



K&L GATES LLP
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October 1, 2014

Collin W. Brown
collin.brown@klgates.com

T +1 704.331.7531
F +1 704.353.3231

VIA HAND DELIVERY

Ms. Kathi Ingrish, Planning Director
Town of Matthews
232 Matthews Station Street
Matthews, NC 28105

Re: Rezoning Application filed by Justin Karas to Rezone a Site located at the Southeast corner of the intersection of E. Independence Boulevard and Sam Newell Road from the Conditional Zoning District to the B-1 (CD) Zoning District (Tax Parcel No. 193-303-12)

Dear Kathi:

This letter is being submitted with the above-captioned Rezoning Application pursuant to the requirements of Paragraph 13 of the Instructions for Filing an Application for a Change in a Zoning Classification (the "Instructions"). As you are aware, Paragraph 13 of the Instructions requires the Applicant to submit documentation regarding the land use recommendations for the rezoning site as set out in adopted land use plans and a statement as to how this rezoning proposal complies with such recommendations.

The rezoning site is currently zoned Conditional. Pursuant to this Rezoning Application, the Applicant is requesting that the 1.1 acre rezoning site be rezoned from the Conditional zoning district to the B-1 (CD) zoning district to allow it to renovate the existing building, add parking spaces, install new signage, and to remove the rezoning site from an outdated zoning district and place it in the current B-1 (CD) zoning district. The Applicant is not seeking to intensify the development of the rezoning site, other than to allow a potential 1,000 square foot increase in the floor area. The rezoning site would continue to be utilized for a retail/service businesses, namely, a restaurant (without drive through service) and retail sales.

The rezoning site is located within an existing commercial development on an existing commercial corridor, East Independence Boulevard. The Town of Matthews Land Use Plan 2012-2022 (the "Plan") does not appear to make any specific land use recommendations for the rezoning site. However, the Plan does appear to recognize the existing commercial land uses

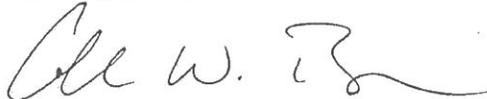
Ms. Kathi Ingrish
October 1, 2014
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along the relevant portions of East Independence Boulevard and the commercial land use of the rezoning site.

Since this Rezoning Application does not seek to change the land use of the rezoning site and will maintain its existing commercial land use, and since the primary purposes of this rezoning request are to allow the Applicant to renovate the existing building, add parking spaces, install new signage on the building, and to update the zoning designation for the rezoning site to the current B-1 (CD) zoning district, the Applicant respectfully submits that the proposed rezoning request is consistent with the Plan and supportive of the Town of Matthews' land use policies.

The Applicant and I look forward to working with you on this rezoning request. Should you have any questions or comments, please do not hesitate to call me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Collin W. Brown". The signature is fluid and cursive, with a large initial "C" and a stylized "W".

Collin W. Brown

October 1, 2014

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232 Matthews Station Street
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Dear Kathi:

I hope this letter finds you well.

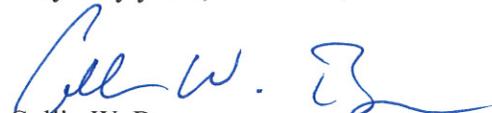
In connection with the above-captioned Rezoning Application, and pursuant to Section 10 of the Instructions for Filing an Application for a Change in a Zoning Classification or Change in Conditions for Property in the Town of Matthews, I hereby request, on behalf of the Petitioner, Justin Karas, a waiver of the required traffic study. In support of this request, I respectfully submit the following for consideration.

Pursuant to this rezoning request, the Petitioner seeks to rezone the site to allow it to renovate the existing building, add parking spaces, install new signage on the building, and to rezone the site from the outdated Conditional zoning district to the current B-1 (CD) zoning district. The Petitioner does not seek to intensify the development of the site, other than to allow a potential 1,000 square foot increase in the floor area in the future.

