

TOWN OF WAXHAW

P.O. Box 6
317 N. Broome St. Waxhaw, N.C 28173
Telephone (704) 843-2195 Fax (704) 843-2196
www.waxhaw.com

Hours: Monday-Friday 8:00 a.m. to 5:00 p.m.

MAYOR

DAUNE GARDNER

TOWN COMMISSIONERS

MICHAEL STEWART (Mayor Pro-Tem)

PAUL FITZGERALD

JOHN HUNT

STEPHEN MAHER

JAMES WARNER

TOWN MANAGER

GREG MAHAR (Interim)

TOWN CLERK

MELODY SHULER

January 20, 2015

Planning Board Special Called Meeting Agenda

Waxhaw Police Department Community Meeting Room, 6:30 pm

Special Called Meeting

1. Call to Order
2. Roll Call and Determination of Quorum
3. Work Session
4. Unfinished Business
5. New Business
 - A. TA-003036-2014 - A request by J. Mark Fisher to amend Section 11.77.A.1 Planned Residential Developments of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections 11.77.A.2 and 11.77.A.3 to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.
 - B. RZ-003035-2014 - A request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.
 - C. RZ-003043-2015 – A request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3.
 - D. VA-003046-2015 - A request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Road (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

6. Other Business - Update on previous case(s) heard by the Planning Board
7. Minutes for correction and approval: December 15, 2014 regular meeting
8. Adjournment

Public comment (up to 3 minutes) is allowed on any item on the agenda and is limited to residents of the Town or persons having a material interest in the Town.



Town of Waxhaw
 Planning & Community Development
 PO Box 617
 Waxhaw, NC 28173
 704-843-2195 (Phone)
 704-243-3276 (Fax)
 www.waxhaw.com

Date Received
12-23-2014
 Received By
DL
 Fee
330.00

TEXT AMENDMENT APPLICATION

Date of Application: 12/22/14 Application Number: TA-003036-2014
(completed by staff)

Applicant Information

Applicant Name: J. Mark Fisher

Applicant Address: 10306 Meadow Crossing Lane Cornelius, NC 28031

Applicant Email Address: Mfisher@summit-companies.com

Applicant Telephone: 704-506-0554

Type of Change: New Addition _____ or Revision

Ordinance Section: 11-77-A-1

Current Text: The tract containing the P.R.D. shall be a minimum of fifty (50) acres in area.

Proposed Text: The tract containing the P.R.D. shall be a minimum of twenty (20) acres in area.

Reason for requested change (attach additional sheets if necessary): Parcel of Land doesn't meet the 50 acre requirement

I do hereby certify that all information which I have provided for this application is, to the best of my knowledge, correct.

[Signature]
 Signature of Applicant

12/22/14
 Date

All of the information herein required has been submitted by the applicant and is included or attached with this application

Hori Oakley

(Signature of Zoning Administrator)

12-23-14

(Date)

TO BE FILLED OUT BY ZONING ADMINISTRATOR

Completed application submitted on: _____

Reviewed by Planning Board on: _____

Action of Planning Board: _____

Town Board Public Hearing Held On: _____

Date of Town Board Decision: _____

Action Taken by Town Board: _____

***Newspaper Affidavit should be attached**

Public Hearing Notice Filed in: _____
(Name of Newspaper)

Date(s) Notices Published: _____

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with the Town staff at least thirty (30) days prior to submittal to review the proposed project and determine the appropriate design approach to meet the intent of this ordinance.

1. R-3: The maximum density of a P.R.D in an R-3 district shall be no greater than that which would be realized had the tract been developed as a conventional R-3 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes.) shall not be included in determining the density yield of the tract in question. For instance, if there were a 100-acre tract that was to be developed for a P.R.D. and tract contained a 20-acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

The tract containing the P.R.D. shall be a minimum of fifty (50) acres in area. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-3 P.R.D. shall have an area of less than ten-thousand (10,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

2. R-4: The maximum density of a P.R.D. in an R-4 district shall be no greater than that which would be realized had the tract been developed as a conventional R-4 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes) shall not be included in determining the density yield of the tract in question. For instance, if there were 100-acres tract that was to be developed for a P.R.D. and the tract contained a 20 acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide

Text Amendment TA-003036-2014
Planned Residential Developments

EXPLANATION OF THE REQUEST

Petition TA-003036-2014 is a request by J. Mark Fisher to amend *Section 11.77.A.1 Planned Residential Developments* of the Town of Waxhaw Unified Development Ordinance to decrease the minimum tract size required for a Planned Residential Development (PRD) in the R-3 zoning district from 50 acres to 20 acres. In addition, staff is proposing revisions to Sections *11.77.A.2 and 11.77.A.3* to reduce the required minimum tract size for a PRD in the R-4 and RM-1 zoning districts.

REQUESTED UDO CHANGES

Section 11.77.A.1 Planned Residential Developments (see attached language)

Language was amended in this section that regulates the minimum required tract size for a PRD in the R-3 zoning district.

Section 11.77.A.2 Planned Residential Developments (see attached language)

Language was amended in this section that regulates the minimum required tract size for a PRD in the R-4 zoning district.

Section 11.77.A.3 Planned Residential Developments (see attached language)

Language was amended in this section that regulates the minimum required tract size for a PRD in the RM-1 zoning district.

PLANNING STAFF ANALYSIS

In May of 2013 the Waxhaw Board of Commissioners approved a text amendment that reduced the minimum tract size required for a Planned Residential Development in the R-4 and RM-1 residential zoning districts. The text amendment reduced the minimum tract size from 100 acres to 50 acres.

Currently, the UDO requires a minimum tract size of 50 acres for Planned Residential Developments in all zoning districts in which PRDs are permitted, R-3, R-4, and RM-1.

The applicant has proposed an amendment to the text that would reduce the minimum allowable tract size for a PRD in the R-3 zoning district by 30 acres, to a minimum size of 20 acres. In addition staff is proposing that the minimum tract size for a PRD in the R-4 and RM-1 districts also be reduced to maintain consistency within the Planned Residential Development regulations and to bring Waxhaw's UDO more in line with the PRD and cluster subdivision requirements of other jurisdictions around the state. The proposed amendment would not change any other regulations affecting Planned Residential Developments.

PLANNING STAFF RECOMMENDATION

Planning Staff recommends approval of TA-003036-2014. Staff feels that the proposed amendment is minimal in nature and will encourage the development of thoughtful well designed residential neighborhoods that will provide a mixture of housing types.

Submitted by: Maxx Oliver

Schedule of District Regulations

- R. All applications for a Conditional Use permit for a telecommunication tower must include the following information in addition to any other applicable information contained in Sections 16.2 (Conditional Zoning) and 14.1, 14.2, and 14.3 (Conditional Use Permit) of the Unified Development Ordinance:
1. Identification of intended provider(s);
 2. Documentation by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user, if applicable;
 3. A statement from the owner indicating intent to allow shared use of the tower and how others will be accommodated, if applicable;
 4. Evidence that the applicant of the proposed tower height and design has notified the property owners of residentially zoned property within 300 feet of the site;
 5. Documentation that the telecommunication tower complies with the Federal Radio Frequency Emission Standards;
 6. Documentation that towers over 199.9 feet are necessary for a minimal level of service;
 7. Screening, if applicable, must be shown on the site plan detailing the type, amount of plantings, and location;
 8. Documentation of collapse area; and
 9. A statement regarding possible interference, if any, with respect to radio and/or television reception.
- 76. Circuses, carnivals, exhibition shows, sideshows, races, trade shows, flea markets, banquets, conventions, religious events, arts and craft shows, stage shows, athletic events and other similar events, including temporary living quarters.**
- A. Temporary living quarters shall be limited to a period of not more than five (5) days longer than the duration of the event.
 - B. No more than thirty (30) total days in any twelve (1) month period for any one (1) separate event.
- 77. Planned Residential Developments/ Traditional Neighborhood Developments**
- In addition to the regulations contained below, regulations for Traditional Neighborhood Developments (TNDs) are included herein. A “TND” shall only be developed as a conditional use in the TND zoning district.
- A. Planned Residential Developments
Planned residential developments (P.R.Ds) are permissible only within the R-3, R-4, and RM-1 zoning districts. The purpose of this district is to allow flexible development with a planned neighborhood character. The developer shall meet

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with the Town staff at least thirty (30) days prior to submittal to review the proposed project and determine the appropriate design approach to meet the intent of this ordinance.

1. R-3: The maximum density of a P.R.D in an R-3 district shall be no greater than that which would be realized had the tract been developed as a conventional R-3 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes.) shall not be included in determining the density yield of the tract in question. For instance, if there were a 100-acre tract that was to be developed for a P.R.D. and tract contained a 20-acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

The tract containing the P.R.D. shall be a minimum of ~~fifty~~ **twenty** (~~50~~) (20) acres in area. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-3 P.R.D. shall have an area of less than ten-thousand (10,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

2. R-4: The maximum density of a P.R.D. in an R-4 district shall be no greater than that which would be realized had the tract been developed as a conventional R-4 subdivision in accordance with all other applicable regulations contained in this Ordinance. Furthermore, the actual density yield shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e. ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes) shall not be included in determining the density yield of the tract in question. For instance, if there were 100-acres tract that was to be developed for a P.R.D. and the tract contained a 20 acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide

Schedule of District Regulations

density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

The tract containing the P.R.D. shall be a minimum of ~~forty~~ **twenty** (~~50~~) (**20**) acres in area. Housing unit types within a P.R.D. shall be limited to detached single-family dwellings and townhomes. No single-family detached lot in a R-4 P.R.D. shall have an area of less than six-thousand (6,000) square feet. The townhouse portion of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless the adjoining property is non-residentially zoned.

3. RM-1: The tract containing a P.R.D. shall have a minimum area of ~~forty~~ **twenty** (~~50~~) (**20**) acres. The maximum density of a P.R.D. shall be 4.5 units per acre. The density yield (i.e., the maximum number of units allowed on the tract) shall be based on the amount of “developable” land within the tract. Lands that cannot be developed due to physical limitations or have other physical constraints (i.e., ponds, lakes, other bodies of water, HUD designated floodways, wetlands, areas with steep slopes) shall not be included in determining the yield of the tract in question. For instance, if there were a 100-acre tract that was to be developed for a P.R.D. and tract contained a 20-acre lake, only eighty (80) acres of land would be considered as being developable and used in calculating maximum density. It will be the responsibility of the applicant to provide density yield data for the proposed P.R.D. in order for the Town to consider an application for a P.R.D.

The minimum lot size for any lot containing a detached single-family dwelling shall be five-thousand (5,000) square feet. The P.R.D. can contain single-family detached dwellings, townhomes, or other multi-family dwelling units. Townhomes and other multi-family dwelling units cannot account for greater than fifty (50) percent of all dwelling units within the PRD.

The townhouse or multi-family portions of a P.R.D. shall be developed more toward the interior rather than the periphery of the tract so that the single-family detached residences border adjacent properties, unless adjoining property that is non-residentially zoned.

In a P.R.D., the screening requirements that would normally apply where multi-family development adjoins a single-family development shall not apply within the tract developed as a planned residential development,

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but all screening requirements shall apply between the tract so developed and adjacent lots.

As part of the P.R.D. the developer shall propose to the Town standards and designs that shall become part of the Conditional Use (CU) Permit and/or Conditional Zoning application. These standards and designs shall address architectural standards, streetscape, and landscaping and common area treatments. The standards and requirements shall incorporate the following as a minimum.

1. Curb and gutter on all interior streets shall be provided.
2. Each single-family dwelling unit must comply with the parking regulations in Section 12 of the Unified Development Ordinance.
3. Usable common open space or recreational areas shall be provided within the P.R.D. Common open space area shall consist of a minimum area of at least twenty (20) percent of the total acreage within the entire project. All common open space areas shall be accessible by sidewalk from the residential developed portions of the P.R.D.
4. All of the common open space required under this Section shall be either conveyed to the Town of Waxhaw, if the Town agrees to accept ownership of and maintenance responsibilities, or conveyed to one or more homeowner associations created for the development, or with respect to outdoor recreation facilities to the owner or operator thereof; and
5. Any conveyance to a homeowners association shall be subject to restrictive covenants recorded in the Register of Deeds Office. The covenants shall provide for the establishment of a homeowner's association before recording of the Final Plat, where membership is mandatory for each homebuyer and any successive buyer. The association shall be responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document. The covenants and easements shall also prohibit future development of any common open space, for other than open space or recreational purposes, and shall provide for continued maintenance of any common open space and recreational facilities. Such covenants shall also provide that any change of use in the open space may only occur upon consent of the homeowners association and the Town of Waxhaw.

Schedule of District Regulations | 11

6. The Board of Commissioners can attach fair and reasonable conditions to the Conditional Use Permit and/or Conditional Zoning application which may address, as a minimum any of the following items:
 - a. Minimum heated floor areas
 - b. Foundation treatments
 - c. Exterior treatments
 - d. Architectural treatments
 - e. Roof pitch
 - f. Garage standards
 - g. Driveway construction
 - h. Landscaping
 - i. Mailboxes, street name signs and streetlights
 - j. On-site Amenities

7. Yard and setback requirements for a P.R.D. shall be as follows:

Exterior lot setbacks shall apply to those property lines that are contiguous with the exterior boundary of the development. All other setbacks shall meet the interior lot setback requirements. The typical exterior setbacks are as follows:

Front Yard	-	Twenty-five (25) feet
Side Yard	-	Twenty-five (25) feet
Rear Yard	-	Forty (40) feet

For purposes of this subsection, an exterior lot shall be defined as “any lot within the P.R.D. that has one or more lot lines that abut the exterior boundaries of the development.”

Notwithstanding the above, a vegetative buffer of 25 feet shall be placed along the external side and rear periphery yards of the P.R.D. when such side and/or rear yards do not abut another P.R.D. Such buffer may be on private or commonly-owned lands but shall be undisturbed (i.e. contain no principal or accessory structures.) Furthermore, the Waxhaw Town Board reserves the right to waive or modify these standards on a case-by-case basis at the time of approval of the P.R.D.

Typical interior lot setbacks are as follows:

Detached Dwellings:

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Front Yard-	Twenty (20) feet
Rear Yard-	Thirty (30) feet
Side Yard -	An aggregate side yard width on each lot of fifteen (15) feet. The minimum side yard width shall be five (5) feet.

Notwithstanding the above, the minimum lot width and the minimum front yard, rear yard and side yard setbacks on lots in a Planned Residential Development district may vary and shall be subject to the approval by the Town Board (in association with the approval of a Conditional Use Permit or a Conditional zoning) on a case-by-case basis.

Townhomes:

Front Yard-	Ten (10) feet
Rear Yard-	Twenty (20) feet
Side Yard-	Zero (0) feet
Side Yard (End of Building)-	Five (5) feet

Notwithstanding the above, the minimum lot width and the minimum front yard, rear yard and side yard setbacks on lots in a Planned Residential Development district may vary and shall be subject to approval by the Town Board (in association with the approval of a Conditional Use Permit or a Conditional zoning) on a case-by-case basis.

B. Traditional Neighborhood Developments

If a proposed Planned Residential Subdivision (PRD) sufficiently meets the character and intent of a Traditional Neighborhood Development (TND), and the Town agrees to accept the street for maintenance, TND road standards may be used. The characteristics of TND criteria are listed below. In that case, street standards design guidelines provided in the "TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) GUIDELINES", latest edition, as published by the North Carolina Department of Transportation - Division of Highways, shall be used in lieu of the Standards listed in Section 18.9.2.(A) to 18.9.2.(N) herein

TND's shall also meet the following criteria:

1. SIZE: A TND should be designed at a walkable scale - considered to be approximately a 5 to 10 minute walk from core to edge, or a 1/4 to 1/2 mile



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Date Received
12-22-2014
 Received By
DL
 Fee
330.00

ZONING CHANGE APPLICATION

Application Number: RZ-003035-2014 Date of Application: 12-22-2014

Applicant Information

Applicant Name: Neil Gimon

Applicant Mailing Address: 1201 Beckford Glen Dr., Waxhaw NC

Applicant Telephone: 704-706-8720

Property Owner Name: Bill + Holly Stewart

Property Owner Mailing Address: 5515 Hemby Road, Matthews, NC
28104

Property Owner Telephone: 704-843-5638

Relationship of Applicant to Property Owner: Leasee

Subject Property Information

Property Location: 116 McDonald Street, Waxhaw, NC 28173

Tax Map and Parcel Number(s): 05113034

Existing Zoning: NMX In Flood Area? NO

Requested Zoning District: TC Acreage .3160

Current Use of Land: Retail Store + Workshop

Surrounding Land Uses: Gas Station, Farmers Market

Comments: We are requesting a zoning change to town center to allow light industrial. We are leasing the workshop to build a microbrewery, tasting room, and pizza restaurant

No application will be considered complete unless it has been properly completed and submitted to the Zoning Administrator by the deadline for the Planning Board Meeting.

To the best of my knowledge, all of the information herein submitted is accurate and complete.

William M. Stewart
(Signature of Property Owner)

12/22/14
(Date)

[Signature]
(Signature of Applicant)

12/22/14
(Date)

All of the information herein required has been submitted by the applicant and is included or attached with this application.

