office and as more fully described in Deed Book 3080, Page 892 of the Buncombe County Register of Deeds.

109. Petitioner, Morris Living Trust, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-58-3810 by the Buncombe County Tax

Office and as more fully described in Deed Book 4303, Page 1353 of the Buncombe County Register of Deeds.

110. Petitioners, Jerry A. and Laura D. Coffey, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-58-5797 by the Buncombe County Tax Office and as more fully described in Deed Book 3729, Page 731 of the Buncombe County Register of Deeds.

111. Petitioners, Leon R. Escude, Jr. and Victoria H. Escude, own certain real property located in Buncombe County, North Carolina, as more fully described in Deed Book 4424, Page 279 of the Buncombe County Register of Deeds.

112. Petitioners, James F. and Jane Erb Kirkpatrick (Trust), own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-07-7969 by the Buncombe County Tax Office and as more fully described in Deed Book 4159, Page 956 of the Buncombe County Register of Deeds.

113. Petitioners, D. Roy Hershberger and Kathleen C. Hershberger, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-08-6053 by the Buncombe County Tax Office and as more fully described in Deed Book , Page of the Buncombe County Register of Deeds.

114. Petitioners, Brij L. Agarwal and Bal K. Agarwal, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-18-9298 by the Buncombe County Tax Office and as more fully described in Deed Book 4383, Page 704 of the Buncombe County Register of Deeds.

115. Petitioner, Raymond F. and Jeri S. Montalvo Revocable Trust, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-17-8984 by the Buncombe County Tax Office and as more fully described in Deed Book 4424, Page 112 of the Buncombe County Register of Deeds.

116. Petitioners, Robert A. Levy and Diane S. Levy, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-17-3734 by the Buncombe County Tax Office and as more fully described in Deed Book 4247, Page 495 of the Buncombe County Register of Deeds.

117. Petitioners, Ronald and Margaret M. Whitney, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-17-1788 by the Buncombe County Tax Office and as more fully described in Deed Book 4462, Page 954 of the Buncombe County Register of Deeds.

118. Petitioners, David L. Beyer and Pamela A. Beyer, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-17-2750 by the Buncombe County Tax Office and as more fully described in Deed Book 4235, Page 405 of the Buncombe County Register of Deeds.

119. Petitioners, Mark A. Knollman and Lisa Knollman, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-67-0367 by the Buncombe County Tax Office and as more fully described in Deed Book 3720, Page 67 of the Buncombe County Register of Deeds.

120. Petitioners, Rodney A. Perez and Gina A. Singleton, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-57-6311 by the Buncombe County Tax Office and as more fully described in Deed Book 3730, Page 455 of the Buncombe County Register of Deeds.

121. Petitioners, Dwayne Wiseman and Emily Hall, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-57-3112 by the Buncombe County Tax Office and as more fully described in Deed Book 3715, Page 46 of the Buncombe County Register of Deeds.

122. Petitioners, Charles William Rietz and Carolyn S. Rietz, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-28-5144 by the Buncombe County Tax Office and as more fully described in Deed Book 2952, Page 660 of the Buncombe County Register of Deeds.

123. Petitioners, Howard and Barbara A. Fiedler, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-3764 by the Buncombe County Tax Office and as more fully described in Deed Book 3640, Page 259 of the Buncombe County Register of Deeds.

124. Petitioners, Lee Loy and Amy V. Loy, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-5762 by the Buncombe County Tax Office and as more fully described in Deed Book 3024, Page 399 of the Buncombe County Register of Deeds.

125. Petitioners, Michael C. Lintz and Joy C. Lintz, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-3972 by the Buncombe County Tax Office and as more fully described in Deed Book 3347, Page 62 of the Buncombe County Register of Deeds.

126. Petitioners, Quinten C. Black and Frances L. Black, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-6910 by the Buncombe County Tax Office and as more fully described in Deed Book 3490, Page 777 of the Buncombe County Register of Deeds.