The additional vehicular trips that would be generated by a 1,000 square foot expansion in floor area are not sufficient to warrant the preparation and submission of a traffic study in the Petitioner's view.

On behalf of the Petitioner, we appreciate your consideration of this request.

Very truly yours,


Collin W. Brown



DATE FILED	<u>10-1-14</u>
APPLICATION NUMBER	<u>2014-622</u>
For office use only	

**APPLICATION FOR CHANGE IN ZONING CLASSIFICATION
OR CHANGE IN CONDITIONS
(SEE FILING INSTRUCTIONS)**

TO: Town of Matthews Board of Commissioners
Town of Matthews Planning Board
232 Matthews Station Street
Matthews, North Carolina 28105-6713

Ladies and Gentlemen:

Your consideration of this petition is requested for:

- A change in zoning classification of the property hereinafter described; or
- A change in conditions to an existing conditional zoning plan.

Tax parcel number(s): 193-303-12

Address of property: 9603 E. Independence Boulevard, Matthews

Location of property:

Southeast corner of the intersection of E. Independence Blvd. and Sam Newell Road.

Title to the property was acquired on 3-15-1994
and was recorded in the name of Michael and Julia Todd
whose mailing address is 17900 Culross Lane, Charlotte, NC 28278

The deed is recorded in Book 07702 and Page 772 in the office of the Register of Deeds for Mecklenburg County.

Present zoning classification: Conditional Requested zoning classification: B-1 (CD)

List reason(s) why zoning should be changed (use separate sheet if necessary):

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The rezoning will allow the building architecture and signage to be updated. Additionally, Petitioner seeks to add on-site parking in order to accommodate a restaurant use. These changes will allow the site to be redeveloped and returned to viable use.

Michael Eugene Todd
Signature of property owner (must be original)

Michael Eugene Todd

Print name of property owner
17900 Culross Lane

Property owner's mailing address
Charlotte, NC 28278

Property owner's mailing address, continued

Property owner's mailing address, continued

704-583-2826
j.todd31@bellsouth.net
Property owner's phone number/email address

Collin W. Brown
Signature of agent (if any)

Collin W. Brown / Bailey Patrick, Jr.

Print name of agent
Hearst Tower, 47th Floor, 214 North Tryon St.

Agent's mailing address
Charlotte, NC 28202

Agent's mailing address, continued

Agent's mailing address, continued

704.331-7531 collin.brown@kkgates.com
Agent's phone number/email address

Julia L. Todd
Signature of property owner (must be original)

Julia L. Todd

Print name of property owner
17900 Culross Lane

Property owner's mailing address
Charlotte, NC 28278

Property owner's mailing address, continued

Property owner's mailing address, continued

704-583-2826
j.todd31@bellsouth.net
Property owner's phone number/email address

Justin Karas
Petitioner other than owner (if any)

Print name of petitioner
Post Office Box 12515

Petitioner's mailing address
Charlotte, NC 28220

Petitioner's mailing address, continued

Petitioner's mailing address, continued

704.796-3720 Justin@karashospitality.com
Petitioner's phone number/email address

List all tax parcel numbers, names, and mailing addresses of all property owners subject to notification of this zoning application. Attach additional sheets if necessary.

See item #7 in instruction sheet titled "Instructions for Filing an Application for a Change in Zoning Classification or Change in Conditions for Property located in the Town of Matthews."

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2014-622

For office use only

19319204

TAX PARCEL

Town of Matthews

PROPERTY OWNER NAME(S)

232 Matthews Station St

OWNER MAILING ADDRESS

Matthews, NC 28105

OWNER MAILING ADDRESS, CONTINUED

19319207

TAX PARCEL

Western Auto Supply Co, Advance Auto Parts

PROPERTY OWNER NAME(S)

P.O. Box 2710

OWNER MAILING ADDRESS

Roanoke, VA 24001

OWNER MAILING ADDRESS, CONTINUED

19319208

TAX PARCEL

East Independence Prop c/o Dr Fletcher Keith

PROPERTY OWNER NAME(S)