Boni Oakley
(Signature of Zoning Administrator)

12-22-14
(Date)

TO BE FILLED OUT BY ZONING ADMINISTRATOR

Completed application submitted on: 12/22/14

Reviewed by Planning Board on: 1/20/15

Action of Planning Board: _____

Town Board Public Hearing Held On: _____

Date of Town Board Decision: _____

Action Taken by Town Board: _____

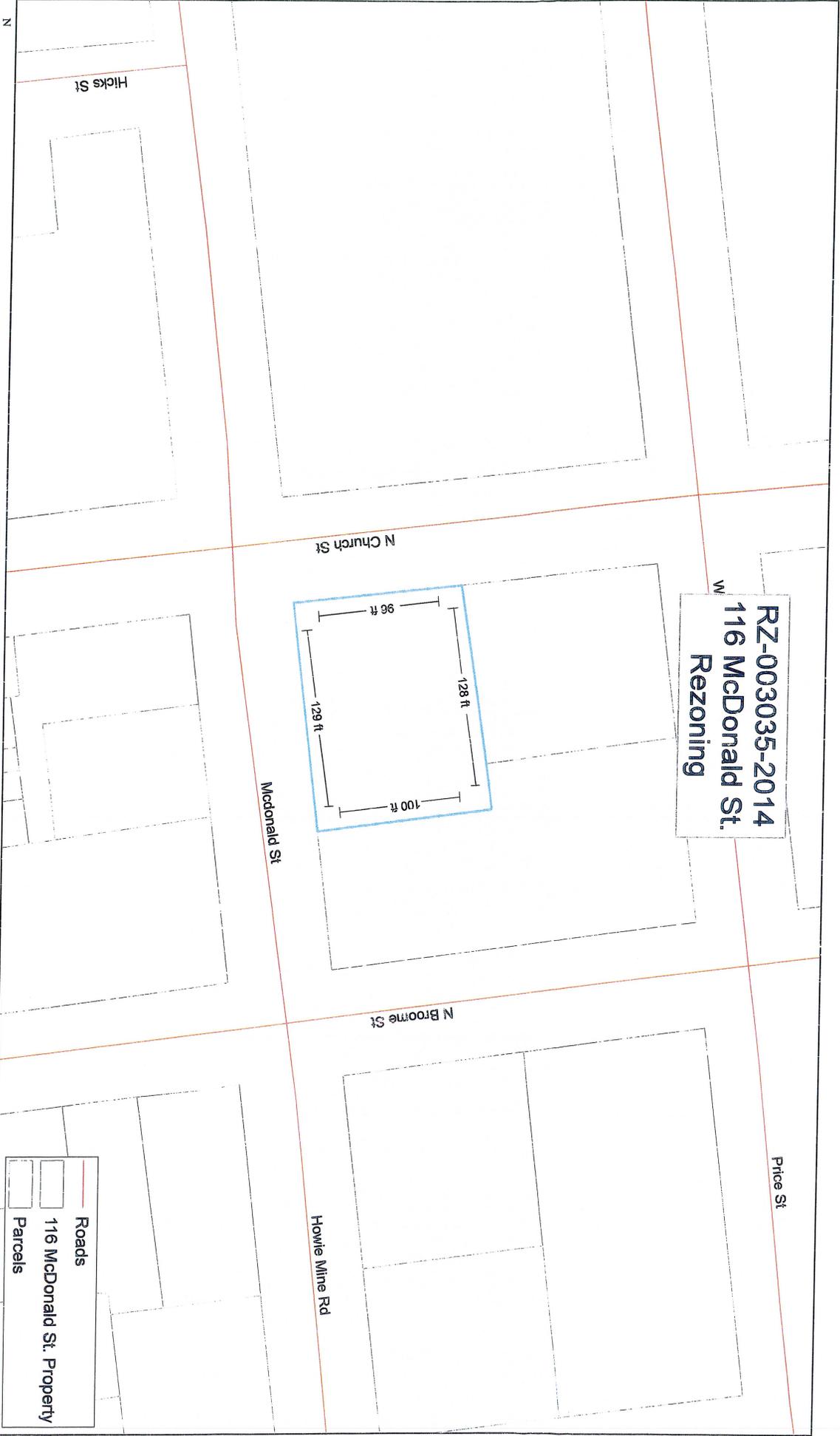
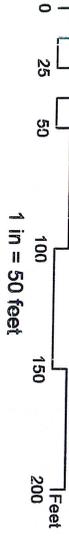
****Newspaper Affidavit should be attached***

Public Hearing Notice Filed in (Newspaper): _____

Date(s) Notices Published: _____

Notification to adjacent property owners mailed on: _____

Property Posting Date: _____



RZ-003035-2014
116 McDonald St.
Rezoning

Roads
116 McDonald St. Property
Parcels

Data Sources & Disclaimer:
 GIS and Town of Muskogee data
 This Town of Muskogee does not
 warrant the accuracy of the
 information displayed. Map
 created December 2014.



S08-20-00E

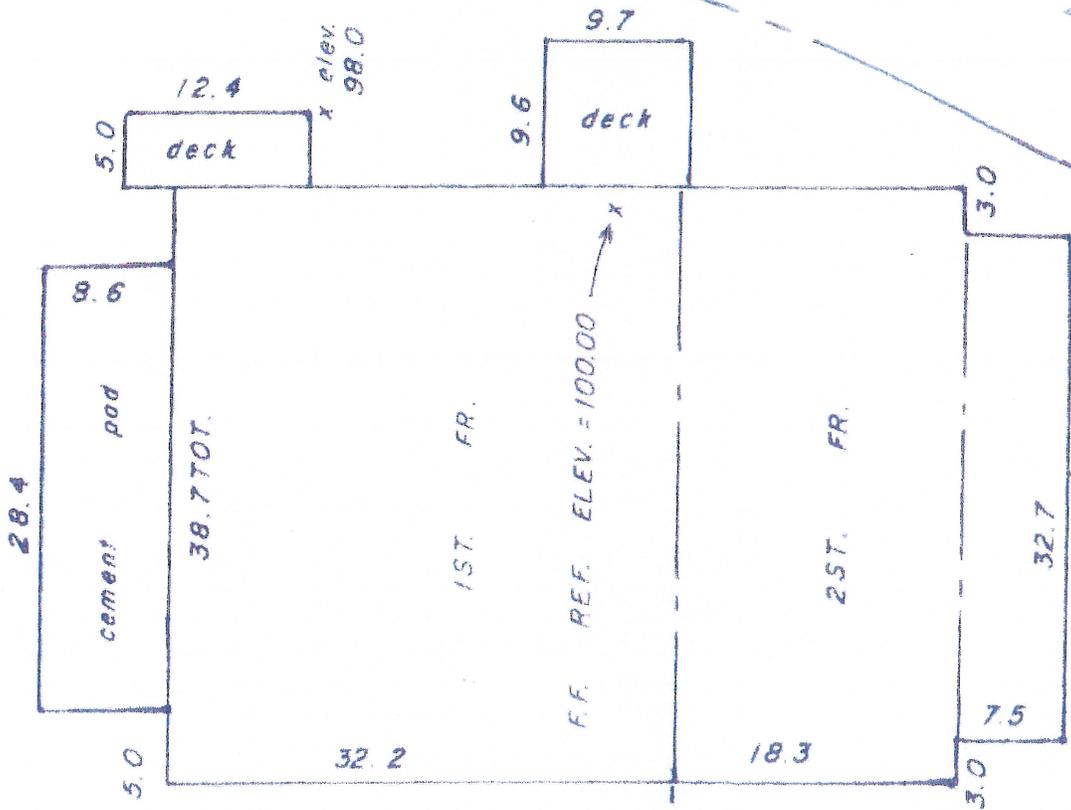
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REFERENCE DEED
D.C. GAMBLE 422-196



S81-28-12W

N08-20-00W

105.13

FIP

RZ-003035-2014
116 McDonald St. Rezoning
Aerial Map



116 McDonald St. Property
Roads
Parcels



0 25 50 100 150 200 Feet

Data Source & Disclaimer
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created December 2014.



RZ-003035-2014
 116 McDonald St. Rezoning
 Current Zoning Map

Current Zoning
 NMX

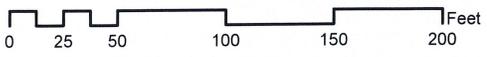
116 McDonald St. Property

Roads

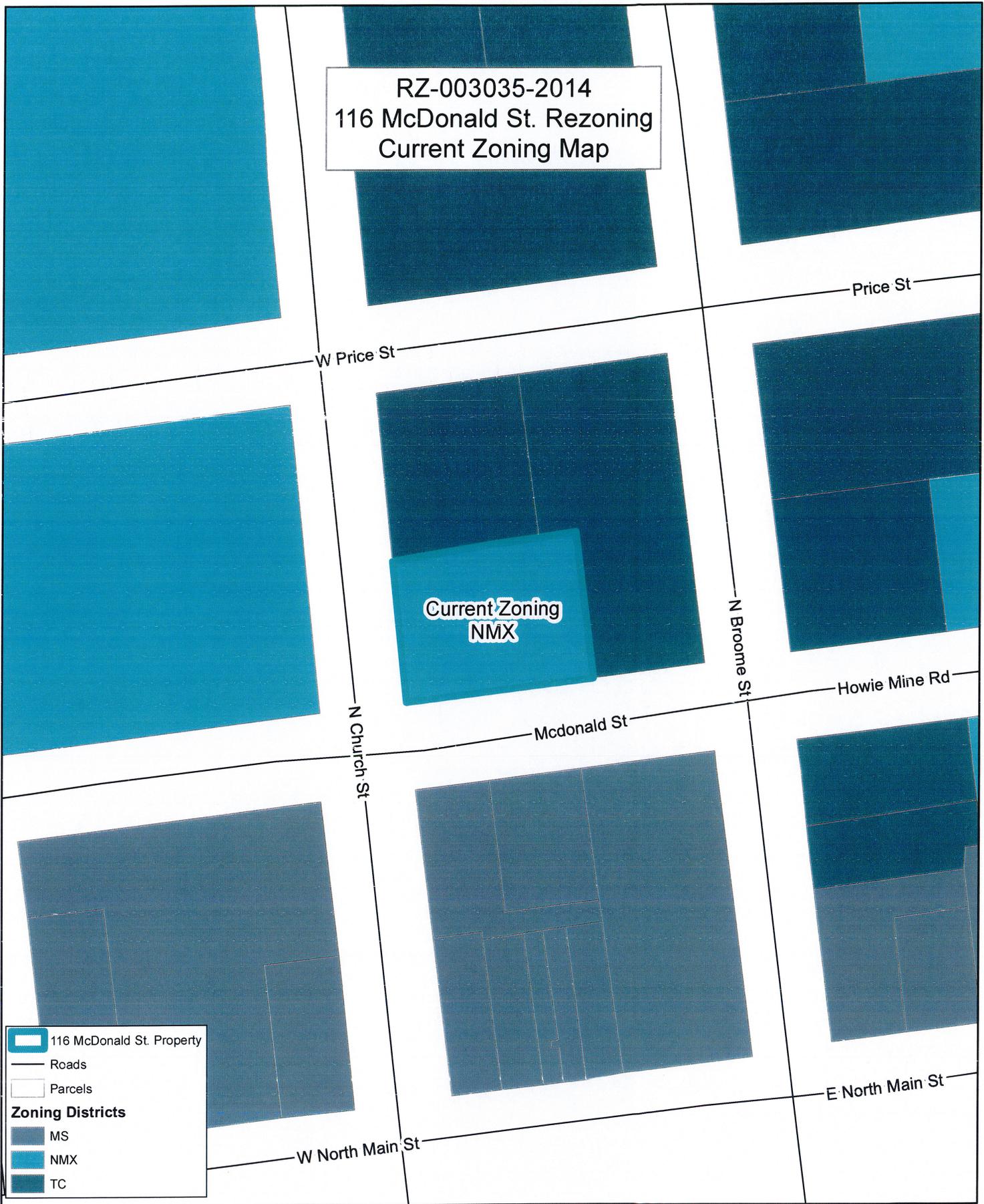
Parcels

Zoning Districts

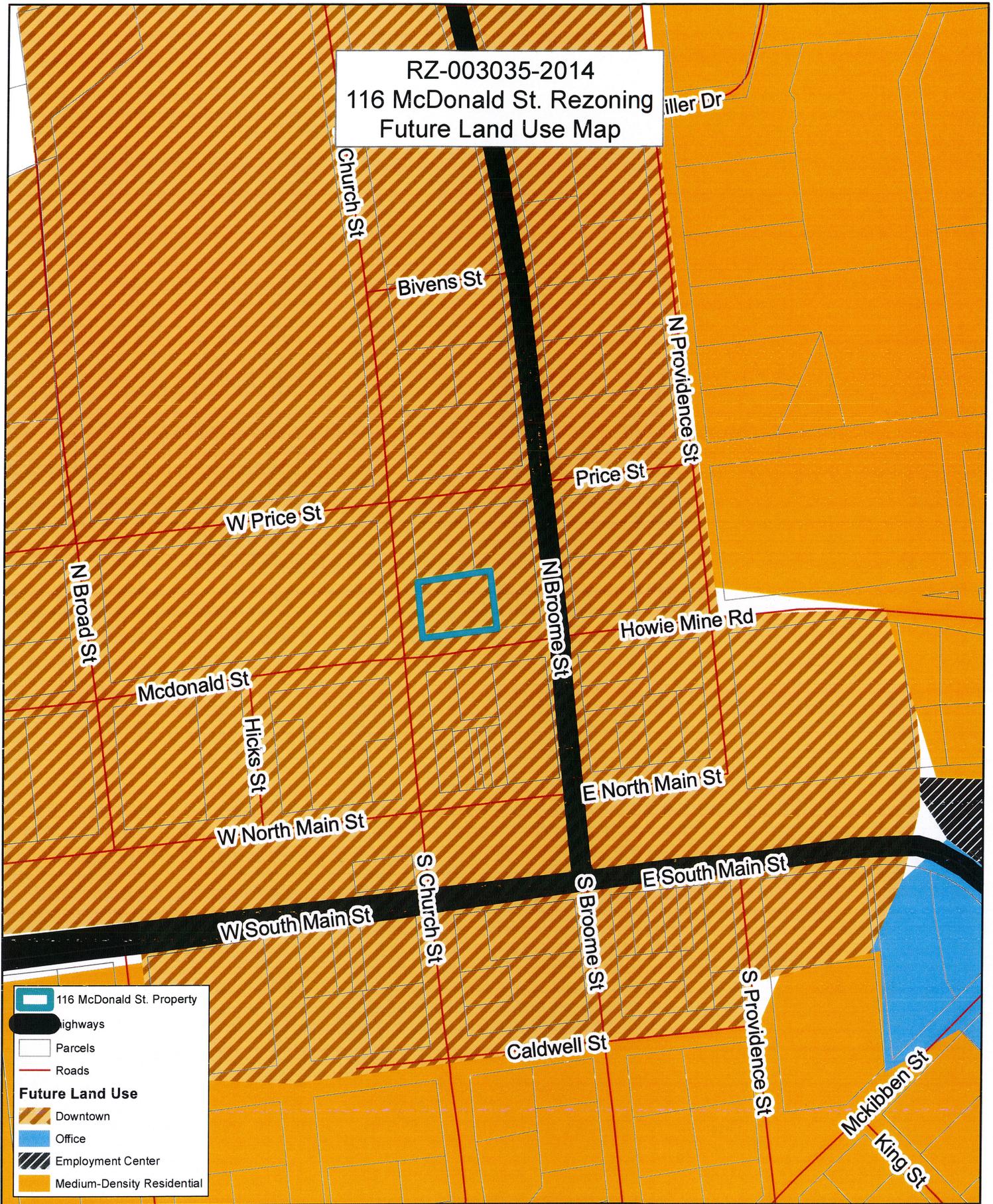
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- NMX
- TC



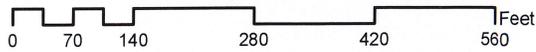
Data Source & Disclaimer
 Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created December 2014.



RZ-003035-2014
 116 McDonald St. Rezoning
 Future Land Use Map



116 McDonald St. Property
 Highways
 Parcels
 Roads
Future Land Use
 Downtown
 Office
 Employment Center
 Medium-Density Residential



Data Source & Disclaimer
 Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created December 2014.



RZ-003035-2014
 116 McDonald St. Rezoning
 Proposed Zoning Map

Proposed Zoning
 TC

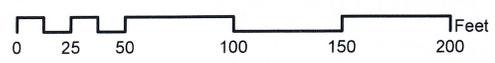
116 McDonald St. Property

Roads

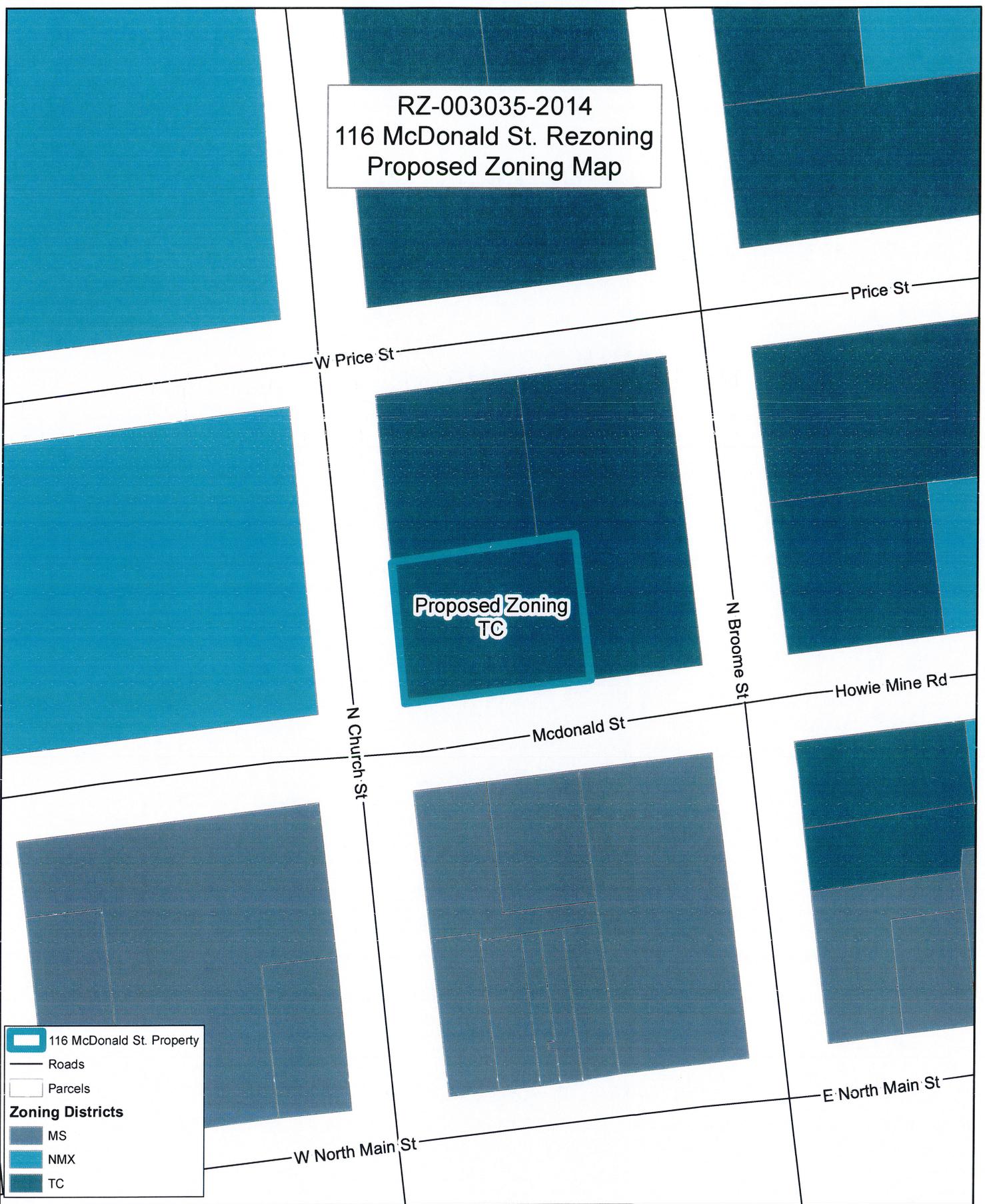
Parcels

Zoning Districts

- MS
- NMX
- TC



Data Source & Disclaimer
 Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created December 2014.