127. Petitioners, Clarence W. Vereb and Karen M. Vereb, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-4988 by the Buncombe County Tax Office and as more fully described in Deed Book 3013, Page 808 of the Buncombe County Register of Deeds.

128. Petitioners, David Akel and Kathey Akel, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-58-9448 by the Buncombe

County Tax Office and as more fully described in Deed Book 4275, Page 388 of the Buncombe County Register of Deeds.

129. Petitioner, Richard Kim Vazquez, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-3884 by the Buncombe County Tax Office and as more fully described in Deed Book 4243, Page 1525 of the Buncombe County Register of Deeds.

130. Petitioners, William D. Banks and Wendy V. Banks, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-2969 by the Buncombe County Tax Office and as more fully described in Deed Book 4274, Page 1930 of the Buncombe County Register of Deeds.

131. Petitioners, Jeffrey L. Privette and Ana C. Privette, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-2753 by the Buncombe County Tax Office and as more fully described in Deed Book 4235, Page 1059 of the Buncombe County Register of Deeds.

132. Petitioners, Wayne Snyder and Rhonda Snyder, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-1807 by the Buncombe County Tax Office and as more fully described in Deed Book 4201, Page 430 of the Buncombe County Register of Deeds.

133. Petitioners, Arthur L. Kropp and Jane Kropp, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-1655 by the Buncombe County Tax Office and as more fully described in Deed Book 4230, Page 930 of the Buncombe County Register of Deeds.

134. Petitioners, Fratz K. E. Mullen and Suzanne P. Mullen, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-0709 by the Buncombe County Tax Office and as more fully described in Deed Book 4435, Page 1165 of the Buncombe County Register of Deeds.

135. Petitioners, Robert Player and Leslie Player, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-58-9703 by the Buncombe County Tax Office and as more fully described in Deed Book 4294, Page 1994 of the Buncombe County Register of Deeds.

136. Petitioners, Michael W. Jackson and Lynda M. Jackson, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-58-7697 by the Buncombe County Tax Office and as more fully described in Deed Book 4126, Page 333 of the Buncombe County Register of Deeds.

137. Petitioners, William D. Smith and Ann E. Smith, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-58-7572 by the Buncombe County Tax Office and as more fully described in Deed Book 4152, Page 1367 of the Buncombe County Register of Deeds.

138. Petitioners, George Robert Gillis, Jr and Patricia Gillis, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-0547 by the Buncombe County Tax Office and as more fully described in Deed Book 4443, Page 97 of the Buncombe County Register of Deeds.

139. Petitioners, Chris Pollak and Nancy B. Pollak, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-0666 by the Buncombe County Tax Office and as more fully described in Deed Book 3837, Page 195 of the Buncombe County Register of Deeds.

140. Petitioner, Bette Norwood, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-7739 by the Buncombe County Tax Office and as more fully described in Deed Book 3411, Page 322 of the Buncombe County Register of Deeds.

141. Petitioners, John M. and Janis A. Tangorra, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-50-6977 by the Buncombe County Tax Office and as more fully described in Deed Book 4152, Page 1136 of the Buncombe County Register of Deeds.

142. Petitioners, Steven J. Bratsch and Laura H. Bratsch, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-9532 by the Buncombe County Tax Office and as more fully described in Deed Book 3385, Page 437 of the Buncombe County Register of Deeds.

143. Petitioners, Joseph A. Garr and Sarah A. Garr, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-8521 by the Buncombe County Tax Office and as more fully described in Deed Book 3292, Page 585 of the Buncombe County Register of Deeds.

144. Petitioner, Lisa G. Ross, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-7284 by the Buncombe County Tax Office and as more fully described in Deed Book 4086, Page 1975 of the Buncombe County Register of Deeds.

145. Petitioners, Christopher S. Young and Tina S. Young, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-8309 by the Buncombe County Tax Office and as more fully described in Deed Book 4456, Page 1665 of the Buncombe County Register of Deeds.

