

Board of Adjustment  
Thursday, December 1, 2016  
7:00 PM  
Hood Room, Matthews Town Hall

**AGENDA**

- I. CALL TO ORDER
  
- II. INVOCATION
  
- III. APPROVAL OF MINUTES
  
- IV. APPEAL: BA 2016-5, Signage at 324 North Trade Street
  
- V. VARIANCE REQUEST: BA 2016-6, Sight Triangle at 110 Matthews Station Street
  
- VI. VARIANCE REQUEST: BA 2016-7 Matthews Festival Transitional Parking and Setbacks
  
- VII. ADJOURNMENT

**MINUTES  
BOARD OF ADJUSTMENT  
THURSDAY, November 3, 2016  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Vice Chairman Jerry Meek; Members Jeanne Moore, and Cecil Sumners; Alternate Members Thomas Lawing, Gary Smith and Peter Tuz; Attorney Robert Blythe; Senior Planner Jay Camp and Administrative Assistant/Deputy Town Clerk Shana Robertson

**ABSENT:** Chairman Jim Jiles, Member Jim Mortimer, Alternate Member Peter Tuz

**CALL TO ORDER/INVOCATION:**

Vice Chairman Jerry Meek called the meeting to order at 7:00 PM

Thomas Lawing and Gary Smith were voting members for tonight's meeting.

Mr. Greg Smith gave the invocation.

**APPROVAL OF THE MINUTES:**

Jeanne Moore made a motion to approve the minutes of the April 11, 2016 meeting. Cecil Sumners seconded the motion and the motion passed unanimously.

**SWEARING IN:**

Senior Planner Jay Camp and Mr. Daniel Hicks were sworn in by Vice Chairman Jerry Meek.

**VARIANCE REQUEST: BA 2016-3, Commercial Vehicle at 2915 Windsor Chase**

**STAFF REPORT:**

Mr. Camp addressed the Board. He stated that the owner of the property at 2915 Windsor Chase Drive, tax parcel number 193-461-16 was requesting a variance to continue parking a large commercial vehicle at the residence. Code Enforcement Officer, Carlo McKoy, noticed the truck parked at the location while conducting other business in September 2016 and a Notice of Violation was issued. The owner, Mr. Daniel Hicks, stated that he had parked the truck at the location for ten years. Staff cannot verify how long but images on Google Earth confirmed the truck in the driveway since 2007. The Town has never allowed large commercial vehicles in residential neighborhoods and only several years ago added language that allows one medium sized commercial vehicle to be parked overnight at a residence. Mr. Hicks is a Rapid Response Technician for Caterpillar Commercial Generators. He is an on call employee required to have a take home vehicle.

Mr. Camp read into record Section 155.607.1.C.14.f on the Town of Matthews Unified Development Ordinance that stated "In the single family residential districts, one mid-range commercial vehicle may be parked overnight (9 PM to 7 AM) on the same lot as an occupied dwelling unit." The definition stated that the maximum height allowed is eight feet. Mr. McKoy measured the truck to be nine feet, two inches. Documents were presented to the Board including photographs of the truck and its location and the Notice of Violation that was issued on September 19, 2016. The notice was sent to the property owners by US mail and they were given thirty days to appeal. Property owners did meet the variance request timeframe for appeal.

Mr. Camp stated that it could be possible for the Board to issue a sunset clause to allow the vehicle to remain until it is replaced with a smaller truck. Caterpillar indicated that a smaller truck that would fit the

Town ordinance could be ordered for Mr. Hicks. If this is the case, it could be possible for the Board of Adjustment to grant a variance with a sunset clause to allow the vehicle to remain until it is replaced

Mr. Meek asked about time parameters or conditions in regards to the proposed sunset variance. Attorney Robert Blythe answered that the Board could consider a variance with a condition that could be a one year time frame for replacing to a conforming or removing the vehicle that was in violation.

Ms. Moore asked if notices were sent to neighbors. Mr. Camp noted that notices were sent per State Statue to all adjacent owners and those across the street. A letter was received by the Town in support but could not be submitted into record as it is considered hearsay. The neighbor who sent the letter was unable to attend in person due to scheduling conflict.

Mr. Tom Lawing confirmed the height of the vehicle and asked what the gross vehicle weight rating (or GVRW) was for the commercial truck. Mr. Camp referred the question to the applicant.

Mr. Daniel (Danny) Hicks, 2915 Windsor Chase Drive addressed the Board. Mr. Hicks stated that the truck weighed twenty three to twenty four thousand pounds. Mr. Hicks added into record a letter from his Supervisor regarding job responsibilities. Mr. Hicks stated that he is a rapid response technician and on call twenty four hours a day, seven days a week. His job requires him to maintain and service emergency backup generators at hospitals, banks, and high-rise buildings. Most generators in Charlotte are serviced through his company. He had been in his current position since 2007 with the commercial sized vehicle at his residence. Because of his close proximity to Novant Matthews Hospital and always being on call he is required to have his service vehicle at his home.

Mr. Sumners asked if most buildings have back up generators as part of the stricter building code. Mr. Hicks answered that hospitals, banks, and high-rise buildings are required to have a lifesaving backup generator system. Mr. Hicks said his job is to service those generators when they go down, provide maintenance, and inspect quarterly. Mr. Sumners asked where the main office location was. Mr. Hicks answered that the office was located at Sunset Road and W.T. Harris.

Ms. Moore asked how often he is called to respond outside of normal work hours. Mr. Hicks said that he gets called at night two to three times a week and it was not uncommon for him to arrive home for the day at 10:00 PM. Ms. Moore asked if a request had been made to his employer for a smaller vehicle Mr. Hicks stated that he had requested and his supervisor would consider. At the time when Mr. Hicks received the Notice of Violation, a midsized truck was not available. The company will need to order a smaller vehicle for Mr. Hicks and it could take up to a year to be delivered.

Mr. Meek clarified that it was Mr. Hicks understanding that the Company would grant him another truck that was in compliance with the Town Ordinance. Mr. Hicks stated that was correct. It would be the same 750 class of truck that he currently had but a smaller weight class. Mr. Meek asked if any discussion has been made with the employer as to what would happen if the variance was denied. Mr. Hicks stated that he did not know what would happen but that it would be up to the administration and he was unsure what their options would be. Mr. Meek asked how long Mr. Hicks has lived at the property located at 2915 Windsor Chase Drive. Mr. Hicks had been a resident at the address for 20 years.

Mr. Sumners ask how many Rapid Response Technicians had large home trucks. Mr. Hick stated there were thirty five total technicians with trucks and eight of the thirty-five were his size or larger.

#### **DELIBERATION:**

Ms. Moore said that the large truck was a violation and if exchanged for a smaller vehicle, the large truck could be still usable to the Company. She felt that a request should be made for a smaller truck that would be compliant with the Town ordinance and place a time frame on completion of that action. Mr. Lawing said that he agreed. Mr. Sumners said that Caterpillar is a large company and should be able to comply with the request.

Mr. Meek asked the Board members if there was a time frame. Ms. Moore felt eighteen months should give adequate time for the request and arrival of a compliant vehicle. Mr. Meek asked Mr. Blyth if something were to happen could the applicant return after the eighteen months. Mr. Blythe said that they could.

### **FINDING OF FACT**

1. Unnecessary hardship would result from the strict application of this Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Mr. Meeks stated that the applicant has had this vehicle on the property for ten years. It is necessary to his job duties and benefits the community by allowing emergency response efforts.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)

Peculiarities with the size and shape of the lot makes it difficult to store the vehicle on the parcel and to make it unseen from other homes and compliance with the Ordinance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

Mr. Hicks has lived at the residential location for twenty three years. Ten of those years has had a nonconforming truck.

4. The requested variance is consistent with the spirit, purpose, and intent of the Title, because public safety is secured and justice is achieved.

The spirit of the Ordinance will be enhanced by the temporary time variance that would be conditional on Mr. Hicks replacing the nonconforming truck with a conforming vehicle in an eighteen month time period.

Ms. Moore motioned that the variance request be granted to allow a commercial vehicle at 2915 Windsor Chase with a condition that within eighteen months the applicant will replacing the nonconforming commercial vehicle with a conforming vehicle. Mr. Lawing seconded the motion which carried unanimously.

### **VARIANCE REQUEST: BA 2016-4, Budd Law Group at 352 E Charles**

Laura Budd was sworn in by Mr. Meek.