**Rezoning Petition RZ-003035-2014
116 McDonald Street**

EXPLANATION OF THE REQUEST

Petition RZ-003035-2014 is a request by Neil Gimon, on behalf of Bill and Holly Stewart, for a rezoning/map amendment on parcel 05-113-034 from NMX (Neighborhood Mixed Use) to TC (Town Center) located at 116 McDonald Street.

LOCATION AND CURRENT LAND USE

The property is located at 116 McDonald Street and has frontage on McDonald Street and N. Church Street. The property is currently in use as an art gallery and art studio. The property is 0.316 acres in size.

- Condition and land use of the surrounding properties. The adjoining properties are:
- To the north – The Waxhaw Farmer’s Market, a convenience store, restaurant/bar and an insurance office. These properties are zoned TC (Town Center).
 - To the east – A commercially developed property with a convenience store, restaurant/bar and an insurance office. This property is zoned TC (Town Center).
 - To the south – Across McDonald Street are a town owned vacant lot, the Town of Waxhaw water tower and the McDonald House. These properties are zoned MS (Main Street).
 - To the west – Across N. Church Street is the Waxhaw United Methodist Church. This property is zoned NMX (Neighborhood Mixed Use).

PROPERTY HISTORY

The subject property is zoned NMX (Neighborhood Mixed Use). The NMX zoning was placed on the property as part of the Downtown Code rezoning approved by the Board of Commissioners on November 12, 2013. Previously the property was zoned C-4 (Central Business District).

2030 COMPREHENSIVE PLAN & FUTURE LAND USE MAP

The Future Land Use Map from the 2030 Comprehensive Plan shows the property as Historic Downtown. Historic Downtown is described in the plan as follows;

“This area incorporates the historic structures, civic uses, commercial opportunities, and the active environment that is the downtown core of Waxhaw. The core commercial areas are to be preserved and enhanced over the long-term and should provide mixed-use opportunities that include commercial, office, and institutional uses, and some residential uses.”

The TC zoning is in keeping with the Historic Downtown description in the 2030 Comprehensive Plan and Future Land Use Map, which includes both residential and commercial uses.

DOWNTOWN WAXHAW VISION PLAN

The Downtown Waxhaw Vision Plan shows the property as NMX (Neighborhood Mixed Use) in the *Regulating Plan for Future Development*. However, the property abuts TC (Town Center) zoning, so TC zoning for this parcel would not constitute spot zoning.

PLANNING STAFF ANALYSIS

The rezoning request is in keeping with the 2030 Comprehensive Plan and Future Land Use Map which shows the property as Historic Downtown. Although the Regulating Plan from the Downtown Waxhaw Vision Plan depicts the property as NMX, the property abuts TC zoned properties so TC zoning for this parcel would not constitute spot zoning. TC zoning would allow for uniformity in the area as properties are developed and redeveloped over time.

Staff recommends approval of the proposed rezoning RZ-003035-2014.

Submitted By: Chris Rice



Town of Waxhaw
Planning & Community Development
PO Box 617
Waxhaw, NC 28173
704-843-2195 (Phone)
704-243-3276 (Fax)
www.waxhaw.com

Date Received

1/7/2015

Received By

Chris Rice

Fee

N/A

ZONING CHANGE APPLICATION

Application Number: RZ- 003043-2015 Date of Application: 1/7/2015

Applicant Information

Applicant Name: Waxhaw PCD Dept. on behalf of the Waxhaw Board of Commissioners

Applicant Mailing Address: 316 N. Church Street, Waxhaw, NC 28173

Applicant Telephone: 704-843-2195

Property Owner Name: Town of Waxhaw, NC

Property Owner Mailing Address: PO Box 617, Waxhaw, NC 28173

Property Owner Telephone: 704-843-2195

Relationship of Applicant to Property Owner: SAME

Subject Property Information

Property Location: 8316 Kensington Drive (adjacent to the Cureton and Quellin neighborhoods)

Tax Map and Parcel Number(s): portion of 06-162-001

Existing Zoning: Union County R-40 In Flood Area? Yes

Requested Zoning District: R3 Single Family Acreage 18.571

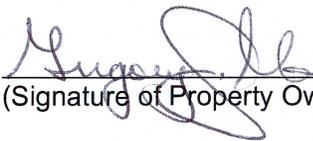
Current Use of Land: Undeveloped

Surrounding Land Uses: Single family residential uses and the Union County wastewater treatment plant.

Comments: This petition is to have the initial Town of Waxhaw zoning placed on the parcel upon annexation.

No application will be considered complete unless it has been properly completed and submitted to the Zoning Administrator by the deadline for the Planning Board Meeting.

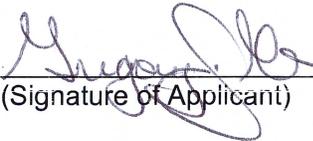
To the best of my knowledge, all of the information herein submitted is accurate and complete.



(Signature of Property Owner)

1/7/2015

(Date)



(Signature of Applicant)

1/7/2015

(Date)

All of the information herein required has been submitted by the applicant and is included or attached with this application.



(Signature of Zoning Administrator)

1/7/2015

(Date)

TO BE FILLED OUT BY ZONING ADMINISTRATOR

Completed application submitted on: 1/7/2015

Reviewed by Planning Board on: 1/20/2015

Action of Planning Board: _____

Town Board Public Hearing Held On: _____

Date of Town Board Decision: _____

Action Taken by Town Board: _____

****Newspaper Affidavit should be attached***

Public Hearing Notice Filed in (Newspaper): _____

Date(s) Notices Published: _____

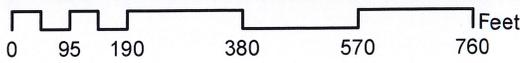
Notification to adjacent property owners mailed on: _____

Property Posting Date: _____

RZ-003043-2015 Kensington Dr Initial Zoning Aerial Map



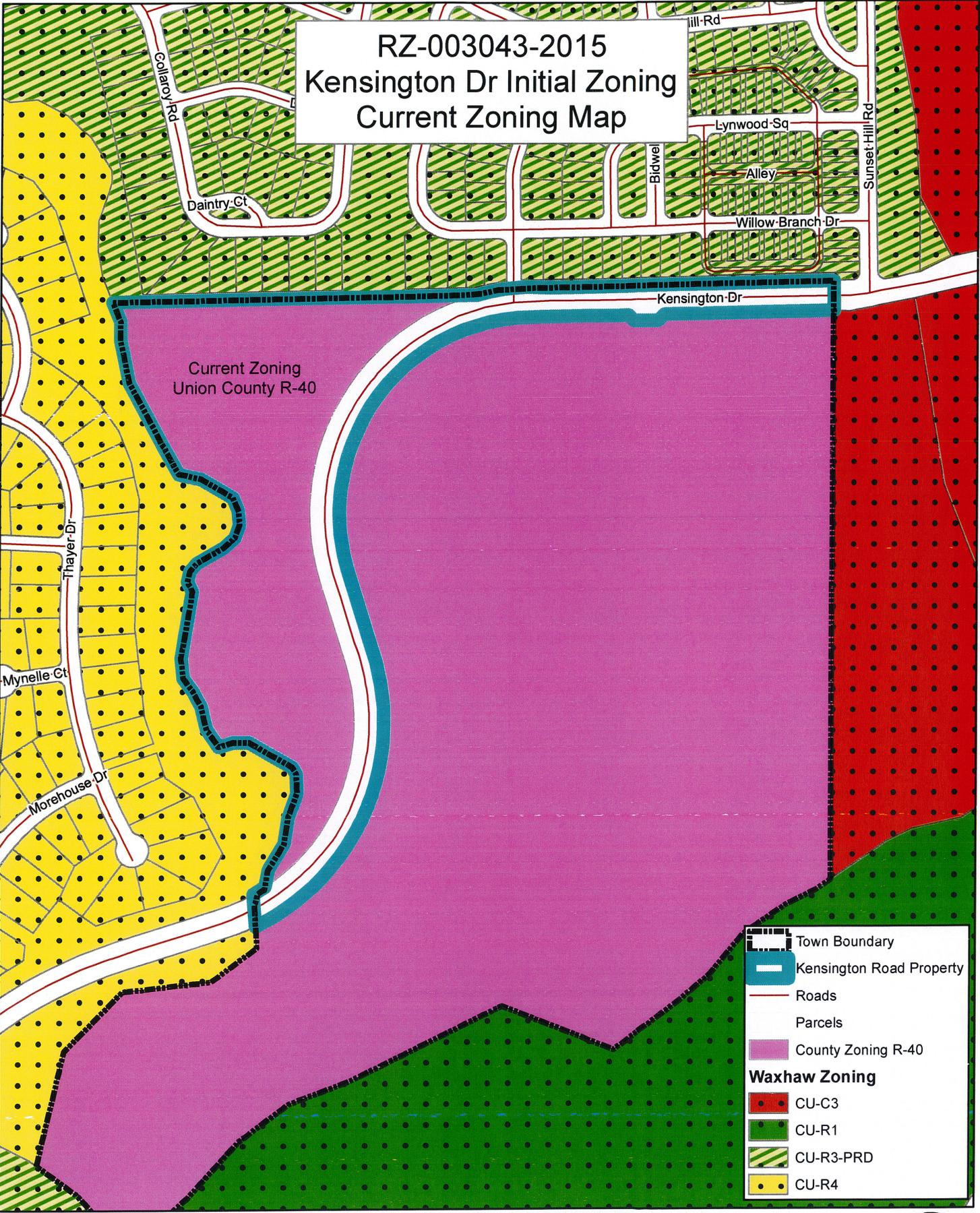
- Roads
- Town Boundary
- Kensington Road Property
- Parcels



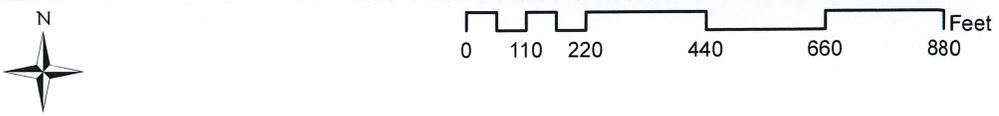
Data Source & Disclaimer
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.



RZ-003043-2015 Kensington Dr Initial Zoning Current Zoning Map



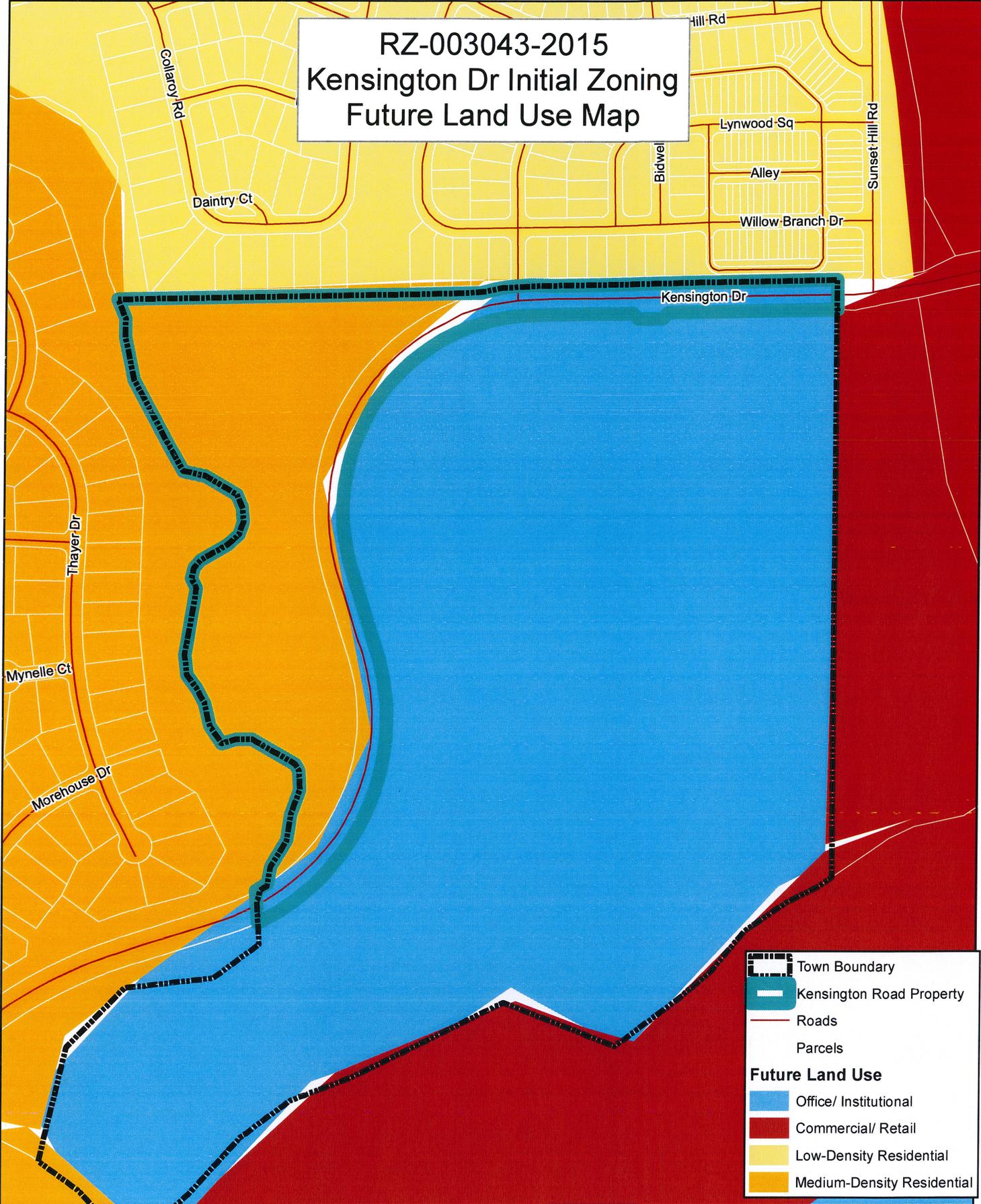
	Town Boundary
	Kensington Road Property
	Roads
	Parcels
	County Zoning R-40
Waxhaw Zoning	
	CU-C3
	CU-R1
	CU-R3-PRD
	CU-R4



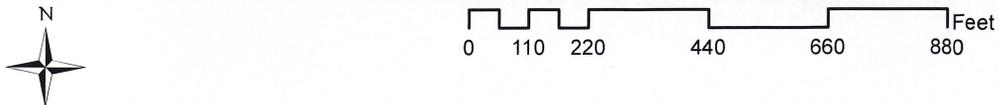
Data Source & Disclaimer
 Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.