4010 Triangle Drive

OWNER MAILING ADDRESS

Charlotte, NC 28208

OWNER MAILING ADDRESS, CONTINUED

19319210

TAX PARCEL

Tae Kyu Park, Oh Sean

PROPERTY OWNER NAME(S)

3216 Old Monroe Road

OWNER MAILING ADDRESS

Stallings, NC 28104

OWNER MAILING ADDRESS, CONTINUED

19322105

TAX PARCEL

Brian Timothy Boyd, Gina Paulette Boyd

PROPERTY OWNER NAME(S)

179 Niblick Rd #430

OWNER MAILING ADDRESS

Paso Robles, CA 93446

OWNER MAILING ADDRESS, CONTINUED

19323121

TAX PARCEL

C4 Elion LLC, c/o Crosland Southeast

PROPERTY OWNER NAME(S)

201 S. College Street #130

OWNER MAILING ADDRESS

Charlotte, NC 28202

OWNER MAILING ADDRESS, CONTINUED

19323122

TAX PARCEL

R&M Properties

PROPERTY OWNER NAME(S)

170 Wind Chime Court

OWNER MAILING ADDRESS

Raleigh, NC 27615

OWNER MAILING ADDRESS, CONTINUED

19330306

TAX PARCEL

McDonalds Corp

PROPERTY OWNER NAME(S)

14644 Barney Drive

OWNER MAILING ADDRESS

Charlotte, NC 28227

OWNER MAILING ADDRESS, CONTINUED

List all tax parcel numbers, names, and mailing addresses of all property owners subject to notification of this zoning application. Attach additional sheets if necessary.

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19330309
TAX PARCEL

SC Windsor Associates LP
PROPERTY OWNER NAME(S)

340 Royal Poinciana Way #316
OWNER MAILING ADDRESS

Palm Beach, FL 33480
OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

19330312
TAX PARCEL

Michael Eugene Todd, Julia L. Todd
PROPERTY OWNER NAME(S)

17900 Culross Lane
OWNER MAILING ADDRESS

Charlotte, NC 28278
OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

19330315
TAX PARCEL

SC Windsor Associates LP
PROPERTY OWNER NAME(S)

#249 c/o Kohl's Department Stores
N56 W17000 Ridgewood Drive
OWNER MAILING ADDRESS

Menomonee Falls, WI 53051
OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

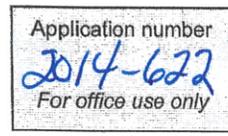
OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED



SUMMARY OF THE REZONING PROCESS

PETITIONER: Fill in dates for each action below before filing application. Refer to the current Planning Department rezoning schedule for correct dates.

PROPERTY OWNERS: These dates are assumed to be correct at the time of zoning application submittal but are subject to revision. Contact the Planning Department (704-847-4411 or email mjgollnitz@matthewsnc.gov) for verification.

Application submitted to and accepted by the Town of Matthews October 1, 2014

Town Board of Commissioners formally accepts application and sets Public Hearing date October 13, 2014

Notices sent via mail to affected/adjacent property owners on or before November 24, 2014

Protest petition filed with Planning Department by 5:00 pm on December 3, 2014

Public hearing: petitioner may give explanation of why s/he wishes to have property rezoned and neighboring owners may ask questions and voice opinions on the proposed zoning December 8, 2014

Town Planning Board reviews petition, information, and comments from the public hearing, then makes a recommendation to the Board of Commissioners on whether to approve or deny the request December 23, 2014