### **STAFF REPORT:**

Mr. Camp reviewed the property at 352 E Charles Street and stated that the lot is currently under consideration for the construction of a new office building that will total approximately 4,000 square feet. The rezoning decision is scheduled for November 14, 2016. Before a decision can be made, the proposal must meet all applicable requirements within the Unified Development Ordinance (UDO). Staff has identified three independent aspects of the proposal that do not meet code.

The first variance request is for front setback within the Downtown Overlay District. Properties within the Downtown Overlay must adhere to special architectural and site plan requirements. Front setbacks are determined by the Downtown Streetscape Plan. For Charles Street, a maximum setback of twenty nine

feet from the back of the curb. The CSX right-of-way of two hundred feet encroaches onto the front portion of the site making it impossible to build a new structure where code dictates. The proposed front setback as shown on the plans is approximately thirty five feet from the back of curb to the front porch wall of the building. This represents a variance of six feet.

The second variance request is for the driveway width. The applicant proposed an eighteen foot wide driveway that is flared out to twenty four feet where it intersects with Charles Street. Standard driveway width for two way traffic is twenty four feet. The applicant wanted to keep an office cottage feel and stated that due to the low volume of traffic anticipated, a two way drive would not be necessary.

The final variance is requesting a lot width adjustment to current Town Ordinance. The UDO code requires that 75% of lot frontage must be occupied by the building. With the current lot width of 99.68 feet it would be difficult to get the building to occupy seventy five percent plus the driveway and a landscape buffer. Town staff had recognized this being a problem and in 2008 a text amendment was approved that would allow an applicant to subtract out twelve feet of driveway width and the landscape buffer from the 75% requirement. It was discovered after the application was submitted that the approved text amendment was not included into the 2014 adopted UDO.

Mr. Lawing asked if other properties are in violation of the missing text amendment. Mr. Camp said that those would be considered legal nonconforming and a text amendment will be added soon to the UDO to correct the issue.

Ms. Moore asked if the third variance request depended on the second variance request. Mr. Camp stated that they were inter related. He added that the Town Engineer had been consulted on the driveway reduction. Their suggestion was to flair the driveway width at the street to allow for cars to pass safely from street. The requested eighteen feet is wide enough to allow cars to pass slowly the flair would help entering and exiting safely from Charles Street. Parking was added due to Town Council and Planning Board concerns. The site will have thirteen spaces including a two car residential style garage.

Mr. Sumners noted that the sidewalk seemed narrow and level with the street. Mr. Camp stated that the applicant had plans to clean up the overgrowth on the front that has covered the five foot wide sidewalk. Staff will also look into the concern.

Mr. Lawing asked if the two hundred foot CSX right-of-way affected other property setback requirements down Charles Street. Mr. Camp said that this parcel was the last in the Downtown Overlay and was required to build per Downtown Overlay standards of a twenty nine foot maximum setback.

Mr. Meek asked if explanation was made as to why an eighteen foot verses the twenty four foot driveway should be allowed. Mr. Camp stated that the applicant wanted to split the difference in the residential driveway standard of twelve feet and the commercial required twenty four feet. If the variance is not approved the applicant will be required to reduce the size of the structure and it may give a feeling of more asphalt and less building structure. Mr. Camp continued that it was the applicants wish to save the mature trees and green space in the rear of the property. Due to this they were not wanting to push the structure back.

Laura Budd with The Budd Law Group, 10550 Independence Pointe Parkway, Suite 301, Matthews, NC 28105 stated that she had been a Lawyer and practicing in Matthews for fifteen years. It is her wish to move her practice back to Downtown. Images were presented to the Board of the current structure and the proposed new site plan and elevation. It was Ms. Budd's wish to preserve the current structure but due to conditions was unable to do so. Regarding the first variance request for increased maxim setback within the Downtown Overlay, the CSX right-of-way is considered federal property and if built upon Ms. Budd noted that she would be forced to remove. The Driveway request coincides with Ms. Budd's wish to add an eight foot landscape buffer to hide the neighboring post office. She continued that the requested eighteen foot driveway with the twenty four foot flair at the base was a six foot difference between the standard for a residential and a commercial driveway. The request was not to just accommodate the landscape buffer but the traffic flow expected. The business does not have many drop in clients and most

are by appointment only. Ms. Budd stated that they were a smaller firm having only seven to nine employees in the office daily.

Ms. Moore clarified that this property was the last within the Downtown Overlay District and asked about the adjacent property that was held by a trust. Mr. Camp stated that the adjacent trust parcel was just outside the Downtown Overlay.

Mr. Meek pointed out that the three variances had to all be approved as they were linked together. One variance would not work without the approval of the others.

#### **DELIBERATION:**

Ms. Moore stated that it needs to be considered that it is the last parcel in the Overlay District and the applicant is trying to make it work. The Railways right-of-way was the factor in stopping the applicant from being compliant with the first request.

Mr. Lawing stated that he was comfortable with the first and third variance request being the hardship that the railroad was causing and the missing approved text that would have made the third request nonexistent. The second request would need to be thought through.

Ms. Moore asked if the applicant had to comply with the twenty four foot wide driveway, how their plans would be effected. Mr. Camp stated that it would not allow the desired eight foot screening buffer. Mr. Meek stated it would come down to having a twenty four foot drive or having a landscape buffer. Mr. Smith said they could do the driveway and buffer but it would take the building structure down from sixty five feet to fifty foot frontage width. Ms. Moore stated that the building structure looks like a home. And felt the twenty four foot driveway width would throw off the feel. Mr. Sumners agreed that the eighteen foot wide driveway fit with the feel of the structure. Mr. Lawing said that he esthetically liked look of the eighteen foot wide driveway but questioned the criteria that would allow them to vote for the eighteen verses the twenty four. Mr. Camp added that Charles Street was twenty feet wide and only two feet wider than the requested variance width. Mr. Smith stated that based on the setbacks the placement of the driveway at twenty four feet wide would be against the building. This would be the location of the Handicap ramp and presents an unsafe situation.

All motions are to be contingent on the site plan as presented. Changes that could not be approved administratively would need to be refiled through the Board of Adjustments.

#### **Findings of Fact**

##### **Variance One- Extend the maximum front setback**

1. Unnecessary hardship would result from the strict application of this Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

It is the determination of The Town of Matthews Board of the existence of the CSX right of way and the property cannot be redeveloped and meet the maximum build-to line causing unnecessary hardship.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)

The hardship results from the nature of the property and in particular to the CSX right of way.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The hardship did not result from actions taken by the applicant.

4. The requested variance is consistent with the spirit, purpose, and intent of the Title, because public safety is secured and justice is achieved.

The requested variance is consistent with the spirit, purpose, and intent of the Town of Matthews Unified Development Ordinance.

Mr. Lawing motioned to extend the maximum front setback to no more than three feet beyond the CSX right-of-way contingent on the site plan as presented to the Town of Matthews. Ms. Moore seconded the motion and it passed unanimously.

#### **Variance Two- Driveway width**

1. Unnecessary hardship would result from the strict application of this Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The Unnecessary hardship would result from the requiring a twenty four foot wide driveway by virtue of the nature of the property and where it is located and a reduction in the amount of building space or reduction of landscape buffer.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)

The hardship results from conditions that are peculiar to the property.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The hardship did not result from actions taken by the applicant.

4. The requested variance is consistent with the spirit, purpose, and intent of the Title, because public safety is secured and justice is achieved.

The requested variance is consistent with the spirit, purpose, and intent of the Title, because public safety is secured and allowing for development of the property that will appear appropriate to the location.

Ms. Moore motioned to approve the variance to allow an eighteen foot driveway that would flair to twenty four feet where it intersects Charles Street in lieu of the standard twenty four feet contingent on the site plan as presented to the Town of Matthews. Mr. Smith seconded the motion which carried unanimously.

#### **Variance Three- Allow less than a 75% lot frontage**

1. Unnecessary hardship would result from the strict application of this Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The Unnecessary hardship would result from the strict application of 75% lot frontage requirement.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)

The hardship results from conditions that are peculiar to the property.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The hardship did not result from actions taken by the applicant.

4. The requested variance is consistent with the spirit, purpose, and intent of the Title, because public safety is secured and justice is achieved.

The requested variance is consistent with the spirit, purpose, and intent of the Ordinance.

Mr. Lawing motioned to approve the variance to allow less than a 75% lot frontage requirement contingent on the site plan as presented to the Town of Matthews. Mr. Summers seconded the motion and it passed unanimously.

**ADJOURNMENT:**

Ms. Moore made a motion to adjourn the meeting at 8:09 PM. Mr. Lawing seconded the motion and the motion passed unanimously.