146. Petitioners, K. P. Duffy and Rebecca Harris, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.18-40-7478 by the Buncombe County Tax Office and as more fully described in Deed Book 4285, Page 1446 of the Buncombe County Register of Deeds.

147. Petitioners, Christopher Farinella and Carol A. Farinella, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9617.19-51-3032 by the Buncombe County Tax Office and as more fully described in Deed Book 4216, Page 1518 of the Buncombe County Register of Deeds.

148. Petitioners, Christy E. Rice and Richard K. Rice, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-0869 by the Buncombe County Tax Office and as more fully described in Deed Book 3928, Page 658 of the Buncombe County Register of Deeds.

149. Petitioners, John W. Truitt and Martha S. Truitt, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-1749 by the Buncombe County Tax Office and as more fully described in Deed Book 3862, Page 520 of the Buncombe County Register of Deeds.

150. Petitioners, Matthew A. Engelbrecht and Kathie M. L. Engelbrecht, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-69-1783 by the Buncombe County Tax Office and as more fully described in Deed Book 4419, Page 857 of the Buncombe County Register of Deeds.

151. Petitioners, Forest D. McMillan and Lynda J. McMillan, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-49-7710 by the Buncombe County Tax Office and as more fully described in Deed Book 3303, Page 845 of the Buncombe County Register of Deeds.

152. Petitioners, Charles J. Hill and Martha C. Hill, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-5373 by the Buncombe County Tax Office and as more fully described in Deed Book 3209, Page 178 of the Buncombe County Register of Deeds.

153. Petitioners, Thomas Keleher Trust and Carol Ann Kelehr Trust, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-38-8374 by the Buncombe County Tax Office and as more fully described in Deed Book 3810, Page 119 of the Buncombe County Register of Deeds.

154. Petitioners, Stephen S. and Michele P. Alexander, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-38-7423 by the Buncombe County Tax Office and as more fully described in Deed Book 4219, Page 868 of the Buncombe County Register of Deeds.

155. Petitioners, Dean H. Gurnack and Elizabeth L. Gurnack, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-38-9662 by the Buncombe County Tax Office and as more fully described in Deed Book 3829, Page 894 of the Buncombe County Register of Deeds.

156. Petitioners, Melvin D. Scholl and Terry Scholl, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-38-9384 by the Buncombe

County Tax Office and as more fully described in Deed Book 3717, Page 317 of the Buncombe County Register of Deeds.

157. Petitioners, John Wilson and Cornelia Wilson, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-5545 by the Buncombe County Tax Office and as more fully described in Deed Book 4207, Page 1243 of the Buncombe County Register of Deeds.

158. Petitioners, Philip C. Cheap and Debra L. Cheap, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-58-1428 by the Buncombe County Tax Office and as more fully described in Deed Book 4088, Page 746 of the Buncombe County Register of Deeds.

159. Petitioner, Sara Peltier, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-58-1075 by the Buncombe County Tax Office and as more fully described in Deed Book 4338, Page 1477 of the Buncombe County Register of Deeds.

160. Petitioners, Brian T. and Kelly R. Monroe, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-57-4816 by the Buncombe County Tax Office and as more fully described in Deed Book 3684, Page 776 of the Buncombe County Register of Deeds.

161. Petitioner, Kimberly I. McCurdy Revocable Living Trust, owns certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-67-2908 by the Buncombe County Tax Office and as more fully described in Deed Book 4106, Page 1276 of the Buncombe County Register of Deeds.

162. Petitioners, James F. Preish and Kimberly A. Preish, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-6389 by the Buncombe County Tax Office and as more fully described in Deed Book 3878, Page 306 of the Buncombe County Register of Deeds.

163. Petitioners, Douglas M. Wallace and Beth B. Wallace, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.02-68-8623 by the Buncombe County Tax Office and as more fully described in Deed Book 4142, Page 1572 of the Buncombe County Register of Deeds.