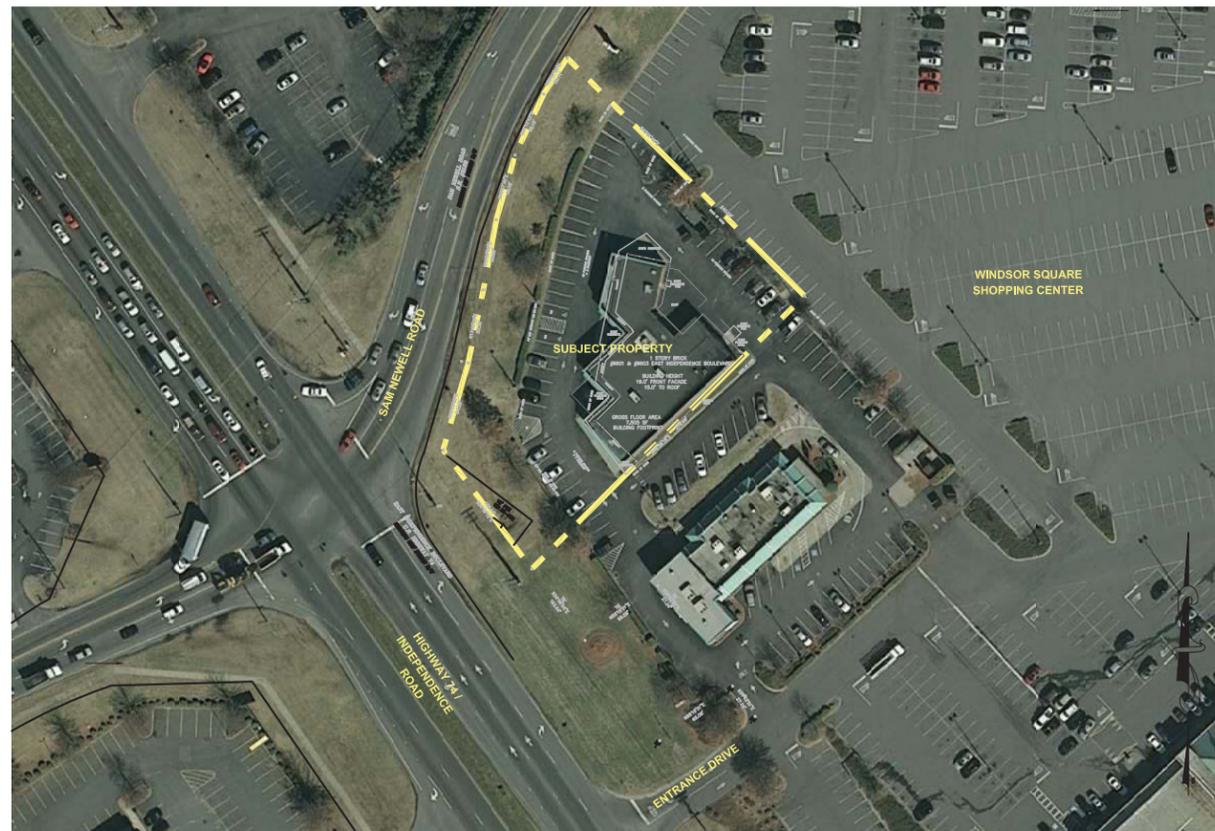
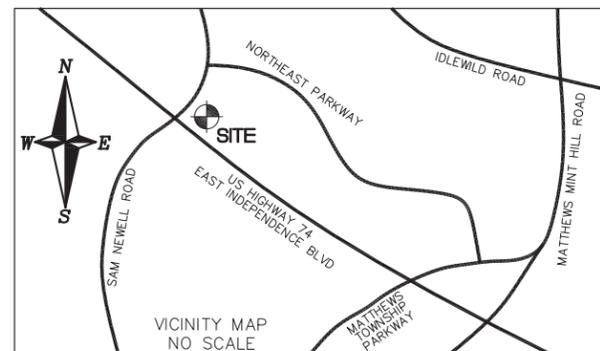
Town Board of Commissioners approves or denies application January 12, 2015

GENERAL STATUTE 160A-385: CHANGES.