Respectfully submitted,

Shana Robertson  
Administrative Assistant/Deputy Town Clerk

**Matthews Board of Adjustment  
Appeal for Signage at 324 North Trade  
December 1, 2016**

**Summary of Request**

The applicant requests an appeal to a Notice of Violation and a determination that signage in the Downtown Overlay is internally illuminated.

**Background**

Truliant Federal Credit Union is a tenant within a recently completed building at the new 324 North End development. In late September, Town Staff became aware of new, internally illuminated signs that were installed at the tenant space. The Matthews Downtown Overlay District provisions within the UDO prohibit internal illumination of signage. On October 11, 2016, Code Enforcement Officer Carlo McKoy and Zoning Administrator Mary Jo Gollnitz issue a joint Notice of Violation and Determination that the signs were indeed internally illuminated and were not permitted.

Sign permits within the Town of Matthews are first reviewed by Town Staff before being forwarded to the County for approval. Town staff approved the sign permit for Truliant on October 22, 2015. Although the Master Sign Plan for the site that was approved by the Matthews Town Board explicitly prohibits internal illumination, the contractor checked the "illumination" box on the sign permit. The Matthews reviewer did not catch this discrepancy and approved the permit in error. According to David Owens in *Introduction to Zoning*, vested right cannot be obtained by the issuance of a permit that is issued "mistakenly or illegally". For vested right to be considered, the permit that is received must be valid at the time of issuance.

**Unified Development Ordinance Requirement**

Section 155.608.14 -

A. SIGNS PROHIBITED IN THE DOWNTOWN OVERLAY DISTRICT. The following signs are prohibited in the Downtown Overlay District:

1. Any structure or any material for a sign face which is designed to be an internally illuminated wall, projecting, awning, or freestanding sign, whether or not it has any electrical or mechanical components that create internal light;

**Matthews Board of Adjustment  
December 1, 2016**

**Interpretation of Sign Type**

In Section 155.608.5.D, Sign Illumination is defined as follows:

An illuminated sign is any sign from which artificial light emanates:

i) by means of exposed lighting on the surface of the sign, such as neon tubing (internal illumination);

ii) through transparent or translucent material from a source within the sign (internal illumination);

iii) by a hidden light source directing light onto the background surface which creates a halo effect of opaque lettering or other message elements (external illumination); or

iv) a sign which reflects artificial light from a source intentionally directed upon it (external illumination). Signs and other sources of illumination adjacent to public streets are subject to the provisions of the North Carolina General Statutes 136-32.2.

In this case, staff has determined that due to the style of signage and materials used, it falls into category ii, meaning that the individual letters are translucent and lit from within. The photos on the following page demonstrate the difference between internal illumination and halo illumination. Matthews has not allowed internally illuminated signs in the Downtown area for about 20 years. Most examples of signs will be either be illuminated from an external light, for instance a "gooseneck" light shining down on a sign, halo lighting or exposed neon accents. The intent of this code is to differentiate the downtown area from typical modern areas of the Town by requiring a more traditional signage type. Internally lit channel letter signs and faceplate style signs with internal fluorescent lights are standard fare in most modern shopping centers and strip malls. As part of the original Matthews Downtown Design Guidelines, signage was restricted to protect the historic character of Downtown.



Internal Illumination - Note lighting showing through weep holes at the bottom of the letters. Light is emanating from within each individual channel letter





Halo Lighting - Note individual opaque letters with light that is emitted around the lettering over a solid backing



October 11, 2016

Truliant Federal Credit Union  
C/O Jim Desjardins  
3200 Truliant Way  
Winston-Salem, NC 27103

**RE: NOTICE OF SIGN CODE VIOLATION  
324 N. Trade St. – Tax Parcel 193-291-05**

Dear Mr. Desjardins,

It was recently brought to our attention that the three (3) permanent signs attached to your building are internally illuminated. The property referenced above is within Matthews Downtown Overlay and signs located in the Downtown Overlay that are internally illuminated violate Section 155.608 of the Matthews Unified Development Ordinance (UDO).

In addition, according to the Master Sign plan for this property approved on August 10, 2015, internally illuminated wall, projecting, awning, or freestanding signs are prohibited. The Master Sign Plan Specifications also notes the following:

*5. Sign lighting: Direct light from a shielded source with 3500-5000 Kelvin Temperature (warm white to white), or white (3500-5000 Kelvin Temperature) or colored Halo Lighting, where individual opaque letters/symbols are displayed in front of a background which reflects a hidden light source, is permitted.*

As indicated in Section 155.608.14.A.1 below, internally illuminated signs are prohibited.

**155.608.14 Signs in Downtown Overlay District.**

Identification, business or other signs on private or public property in the Downtown Overlay District must comply with the requirements of this § 155.608, except where specifically exempted below. In addition, certain signs that are not permitted in other districts may be allowed in the Downtown Overlay District only as specifically provided in this § 155.608.14.

- A. SIGNS PROHIBITED IN THE DOWNTOWN OVERLAY DISTRICT. The following signs are prohibited in the Downtown Overlay District:
1. Any structure or any material for a sign face which is designed to be **an internally illuminated** wall, projecting, awning, or freestanding sign, whether or not it has any electrical or mechanical components that create internal light;

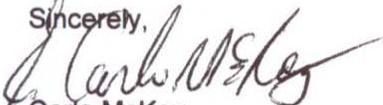
**The Town of Matthews is willing to work with you in resolving this issue. Truliant Credit Union can remove the electrical connections to all three signs and use goose neck down lighting to illuminate the signs or you can remove the signs and replace with allowable halo lit signs.** Another option would be to repurpose these signs at an existing or future Truliant location. We do understand that there is a significant investment in the existing signs and want to work towards an amicable solution. Mr. Desjardins, please contact our Planning Department as soon as possible to discuss the solutions in order to bring your signs into compliance.

If these violation are not corrected and there is no appeal to the Zoning Board of Adjustment, this Department reserves the right to exercise any one of the following **REMEDIES: REVOCATION OF A CERTIFICATION OF OCCUPANCY** making continued occupancy unlawful; seeking of an **INJUNCTION**; the issuance of a **CITATION WITH FINES** up to \$500 per day; and/or the issuance of a **CRIMINAL SUMMONS**.

**If you feel the above listed violations are incorrect, you may appeal to Zoning Board of Adjustment by submitting an application of appeal concurrently to the Town Clerk and the Planning Office within 30 days of this Notice of Violation.** This Notice of Violation meets the provision of §155.214.B.4 and serves as a warning citation. Because this written Notice of Violation includes an opportunity for appeal, there will be no provisions for appeal after the 30 days.

Your prompt response to this matter is appreciated and will prevent any further enforcement action by the Town of Matthews. If you have any questions, please do not hesitate to contact me in person, via phone at 704-708-1232, or via email at [cmckoy@matthewsnc.gov](mailto:cmckoy@matthewsnc.gov).

Sincerely,

  
Carlo McKoy  
Code Enforcement Officer

  
Mary Jo Gollnitz  
Planner II/Zoning Administrator



232 Matthews Station Street  
Matthews, NC 28105  
704.847.4411

**APPEAL FROM ACTION OF ZONING ADMINISTRATOR AND/OR PETITION FOR AN INTERPRETATION  
OF THE ZONING ORDINANCE**

DATE FILED \_\_\_\_\_ 11/1/2016 \_\_\_\_\_

HEARING DATE \_\_\_\_\_ 12/01/2016 \_\_\_\_\_ TIME \_\_\_\_\_ 7:00 PM \_\_\_\_\_

LOCATION: Hood Room, Matthews Town Hall, 232 Matthews Station Street, Matthews, North Carolina 28105

To the Matthews Board of Adjustment:

I, \_\_\_\_\_ Chad Frye \_\_\_\_\_ (print name)  
hereby appeal to the Board of Adjustment the following adverse decision of the Zoning Administrator with respect to the  
hereinafter described property:

Property located at \_\_\_\_\_ 324 N Trade St Suit 101, Matthews, NC 28105 \_\_\_\_\_ (address)

and shown on the Mecklenburg County tax map as parcel number(s) \_\_\_\_\_ 193-291-05 \_\_\_\_\_

The section(s) of the Zoning Ordinance which affect this ruling is/are \_\_\_\_\_ 155.608.14 A.1 Signs in downtown overlay district \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The present zoning of the property is \_\_\_\_\_

APPEAL FROM AN ACTION OF ZONING ADMINISTRATOR AND/OR PETITION FOR AN INTERPRETATION OF THE ZONING ORDINANCE, PAGE 2

If this is an appeal request, the document\* which prompted this application is

- Notice of Zoning Violation
  - Revocation of Permit
  - Building/sign Permit marked DENIED
  - Other (describe) \_\_\_\_\_
- 

\* Attach a copy of the document to this application.