RZ-003043-2015 Kensington Dr Initial Zoning Future Land Use Map



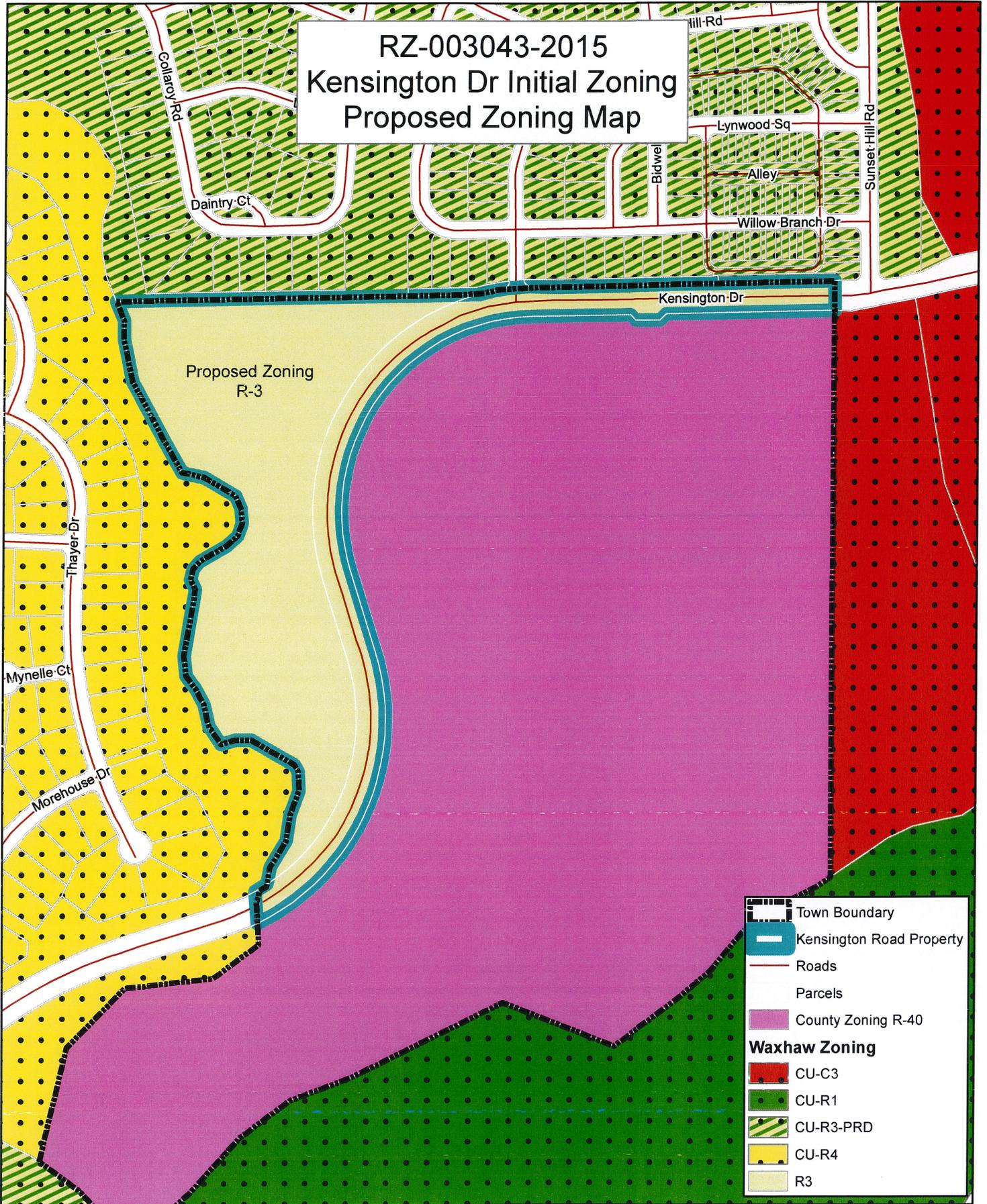
	Town Boundary
	Kensington Road Property
	Roads
	Parcels
Future Land Use	
	Office/ Institutional
	Commercial/ Retail
	Low-Density Residential
	Medium-Density Residential



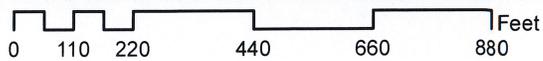
Data Source & Disclaimer
 Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.



RZ-003043-2015 Kensington Dr Initial Zoning Proposed Zoning Map



	Town Boundary
	Kensington Road Property
	Roads
	Parcels
	County Zoning R-40
Waxhaw Zoning	
	CU-C3
	CU-R1
	CU-R3-PRD
	CU-R4
	R3



Data Source & Disclaimer
 Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.



**Rezoning Petition RZ-003043-2015
Kensington Road Property**

EXPLANATION OF THE REQUEST

Petition RZ-003043-2015 is a request by the Town of Waxhaw Planning & Community Development Department, on behalf of the Town of Waxhaw Board of Commissioners, for a rezoning/map amendment (for initial zoning) on approximately 18.571 acres, including 5.389 acres of right-of-way for Kensington Drive, (a portion of Tax Parcel ID number 06-162-001) located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. The proposed zoning for the site is R-3

ANNEXATION PROCESS

The parcel is currently in the annexation process and the zoning process is running concurrently. The Board of Commissioners will hold a public hearing on the proposed annexation on February 10, 2015 with a public hearing on the initial zoning to be held on the same date. The final ordinance reading by the Board of Commissioners for the annexation of the property and the initial zoning of the property will take place per state statute after the required public hearings are conducted.

LOCATION AND CURRENT LAND USE

- The property is located on the west side of Kensington Drive across from the Union County Public Works sewer treatment plant. Kensington Drive is located on this portion of the property.
- Condition and land use of the surrounding properties. The adjoining properties are:
 - To the north –The Cureton subdivision zoned CU-R3-PRD and is developed with single family homes.
 - To the west – The Quellin subdivision zoned CU-R4 and is developed with single family homes.
 - To the south – The remaining portion of Tax Parcel 06-162-001. The property is zoned Union County R-40.
 - To the east – The remaining portion of Tax Parcel 06-162-001. The property is zoned Union County R-40.

EXISTING ZONING AND LAND USES

1. The Union County zoning for the site is R-40. Article I-X Part 1 Section 135(d) of the Union County Land Use Code states: “The R-40 and R-20 districts are the primary residential districts and are designed to accommodate single-family residential and planned residential developments at low to medium densities. The R-40 district is located mainly in areas that are not served by public water or sewer facilities and that are not yet appropriate for development at higher densities. The minimum lot size requirement for parcels located within the R-40 zoning district is 40,000 square feet provided water and sewer is available. If water and sewer is not available, the lots may have to exceed 40,000 square feet in order to accommodate wells and septic tanks.”

2. Uses permitted in the Union County R-40 zoning district (under Appendix I of the Union County Land Use Code) include the following:

Agricultural Uses, Airports (County Owned/Operated), Single-Family Dwellings, Modular Homes, Governmental Uses (County Owned/Operated), Greenhouses, Family Care Homes, Sanitary Landfills (County Owned/Operated), Schools (Elementary, Middle and Senior High) and Utility Facilities (County Owned/Operated).

2030 COMPREHENSIVE PLAN & FUTURE LAND USE MAP

The Future Land Use Map contained in the 2030 Comprehensive Plan identifies the subject site as Medium-Density Residential. Chapter 4 of the Comprehensive Plan states the following regarding Medium Density Residential:

“These areas include existing and future areas for development of more dense residential neighborhoods that provide a diversity of housing types and housing options. Areas include single-family detached units, mobile homes, townhouses, duplexes, condominiums, apartments, senior housing, and other multi-family dwelling units, depending upon the character of existing neighborhoods. Housing densities should range from 3-8 dwelling units per acre. Other types of uses that may occur are schools, parks, and some neighborhood commercial uses, such as coffee shops and small corner grocery stores.”

Based on the description of Medium-Density Residential the most compatible zoning district for this property in the Town of Waxhaw is R-4.

PLANNING STAFF ANALYSIS

As previously mentioned, the Waxhaw Future Land Use Plan, contained in the 2030 Comprehensive Plan, shows Medium-Density Residential as the future land use for this property. Housing densities for Medium-Density Residential range from 3 to 8 dwelling units per acre. This is most closely matched by the Waxhaw R-4 zoning district, which requires a minimum lot size of 12,000 square feet. This is compatible to the adjacent properties to the north and west of the property which are developed with densities that are consistent with medium density residential development.

STAFF RECOMMENDATION

Planning Staff recommends approval of RZ-003043-2015, for the initial zoning from Union County R-40 to Town of Waxhaw R3 for the portion of parcel 06-162-001 which is to be annexed into the Town. R3, which requires a 20,000 square foot minimum lot size, will be a compromise between the 40,000 square foot minimum lot size required currently under the Union County R-40 regulations and the Waxhaw 2030 Comprehensive Plan recommended R4 which requires a 12,000 square foot minimum lot size.

Submitted By: Chris Rice



Town of Waxhaw
Planning & Community Development
PO Box 617
Waxhaw, NC 28173
704-843-2195 (Phone)
704-243-3276 (Fax)
www.waxhaw.com

Date Received	12-31-14
Received By	L.O.
Fee	N/A

SUBDIVISION VARIANCE APPLICATION

Date of Application: 12-31-14 Case Number: VA-003046-2015
(to be filled out by staff)

Applicant Information

Applicant Name: Town of Waxhaw Telephone: 704-843-2195

Applicant Mailing Address: PO Box 6, Waxhaw, NC 28173

Applicant Email Address: gmahar@waxhaw.com

Property Owner Name: N/A Telephone: N/A

Property Owner Mailing Address: N/A

Property Information

Address/Location of Property: Kensington Drive (from Hwy. 16 to Waxhaw Marvin Rd.)

Tax Parcel Number(s): N/A

Existing Use of Property: Street Zoning: N/A

Variance Sought: See Attached

Related Section(s) of Unified Development Ordinance: See Attached

Reason(s) for Seeking Variance (attached additional paper if necessary): See Attached

FINDING OF FACTS CHECKLIST

Please provide an explanation for each finding of fact (below) on which the Planning Board will make a recommendation and the Town Board will make its decision.

There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.

See Attached

(Continued on the next page)

The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

See Attached

The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.

See Attached

The granting of the variance will not be detrimental to the public health, welfare and safety.

See Attached

The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

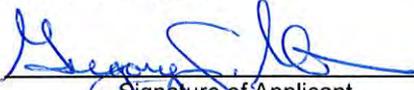
See Attached

Requests for variances shall be accompanied by a sketch plan of the area included in the variance request.

In the course of evaluating the requested variance, the Administrator, the Planning Board or the Board of Commissioners may request additional information from the applicant.

CERTIFICATIONS

I hereby certify that all of the information provided for this application is, to the best of my knowledge, accurate and complete.


Signature of Applicant

N/A
Signature of Property Owner

Gregory J. Plakar
Printed Name of Applicant

N/A
Printed Name of Property Owner

12-31-14
Date

N/A
Date

This application is accepted, and to the best of my knowledge, deemed to be complete.


Signature of Zoning Administrator

12-31-14
Date

TO BE FILLED OUT BY THE ZONING ADMINISTRATOR

Sketch Plan Attached: Yes No

Variance "Findings of Facts" Checklist Attached Yes No

Planning Board Meeting Date: 1-20-15

Recommendation of the Planning Board: _____

Town Board Meeting Date(s): _____

Town Board Decision: _____

Notices to Applicant and Adjoining Property Owners Mailed On: _____

Town of Waxhaw, NC
Subdivision Variance Request
(Variance Application Responses)

VARIANCE SOUGHT: Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the UDO

18.4 – All site improvements shall be in accordance with applicable standards, including without limitation the provisions of this Ordinance, the standards of Union County Public Works Department (and all applicable rules, regulations, and policies of Union County), and the North Carolina Department of Transportation (and all applicable rules, regulations, and policies of NCDOT).

18.4.1.D - Maintenance of Dedicated Areas until Acceptance

Facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner for a warranty period of one year from the date of acceptance of dedication by the Town Commission. Notwithstanding the foregoing, the owner of any development containing streets or sidewalks intended for public dedication shall maintain the streets and/or sidewalks for a warranty period until 80% of the lots on the street petitioned for acceptance have received a Certificate of Occupancy.

In order to properly secure such maintenance and warranty, the owner of any development containing improvements intended for public dedication shall post a maintenance bond or other sufficient surety to guarantee that such improvements will be properly maintained until (i) the date that 80% of the lots on the street and/or sidewalk petitioned for acceptance have received a Certificate of Occupancy and (ii) one-year of formal acceptance by resolution of the Town of Waxhaw. The amount of the security shall be \$10,000 plus 5% of the cost of stone base, paving, curb & gutter, sidewalk and street trees. The owner shall provide information sufficient for the Town of Waxhaw Zoning Administrator to determine the actual cost of such improvements. If the surety/bond described herein is not provided, the Town of Waxhaw may not issue Zoning Permits to any properties on the said street(s) without (i) a showing of undue hardship (ii) the grant will not materially affect the Town's future enforcement of this provision on the improvements at issue; (iii) approval by both the Zoning Administrator and the Director of Planning and Community Development; and (iv) compliance with any policy adopted by the Board of Commissioners related to maintenance of dedicated areas. The Zoning Administrator may relieve the owner of the requirements of this Section, if it determines that a property owners association has been established for the development, and that this association has requested responsibility for the subject improvements, and is capable of performing the

obligations set forth in Section 18.4.1 above. The Zoning Administrator may require the property owners association post the bond referred to above.

The above bond/surety shall be posted with the Town of Waxhaw prior to the release of any Guarantee Surety referred to in Section 18.4.1-A (1) and (2). The Town shall have the right to increase the warranty period for atypical construction materials or construction techniques or sub-standard construction.

No street shall be petitioned for acceptance of dedication until sixty percent (60%) of the lots on the street have been issued a Certificate of Occupancy by the Town of Waxhaw.

Prior to the expiration of the maintenance guarantee instrument, any defects in workmanship and/or materials shall be repaired to the satisfaction of the Zoning Administrator or his/her designee. Any repairs not completed within thirty (30) days prior to the expiration of the maintenance guarantee shall require the renewal of the maintenance guarantee. The Town shall, upon final acceptance at the end of the applicable warranty period, release the applicant's bond or letter of credit.

18.9 - 1. General Requirements

E. Site Improvement Standards

All site improvements shall be done in accordance with standards established by the Town of Waxhaw. Plans for such improvement shall be approved prior to any site work commencement.

F. Sidewalks

Sidewalks shall be required in subdivisions on both sides of the street and on the perimeter of the development along any existing streets. Sidewalks shall provide public access and be dedicated to the Town upon request. All sidewalks shall be connected to existing sidewalks within 500 feet. Sidewalks should be located within the street right-of-way. In order for a sidewalk to be located outside the public right-of-way, the Zoning Administrator must approve the location and an approved sidewalk easement must be recorded with the Union County Register of Deeds prior to issuance of final Zoning Compliance.

1. On all thoroughfare, collector, and commercial streets where sidewalks are provided, there shall be a planting strip placed between the inner edge of the sidewalk and the outer edge of the curb. Said planting strip shall be a minimum of five (5) feet in depth. All sidewalks shall otherwise be built in compliance with current NCDOT Standards for sidewalks in public rights-of-way.
2. The Administrator, in approving plats, shall have the ability to waive or modify the requirements of this Section in particular situations where strict application would serve no meaningful purpose.

2. Streets

F. Right-of-Way Widths

Minimum street right-of-way widths shall not be less than the following:

- | | | |
|----|----------------------|----------|
| 1. | Major thoroughfares- | 120 feet |
| 2. | Minor thoroughfares- | 80 feet |
| 3. | Collectors- | 50 feet |
| 4. | Local streets- | 40 feet |
| 5. | Cul-de-sacs- | 87 feet |

G. Pavement Widths

Minimal pavement widths shall be in accordance with the standards of the North Carolina Department of Transportation except that the end of any cul-de-sac street shall have a minimum pavement width (i.e., diameter) of sixty-seven (67) feet.

H. Grades

1. Street grades shall not be less than one (1) percent.
2. Grades approaching intersections shall not exceed five (5) percent for a distance of not less than one hundred (100) feet from the centerline of the intersection. This requirement shall only apply to the road required to stop at the intersection.

I. Horizontal Curves

Where a centerline deflection angle of more than ten (10) degrees occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:

1. Major thoroughfare - 500 feet
2. Minor thoroughfare & collectors - 300 feet
3. Local streets - 150 feet

J. Vertical Curves

All vertical curves shall have such length as necessary to provide safe sight distance.

N. Street Construction and Curb and Gutter

Except as may otherwise be provided in this Ordinance, all streets within the proposed subdivision shall be graded and paved by the developer in accordance with Town of Waxhaw typical design standard for paved streets. Curb and gutter shall be required on all new subdivision road segments. All associated storm drainage is to be contained within the street right-of-way and shall be in accordance with the Town of Waxhaw *Stormwater Design Manual*.

Proof rolls are required for streets and curb and gutter. A proof roll is a method used by a municipality to test the subgrade soil strength for any deflection that would identify poor weight bearing capacity of a soil prior to the installation of a road or street. Proof rolling identifies areas of poor compaction, high moisture content that is indicated by the truck tires “pumping” as it passes over the soil and areas where organic material may be present.

Town of Waxhaw staff must be present to observe proof rolls. General guidelines and procedures for proof rolls are outlined in the *Proof Roll Guidelines* document. The property owner is responsible for the associated proof roll fee as delineated in the Town of Waxhaw *Proof Roll Guidelines*.

18.10.6 Street Lighting

All public streets, sidewalks, and other common areas or facilities in subdivisions shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas or facilities.

- A. Streetlights shall be rated a minimum of 9500-lumen, and shall be 100 watt high pressure sodium vapor located at all intersections and mid-block locations with intervals not exceeding 250 feet.
- B. All roads, driveways, sidewalks, parking lots, and other common areas and facilities in un-subdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.
- C. All entrances and exits in substantial buildings used for non-residential purposes and in multi-family residential dwellings containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the building.

Streetlights, poles and brackets are to be decorative and shall be subject to approval in the preliminary plat. Where feasible and practical, street light varieties shall be the same throughout the subdivision or individual phases of the subdivision.

All streetlights shall be placed at least two (2) feet inward (i.e., away from the street) from the sidewalk.

REASON FOR SEEKING THE VARIANCE

Kensington Drive is an integral part of the Town's transportation system. The major developers of Kensington Drive went bankrupt and thus failed to petition the Town for acceptance. The road was dedicated and has been used by the public for years contributing to deterioration. Increased public use beyond original approved design will require additional upgrades. Wells

Fargo, as successor in interest to one of the developers, has agreed to pay \$400,000 towards street improvements and upgrades.

FINDINGS OF FACT CHECKLIST

1. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.

This is the most used private road in the Town. Kensington Drive is necessary for general public use and has been used by the public for years. The Town will likely make road improvements to Kensington Drive because of the increased public use.