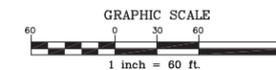
- (a) Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the city council. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite supermajority. To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right of way shall not be considered in computing the 100-foot buffer area as long as that street right of way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.
- (b) Amendments in zoning ordinances shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either (i) building permits have been issued pursuant to GS 160A-417 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to GS 160A-418 and unrevoked pursuant to GS 160A-422 or (ii) a vested right has been established pursuant to GS 160A-385.1 and such vested right remains valid and unexpired pursuant to GS 160A-385.1

INDEPENDENCE BLVD. RESTAURANT SITE

REZONING PLANS FOR
A COMMERCIAL BUILDING
TOWN OF MATTHEWS
PROJECT NUMBER: KAR-14000
DATE: OCTOBER 1, 2014



AERIAL PHOTO / EXISTING CONDITIONS



SHEET INDEX

C-1	COVER SHEET
EC-1	ALTA SURVEY
L-1	SITE PLAN

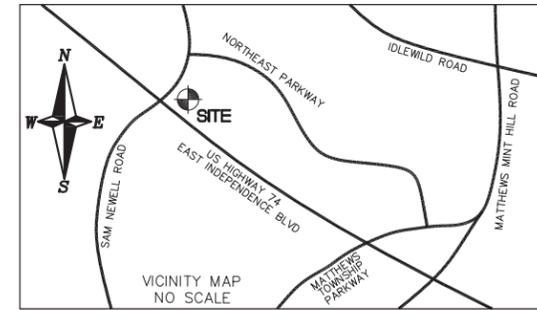
OWNER:
KARAS PROPERTIES, LLC
PO BOX 11147
CHARLOTTE, NC 28220
704.796.3720
justin@karasproperties.com

ENGINEER - LANDSCAPE ARCHITECT
McADAMS COMPANY
11301 CARMEL COMMONS BLVD
SUITE 111
CHARLOTTE, N.C. 28226
(704) 527-0800
malcolm@mcadamsco.com



THE JOHN R. MCADAMS
COMPANY, INC.
11301 Carmel Commons Blvd.
Suite 111
Charlotte, North Carolina 28226
License No.: C-0283
(800) 733-5646 • McAdamsCo.com