**STATEMENT BY APPELLANT:** State your interpretation of the Ordinance provision in question and the reason(s) you have for believing that your interpretation is correct. Attach additional documents or explanation as necessary.

Prior to designing the corporate signage for this new branch, Chad Frye, Vice President, Facilities and Administrative Services at Truliant Federal Credit Union, with project architect John Urban & developer Garry Smith, met with planning staff representative Jay Camp. During the course of this due diligence in planning for proper and acceptable signage to meet jurisdiction requirements, signage modification concessions were made from Truliant's preferred signage branding standards -directed by staff to be acceptable- and incorporated into the NorthEnd324 Master Sign Plan.

The Master Sign Plan was approved by the Board of Commissioners and validated as approved 8/10/215 by the town clerk.

Contained in the approved Master Sign Plan, under specifications paragraph 4, the approved signage is described as **"either wood, opaque, sculpted painted metal, individual channel letters or race track type that provides electricity for lighting"**.

The "TRULIANT" letters are individual channel letters, mounted on sculpted metal race track which "provides electricity for lighting." They are furthermore in compliance as the sculpted painted corporate blue metal race track is **opaque**.

Contained in the approved Master Sign Plan, under specifications paragraph 5 **"Sign Lighting; Direct light from a shielded source with 3500-5000 Kelvin Temperature (warm white to white), or white (3500-5000 Kelvin Temperature) or colored Halo Lighting, where individual opaque letters/symbols are displayed in front of a background which reflects a hidden light source, is permitted."** The sculpted metal opaque race track **provides electricity for lighting** and serves effectively as a conduit/housing for the "direct light" that is shielded within the TRULIANT Federal Credit Union **sculpted metal opaque race track**.

Contained in the approved Master Sign Plan, under the **Prohibited Signs (1),** " Any structure or material for a sign face which is designed to be internally illuminated wall, projecting, awning, or freestanding sign, whether or not it has any electrical or mechanical components that create internal light." This internal illumination wording interpretation, by industry standard practices as well as Truliant, clearly suggests that this definition is referencing the more traditional and commonly utilized "sign cabinet" type wall and freestanding signs that display a large translucent face where the entire sign face illuminates as can be viewed at many businesses in Matthews. TRULIANT are channel letters, as authorized and approved as acceptable in paragraph 4, and is not the type of sign structure as described in the above definition.

As a result of the several preliminary meetings with staff that focused on signage, formal approval of the Master Sign Plan, several communications between Truliant's vendor and town staff prior to submitting finalized drawings, staff review of the detailed signage drawings from Truliant's approved vendor, approval by the town's planning department and subsequent issuance of the sign permits, the level of diligence and attention to detail to ensure accuracy of the signage to be manufactured and installed, Truliant's interpretation of the ordinance was unquestionably clear and never in question as to what construction requirements were delineated in the approved Master Sign Plan. Therefore, Truliant Federal Credit Union maintains that the existing signage meets and/or exceeds the intent and spirit of the approved Master Sign Plan.

I certify that all of the information presented by me in this appeal, including attachments, is accurate to the best of my knowledge, information and belief.

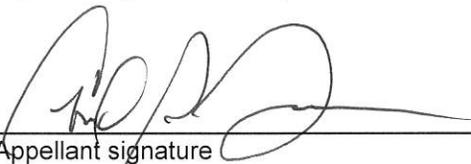
Chad S. Frue  
Appellant name (print)

336-618-3652  
Appellant telephone number

\_\_\_\_\_  
Representative name (print)

\_\_\_\_\_  
Representative telephone number

11/1/2016  
Date

  
Appellant signature

300 Truliant way, W-S, NC 27103  
Appellant mailing address

\_\_\_\_\_  
Representative signature

\_\_\_\_\_  
Representative mailing address

11/1/2016  
Date

**CHECKLIST FOR VARIANCE APPEAL OR INTERPRETATION APPLICATIONS**

**Items Due by the Deadline for Submitting Applications:**

- 1. Completed Application Form
- 2. Small scale vicinity map (preferably county tax map)\*
- 3. Survey or drawing showing the location of structures (If the survey or drawing is larger than 11" x 14", 13 copies of the survey are required)
- 4. Sheet listing the names, addresses, and tax parcel numbers of adjacent property owners
- 5. Filing Fee:

**Zoning Variance**

Residential	\$100.00	<input type="checkbox"/>
Non-Residential	\$200.00	<input type="checkbox"/>

**Zoning Appeal**

Residential	\$150.00	<input type="checkbox"/>
Non-Residential	\$300.00	<input checked="" type="checkbox"/>

**Zoning Interpretation**

Residential	\$150.00	<input type="checkbox"/>
Non-Residential	\$300.00	<input type="checkbox"/>

6. Notification of Adjacent Owners. Provide hard copies in addressed, unsealed and unstamped envelopes for all listed adjacent property owners. Town staff will mail these notices by first class mail at least ten (10) days in advance of the meeting and will place a certification of mailing in the file, which will become part of the permanent record. Where the petitioner or Town staff is able to determine an adjacent property owner's mailing address, as provided by Mecklenburg County tax records, is incorrect but is able to obtain an alternate address, such information shall be included in the permanent record as a second effort at notification, and may be sent by first class mail. Notification of adjacent property owners must be conducted as outlined in the *Rules of Procedure, Board of Adjustment, Town of Matthews, NC*. Parcels that are directly across the street must be included. Parcels that would touch at a corner if property lines were extended in a straight line distance across a street must also be included. Should you have any questions regarding determination of adjacent property owners, please contact Town Hall before proceeding with the application.

Items listed are due ten (10) days before the meeting of the Board, and within thirty (30) days of written notice in the case of an appeal. Failure to submit any of the above items within the specified time limit will result in a minimum of a one month delay of your hearing.

\*Not applicable for requests for interpretation when general in nature and not site-specific.