164. Petitioners, Leslie E. Grugan, Jr. and Shirley Kennedy Grugan, own certain real property located in Buncombe County, North Carolina, and listed as PIN No. 9616.01-48-9438 by the Buncombe County Tax Office and as more fully described in Deed Book 4003, Page 787 of the Buncombe County Register of Deeds.

165. At all relevant times hereof, the City had a population of more than 5,000 persons.

166. On May 15, 2007, the City adopted a Resolution of Intent to consider annexation of land surrounding the City denoted as follows:

Resolution 07-105 – Biltmore Lake Area
Resolution 07-106 – Sardis Road Area
Resolution 07-107 – Schenck Gateway Area

167. The Petitioners' properties are located within the Biltmore Lake Area, designated as same in the City's Resolution 07-105 (hereinafter the "Biltmore Lake Area").

168. On May 22, 2007, the City adopted an Annexation Services Plan (hereinafter the "Services Plan") for the proposed annexation of the Petitioners' properties pursuant to N.C. Gen. Stat. §160A-47.

169. On July 24, 2007, the City conducted a public hearing regarding the proposed annexation.

170. The Services Plan claims that the Petitioners' properties within the Biltmore Lake Area qualify for annexation under the standards set forth in N.C. Gen Stat. §160A-48.

171. On August 21, 2007, the City adopted Ordinance 3524 purportedly annexing the Biltmore Lake Area and using the figures and analysis from the Services Plan to substantiate compliance with N.C. Gen. Stat. §160A-48.

172. The Ordinance and Services Plans claim that the aforementioned properties qualify for annexation as "an area developed for urban purposes" under N.C. Gen. Stat. §160A-48(c)(2) (hereinafter the "Population/Subdivision Test"), which states as follows:

Has a total resident population equal to at least one person for each acre of land included within its boundaries, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage consists of lots and tracts three acres or less in size and such that at least sixty-five percent (65%) of the total number of lots and tracts are one acre or less in size. . .

173. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Population/Subdivision Test that there are 358 dwelling units within the Biltmore Lake Area. Petitioners take exception to the accuracy of this figure in that a number of these "dwelling units" were not habitable or legally occupied at the time of the approval of the Services Plan and the City did not otherwise comply with N.C. Gen. Stat. §160A-53(2) and N.C. Gen. Stat. §160A-54.

174. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Population/Subdivision Test that the average occupancy rate for one portion of the Biltmore Lake Area is 92.7% and the other is 90.3%. Petitioners take exception to the accuracy of these figures in that the City did not comply with N.C. Gen. Stat. §160A-54.

175. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Population/Subdivision Test that the average household size for one portion

of the Biltmore Lake area is 2.31 and the other is 2.49. Petitioners take exception to the accuracy of these figures in that the City did not comply with N.C. Gen. Stat. §160A-54.

176. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Population/Subdivision Test that the estimated resident population for one portion of the Biltmore Lake area is 764 persons and the other is 2 persons. Petitioners take exception to the accuracy of these figures in that the City did not comply with N.C. Gen. Stat. §160A-54.

177. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Population/Subdivision Test that there are 2.03 persons per acre within the Biltmore Lake Area. Petitioners take exception to the accuracy of this figure in that the City did not comply with N.C. Gen. Stat. §160A-54.

178. The Ordinance and Services Plan erroneously establish the "total resident population" required by N.C. Gen. Stat. §160A-48(c)(2) as 2.03 persons per acre within the portion of the Biltmore Lake Area purportedly developed for urban purposes when the actual "total residential population" does not conform to either the one person for each acre of land standard established in said statute and/or the ten percent (10%) margin of error in N.C. Gen. Stat. §160A-54(1).

179. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Population/Subdivision Test that the total acreage in lots and tracts of three acres or less in size is 233.32 acres. Petitioners take exception to the accuracy of this figure in that the City erroneously calculated the number of acres subdivided into lots and tracts of three acres or less in size within that portion of the Biltmore Lake Area known as "Block D1" as shown on Plat recorded in Plat Book 106, at Page 9, Buncombe County Registry (hereinafter "Block D1 Property").

180. Prior to the adoption of the Services Plan, the developer or developers of the Block D1 Property recorded a set of covenants in Deed Book 3957, at Page 121, Buncombe County Registry (hereinafter "Block D1 Covenants") that established a general scheme of development imposing on the Block D1 Property certain use restrictions.

181. The Block D1 Covenants established for the Block D1 Property that all of said tract, being approximately 31.64 acres, shall consist of either improved townhouse Units or Common Area, and that any portion of the 31.64 acres outside the boundaries of an established townhouse Unit was Common Area of the Biltmore Lake Association, Inc. (hereinafter "Association") to be owned and maintained by said Association

182. Prior to the adoption of the Services Plan, the developer or developers of the Block D1 Property recorded a master plan of development in Plat Book 106, at Page 9, Buncombe County Registry (hereinafter "Block D1 Plat") for said property, approved by the City, and consistent with the Covenants, to wit: creating townhouse Unit parcels with the remaining area dedicated as Common Area for the Association.

183. As a result of the Block D1 Covenants, the Block D1 Plat and the actual use of said property, the area of the Block D1 Property outside of the townhouse Unit boundaries is and should be treated as a single, unified tract for purposes of annexation (hereinafter "Block D1 Common Area").

184. The City failed to properly characterize the Block D1 Common Area as a lot or tract greater than three acres in size.

185. If the City had properly accounted for the Block D1 Common Area as a lot or tract greater than three acres in size, then the City's figure of 233.32 acres in paragraph 179 above would be invalid, and less than sixty percent (60%) of the total acreage of the purported "area developed for urban purposes" in N.C. Gen. Stat. §160A-48(c)(2) would consist of lots and tracts three acres or less in size.

186. As set forth in paragraphs 173-185 above, the City's Ordinance and Services Plan do not comply with N.C. Gen. Stat. §160A-48(c)(2).

187. The City's calculations of subdivision for showing compliance with N.C. Gen. Stat. §160A-48(c)(2) cannot be accepted by this Court as a result of being inaccurate by more than five percent (5%) as such margin of error is provided for in N.C. Gen. Stat. §160A-54.

188. The Ordinance and Services Plans claim that the aforementioned properties qualify for annexation as "an area developed for urban purposes" under N.C. Gen. Stat. §160A-48(c)(3) (hereinafter the "Use /Subdivision Test"), which states as follows:

Is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts three acres or less in size.

189. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Use/Subdivision Test, there is one (1) Commercial tract consisting of 114.46 acres owned by the Association denoted as the Biltmore Lake Clubhouse on which is located the water body known as Biltmore Lake (hereinafter "the Lake Property").

190. The primary or substantial use of the Lake Property is recreational Common Area for the Biltmore Lake residents.

191. The Lake Property is encumbered with easements of use and enjoyment benefitting the residents of Biltmore Lake as set forth in the restrictions for said development recorded in Deed Book 2801, at Page 692 and amendments thereto.

192. The City erroneously classified the Lake Property as Commercial when the principal or substantial use of said tract as required by N.C. Gen. Stat. §160A-48(c)(3) is residential Common Area for the Biltmore Lake property owners.

193. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Use/Subdivision Test the total residential and vacant acreage is 259.96 acres. The Petitioners take exception to the accuracy of this figure in that the Lake Property was erroneously excluded as set forth above.

194. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Use/Subdivision Test the total residential and vacant acreage in lots and tracts 3 acres or less in size is 230.99 acres. The Petitioners take exception to the accuracy of this figure in that the City erroneously classified portions of the Block D1 Property as subdivided into lots or tracts three acres or less in size when, as set forth in paragraphs 173-185 above, substantial acreage consisting of the Block D1 Common Area should have been classified as a single, unified tract greater than three acres in size.