2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

As a private road, it could be closed which would deprive the public and the Town reasonable access to their properties. Bonding requirements are impractical with the age the road and likely future improvements to assist with the increased use of Kensington Drive.

3. The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.

Most of the original developers went bankrupt and failed to petition Kensington Drive for public acceptance during original development. There are not many properties with significant public use that are accessed through a private road.

4. The granting of the variance will not be detrimental to the public health, welfare and safety.

Granting the variance will allow the road to become a municipal road subject to Town law enforcement and eligible for public maintenance funds.

5. The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

This variance only applies to acceptance of a street and will not affect other UDO provisions.

**Subdivision Variance Case VA-003046-2015
Kensington Drive**

EXPLANATION OF THE REQUEST

VA-003046-2015 is a request by the Town of Waxhaw for a subdivision variance from Sections 18.4, 18.4.1.D, 18.9 and 18.10.6 of the Waxhaw Unified Development Ordinance to allow the Town Board of Commissioners to accept dedication of Kensington Drive (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

LOCATION AND LAND USE

The property in question is known as Kensington Drive and it extends from the intersection of Hwy. 16 to Waxhaw Marvin Road. The town is not requesting a variance for the portion of Kensington Drive that extends from the intersection of Waxhaw Marvin Road to the South Carolina state line.

The zoning and land uses of the surrounding properties are as follows:

- To the North – The Cureton retail shopping center (zoned CU-C3), Cureton residential subdivision (zoned CU-R3-PRD), vacant land that was recently deeded from Union County to the Town of Waxhaw (currently zoned Union County R-40) and the Quellin residential subdivision (zoned CU-R4).
- To the South – The Cureton retail shopping center (zoned CU-C3), Union County Waste water treatment plant (zoned Union County R-40) and vacant land (zoned CU-R4).
- To the West – Extension of Kensington Drive
- To the East – Cuthbertson Road

HISTORY OF KENSINGTON DRIVE AND ROAD ISSUES

In 2005, the original developer of the Cureton Shopping Center, Cureton subdivision and Quellin subdivision recorded a plat for the Cureton Parkway (later renamed Kensington Drive) for the portion of the road that is in front of the Union County Waste Water Treatment Plant. The road was labeled as "80' Proposed Right-of-Way" (see attached Plat Cabinet I Book 732).

In 2006, the original developer of the Cureton Shopping Center, Cureton subdivision and Quellin subdivision recorded a plat for Cureton Parkway (later renamed Kensington Drive) for the portion of the road that is adjacent to the Quellin subdivision up to the middle of the bridge (leading to the waste water treatment plant). The plat depicted an 80' Right-of-Way and was recorded in Plat Cabinet J Book 511).

Also in 2006, the original developer of the Cureton Shopping Center, Cureton subdivision and Quellin subdivision recorded a plat for Cureton Parkway (later renamed Kensington Drive) through the Cureton shopping center. The 66' of public Right-of-Way was recorded in Plat Cabinet J Book 590. The plat was revised in 2007 (Plat Cabinet K Book 225) and the name of the road was changed to Kensington Drive.

In 2009, the Town staff started working with the original developer of the Cureton Shopping Center, Cureton subdivision and Quellin) on street acceptance of Kensington Drive. Staff noted several issues with the existing road and relayed them to the developer. Shortly thereafter the developer went bankrupt and the issues were not fixed with the road.

Wells Fargo Bank acquired most of the commercial land (including undeveloped tracts) in the Cureton Shopping Center and started working with staff to resolve the road issues. A monetary contribution was given to the Town towards the repairs and some of the repairs were made. The residential developments are pretty much complete and built out.

In the meantime, staff was working with Union County to acquire approximately 18 acres of land across Kensington Drive from the waste water treatment plant in order for all Kensington Drive (in between Hwy. 16 and Waxhaw Marvin Road) to lie within the town's jurisdiction. The deed transferring ownership to the town of that property, including that portion of road, was recently recorded in Book 6363 Page 423.

Wells Fargo has agreed to make another monetary contribution (in the amount of \$400,000.00) to assist with the repair of the road; however it will not cover all of the expenses. Also, much of the repairs are needed outside of the boundary of the Wells Fargo tracts (in the Cureton Shopping Center).

The original developer no longer exists and the town is facing several issues with the road. Not only does the road need to be repaired (or possibly reconstructed), it also does not meet current town standards. The required maintenance bond if the road were to be accepted is impractical as the road will likely be repaired after the road is accepted and eligible for state street funding.

REASON FOR VARIANCE REQUEST

Kensington Drive is an integral part of the Town's transportation system. The major developers of Kensington Drive went bankrupt and thus failed to petition the Town for acceptance. The road was dedicated and has been used by the public for years contributing to deterioration. Increased public use beyond original approved design will require additional upgrades. Wells Fargo, as successor in interest to one of the developers, has agreed to pay \$400,000 towards street improvements and upgrades.

The Town of Waxhaw is requesting that the Town Board of Commissioners accept dedication of Kensington Drive (from Hwy. 16 to Waxhaw Marvin Road) as a public road while not meeting all of the requirements of the Town's subdivision regulations.

On the application, the applicant states the following regarding the finding of facts (applicant responses are in italics):

1. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.

This is the most used private road in the Town. Kensington Drive is necessary for general

public use and has been used by the public for years. The Town will likely make road improvements to Kensington Drive because of the increased public use.

2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

As a private road, it could be closed which would deprive the public and the Town reasonable access to their properties. Bonding requirements are impractical with the age the road and likely future improvements to assist with the increased use of Kensington Drive.

3. The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.

Most of the original developers went bankrupt and failed to petition Kensington Drive for public acceptance during original development. There are not many properties with significant public use that are accessed through a private road.

4. The granting of the variance will not be detrimental to the public health, welfare and safety.

Granting the variance will allow the road to become a municipal road subject to Town law enforcement and eligible for public maintenance funds.

5. The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

This variance only applies to acceptance of a street and will not affect other UDO provisions.

PLANNING STAFF ANALYSIS

The town is requesting several subdivision variances, including Sections 18.4 (improvements installed according to town standards), 18.4.1.D (maintenance bond requirement), 18.9 (general street requirements) and 18.10.6 (street lighting requirements).

The original developer of the Cureton Shopping Center, Cureton subdivision and Quellin subdivision depicted Kensington Drive as a public Right-of-Way on several plats; however they did not follow through with having the road accepted by the town for acceptance and maintenance prior to filing bankruptcy. The town is in a unique position as the road is being used by thousands of cars every day contributing to the deterioration of it with no one claiming ownership or responsibility for it.

The town is requesting several variances in order to allow the Town Board of Commissioners to accept dedication of the road. Once the road is accepted as a town maintained road, the town can then access state funding for repairs and maintenance.

Planning staff recommends that the board consider each of the findings of fact when reviewing the application. If the Board feels that all of the findings are met, then staff recommends approval of VA-003046-2015.

The Town Board may only approve a variance if each of the following findings is first made:

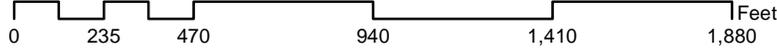
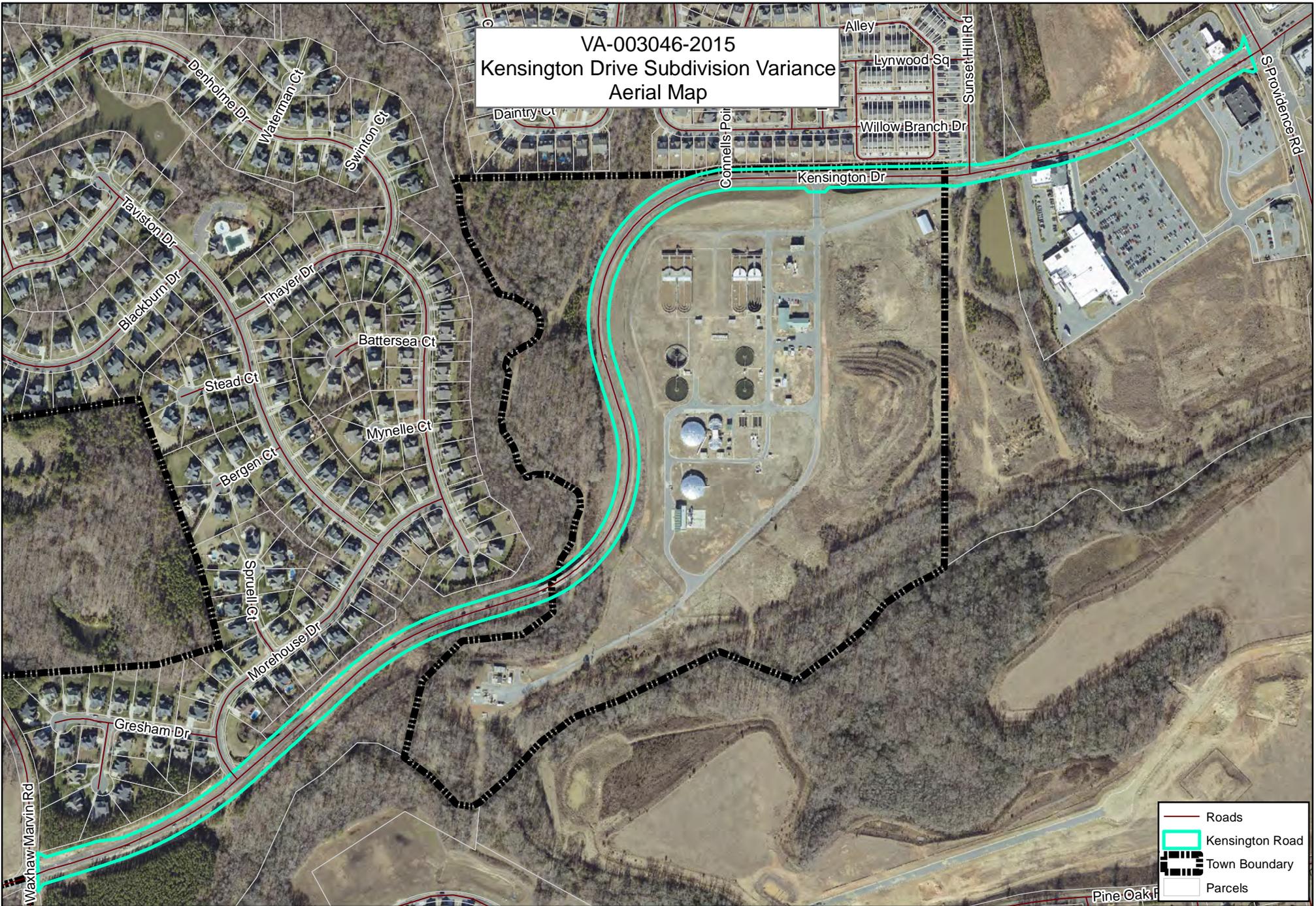
- A. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of his land.
- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- C. The circumstances giving rise to the need of the variance are peculiar to the tract in question and are generally not characteristics of other tracts in Waxhaw.
- D. The granting of the variance will not be detrimental to the public health, welfare and safety.
- E. The variance will not vary any of the provisions of this Ordinance outside of those contained in Section 18 herein.

In approving a variance, the Town Board may apply fair and reasonable conditions that support one or more of the findings listed above. The Town Board shall not be required to hold a public hearing with association with the petition for a variance as herein called for.

*****Please refer to the 5 Findings of Fact listed above when making a decision*****

Submitted by: Lori Oakley, Planning & Zoning Administrator

VA-003046-2015
Kensington Drive Subdivision Variance
Aerial Map

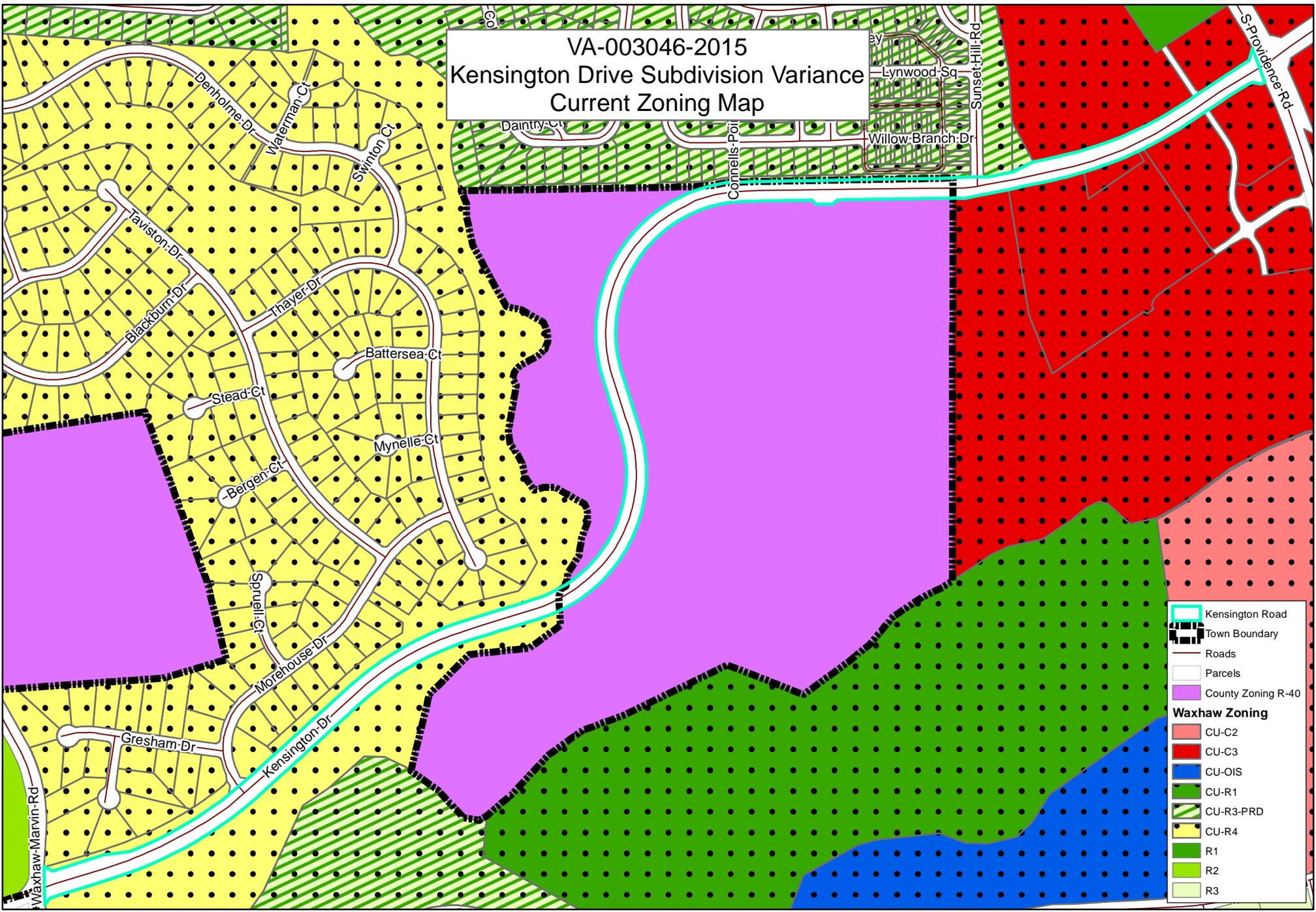


- Roads
- Kensington Road
- Town Boundary
- Parcels

Data Source & Disclaimer
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.



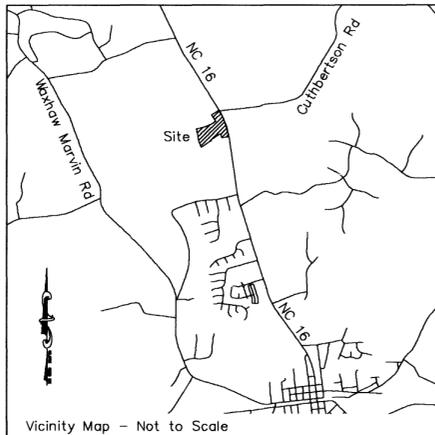
VA-003046-2015 Kensington Drive Subdivision Variance Current Zoning Map



0 230 460 920 1,380 1,840 Feet

Data Source & Disclaimer
Data provided by Union County GIS and Town of Waxhaw GIS. The Town of Waxhaw does not guarantee the accuracy of the information displayed. Map created January 2015.





Notes:

- Deed Reference(s) - DB 2069-66, 69
- Tax Parcel ID - 06162005, 06162005A
- Current Owner - Sandler Commercial at Union LLC, Sandler at Union LLC
- All bearings are NC Grid bearings.
- All distances are shown horizontal.
- Grid distance = Horizontal distance X Combined Grid Factor (0.99985982)
- Area - Total area: ±20.996 acres
 Tract 1: ±10.219 acres
 Tract 2: ±2.499 acres
 Tract 3: ±0.404 acres
 Outparcel 1: ±1.347 acres
 Outparcel 2: ±1.815 acres
 Outparcel 3: ±0.858 acres
 Outparcel 4: ±1.137 acres
 Right of Way: ±2.566 acres
- Areas have been determined by coordinate computation.
- Iron pins (#5 Rebar) or other monumentation (as shown) found or set at all property corners.
- Zoning - R-40
- The North Carolina Grid Coordinates shown on this map were derived by static differential GPS observations using Trimble 4700 Receivers and processed using Online Positioning User Service.