324 N TRADE ST 101 MATTHEWS NC 28105

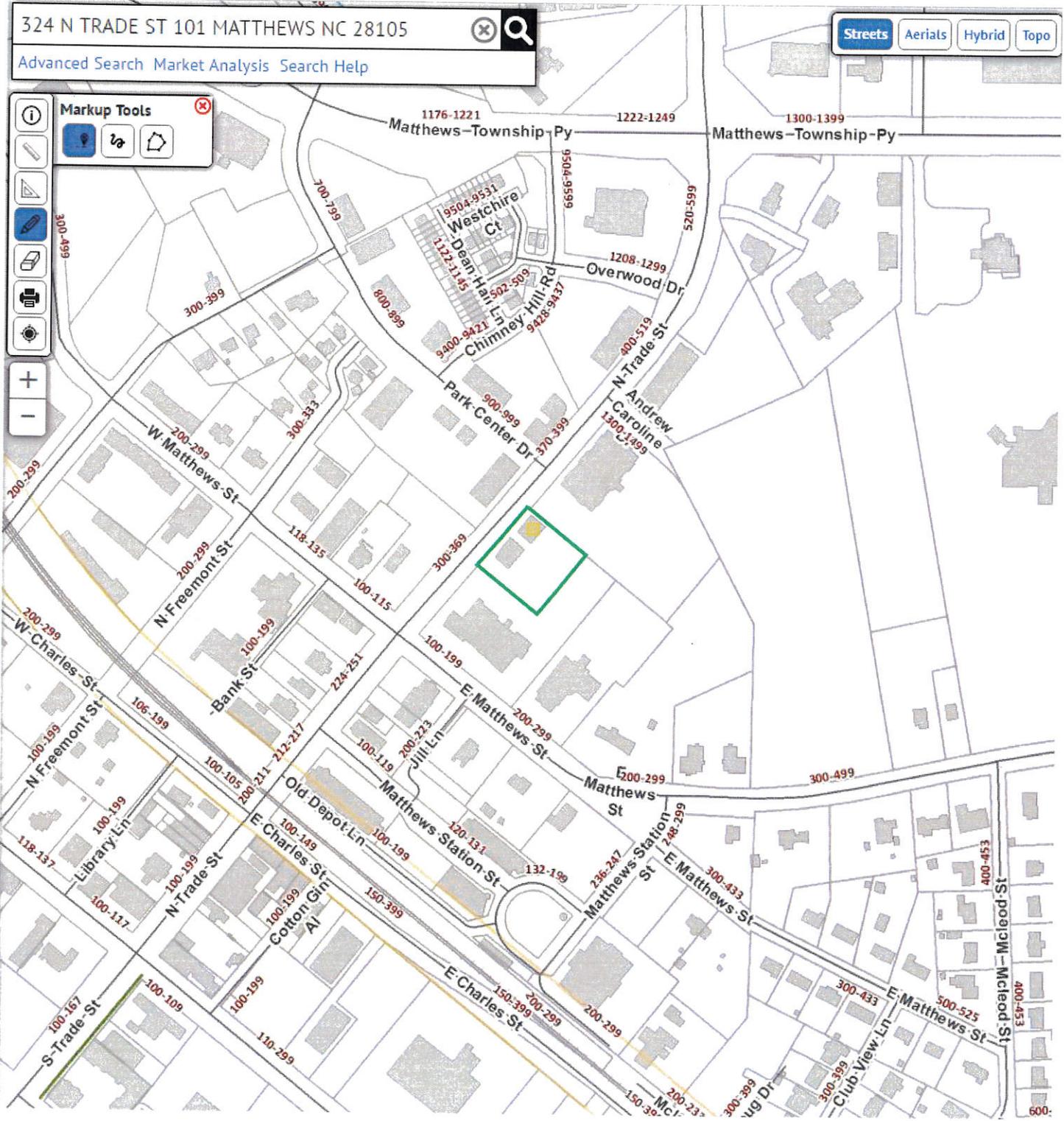


[Advanced Search](#) [Market Analysis](#) [Search Help](#)

**Streets** Aerials Hybrid Topo

**Markup Tools**

- Lightbulb icon
- Eraser icon
- Home icon
- Hand icon
- Measure icon
- Print icon
- Layers icon
- Zoom In (+) icon
- Zoom Out (-) icon





## Sign Permit

### Property

Address:	324 N TRADE ST	Parcel:	19329105	Lot:	Block:
Tax Jurisdiction:	MATTHEWS				
USDC:	329 - Structures other than...	Subdivision:	TRULIENT CREDIT UNION SIGNS		
Property Use:		Project:	NR0403191		

### Contact Details

<b>Sign Owner:</b>	TRULIANT FEDERAL CREDIT UNION	<b>Contractor:</b>	ATLANTIC SIGN MEDIA INC
Phone:	(336) 213-4948	Contractor Id:	X48927
Address:	3200 TRULIANT WAY WINSTON-SALEM, North Carolina 27103	Phone:	(336) 584-1375
<b>Property Owner:</b>	BROOKE CHASE PROPERTIES	Address:	PO BOX 4205 BURLINGTON, NC 27216
Phone:	7043210371		
Address:	PO BOX 578 MATTHEWS, North Carolina 28106		

### Sign Description

Category:	Attached	Type:	
<b>Attached</b>			
Signs Attached to Building:		Total Area:	
Signs Attached to Wall:		Wall Signs Area:	
Wall Area:	1350 sq	Projection:	
<b>Detached</b>			
Ground Clearance:		Total Height:	
Distance behind r/w:		Changeable Copy:	In sight distance triangle: N
<b>Sign Size</b>			
Height:	4 ft. 6 in.	Width:	12 ft. 0 in.
		Area:	54 sq. ft.
<b>Other</b>			
Illuminated:	Y	Flashing:	N
		Drawings Attached:	N

### Miscellaneous

Issue Date:	10/22/2015 12:00 am	Permit Fee:	\$115.00	Ready for Inspection:	N
Issued By:	Mullis, Virginia	Adjustment:	\$0.00		
Entered By:	Mullis, Virginia	<b>Total Fee:</b>	<b>\$115.00</b>		
Entry Date:	10/22/2015 01:27 pm				

*This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
No credit or refund will be given unless applied for within 120 days after a permit has expired.*

Mecklenburg County  
and Use and Environmental Services  
P.O. Box 31097  
100 N Tryon ST  
Charlotte, NC 28231-1097  
(704) 336-3830



Permit: **S2876999**  
Issue Date: October 22, 2015

## Sign Permit

### Remarks

---

'04-432-4214

*This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
No credit or refund will be given unless applied for within 120 days after a permit has expired*

MECKLENBURG COUNTY SIGN PERMIT APPLICATION

LOCATION CONTACTS PROPOSED SIGNAGE

PROJECT NAME: [REDACTED] USDC #111

1. PROJECT LOCATION: [REDACTED]  
2. PROJECT CONTACTS: [REDACTED]  
3. PROJECT CONTACTS: [REDACTED]

4. PROJECT CONTACTS: [REDACTED]  
5. PROJECT CONTACTS: [REDACTED]

6. PROJECT CONTACTS: [REDACTED]  
7. PROJECT CONTACTS: [REDACTED]

8. PROJECT CONTACTS: [REDACTED]  
9. PROJECT CONTACTS: [REDACTED]

TOWN OF MATTHEWS  
PLANNING  
10-22-15  
APPROVED  
WITHOUT CONDITIONS  
APPROVED  
WITH CONDITIONS

10. PROJECT CONTACTS: [REDACTED]  
11. PROJECT CONTACTS: [REDACTED]

12. PROJECT CONTACTS: [REDACTED]

13. PROJECT CONTACTS: [REDACTED]

14. PROJECT CONTACTS: [REDACTED]

15. PROJECT CONTACTS: [REDACTED]

16. PROJECT CONTACTS: [REDACTED]

17. PROJECT CONTACTS: [REDACTED]

18. PROJECT CONTACTS: [REDACTED]

19. PROJECT CONTACTS: [REDACTED]

20. PROJECT CONTACTS: [REDACTED]

21. PROJECT CONTACTS: [REDACTED]

22. PROJECT CONTACTS: [REDACTED]

23. PROJECT CONTACTS: [REDACTED]

24. PROJECT CONTACTS: [REDACTED]

25. PROJECT CONTACTS: [REDACTED]



TOWN OF MATTHEWS  
 PLANNING  
 10-22-15  
*M* APPROVED  
 WITHOUT CONDITIONS  
 APPROVED  
 WITH CONDITIONS

20 Dec 15 10:15 AM J. Williams



10/22/15

10/22/15

10/22/15

10/22/15

10/22/15

10/22/15

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10/22/15



TOWN OF MATTHEWS  
PLANNING  
10-22-15  
MMA APPROVED  
WITHOUT CONDITIONS  
APPROVED  
WITH CONDITIONS

10/22/15



LEFT SIDE ELEVATION

ITEM A



Mecklenburg County  
Planning and Use and Environmental Services  
P.O. Box 31097  
100 N Tryon ST  
Charlotte, NC 28231-1097  
(704) 336-3830



Permit: **S2877000**  
Issue Date: October 22, 2015

## Sign Permit

### Property

Address:	324 N TRADE ST	Parcel:	19329105	Lot:	Block:
Tax Jurisdiction:	MATTHEWS				
USDC:	329 - Structures other than...	Subdivision:	TRULIENT CREDIT UNION SIGNS		
Property Use:		Project:	NR0403191		

### Contact Details

<b>Sign Owner:</b>	TRULIANT FEDERAL CREDIT UNION	<b>Contractor:</b>	ATLANTIC SIGN MEDIA INC	
Phone:	(336) 213-4948	Contractor Id:	X48927	
Address:	3200 TRULIANT WAY WINSTON-SALEM, North Carolina 27103	Phone:	(336) 584-1375	
<b>Property Owner:</b>	BROOKE CHASE PROPERTIES	Address:	PO BOX 4205 BURLINGTON, NC 27216	
Phone:	7043210371			
Address:	PO BOX 578 MATTHEWS, North Carolina 28106			

### Sign Description

Category: Attached Type:

#### Attached

Signs Attached to Building:	Total Area:
Signs Attached to Wall:	Wall Signs Area:
Wall Area: 1350 sq	Projection:

#### Detached

Ground Clearance:	Total Height:	
Distance behind r/w:	Changeable Copy:	In sight distance triangle: N

#### Sign Size

Height:	4 ft. 6 in.	Width:	12 ft. 0 in.	Area:	54 sq. ft.
---------	-------------	--------	--------------	-------	------------

#### Other

Illuminated:	Y	Flashing:	N	Drawings Attached:	N
--------------	---	-----------	---	--------------------	---

### Miscellaneous

Issue Date:	10/22/2015 12:00 am	Permit Fee:	\$115.00	Ready for Inspection:	N
Issued By:	Mullis, Virginia	Adjustment:	\$0.00		
Entered By:	Mullis, Virginia	<b>Total Fee:</b>	<b>\$115.00</b>		
Entry Date:	10/22/2015 01:30 pm				