195. The Ordinance and Services Plan provide that for the purpose of determining compliance with the Use/Subdivision Test the total residential and vacant acreage in lots and tracts 3 acres or less in size is 88.86% of the total residential and vacant acreage. The Petitioners take exception to the accuracy of this figure.

196. If the City had properly accounted for the Block D1 Common Area as a lot or tract greater than three acres in size and the Lake Property as residential Common Area, then the City's figure of 88.86% in paragraph 195 above would be invalid, and less than sixty percent (60%) of the total acreage of the purported "area developed for urban purposes" in N.C. Gen. Stat. §160A-48(c)(3) would consist of lots and tracts three acres or less in size.

197. As set forth in paragraphs 189-196 above, the City's Ordinance and Services Plan does not comply with N.C. Gen. Stat. §160A-48(c)(3).

198. The City's calculations of subdivision for showing compliance with N.C. Gen. Stat. §160A-48(c)(3) cannot be accepted by this Court as a result of being inaccurate by more than five percent (5%) as such margin of error is provided for in N.C. Gen. Stat. §160A-54.

199. In its Ordinance and Services Plan, the City violates N.C. Gen. Stat. §160A-48(e) by failing to fix the proposed municipal boundaries for the Block D1 Property with a street or recorded property line.

200. In the adoption of the Ordinance and Services Plan, the City failed to comply with the law regarding annexation for cities more than 5,000 in population. This failure arises because the proposed annexation area does not comply with the standards for qualifying urban areas in N. C. Gen. Stat. §160A-48 for the reasons stated above or as proven otherwise at the trial of this matter.

201. The City's August 21, 2007 Ordinance does not comply with the tests for annexation, and Petitioners are materially injured by this noncompliance.

WHEREFORE, for any and all reasons stated in this Petition, the Petitioners pray the Court as follows:

1. Pursuant to N.C. Gen. Stat. §160A-50(f), for a hearing on the Petition and a review of the City's annexation proceedings;

2. That the Court declare the Ordinance null and void pursuant to N.C. Gen Stat. §160A-50(g), or order a remand if the Court determines that the Ordinance may be corrected;

3. That the Court, pursuant to N.C. Gen. Stat. §160A-50(e), enter an Order staying the effect and operation of the Ordinance pending the Court's review of the annexation proceedings; and

4. For such other relief as the Court deems just and proper.

This the 19th day of October, 2007.

**VAN WINKLE, BUCK, WALL,
STARNES & DAVIS, P.A.**

By: _____



Craig D. Justus, NC Bar #18268

Attorney for Petitioners

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STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 07 CVS _____