Vicinity Map - Not to Scale

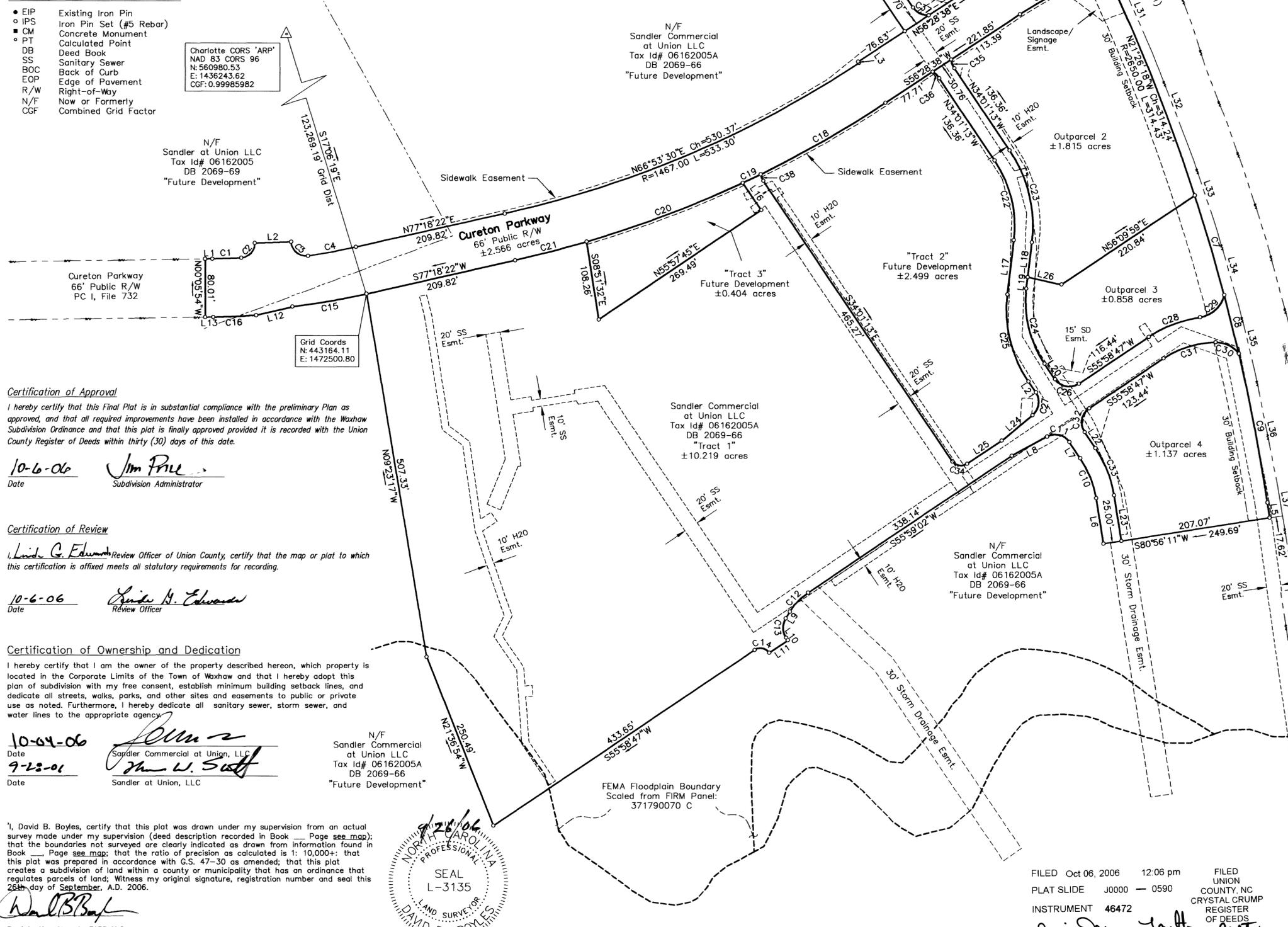
Legend

- EIP Existing Iron Pin
- IPS Iron Pin Set (#5 Rebar)
- CM Concrete Monument
- PT Calculated Point
- DB Deed Book
- SS Sanitary Sewer
- BOC Back of Curb
- EOP Edge of Pavement
- R/W Right-of-Way
- N/F Now or Formerly
- CGF Combined Grid Factor

Charlotte CORS 'ARP'
 NAD 83 CORS 96
 N: 560980.53
 E: 1436243.62
 CGF: 0.99985982

N/F
 Sandler at Union LLC
 Tax Id# 06162005
 DB 2069-69
 "Future Development"

N/F
 Sandler Commercial
 at Union LLC
 Tax Id# 06162005A
 DB 2069-66
 "Future Development"



CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	BEARING
C1	39.89	960.00	39.89	N87°55'15"E
C2	30.62	20.00	27.71	N42°52'24"E
C3	34.11	20.00	30.13	S49°12'22"E
C4	67.05	967.00	67.04	N79°17'34"E
C5	202.75	2635.00	202.70	N29°52'53"W
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C7	142.73	2650.00	142.72	N16°29'46"W
C8	83.50	2650.00	83.50	N14°33'01"W
C9	209.33	2650.00	209.27	N10°53'05"W
C10	59.89	137.50	59.42	N21°32'31"W
C11	34.61	23.50	31.57	N78°12'54"W
C12	36.86	87.50	36.58	S43°54'47"W
C13	28.17	24.50	26.64	S01°05'13"W
C14	22.78	14.50	20.51	N79°01'13"W
C15	103.43	1033.00	103.38	S80°10'28"W
C16	58.28	1040.00	58.27	S87°28'42"W
C17	79.68	652.00	79.63	S59°58'41"W
C18	198.56	1633.00	198.43	N60°11'16"E
C19	27.26	1633.00	27.26	N64°24'29"E
C20	229.77	1633.00	229.55	N69°12'40"E
C21	101.71	1633.00	101.69	N75°24'20"E
C22	115.94	162.50	113.50	N13°34'49"W
C23	133.78	187.50	130.96	N13°34'49"W
C24	108.91	152.50	106.61	S13°33'39"E
C25	126.64	177.50	123.98	S13°34'49"E
C26	36.91	23.50	33.23	S79°01'13"E
C27	34.63	23.43	31.56	N08°10'11"E
C28	76.33	168.00	75.68	S68°59'47"W
C29	48.25	39.50	45.31	N47°00'58"E
C30	37.17	39.50	35.81	N63°57'23"W
C31	76.28	132.00	75.22	S72°32'03"W
C32	36.91	23.50	33.23	S10°58'47"W
C33	70.78	162.50	70.22	N21°32'31"W
C34	23.56	15.00	21.21	S79°01'09"E
C35	12.86	24.50	12.71	S19°13'56"E
C36	12.95	25.43	12.81	N45°20'11"W
C37	25.23	24.50	24.13	S63°01'24"E
C38	9.87	24.50	9.81	S22°28'38"E

LINE TABLE		
LINE	LENGTH	BEARING
L1	9.93	N89°06'40"E
L2	50.01	N88°01'08"E
L3	2.00	N33°31'22"W
L4	15.00	S65°16'16"W
L5	20.99	N08°22'47"W
L6	63.90	N09°03'49"W
L7	26.83	N34°01'13"W
L8	54.93	S61°26'18"W
L9	10.71	S31°50'47"W
L10	4.38	S34°01'13"E
L11	31.00	S55°58'47"W
L12	51.18	S76°35'07"W
L13	11.03	S89°06'40"W
L14	44.65	N14°33'47"E
L15	36.72	N78°50'59"W
L16	45.37	N34°01'13"W
L17	74.90	N06°51'35"E
L18	48.03	N06°53'56"E
L19	16.03	N06°53'56"E
L20	25.72	N34°01'13"W
L21	17.93	N34°01'13"W
L22	26.47	S34°01'13"E
L23	63.90	S09°03'49"E
L24	54.93	N50°31'16"E
L25	57.24	N55°57'21"E
L26	47.52	S77°40'01"E
L27	52.65	S31°35'56"E
L28	73.24	S31°35'56"E
L29	110.58	S28°39'26"E
L30	86.44	S26°06'21"E
L31	126.81	S23°24'17"E
L32	144.33	S21°17'11"E
L33	113.66	S18°36'00"E
L34	106.95	S16°08'18"E
L35	99.85	S13°26'39"E
L36	155.84	S11°16'44"E
L37	42.20	S09°17'03"E
L38	8.22	S63°28'44"W

Certification of Approval

I hereby certify that this Final Plat is in substantial compliance with the preliminary Plan as approved, and that all required improvements have been installed in accordance with the Waxhaw Subdivision Ordinance and that this plat is finally approved provided it is recorded with the Union County Register of Deeds within thirty (30) days of this date.

10-6-06

Jim Price
 Subdivision Administrator

Certification of Review

I, *Linda G. Edwards*, Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

10-6-06

Linda G. Edwards
 Review Officer

Certification of Ownership and Dedication

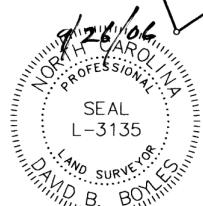
I hereby certify that I am the owner of the property described hereon, which property is located in the Corporate Limits of the Town of Waxhaw and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the appropriate agency.

10-04-06

John W. Saff
 Sandler Commercial at Union, LLC

N/F
 Sandler Commercial
 at Union LLC
 Tax Id# 06162005A
 DB 2069-66
 "Future Development"

I, David B. Boyles, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book ___ Page see map); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ___ Page see map; that the ratio of precision as calculated is 1:10,000+; that this plat was prepared in accordance with G.S. 47-30 as amended; that this plat creates a subdivision of land within a county or municipality that has an ordinance that regulates parcels of land; Witness my original signature, registration number and seal this 26th day of September, A.D. 2006.



Registration No.: L-3135 N.C.

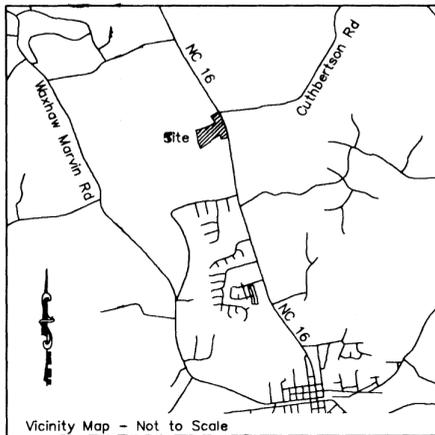
FILED Oct 06, 2006 12:06 pm
 PLAT SLIDE J0000 - 0590
 INSTRUMENT 46472
 FILED UNION COUNTY, NC
 CRYSTAL CRUMP REGISTER OF DEEDS
By: Joyce Latta - cert

Final Plat for Cureton Retail Phase 1 Map 1 Town of Waxhaw, Jackson Township, Union County, North Carolina

LandDesign Surveying Phone: (704) 376-7777
 Fax: (704) 376-2448
 223 North Graham St.
 Charlotte, NC 28202



Date: September 26, 2006
 Project Number: 4105080
 Revision 1:
 Revision 2:



- Notes:**
- Deed Reference(s) - DB 2069-66, PC J File 827
 - Tax Parcel ID - 06162005A
 - Current Owner - Sandler Commercial at Union LLC
 - All bearings are NC Grid bearings.
 - All distances are shown horizontal.
 - Grid distance = Horizontal distance X Combined Grid Factor (0.99985982)
 - Area - Total area: ±20.996 acres
 Tract 1: ±10.219 acres
 Tract 2: ±2.499 acres
 Tract 3: ±0.404 acres
 Outparcel 1: ±1.347 acres
 Outparcel 2: ±1.815 acres
 Outparcel 3: ±0.858 acres
 Outparcel 4: ±1.137 acres
 Right of Way: ±2.566 acres
 - Areas have been determined by coordinate computation.
 - Iron pins (#5 Rebar) or other monumentation (as shown) found or set at all property corners.
 - Zoning - R-40
 - The North Carolina Grid Coordinates shown on this map were derived by static differential GPS observations using Trimble 4700 Receivers and processed using Online Positioning User Service.
 - The offer of dedication to public use set forth in the Certification of Ownership and Dedication contained in this Final Plat shall, with respect to streets, walks and parks, be limited solely to the public right of way of Kensington Drive as shown hereon. Any other streets, walks or parks shown hereon are intended to remain private and are expressly excluded from said offer of dedication.
 - This Final Plat is intended to replace and supersede that certain Final Plat for Cureton Retail recorded at Cab. J, File 590 in the Union County registry.

- Legend**
- EIP Existing Iron Pin
 - IPS Iron Pin Set (#5 Rebar)
 - CM Concrete Monument
 - PT Calculated Point
 - DB Deed Book
 - SS Sanitary Sewer
 - ST Sight Triangle
 - BOC Back of Curb
 - EOP Edge of Pavement
 - PSD Public Storm Drainage
 - R/W Right-of-Way
 - N/F Now or Formerly
 - CGF Combined Grid Factor

Charlotte CORS 'ARP'
 NAD 83 CORS 96
 N: 560980.53
 E: 1436243.62
 CGF: 0.99985982

N/F
 Sandler at Union LLC
 Tax Id# 06162005
 DB 2069-69
 "Future Development"

N/F
 Sandler Commercial
 at Union LLC
 Tax Id# 06162005A
 DB 2069-66
 "Future Development"

Sandler Commercial
 at Union LLC
 Tax Id# 06162005C
 DB 2069-66
 "Tract 1"
 ±10.219 acres

"Tract 2"
 06162005D
 Future Development
 ±2.499 acres

Outparcel 3
 06162005H
 ±0.858 acres

Outparcel 4
 06162005J
 ±1.137 acres

N/F
 Sandler Commercial
 at Union LLC
 Tax Id# 06162005A
 DB 2069-66
 "Future Development"

N/F
 Sandler Commercial
 at Union LLC
 Tax Id# 06162005A
 DB 2069-66
 "Future Development"

Certification of Approval
 I hereby certify that this Final Plat is in substantial compliance with the preliminary Plan as approved, and that all required improvements have been installed in accordance with the Waxhaw Subdivision Ordinance and that this plat is finally approved provided it is recorded with the Union County Register of Deeds within thirty (30) days of this date.

9/19/2007
 Date
 Subdivision Administrator

Certification of Review
 I, Gas Nichols Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

9/21/07
 Date
 Review Officer

Certification of Ownership and Dedication
 I hereby certify that I am the owner of the property described hereon, which property is located in the Corporate Limits of the Town of Waxhaw and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the appropriate agency.

8/27/07
 Date
 Sandler Commercial at Union, LLC

8/28/07
 Date
 CVS 75280 NC, LLC

Department of Transportation
 Division of Highways

Right of Way on NC 16 (Providence Road) is hereby dedicated to and accepted by the North Carolina Department of Transportation.

Approved: [Signature] 9/4/07
 District Engineer Date

I, David B. Boyles, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book ___ Page ___ map); that the boundaries not surveyed are clearly indicated as drawn from information found in Book ___ Page ___ map; that the ratio of precision as calculated is 1:10,000+; that this plat was prepared in accordance with G.S. 47-30 as amended; that this plat creates a subdivision of land within a county or municipality that has an ordinance that regulates parcels of land; Witness my original signature, registration number and seal this 27th day of August, A.D. 2007.

[Signature]
 Registration No.: L-3135 N.C.



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LINE TABLE		
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L30	86.44	S26°06'21"E
L31	126.81	S23°24'17"E
L32	144.33	S21°17'11"E
L33	113.66	S18°36'00"E
L34	106.95	S16°08'18"E
L35	99.85	S13°26'39"E
L36	155.84	S11°16'44"E
L37	42.20	S09°17'03"E
L38	8.22	S63°28'44"W

Final Plat for Cureton Retail Phase 1 Map 1 - Revised
 Town of Waxhaw
 Jackson Township,
 Union County,
 North Carolina

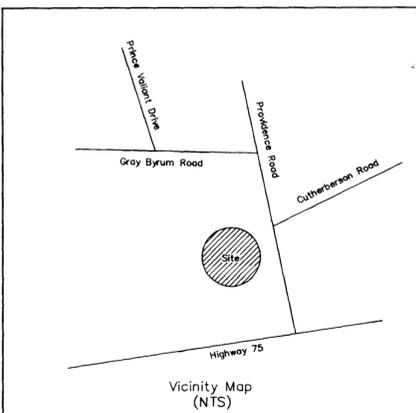
LandDesign Surveying
 Phone: (704) 376-7777
 Fax: (704) 376-2448
 223 North Graham St.
 Charlotte, NC 28202



Date: September 26, 2006
 Project Number: 4105080
 Revision 1: 8/27/07
 To clarify easements, and add notes 12&13

FILED Sep 21, 2007 12:05 pm
 PLAT SLIDE 0000K - 0225
 INSTRUMENT 42358
 FILED UNION COUNTY, NC
 CRYSTAL CRUMP REGISTER OF DEEDS
Cynthia O. Cump

E-732



Filed for Record in: 732
 Plot Cab. File: 0-4-2005
 Date: 9:50 A.M.
 CRISIA L. POHME Register of Deeds
 Union County, Monroe, North Carolina
 By: Serena Cicca
Deputy

Charlotte CORS
 N: 560980.53
 1436243.62

Certificate of Ownership and Dedication

I (We) hereby certify that I (We) am/are the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of Union County, that I hereby freely adopt this plan of subdivision and hereby establish all lots, with minimum building setback lines, and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be declared to be dedicated for any other public use authorized by law when such other use is approved by the Board of Commissioners in the public interest.