*This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
No credit or refund will be given unless applied for within 120 days after a permit has expired.*

Mecklenburg County  
and Use and Environmental Services  
P.O. Box 31097  
100 N Tryon ST  
Charlotte, NC 28231-1097  
(704) 336-3830



Permit: **S2877000**  
Issue Date: October 22, 2015

## Sign Permit

### Remarks

---

FRONT  
'04-432-4214

*This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
No credit or refund will be given unless applied for within 120 days after a permit has expired.*









## Sign Permit

### Property

Address:	324 N TRADE ST	Parcel:	19329105	Lot:	Block:
Tax Jurisdiction:	MATTHEWS				
USDC:	329 - Structures other than...	Subdivision:	TRULIENT CREDIT UNION SIGNS		
Property Use:		Project:	NR0403191		

### Contact Details

<b>Sign Owner:</b>	TRULIANT FEDERAL CREDIT UNION	<b>Contractor:</b>	ATLANTIC SIGN MEDIA INC
Phone:	(336) 213-4948	Contractor Id:	X48927
Address:	3200 TRULIANT WAY WINSTON-SALEM, North Carolina 27103	Phone:	(336) 584-1375
<b>Property Owner:</b>	BROOKE CHASE PROPERTIES	Address:	PO BOX 4205 BURLINGTON, NC 27216
Phone:	7043210371		
Address:	PO BOX 578 MATTHEWS, North Carolina 28106		

### Sign Description

Category:	Attached	Type:	
<b>Attached</b>			
Signs Attached to Building:		Total Area:	
Signs Attached to Wall:		Wall Signs Area:	
Wall Area:	1350 sq	Projection:	
<b>Detached</b>			
Ground Clearance:		Total Height:	
Distance behind r/w:		Changeable Copy:	In sight distance triangle: N
<b>Sign Size</b>			
Height:	10 ft. 0 in.	Width:	2 ft. 0 in.
		Area:	20 sq. ft.
<b>Other</b>			
Illuminated:	Y	Flashing:	N
		Drawings Attached:	N

### Miscellaneous

Issue Date:	10/22/2015 12:00 am	Permit Fee:	\$115.00	Ready for Inspection:	N
Issued By:	Mullis, Virginia	Adjustment:	\$0.00		
Entered By:	Mullis, Virginia	<b>Total Fee:</b>	<b>\$115.00</b>		
Entry Date:	10/22/2015 01:32 pm				

*This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
 No credit or refund will be given unless applied for within 120 days after a permit has expired*

Mecklenburg County  
Planning and Use and Environmental Services  
P.O. Box 31097  
1000 N Tryon ST  
Charlotte, NC 28231-1097  
(704) 336-3830



Permit: **S2877003**  
Issue Date: October 22, 2015

## Sign Permit

### Remarks

---

TOTAL INCLUDING SIGN FOR PROJECTION OF BUILDING

'04-432-4214

*This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
No credit or refund will be given unless applied for within 120 days after a permit has expired*



2014-10-22-15  
11-22-15



TOWN OF MATTHEWS  
PLANNING  
10-22-15  
*[Signature]*  
APPROVED  
WITHOUT CONDITIONS  
APPROVED  
WITH CONDITIONS



Post Office Box 578  
Matthews, NC 28106

704-321-0371 Ph  
704-321-0372 Fx

August 5, 2015

NorthEnd324 Master Sign Plan Request

NorthEnd 324 project is projected to begin development this fall, located at 316 & 324 North Trade St across from NorthEnd at Matthews. This letter is to request the review by Matthews Planning Department and Matthews Town Council to consider the attached proposal as outlined in the Matthews Zoning Ordinance (155.608.9, 155.608.13 & 155.608.14).

Please see the attached package and feel free to contact me for any questions.

Thank You,

Garry Smith  
NorthEnd324, LLC

*Board of Commissioners*  
**APPROVED**

8/10/2015  
*Lori Canapinno*

*Lori Canapinno, Town Clerk*

**MASTER SIGN PLAN**  
**Signage Criteria**  
**NorthEnd 324**

The following sign criteria has been established to assist Tenants in complying with the terms of their lease. These basic standards have been made to govern the design, fabrication and installation of Tenant signs and are intended to afford all Tenants with good visual identification, both day and night, and to protect against poorly designed, badly proportioned sign designs from dominating the visual appearance of the building.

The sign standards have been selected to harmonize with and compliment the building materials and will assist in creating the proper atmosphere, ensure positive visual impact and image of NorthEnd 324 and The Town of Matthews.

**SPECIFICATIONS**

1. Each Tenant shall be allowed up to three (3) attached signs. Window signage is not counted towards the maximum number of attached signs, but are included in the overall square footage allowance.
2. In accordance with the requirements of the UDO for a Master Sign Plan, there is a 15% bonus to be applied to the total square footage
3. Tenant will be allowed to use their Corporate Symbols, Logos and Font styles.
4. Signage shall be either wood, opaque, sculpted or painted metal, individual channel letters or race track type that provides electricity for lighting.
5. Sign lighting; Direct light from a shielded source with 3500-5000 Kelvin Temperature (warm white to white), or white (3500-5000 Kelvin Temperature) or colored Halo Lighting, where individual opaque letters/symbols are displayed in front of a background which reflects a hidden light source, is permitted.
6. Neon signs; displayed on or through a window area only and not occupying more than ten (10) square feet, when complementing the architectural period or style of the building, and not exceeding two (2) colors.
7. Awning or Canopy sign when the sign is same or similar material and same plane as the awning or canopy, and not built up.
8. Window signs for each Tenant shall not exceed 20% of overall window area. No window signs are allowed on 2<sup>nd</sup> floor.
9. Incidental signs as defined under the UDO may be installed on the site as allowed under the UDO. The sign area of incidental signs shall not be applied to or deducted from the maximum total square footage of the signage allowed under the Master Sign Plan.
10. Signage must fit within designated space on approved building architectural drawing plans. Any signage outside of designated areas (vinyl lettering on windows, directional/parking lot signs) must be approved by Landlord and the Town of Matthews. Sign sizes are subject to all local sign ordinances and Landlord's Sign Criteria Plan and shall adhere to the restrictions set forth therein.
11. Lettering style: Letter styles must be legible, appropriate and compatible with the building architecture.
12. Exposed electrical conduit is not permitted. All sign support hardware must be painted to complement the building.

**Prohibited Signs**

1. Any structure or any material for a sign face which is designed to be internally illuminated wall, projecting, awning, or freestanding sign, whether or not it has any electrical or mechanical components that create internal light.
2. Any sign containing more than three (3) colors.
3. Signs placed or projecting over the public right-of way.
4. Feather signs

**Electrical Requirements:**

1. The required transformers shall be mounted inside the Tenants space that is easily assessable. All wiring is to be contained within the tenant's space; no exposed wiring will be permitted along the back of the parapet wall.
2. The Tenants signage shall be on in all dark hours.
3. Final electrical connection shall be the responsibility of the Tenant. This work shall be done by the Tenant's electrician or sign contractor. The cost of this work is the responsibility of the Tenant or Tenant's contractors.

**Master Sign Table Attached**

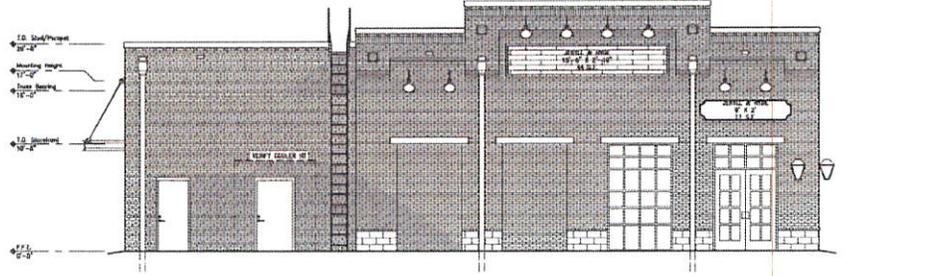
Master Sign Plan Computation  
 NorthEnd 324  
 7/24/2015  
 Revised 8/7/15