FILED
2001 OCT 17
BUNCOMBE COUNTY N.C.
ATTACHMENT 1
ADDITIONAL PETITIONERS
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MATTHEW AND TRACEY MONDAY, EDWARD H. AND TRACEY S. HOORNSTRA, JOHN AND SUSAN POULOS, LAWRENCE C. AND REBECCA H. PULLIAM, DEBORAH D. NEESE, RICHARD L. AND MELANIE PURCELL, ERNEST J. AND HEATHER G. COMPTON, FRANK T. AND JOYCE J. HORN, JAMES EDRADA, ALAN AND BONNIE FOWLER, SANDRA S. DELEN LIVING TRUST AND FRANCIS A. DELEN LIVING TRUST, EDWARD R. AND MICHELLE E. PANEK, KENNETH L. AND PEGGY C. BLEVINS, PHILLIP AND CAROLINE N. SALINAS, LEWIS AND PATTIE CLAY, DANIEL C. AND DONNA D. GRAMMATICO, BRIAN H. AND MOLLY D. PONDER, RODNEY JOHN, KIMBERLY ANN KWIATKOWSKI, CHRISTINA LIEF, JOHN B. AND JOANNA M. CHRISTOPH, CHRISTOPHER G. AND JANE E. PFEIFFER, JAMES T. MEYER AND CANA CLAIRE, JAY A. AND REGINA O. ALVARO, DEEPAK POPLAI AND MONA SARANATHAN, J. JEROME AND DIANN LYNN JENSEN, JR., MEREDITH RICHMOND, GLENN AND HILDA LEE (TC), NELSON E. AND MARY LOU SARTORIS, CAROL C. MATTHEWS, SHIRLEY J. WHITE, GWENDOLYN H. JONES, MICHAEL C. AND CYNTHIS S. KRIMMELGEIN, FREDERICK C. N. AND TERRY ANNE LITTLETON, JR., KYLE F. AND LORI D. BRADY, JOHN F. AND ELIANA C. STOCK, EARL W. HALL AND NANCY B. HALL, TRUSTEES, THOMAS M. AND MARCIA M. COSTELLO, JOHN J. AND BARBARA C. ROBINSON, THOMAS L. LAIRD AND SHARON K. LAIRD, C. L. AND PATRICIA FOLEY, JR., MARVIN HERMAN AND CAROLYN GILLIO TENNEFOSS, DIANE H. ANDTAEDE, MATTHEW AND BROOKE KOOPS, MATTHEW AND PAMELA CAMMISA, RHETT A. AND CANDACE M. BLANCHARD, TERRY LUCAS AND ELIZABETH ASHE-LUCAS, ROBERT B. AND TINA H. BELL, DAVID L. AND JOAN B. RATHBONE, BRIAN AND SHEA DEBOLD, DAVID T. AND LESLIE M. STARKEY, RYAN AND AMI BULLOCK, JOSEPH KEVIN BOCK, KELLY J. BANThER, JAMES AND CAROLE HARBISON, BRIAN T. AND MELANIE A. RIDER, REGINALD W. AND JOAN W. BUTCHER, LORRAINE FLYNN AND JOHN MEMOLI, PATRICIA A. ZIEBELL 2005 TRUST, JAMES M. AND NANCY LEE LLOYD, WILLIAM A. AND JEANENE C. HAWKINS, ARTHUR L. AND TIFFANY SALIDO, BRENT T. AND JENNIFER B. PETERSON, HOWARD L. AND PATRICIA S. DENNIS, BRIAN C. AND MARY B. COURCELLE, LINNAE HARRIS, CRAIG J. AND DAWN E. CENDER, THOMAS AND SHERRY D. KELLER, DENNIS AND MARLENE H. KWIATKOWSKI, MELVIN E. AND PEGGY P. DRANE, III, JEFFREY J. AND MARIANNE F. SMITH, KEVIN H. AND VICKI W. EPLEY, PETER AND HEIKE SCHAPER, HILDA M. CANNON, STEWART E. AND VALERIE POULETT ALTMAN, PHILIP B. AND S. MIGNON COULTER, CRAIG F. AND ELAINE L. MCDONALD, KENNETH D. AND VERNA Y. MURPHY, WILLIAM M. AND CYNTHIA M. NEWMAN, DAN H. AND GYPSY H. SATTERWHITE, EVERETTE W. CLARK, JR., RANDALL S. AND KELLY B. BROWN, DIETER H. BUEHLER LIVING TRUST, WILLIAM P. AND PAMELA J. CLARK, HAROLD G. AND PAMELIA K. JACOBS, JR., MAURY L. AND JOHN R. GILMORE, DOUGLAS W. AND CLAUDIA J. SHERRY, CHRIS L. AND COURTNEY S. YOUNGBLOOD, TIMOTHY R. AND CHARLOTTE L. BENNETT, DILIP KUMAR AND GITA PATEL, ELLIS T. AND NANCY H. DOUGLAS, KEVIN J. AND AUDREY L. MONACELLI, JOSEPH G. AND ROBIN M. CAPEL, JR., TIMOTHY B. LEE, ROBERT C. AND MELME LEE BAKER, SUZANNE P. STOKES, DOUGLAS C. AND CYNTHIA L. JOHNSON, WDB ENTERPRISES LLC, ODELL G. AND MARY SHERMAN DILLARD, SCOTT AND STEPHANIE BOBBITT, HARSHIL AND ZANKAR PATEL, GEORGE M. AND PATRICIA DODSON HAYES, JR., STUART S. AND JOYCE EUNSOAK KIM YOON, CLYDE AND CAROL K. DANGERFIELD, III, JOHN D. AND BARBARA C. FLETCHER, BRUNILDA LARGO AND ORLANDO NIEVES, MORRIS LIVING TRUST, JERRY A. AND LAURA D. COFFEY, LEON R. AND VICTORIA H. ESCUDE, JR., JAMES F. AND JANE ERB KIRKPATRICK (TRUST), D. ROY AND KATHLEEN C. HERSHBERGER, BRIJ L. AND BAL K. AGARWAL, RAYMOND F. AND JERI S. MONTALVO REVOCABLE TRUST, ROBERT A. AND DIANE S. LEVY, RONALD AND MARGARET M. WHITTNEY, DAVID L. AND PAMELA A. BEYER, MARK A. AND LISA KNOLLMAN, RODNEY A. PEREZ, GINA A. SINGLETON, DWAYNE WISEMAN AND EMILY HALL, CHARLES WILLIAM AND CAROLYN S. RIETZ, HOWARD AND BARBARA A. FIEDLER, LEE AND AMY V. LOY, MICHAEL C. AND JOY C. LINTZ, QUINTEN C. AND FRANCES L. BLACK, CLARENCE W. AND KAREN M. VEREB, DAVID AND KATHEY AKEL, RICHARD KIM VAZQUEZ, WILLIAM D. AND WENDY V. BANKS, JEFFREY L. AND ANA C. PRIVETTE, WAYNE AND RHONDA SNYDER, ARTHUR L. AND JANE KROPP, FRATZ K. E. AND