CURRENT 2014-622
10-1-2014



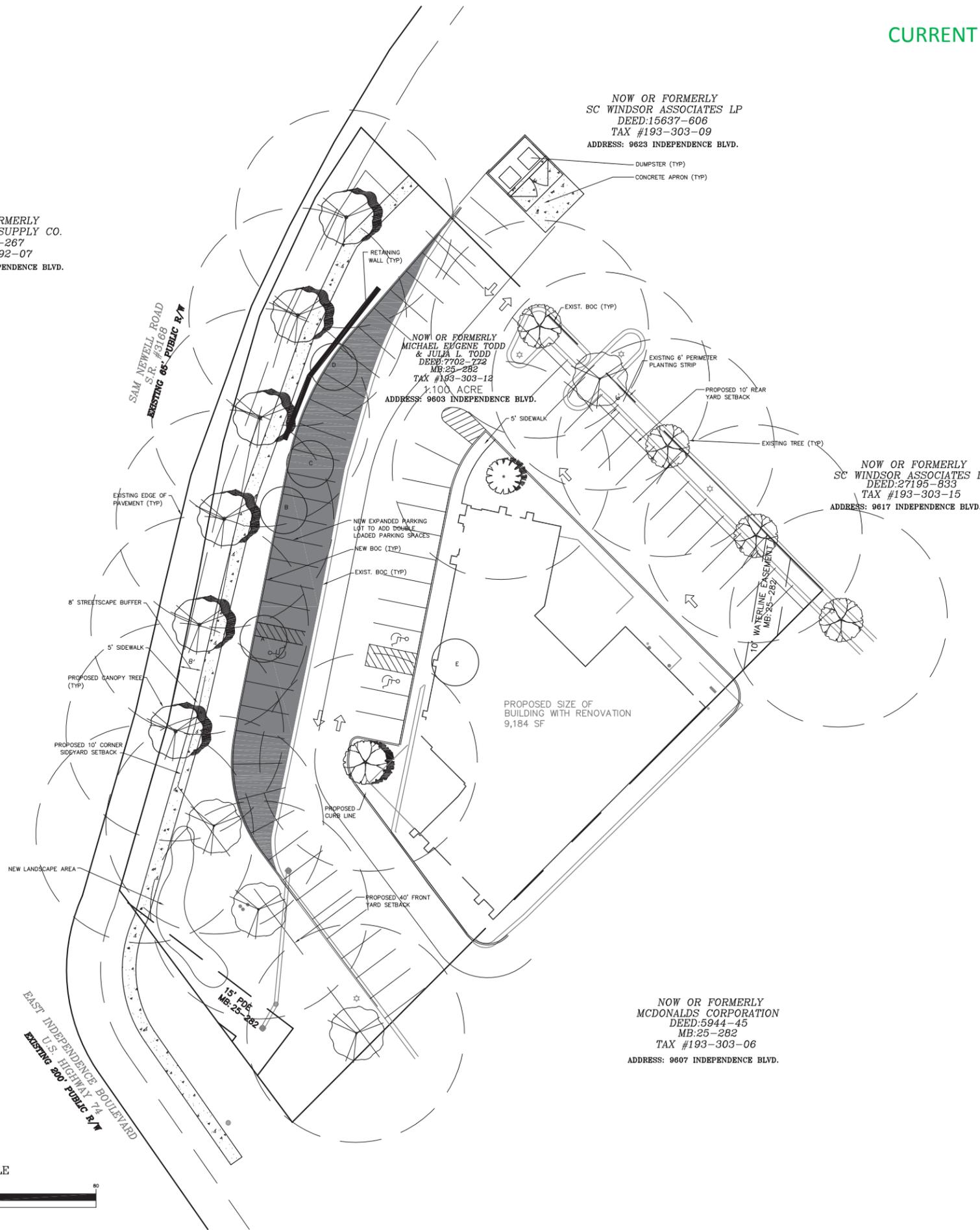
THE JOHN R. MCADAMS
COMPANY, INC.
11801 Carmel Commons Blvd.
Suite 111
Charlotte, North Carolina 28226
License No.: C-0293
(800) 755-5646 • McAdamsCo.com



MCADAMS

NOW OR FORMERLY
WESTERN AUTO SUPPLY CO.
DEED:5803-267
TAX #193-192-07
ADDRESS: 9507 INDEPENDENCE BLVD.

NOW OR FORMERLY
TOWN OF MATTHEWS
DEED:8830-817
TAX #193-192-04



SITE DATA	
DEVELOPER	KARAS HOSPITALITY PO BOX 11147 CHARLOTTE, NC 28220
PARCELS	PIN 19330312
TOTAL SITE AREA	1.1 AC
EXISTING ZONING	C
PROPOSED ZONING	B-1 (C)
IMPERVIOUS	CURRENT: +/-29,608 SF PROPOSED: +/-33,582 SF NET INCREASE: +/-3,972 SF = .09 AC
PROPOSED TREES TO BE REMOVED (SEE NOTE)	A - +/-10" DBH - YOSHINO CHERRY - DISEASED B - +/-17" DBH - SHUMARD OAK C - +/-10" DBH - YOSHINO CHERRY - DISEASED D - +/-10" DBH - OAK - DEAD E - +/-8" DBH - CREPE MYRTLE NOTE: +/- 8 NEW TREES TO BE PLANTED ONSITE

GENERAL NOTES
1. TOPOGRAPHIC AND SURROUNDING PARCEL INFORMATION TAKEN FROM MECKLENBURG COUNTY GIS AND AERIAL PHOTOGRAPHY.
2. BOUNDARY BY SURVEY FROM: JOSEPH E. WHALEY, JR., PLS, CFS, MANAGER SURVEYING SERVICES