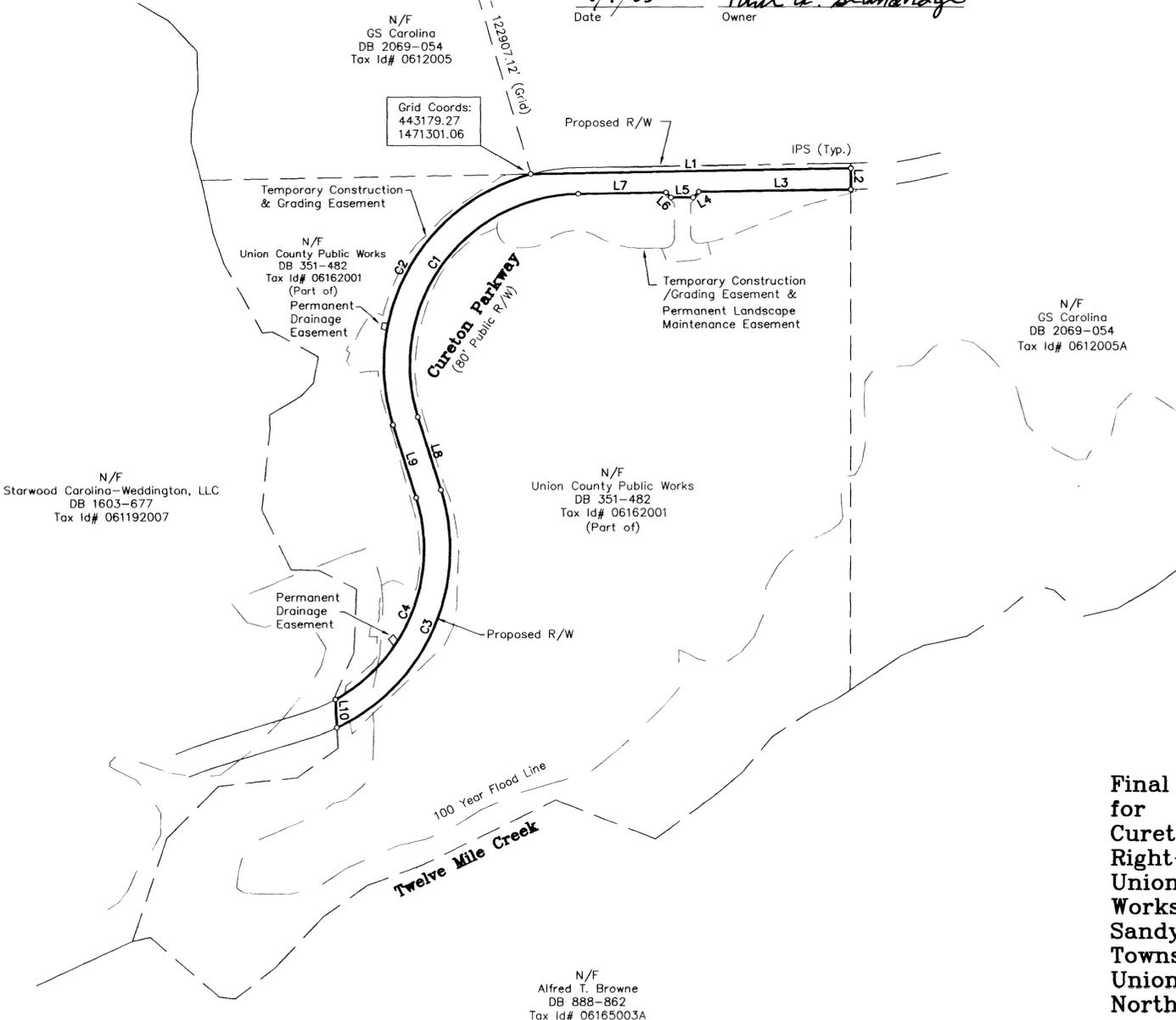
Date: 4/9/05 Owner: Paul A. Standridge

State of North Carolina
 County of Union

I, Lus Nichols, Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.
Lus Nichols 8/9/05
 Review Officer

- LEGEND**
- EIP EXISTING IRON PIN
 - IPS IRON PIN SET (#5 REBAR)
 - CM CONCRETE MONUMENT
 - PT CALCULATED POINT
 - UTILITY POLE
 - ☆ LIGHT POLE
 - ou— OVERHEAD UTILITY
 - x— FENCE LINE
 - G— GAS LINE
 - UT— UNDERGROUND TELEPHONE
 - SIGN
 - ⊙ SANITARY MANHOLE
 - CI CURB INLET
 - DI DRAIN INLET
 - FH FIRE HYDRANT
 - WM WATER METER
 - WV WATER VALVE
 - BOC BACK OF CURB
 - EOP EDGE OF PAVEMENT
 - R/W RIGHT-OF-WAY
 - N/F NOW OR FORMERLY
 - CGF COMBINED GRID FACTOR

- NOTES:**
1. Deed Reference(s) - Deed Book 351 Page 482
 2. Tax Parcel ID - 06162001
 3. Current Owner - Union County Public Works
 4. All bearings are NC Grid bearings.
 5. All distances are shown horizontal.
 6. Grid distance = Horizontal distance X Combined Grid Factor (0.99985982)
 7. Area - 5.040 Acres
 8. Areas have been determined by coordinate computation.
 9. Iron pins (#5 Rebar) or other monumentation (as shown) found or set at all property corners.
 10. Zoning - R-40
 11. This property may be subject to additional restrictions, easements, rights of way, utilities, covenants and restrictions that may be of record.
 12. This property is located in a special Flood Hazard Area as determined by the Department of Housing and Urban Development. Reference Community Panel Number: 37179 0070C Dated 7-5-94
 13. This survey was performed without benefit of a Title Commitment Report. LandDesign Surveying, Inc. does not claim that all matters of record which may affect the subject property are shown hereon.
 14. The location of underground utilities shown on this map are approximate, based on information provided by others or by field location. Utility locations as shown hereon are intended for planning only. Actual location, size or depth of line should be verified with the individual utility company before construction.
 15. The North Carolina Grid Coordinates shown on this map were derived by static differential GPS observations using Trimble 4700 Receivers and processed using Online Positioning User Service.



N/F
 Starwood Carolina-Weddington, LLC
 DB 1603-677
 Tax Id# 061192007

N/F
 Union County Public Works
 DB 351-482
 Tax Id# 06162001
 (Part of)

N/F
 GS Carolina
 DB 2069-054
 Tax Id# 0612005A

N/F
 Alfred T. Browne
 DB 888-862
 Tax Id# 06165003A

Grid Coords:
 443179.27
 1471301.06

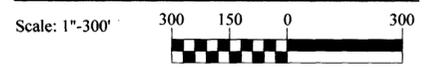


78054

**Final Plat
 for
 Cureton Parkway
 Right-of-Way
 Union County Public
 Works
 Sandy Ridge
 Township
 Union County,
 North Carolina**



223 North Graham Street
 Charlotte, NC 28202
 Phone: (704) 376-7777
 Fax: (704) 376-2448



Date: September 7, 2004
 Project Number: 4103019
 Revision 1:
 Revision 2:

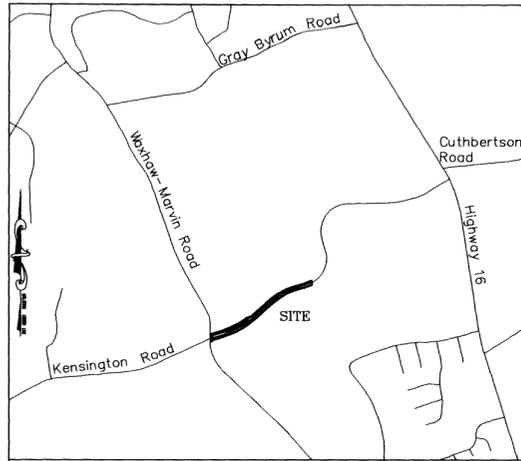
I, David B. Boyles, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 351, Page 482); that the boundaries not surveyed are clearly indicated as drawn from information found in Book See, Page Map; that the ratio of precision as calculated is 1: 10,000+ this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this 28th day of Oct., A.D. 2004. This Plat creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.

David B. Boyles
 Land Surveyor
 L-3135
 Registration No.

LINE	LENGTH	BEARING
L1	978.90	N88°59'22"E
L2	80.01	N00°05'54"W
L3	465.30	N89°06'40"E
L4	23.91	N44°32'18"E
L5	67.45	N90°00'00"E
L6	22.10	S45°28'59"E
L7	268.54	N89°06'40"E
L8	235.30	N17°31'52"W
L9	235.30	N17°31'52"W
L10	87.36	N03°12'22"W

CURVE	LENGTH	RADIUS	CHORD	BEARING
C1	977.16	525.00	842.10	S35°47'24"W
C2	980.50	605.00	876.66	N28°53'51"E
C3	869.64	605.00	796.68	N23°38'53"E
C4	721.95	525.00	666.39	N21°51'50"E

CABI FILE 732



Vicinity Map - Not to Scale

Legend

- EIP Existing Iron Pin
- IPS Iron Pin Set (#5 Rebar)
- R/W Right-of-Way
- N/F Now or Formerly

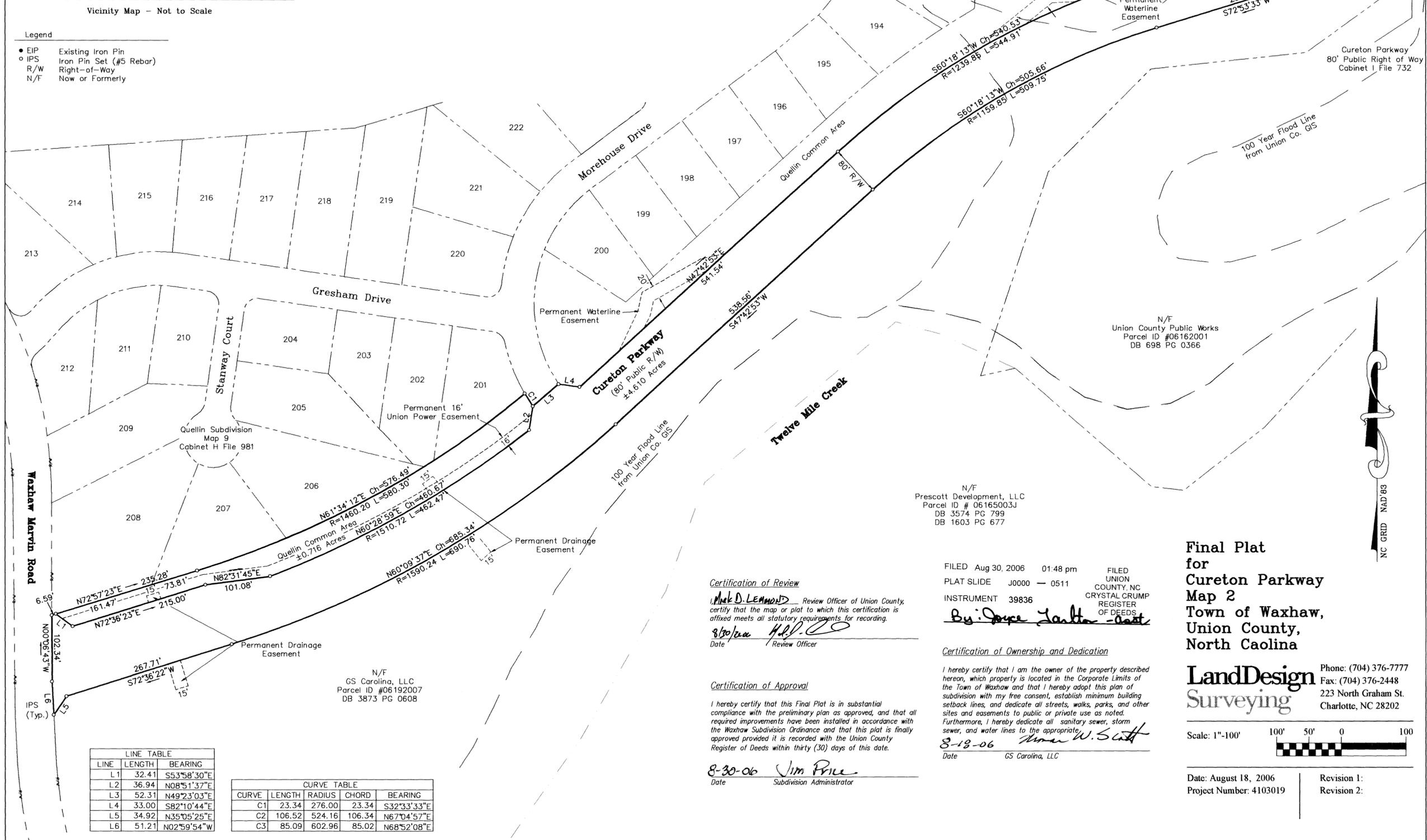
Notes:

1. Deed Reference(s) - DB 3873 PG 0608
2. Tax Parcel ID - 06192007A, & B
3. Current Owner - GS Carolina, LLC
4. All bearings are NC Grid bearings.
5. All distances are shown horizontal.
6. Grid distance = Horizontal distance X Combined Grid Factor (0.999864246)
7. R/W Area - ±4.610 Acres
COS Area - ±0.716 Acres
Total Area - ±5.326 Acres
8. Areas have been determined by coordinate computation.
9. Iron pins (#5 Rebar) or other monumentation (as shown) found or set at all property corners.
10. Zoning - R-20
11. Portions of this property are located in a special Flood Hazard Area as determined by the Department of Housing and Urban Development. Reference Community Panel Number: 37179C0070 C, Dated: July 5, 1994.
12. This survey was performed without benefit of a Title Commitment Report. LandDesign Surveying, Inc. does not claim that all matters of record which may affect the subject property are shown herein.
13. The North Carolina Grid Coordinates shown on this map were derived by static differential GPS observations using Trimble 4700 Receivers and processed using Online Positioning User Service.

I, David B. Boyles, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book see map, Page ____); that the boundaries not surveyed are clearly indicated as drawn from information found in Book see map, Page ____; that the ratio of precision as calculated is 1: 10,000+ this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this 18th day of August, A.D. 2006. This Plat creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.



David B. Boyles
Land Surveyor
L-3135



LINE	LENGTH	BEARING
L1	32.41	S53°58'30"E
L2	36.94	N08°51'37"E
L3	52.31	N49°23'03"E
L4	33.00	S82°10'44"E
L5	34.92	N35°05'25"E
L6	51.21	N02°59'54"W

CURVE	LENGTH	RADIUS	CHORD	BEARING
C1	23.34	276.00	23.34	S32°33'33"E
C2	106.52	524.16	106.34	N67°04'57"E
C3	85.09	602.96	85.02	N68°52'08"E

Certification of Review

Mike D. Lemmond Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.
8/30/06 *Mike D. Lemmond*
Date Review Officer

Certification of Approval

I hereby certify that this Final Plat is in substantial compliance with the preliminary plan as approved, and that all required improvements have been installed in accordance with the Waxhaw Subdivision Ordinance and that this plat is finally approved provided it is recorded with the Union County Register of Deeds within thirty (30) days of this date.
8-30-06 *Jim Price*
Date Subdivision Administrator

FILED Aug 30, 2006 01:48 pm
PLAT SLIDE J0000 - 0511
INSTRUMENT 39836
By: *James Lanter*
NORTH CAROLINA COUNTY, NC CRYSTAL CRUMP REGISTER OF DEEDS

Certification of Ownership and Dedication

I hereby certify that I am the owner of the property described herein, which property is located in the Corporate Limits of the Town of Waxhaw and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the appropriate.
8-18-06 *James W. Scott*
Date GS Carolina, LLC

Final Plat for Cureton Parkway Map 2 Town of Waxhaw, Union County, North Carolina

LandDesign Surveying Phone: (704) 376-7777 Fax: (704) 376-2448 223 North Graham St. Charlotte, NC 28202



Date: August 18, 2006 Project Number: 4103019 Revision 1: Revision 2:

**Minutes of the Waxhaw Planning Board
Town of Waxhaw, NC
December 15, 2014**

The Waxhaw Planning Board met in regular session Monday, December 15, 2014 at 6:30 p.m. at the Waxhaw Police Department Community Room.

Regular Meeting

1. Call to Order

Chairman Godfrey called the meeting to order at 6:30 p.m.

2. Roll Call and Determination of Quorum

A roll call and determination of quorum was made.

Present: Chairman Godfrey, Bob Morgan, John Cannamela, Michael Kreimer, Dan Gingrich, James Mathieson, Staff McCarter, Staff Oakley, and Recording Secretary Oliver.

Absent: Vice-Chair Underwood, Fred Burrell, and Thomas Dwyer.

3. Work Session

NONE

4. Unfinished Business

NONE

5. New Business

- A. *Petition TA-002916-2014 – A request by the Waxhaw Commerce, LLC to amend Section 21 *Downtown Code*, and Section 8 *Definitions* to remove the maximum lot width in the TC (Town Center) zoning district, allow live-work units in the TC zoning district, and revise the live-work unit supplemental regulations. ***[PRIOR TO CONSIDERATION, APPLICANT AND STAFF REQUEST THIS ITEM BE REMOVED FROM THE AGENDA]**

Michael Kreimer motioned to remove TA-002916-2014 from the agenda. Dan Gingrich seconded. The motion passed unanimously, (6-0).

- B. Petition CU-002567-2014 – A request by the applicant, Tommy Holevas on behalf of Waxhaw Park, LLC, for an amendment to the CUP (Conditional Use Permit) for Waxhaw Park Shopping Center to change eleven small buildings on the approved CUP plan to four larger buildings, and allow a church use on parcel # 06-141-007.

Staff McCarter gave a presentation on CU-002567-2014 (see attached).

Tommy Holevas stated that when he originally built the first building, on the back portion of the property, he thought everything was approved. He stated that he found out that phase 4 was not approved when he contacted planning staff about constructing a building for a church that wanted to locate in town. Tommy Holevas stated that he was now not sure if the church would be locating on his property. He stated that if the church is a point of contention he can remove the use from the plans.

Chairman Godfrey asked what would go into the building if it was not used as a church. Tommy Holevas stated that the building would be built as an office/medical building.

Staff Oakley clarified that the CUP request is to allow for the many small buildings originally proposed, to be combined into fewer, larger buildings as well as to allow a church use on the site.

Chairman Godfrey stated that he would like to add a condition that a police officer must direct traffic for church services.

There was a discussion about turn lanes into the site.

Tommy Holevas stated that the square footage of the plan has not changed from the original CUP but the number of buildings that will make up the total square footage has decreased.

Dan Gingrich asked if the retention pond was going to be permanently filled or if it would only fill after a storm. He stated that the fire department had concerns about the retention pond during their review of the plan. Tommy Holevas stated that the pond was for storm water retention.