**Proposed Initial Tenant Usage - 3 Tenants**

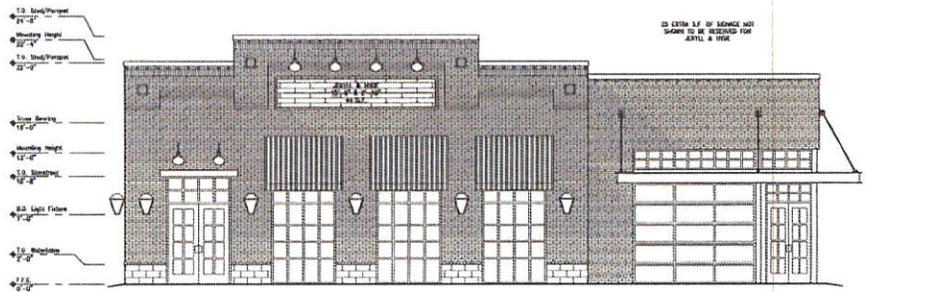
Tenants	Space Occupied	Per Code Signage Allowed SF	Per Code MSB Signage Allowed SF
<b><u>Building Signage</u></b>			
Truliant Federal Credit Union, First floor	324-101 N. Trade	80	135
Truliant Federal Credit Union, 2nd floor 201	324-201 N. Trade	0	0
Office-TBD, 2nd floor 202	324-202 N. Trade	80	30
Jekyll & Hyde Restaurant	316 N.Trade	80	130
	Total	240	295
	Bonus (15%)	55.5	
	Total Building Signage	295.5	295
<b><u>Monument</u></b>		50	50
	Total Development Signage	345.5	345

**Maximum Signage Opportunity - 4 Tenants**

Tenants	Space Occupied	Per Code Signage Allowed SF	Per Code MSB Signage Allowed SF
<b><u>Building Signage</u></b>			
First Floor Single User	324-101 N. Trade	80	135
Office-TBD, Second Floor Suite 201	324-201 N. Trade	80	50
Office-TBD, Second Floor Suite 202	324-202 N. Trade	80	50
Single Tenant Retail Building	316 N.Trade	80	135
	Total	320	370
	Bonus (15%)	55.5	
	Total Building Signage	375.5	370
<b><u>Monument</u></b>		50	50
	Total Development Signage	425.5	420



**02 ELEVATION: Rear**  
 115' x 112'



**01 ELEVATION: Front**  
 102' x 112'

**NORTH END 324  
 BUILDING 'B'**  
 New Construction

318 N Trade St  
 Matthews, NC 28105

Date:	February 23, 2015
Project Number:	2014-33
Basis For:	Construction Only
Construction Only:	02.23.15

ARCHITECTURAL GROUP

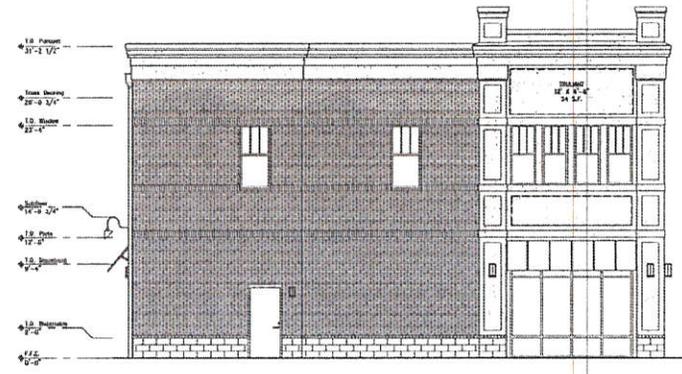
**A2.1**

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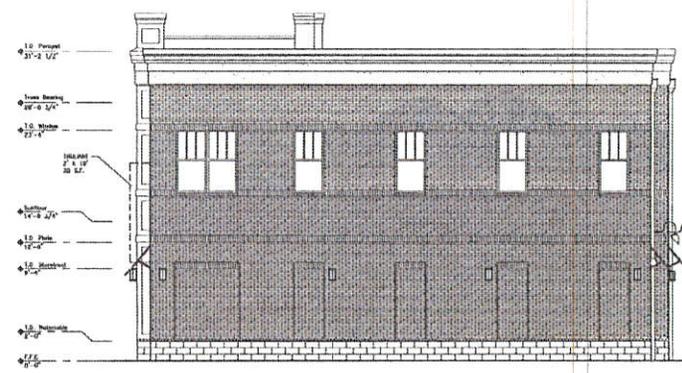


ARCHITECTURAL GROUP  
 901 S. 20th St. 130 Main St. Suite 100  
 Raleigh, North Carolina 27603  
 www.urbandesign.com

3/14/15



02 ELEVATION: Left Side  
 1/4" = 1'-0"



01 ELEVATION: Right Side  
 1/4" = 1'-0"

**NORTH END 324  
 BUILDING 'A'**  
 New Construction

324 N. Trade St.  
 Matthews, NC 28105

Date:	JUN 2, 2015
Project Number:	2014-39
Project For:	
Construction - Only:	07.02.15

EXTERIOR ELEVATIONS

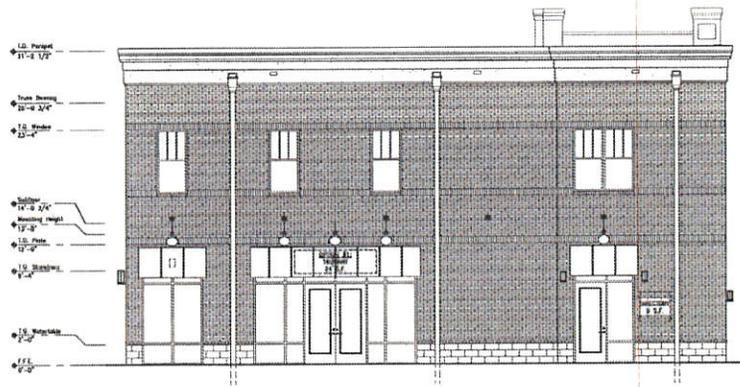
**A2.2**

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**ARCHITECTURAL GROUP**  
 2412 E. 20th St. | 1501 Main Street | Suite 200  
 Raleigh, North Carolina 27603  
 www.urbanarch.com

JANES:



**02 ELEVATION: Rear**  
 1/8" = 1'-0"



**01 ELEVATION: Front**  
 1/8" = 1'-0"

**NORTH END 324  
 BUILDING 'A'**  
 New Construction

324 N Trade St  
 Matthews, NC 28105

Date:	July 2, 2015
Project Number:	2014-33
Issue:	FFW
Construction Only:	07/02/15

**EXTERIOR ELEVATIONS**

**A2.1**

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P.O. BOX 4205  
 BURLINGTON, NORTH CAROLINA  
 27215  
 PHONE: (336) 584-1375  
 FAX: (336) 584-3848

DRAWING #: TRULIANT-MATTHEWS  
 DATE: 10-19-15  
 JOB: EXTERIOR SIGNS  
 LOCATION: 324-101 & 324-201  
 NORTH TRADE ST.  
 MATTHEWS, NC  
 CONTACT: ---  
 DRAWN BY: D. MITCHELL  
 JOB FOLDER: 2015 - T  
 SALESPERSON: IR

COLOR SPECIFICATIONS:

- PANTONE BLUE 286C
- PANTONE YELLOW 115C
- PANTONE 180
- PANTONE 180
- PANTONE 180

SCALE: 1/2" = 1'-0"

APPROVED: \_\_\_\_\_  
 DATE: \_\_\_\_\_



Duplication of this drawing is prohibited without prior consent of Atlantic Sign Media, Inc. Thank you for respecting our investment in your project.