PARKING REQUIREMENTS	
1. NEWKS RESTAURANT:	
1.1. 1 PER 3 SEATS = 150/3 = 50 SPACES	
1.2. 1 PER 2 EMPLOYEES = 10/2 = 5 SPACES	
1.3. TOTAL NEWKS: 55 SPACES	
2. MATTRESS FIRM:	
2.1. 1 PER 200 SF = 3600 / 200 = 18 SPACES	
2.2. 1 PER 2 EMPLOYEES = 2/1 = 1 SPACES	
2.3. TOTAL MF = 19 SPACES	
3. SUBTOTAL = 74 SPACES	
4. 15% REDUCTION = 11 SPACES	
5. TOTAL REQUIRED = 62 SPACES	
TOTAL PROVIDED:	62
	48 REGULAR
	3 ACCESSIBLE
	11 COMPACT

DEVELOPMENT STANDARDS
GENERAL PROVISIONS

A. THESE DEVELOPMENT STANDARDS FORM A PART OF THE REZONING PLAN ASSOCIATED WITH THE REZONING APPLICATION FILED BY JUSTIN KARAS FOR AN APPROXIMATELY 1.1 ACRE SITE LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF EAST INDEPENDENCE BOULEVARD AND SAM NEWELL ROAD, WHICH SITE IS MORE PARTICULARLY DEPICTED ON THE REZONING PLAN (HEREINAFTER REFERRED TO AS THE "SITE").

B. THE DEVELOPMENT AND USE OF THE SITE WILL BE GOVERNED BY THE REZONING PLAN, THESE DEVELOPMENT STANDARDS AND THE APPLICABLE PROVISIONS OF THE TOWN OF MATTHEWS UNIFIED DEVELOPMENT ORDINANCE (THE "ORDINANCE"). SUBJECT TO THE EXEMPTIONS FROM THE ORDINANCE REQUIREMENTS SET OUT IN THESE DEVELOPMENT STANDARDS AND ON THE REZONING PLAN PURSUANT TO SECTION 155.401.1(1) OF THE ORDINANCE, THE REGULATIONS ESTABLISHED UNDER THE ORDINANCE FOR THE NEIGHBORHOOD BUSINESS (B-1) ZONING DISTRICT SHALL GOVERN THE USE AND DEVELOPMENT OF THE SITE.

EXEMPTIONS PURSUANT TO SECTION 155.401.1(1) OF THE ORDINANCE

A. SOME EXISTING PARKING LOCATED ON THE SITE ENCROACHES INTO THE TRANSITIONAL SETBACK FROM EAST INDEPENDENCE BOULEVARD. HOWEVER, PURSUANT TO SECTION 155.401.1(1)(A) OF THE ORDINANCE, THE EXISTING PARKING AND THE SITE SHALL BE CONSIDERED TO BE IN CONFORMANCE WITH THE SETBACK REQUIREMENTS OF THE ORDINANCE.

B. TO THE EXTENT THAT THE SITE DOES NOT MEET THE LANDSCAPING REGULATIONS OF THE ORDINANCE, THE SITE WILL BE EXEMPT FROM THE INSTALLATION OF NEW LANDSCAPING TO MEET CURRENT STANDARDS PURSUANT TO SECTIONS 155.401.1(1)(D) AND (E) OF THE ORDINANCE.

PERMITTED USES

THE SITE MAY BE DEVOTED TO ANY USE OR USES PERMITTED BY RIGHT OR UNDER PRESCRIBED CONDITIONS IN THE B-1 ZONING DISTRICT, AND TO ANY ACCESSORY USES ALLOWED IN THE B-1 ZONING DISTRICT.

MAXIMUM FLOOR AREA

A. THE TOTAL MAXIMUM GROSS FLOOR AREA ALLOWED ON THE SITE SHALL BE 9,200 SQUARE FEET, WHICH IS THE SIZE OF THE EXISTING BUILDING LOCATED ON THE SITE.

TRANSPORTATION AND PARKING

A. VEHICULAR ACCESS INTO THE SITE SHALL BE LIMITED TO THE EXISTING ACCESS POINTS WHICH ARE GENERALLY DEPICTED ON THE REZONING PLAN.