Dan Gingrich stated that he was concerned about traffic from the church during the week. Tommy Holevas stated that the church would only meet on the weekends and that it would look just like the other buildings.

Staff Oakley stated that if there was a concern about traffic during the week that the Planning Board could add conditions to only allow church services to be held on the weekends as long as the applicant was willing to agree to the conditions.

John Cannamela asked about the possibility of the proposed church hosting college classes and if the Planning Board could put a condition on the CUP to not allow that use. Staff Oakley stated that a condition could be added. John Cannamela asked if the condition would still be in place even if Tommy Holevas sold the buildings. Staff Oakley stated that any future owner would have to go through the CUP process again to change the conditions.

James Mathieson asked about the shared parking and the church only operating on the weekend and about the possibility of the building not being used as a church. He asked if there would be enough parking for the office tenants. Tommy Holevas stated that the formerly approved plans had the same amount of parking as the proposed amendments.

Michael Krimmer asked about a situation in where the church was very successful and fills up the parking lot, whether it would be easy to get cars back out of the lot. Tommy Holevas stated that the driveway would be able to accommodate the amount of traffic that the church might create.

Chairman Godfrey called for a motion on the case.

Michael Kreimer stated that he wasn't sure whether the Planning Board was voting on one or two items. There was a discussion about how to make the motion.

Dan Gingrich stated that he feels like they are voting on two things. One to allow 11 small buildings to become 4 larger buildings and the second is to allow a church as a use. Chairman Godfrey stated that he felt the Planning Board was voting on one item. He stated that conditions could be included with the motion such as restricting church services to the weekend and having a police officer direct traffic.

John Cannamela stated that holiday's do not always fall on a weekend so if Christmas falls onto a Tuesday they would want to hold a service.

There was a discussion about the church operating on holidays.

Staff Oakley stated that the Planning Board can break the motion down into two separate parts.

Michael Kreimer motioned to send a favorable recommendation to the Board of Commissioners on allowing 11 small buildings to be combined into 4 buildings and to have the applicant reapply for a CUP amendment if they want to allow a church use on the site.

There were concerns discussed about allowing the church use and the concerns with parking and traffic.

Staff Oakley stated that a second is needed to the vote on the motion that is on the floor.

Chairman Godfrey asked Michael Kreimer why he thought not allowing a church at this time was for the best. Michael Kreimer stated that the church opens more unanswered questions about parking and traffic.

There was a discussion about conventions centers and other high intensity uses.

Dan Gingrich stated that we have to confirm with planning staff that there is enough parking for a regular office use rather than a church use. Staff Oakley stated that it would be approved for 167 spaces and that may or may not be enough spaces according to the prescribed use.

There was further discussion that about required parking and how to calculate it based on use.

Dan Gingrich stated that the motion should include that the parking requirements would be correct based on use.

Michael Kreimer withdrew his motion.

Dan Gingrich made a motion to send a favorable recommendation to the Board of Commissioners to reduce the number of buildings from 11 to 4 with the contingency that the parking meets the 2007 UDO requirements and that the church use is removed from the plan at this time. James Mathieson seconded. The motion passed unanimously, (6-0).

- C. Reschedule January 19, 2015 Planning Board meeting due to Martin Luther King holiday.

Michael Kreimer motioned to reschedule the January 19, 2015 Planning Board regular meeting to January 20, 2015. John Cannamela seconded. The motion passed unanimously, (6-0).

6. Other Business - Update on previous case(s) heard by the Planning Board

Staff Oakley stated that Planning Board had one case in October, the Berger Day Care. Angela Berger requested more time before the case went to the Board of Commissioners. Staff Oakley also gave everyone a reminder about the committee holiday party and stated that it's a drop in event.

7. Minutes for correction and approval: October 20, 2014 regular meeting

Dan Gingrich motioned to approve the minutes from the October 20, 2014 regular meeting. John Cannamela seconded. The motion passed unanimously, (6-0).

10. Adjournment

John Cannamela motioned to adjourn the meeting at 7:19 pm. Dan Gingrich seconded. The motion passed unanimously, (6-0).

The meeting adjourned at 7:19 p.m.

Respectfully Submitted,

Chairman, David Godfrey

Recording Secretary, Maxx Oliver

Town of Waxhaw Planning Board

Waxhaw Police Department Community Meeting Room
Monday December 15, 2014

TA-002916-2014

Petition TA-002916-2014 is a request by the Waxhaw Commerce, LLC to amend Section 21 *Downtown Code*, and Section 8 *Definitions* to remove the maximum lot width in the TC (Town Center) zoning district, allow live-work units in the TC zoning district, and revise the live-work unit supplemental regulations and definition to remove the requirement that the same tenant occupy the live and work area.

Removal from Agenda

Prior to consideration, applicant and staff request this item be removed from the agenda.

Proposed Changes

Section 8.2 Definitions, live-work units

Delete common tenant and dual occupancy requirement to allow different tenants in the live and work areas.

Live-Work Units - An attached residential building type with a small commercial enterprise on the ground floor and a residential unit above or behind with a common tenant in both spaces (~~no dual occupancy~~).

Proposed Changes

Section 21.3.1 Table of Permitted Uses, A. Residential

Add live-work units to the table of uses chart as a use permitted in the TC zoning district with supplemental regulations.

Section 21.3.2.A.3. Live-Work Units (supplemental regulations)

Modify a. to require the maximum square footage for living area is 3,000 square feet and the maximum height of the building is three feet.

Delete d. which requires the same tenant to occupy the work area and living area.

Proposed Supplemental Regulations

21.3.2.A Residential Uses & Functions

3. Live-Work Units: Construction shall meet the requirements of the North Carolina Building Code, and built to commercial standards subject to the following:

- a. The maximum total size of the living area in a Live-Work unit is 3000 square feet and a live-work building is limited to three stories in height.
- b. The non-residential area function shall be limited to the first or main floor only, and must occupy the portion of the building facing the street.
- c. The work area shall occupy 50% or less of the total unit.
- ~~d. The same tenant shall occupy the work area and living area.~~

Proposed Changes

21.4.4 Town Center

A. BUILDING HEIGHT

- a. Principal Building 16 ft. min. 4 stories, 72 ft. max.
- b. Accessory Building 1 story max.

B. LOT OCCUPATION

- 1. Lot Width 18 ft. min. ~~96 ft. max.~~
- 2. Lot Coverage 100% max.

Planning Staff Analysis

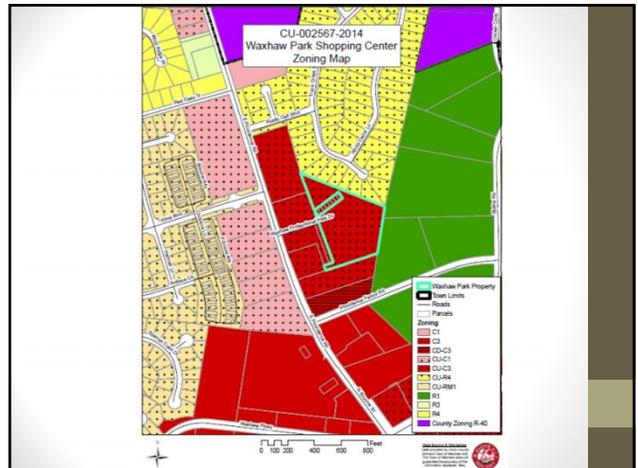
The applicant represents two parcels currently zoned C-2 (Highway Commercial) that are adjacent to parcels zoned TC and NMX (Neighborhood Mixed Use) in the downtown area. The applicant is going to submit a rezoning request to zone the property TC. The two parcels combined are over 20 acres of property, and the applicant would like to make the modifications to the TC requirements and definition of live-work units to provide greater flexibility to potential buyers. The changes would be in keeping with current market demands for larger properties to locate larger buildings. The requested changes would also allow live-work units in TC and allow the flexibility to have a different tenant in the living and working areas of live-work units.

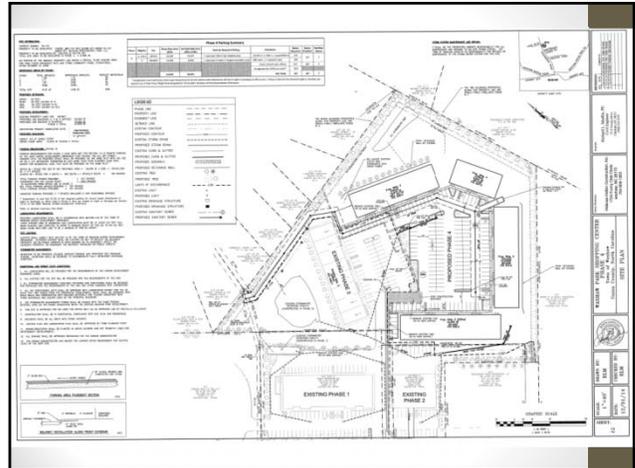
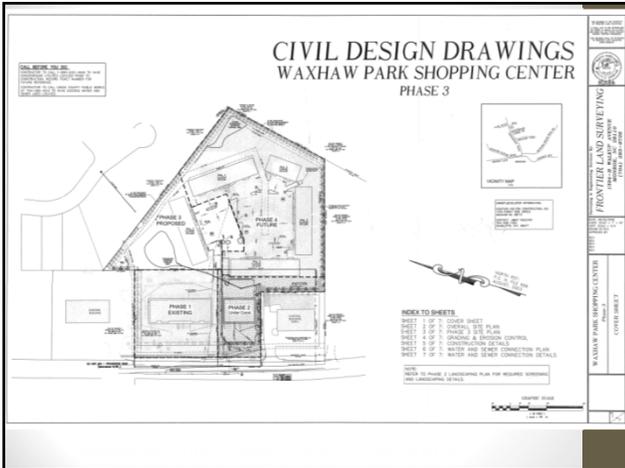
Planning Staff Recommendation

Planning Staff recommends approval of TA-002916-2014. The proposed text amendment will result in more flexible lot width standards in response to market demands, allow live-work units in the TC zoning district and allow different tenants for the living and working areas of live-work units. This will allow vacant property to be developed and create more business and residential units in the downtown.

CU-002567-2014 WAXHAW PARK SHOPPING CENTER CONDITIONAL USE PERMIT AMENDMENT

CU-002567-2014 is a request by the applicant, Tommy Holevas on behalf of Waxhaw Professional Park, LLC, for an amendment to the CUP (Conditional Use Permit) for Phase 4 of Waxhaw Park Shopping Center to change the eleven small buildings on the approved CUP plan to four larger buildings with a different configuration to tie into the existing Phase 3 of the shopping center, and also allow a church use. Phase 4 is located on the eastern side of tax parcel number 06-141-007 off Waxhaw Professional Park Drive behind the Napa Auto Parts & Snap Fitness buildings.





Parking

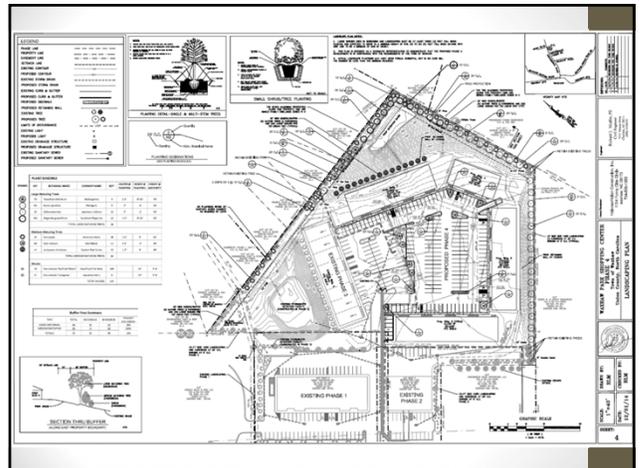
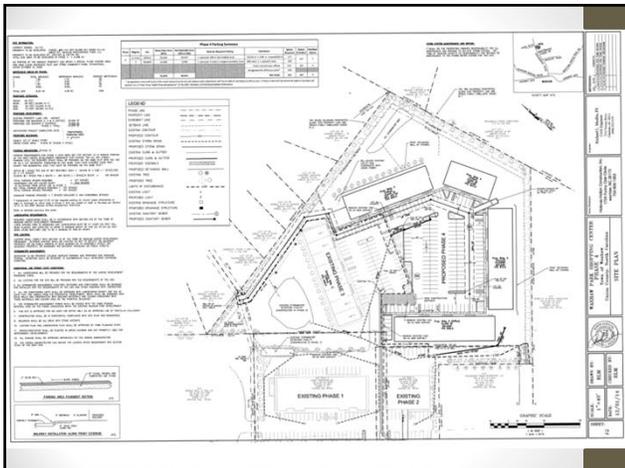
This project is regulated by the Unified Development Ordinance that was in effect at the time of approval on April 10, 2007. Therefore, this request has been reviewed under those regulations.

- Total required: 217

Parking

The former UDO regulations at the time of approval, there was a provision for Day Time/Night Time Assignments which stated:

One-half the required parking spaces for churches, theaters, or assembly halls whose peak attendance is at night or on Sundays may be assigned to a use which will be closed at night or Sundays.





2030 Comprehensive Plan

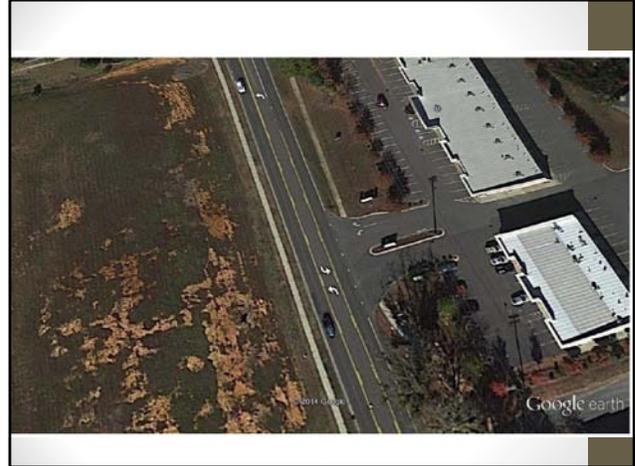
- **Commercial / Retail**
- **Providence Road Corridor**

Staff Recommendation

- The CUP amendment plan meets the requirements of the UDO that were in effect at the time of approval.
 - Parking
 - Landscaping
 - Buffering
- The church use does not meet the conditions of the original CUP, which only allowed office uses that were permitted in the OIS (Office, Institutional and Specialty) zoning district, however the applicant proposes to change the conditions to allow church use.
- The church use does not meet the recommendation of the 2030 Comprehensive Plan Future Land Use map, however the Town of Waxhaw has initiated an update to this plan.

Staff Recommendation

- A condition on the original CUP plan stated that buildings could not be combined or enlarged. The applicant proposes to remove this condition. The amended plan is more consistent with the earlier phases since it was shown as future development on previous plans.
- Staff recommends approval of the proposed CUP amendment.
 - Staff recommends the church use implement special traffic measures such as hiring an off-duty policer to direct traffic during services and functions to ensure traffic flow is maintained on Highway 16.



Findings of Fact

In approving an application for a conditional use permit, the Board of Commissioners may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners.

The Board of Commissioners shall issue a conditional use permit if it has evaluated an application and determined that:

- A. That the use requested is among those listed as an eligible Conditional Use in the District in which the subject property is located or is to be located.
- B. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed.
- C. That the Conditional Use meets all required conditions and specifications; and
- D. That the location and character of the Conditional Use if developed according to the plan as proposed will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Waxhaw and its environs.

CONDITIONAL USE PERMIT (CUP) CONDITIONS:

1. ALL LANDSCAPING WILL BE PROVIDED PER THE REQUIREMENTS OF THE UNIFIED DEVELOPMENT ORDINANCE (UDO).
2. ALL LIGHTING FOR THE SITE WILL BE PROVIDED PER THE REQUIREMENTS OF THE UDO.
3. ALL STORMWATER MANAGEMENT FACILITIES, FEATURES AND STRUCTURES SHALL BE DESIGNED AND INSTALLED PER THE REQUIREMENTS OF THE UDO AND OTHER AGENCIES WITH JURISDICTION.
4. ALL AIR CONDITIONING UNITS SHALL BE SCREENED WITH LANDSCAPING EXCEPT FOR THE AC UNITS THAT ARE VISIBLE FROM THE RESIDENTIAL DEVELOPMENT, WHICH SHALL BE SCREENED WITH SOLID WALLS AND CONSTRUCTED WITH BUILDING MATERIALS AND COLORS CONSISTENT WITH THOSE MATERIALS AND COLORS USED ON THE PRINCIPAL BUILDINGS.
5. THE STORMWATER MANAGEMENT PONDS SHALL BE FENCED WITH THE SAME FENCING MATERIAL USED ON THE PONDS ASSOCIATED WITH THE EXISTING WAXHAW PARK DEVELOPMENT.
6. THIS SITE IS APPROVED FOR OIS USES FOR OFFICE ONLY AS AN APPROVED USE BY RIGHT AND CHURCHES.
7. CONSTRUCTION SHALL BE IN SUBSTANTIAL COMPLIANCE WITH SITE PLAN AND RENDERINGS.
8. BUILDINGS SHALL BE ALL BRICK WITH STONE ACCENTS.
10. LIGHTING PLAN AND LANDSCAPING PLAN SHALL BE APPROVED BY TOWN PLANNING STAFF.
11. GRASS/VEGETATION SHALL BE PLANTED IN AREAS CLEARED AND NOT PROMPTLY USED FOR IMPROVEMENT (DEVELOPMENT).
12. ALL SIGNAGE SHALL BE APPROVED SEPARATELY BY THE ZONING ADMINISTRATOR.
13. THE ZONING ADMINISTRATOR HAS WAIVED THE LOADING SPACE REQUIREMENT PER SECTION 12.9.C OF THE 2007 UDO.