SUZANNE P. MULLEN, ROBERT AND LESLIE PLAYER, MICHAEL W. AND LYNDA M. JACKSON, WILLIAM D. AND ANN E. SMITH, GEORGE ROBERT AND PATRICIA GILLIS, JR. , CHRIS AND NANCY B. POLLAK, BETTE NORWOOD, JOHN M. AND JANIS A. TANGORRA, STEVEN J. AND LAURA H. BRATSCH, JOSEPH A. AND SARAH A. GARR, LISA G. ROSS, CHRISTOPHER S. AND TINA S. YOUNG, K. P. DUFFY AND REBECCA HARRIS, CHRISTOPHER AND CAROL A. FARINELLA, CHRISTY E. RICE AND RICHARD K. RICE, JOHN W. AND MARTHA S. TRUITT, MATTHEW A. AND KATHIE M. L. ENGELBRECHT, FOREST D. AND LYNDA J. MCMILLAN, CHARLES J. AND MARTHA C. HILL, THOMAS KELEHER TRUST AND CAROL ANN KELEHR TRUST, JEFFREY J. AND MARY KIMBERLY PALMER, STEPHEN S. AND MICHELE P. ALEXANDER, DEAN H. AND ELIZABETH L. GURNACK, MELVIN D. AND TERRY SCHOLL, JOHN AND CORNELIA WILSON, PHILIP C. AND DEBRA L. CHEAP, SARA PELTIER, BRIAN T. AND KELLY R. MONROE, KIMBERLY I. MCCURDY REVOCABLE LIVING TRUST, JAMES F. AND KIMBERLY A. PREISH, DOUGLAS M. AND BETH B. WALLACE, LESLIE E. AND SHIRLEY KENNEDY GRUGAN, JR.