B. ANY USE OR USES LOCATED ON THE SITE SHALL BE REQUIRED TO MEET THE MINIMUM OFF-STREET PARKING REQUIREMENTS OF THE ORDINANCE, PROVIDED, HOWEVER, THAT THE REQUIRED NUMBER OF OFF-STREET PARKING SPACES LOCATED ON THE SITE FOR ANY USE OR USES MAY BE REDUCED BY 15 PERCENT PURSUANT TO SECTION 155.607.7(C)(5) OF THE ORDINANCE.

C. REQUIRED PARKING MAY BE LOCATED WITHIN THE TRANSITIONAL SETBACK AND STANDARD SETBACK.

ARCHITECTURAL STANDARDS

A. RENOVATIONS OR ALTERATIONS TO THE EXTERIOR PORTIONS OF ANY BUILDING LOCATED ON THE SITE SHALL BE GENERALLY CONSISTENT WITH THE CHARACTER AND QUALITY OF THE ELEVATION ATTACHED HERETO.

B. ANY ARCHITECTURAL ELEMENTS EXTENDING ABOVE THE BUILDING'S ROOFLINE SHALL BE ARCHITECTURALLY CONSISTENT ON ALL FOUR SIDES SO AS TO APPEAR UNIFORM IF VIEWED FROM BEHIND.

SIGNS

A. ALL SIGNS INSTALLED ON THE SITE SHALL COMPLY WITH THE REQUIREMENTS OF THE ORDINANCE.

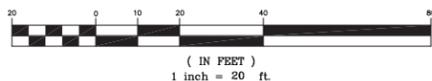
B. THE PETITIONER MAY PURSUE A SHARED/MULTI-TENANT FREE STANDING SIGN THROUGH A MASTER SIGN PLAN.

BINDING EFFECT OF THE REZONING APPLICATION

IF THIS REZONING APPLICATION IS APPROVED, ALL CONDITIONS APPLICABLE TO THE DEVELOPMENT AND/OR USE OF THE SITE IMPOSED UNDER THIS REZONING PLAN WILL, UNLESS AMENDED IN THE MANNER PROVIDED UNDER THE ORDINANCE, BE BINDING UPON AND INURE TO THE BENEFIT OF APPLICANT AND THE CURRENT AND SUBSEQUENT OWNERS OF THE SITE AND THEIR RESPECTIVE SUCCESSORS IN INTEREST AND ASSIGNS. THROUGHOUT THESE DEVELOPMENT STANDARDS, THE TERMS, "APPLICANT" AND "OWNER" OR "OWNERS" SHALL BE DEEMED TO INCLUDE THE HEIRS, DEVISEES, PERSONAL REPRESENTATIVES, SUCCESSORS IN INTEREST AND ASSIGNS OF APPLICANT OR THE OWNER OR OWNERS OF THE SITE FROM TIME TO TIME WHO MAY BE INVOLVED IN ANY FUTURE DEVELOPMENT THEREOF.

NOW OR FORMERLY
MCDONALDS CORPORATION
DEED:5944-45
MB:25-282
TAX #193-303-06
ADDRESS: 9607 INDEPENDENCE BLVD.

GRAPHIC SCALE



Y:\Projects\1_Sherwin\14000\14000\14000-01.dwg, 10/1/2014 2:26:51 PM, Madsen, David

OWNER:
KARAS HOSPITALITY
PO BOX 11147
CHARLOTTE, NC 28220

INDEPENDENCE BLVD
RESTAURANT SITE
MATTHEWS, NORTH CAROLINA

PRELIMINARY SITE LAYOUT

PROJECT NO: KAR-14000
FILENAME: MIH14010-XC1
DESIGNED BY: RBC
DRAWN BY: RBC
SCALE:
DATE: 10-1-14
SHEET NO: S-1



PRELIMINARY DRAWING - NOT RELEASED FOR CONSTRUCTION