**REVISED MODIFIED LOGO**

**GENERAL SPECIFICATIONS:**  
 TRULIANT - INDIVIDUAL FACE-LIT CHANNEL (4" DEEP), WHITE FACE/WHITE CHANNEL  
 MOUNTED ON APPROX. 3" ALUMINUM PAN/WHITE LED  
 FEDERAL CREDIT UNION - 3/4" PUSH THRU LETTERS,  
 3630-20 WHITE VINYL FACE,  
 SUN - 3/4" PUSH THRU LETTERS & BACKED WITH WHITE LED  
 3630-015 YELLOW VINYL  
 ALUMINUM PAN FLUSH MOUNTED TO WALL PAINTED TO MATCH PANTONE 286C / OPAQUE BACKGROUND  
**54 SQ. FT.**



**LEFT SIDE ELEVATION**  
 SCALE: 3/32" = 1'-0"



**FRONT ELEVATION**  
 SCALE: 3/32" = 1'-0"

**ITEM A**



P.O. BOX 4205  
 BURLINGTON, NORTH CAROLINA  
 27215  
 PHONE: (336) 584-1375  
 FAX: (336) 584-3848

DRAWING #: TRULIANT-MATTHEWS  
 DATE: 10-19-15  
 JOB: EXTERIOR SIGNS  
 LOCATION: 324-101 & 324-201  
 NORTH TRADE ST.  
 MATTHEWS, NC  
 CONTACT: ---  
 DRAWN BY: D. MITCHELL  
 JOB FOLDER: 2015 - T  
 SALESPERSON: IR

COLOR SPECIFICATIONS:

-  PANTONE BLUE 286C
-  PANTONE YELLOW 115C
-  PANTONE 1B0
-  PANTONE 1B0
-  PANTONE 1B0

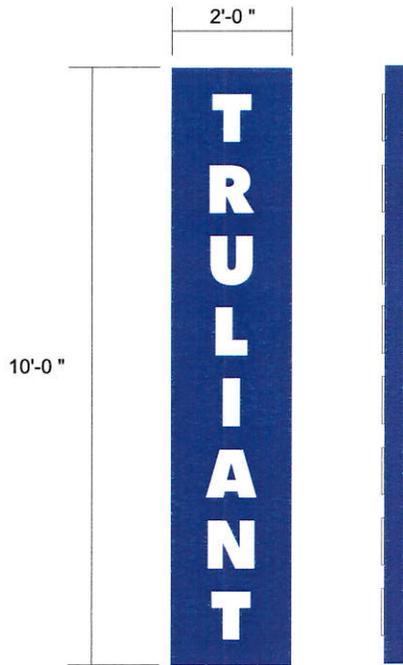
SCALE: 1/2" = 1'-0"

APPROVED: \_\_\_\_\_  
 DATE: \_\_\_\_\_



Duplication of this drawing is prohibited without prior consent of Atlantic Sign Media, Inc. Thank you for respecting our investment in your project.

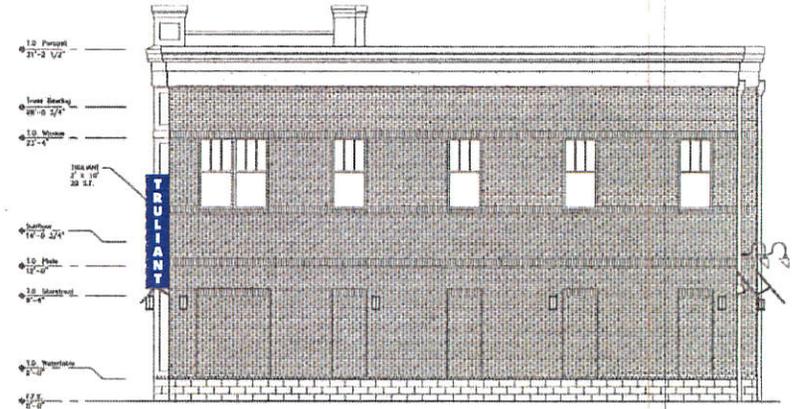
ITEM A



GENERAL SPECIFICATIONS:

TRULIANT - INDIVIDUAL INJECTED MOLTEN ACRYLIC TRANSLUCENT LETTERS  
 ALUMINUM BOX SIGN MOUNTED TO WALL BRACKET

20 SQ. FT.



RIGHT SIDE ELEVATION  
 SCALE: 3/32" = 1'-0"

**Matthews Board of Adjustment  
Variance Request for 110 Matthews Station Street  
December 1, 2016**

**Summary of Request**

The applicant requests a variance to allow a new patio with brick wall to be located within the sight triangle in Downtown Matthews.

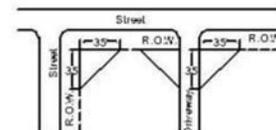
**Background**

The owner of the property at 110 Matthews Station, tax parcel id 21501235, seeks to create a new outdoor patio within an area currently used for parking. In late 2015, planning staff proposed the idea of creating a new urban open space adjacent to North Trade Street to replace the parking spaces beside the former Dilworth Coffee location. At the 2016 Town Planning Conference, staff was directed to work with the property owner, Lat Purser and Associates, to move the concept forward. Lat Purser is currently working with a restaurant tenant for the space and proposes an outdoor patio that would replace the two parking spaces closest to North Trade Street. To create separation between the outdoor dining area and the public sidewalk, a brick knee wall is proposed to delineate the space and create an urban edge against the sidewalk. If a zoning variance is secured, the applicant must also seek site plan approval from the Town Board for the proposed patio. Matthews Station was a public private partnership between the Town and Lat Purser. Similar to the rezoning process, the variance must be in place for the proposal to move forward as currently designed.

**Unified Development Ordinance Requirement**

In the UDO, sight triangles are defined as follows:

**Sight Triangle:** shall mean the triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines, or a right-of-way line and the curb or edge of pavement of a private street or driveway, each point being thirty five feet (35') from the intersection, and the two intersecting right-of-way lines (or right-of-way line and curb cut). A sight triangle may also be created with dimensions as determined by the State Department of Transportation. (Ord. No. 1532; passed 1-8-07)



**Matthews Board of Adjustment  
December 1, 2016**

**Unified Development Ordinance Definitions and Requirements**

The UDO allows for a modified sight triangle in the Downtown area of 25'x25'. Specifically, the code dictates that low walls that visually and physically separate the public right-of-way from private use areas are appropriate reasons for reducing the sight triangle.

**155.601.13 Sight Triangle**

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- A. STANDARDS. Within a sight triangle, and except as provided in § 155.601.13.B below, no structure, sign, plant, shrub, tree, berm, fence, wall, mailbox or object of any other kind shall be installed, constructed, set out or maintained so as to obstruct cross-visibility at a level between two (2) feet and ten (10) feet above the level of the center of the street intersection.
- B. EXEMPTIONS. The standards of this § 155.601.13 shall not apply to:
1. Existing natural grades, which, by reason of natural topography, rises twenty four (24) or more inches above the level of the center of the adjacent intersection.
  2. Trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the area between two feet (2') and ten feet (10') above the level of the center of the abutting intersection.
  3. Fire hydrants, public utility poles, street markers, governmental signs, and traffic control devices. (Ord. No. 1532, passed 1-8-07)
- C. REDUCED SIGHT TRIANGLE FOR CERTAIN DISTRICTS. A modified sight triangle with dimensions no less than twenty five feet by twenty five feet (25' x 25') may be allowed within the Downtown Overlay district and within the C-MF, MUD, TS, and ENT districts with the approval of the Town Engineer. This provision may only be applied adjacent to Town-maintained streets (not state roads), and only when the adjacent building or approved outdoor amenity is at, or less than, twenty feet (20') from the public street right-of-way line. Outdoor amenities that may justify a reduced sight triangle may include, but are not limited to, a retaining wall or substantial sharp change of natural grade, stairs, fire escape, or low wall that visually and physically separates the public right-of-way from the adjacent private use area and cannot efficiently be relocated elsewhere on the site. The reduced sight triangle must be located where the travel lane closest to the building is controlled by either a signal or signage. **[formerly part of § 153.078]**

**Matthews Board of Adjustment  
December 1, 2016**

**Town Staff Review of Request**

The applicant has proposed an example of an “urban sight triangle” concept utilized in urban areas within Charlotte. Instead of measuring the sight triangle from the intersection of the street rights-of-way, the measurement follows the curb line. In this situation, due to the presence of cars parked on street, vehicles leaving Matthews Station and turning on North Trade must pull forward of the stop bar to see around the parked vehicles. The presence of cars parked in the existing parking area that is to be replaced with a patio is arguably more of a barrier to sight visibility than the proposed 32” wall.

Town Engineer Susan Habina Woolard has reviewed the proposal and determined that the wall is low enough that there are no safety concerns with the variance request. An email with her feedback is provided within this report.

### Example Findings of Fact

*In reaching a decision on a variance request, the Board shall make findings upholding all of the following criteria:*

1. Unnecessary hardship would result from the strict application of this Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

**The property owner seeks to reduce the level of sight distance conflict by removing parked cars from the corner and replacing them with a low wall.**

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)

**The location is within the downtown area at the corner of two intersecting public streets where parked cars are located close to the intersection, potentially obstructing visibility.**

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

**The applicant seeks to improve the corner and improve safety. The applicant did not create the hardship.**

4. The requested variance is consistent with the spirit, purpose, and intent of this Title, public safety is secured, and substantial justice is achieved.

**The requested variance would help improve the urban design of the area and contribute to a safer environment for pedestrians and drivers by reducing the sight visibility concerns created by the vehicles parked in the sight triangle.**

### Findings of Fact Standards for Zoning Variances

***In granting any zoning variance, the Board of Adjustment shall make findings that the spirit of the ordinance shall be observed, public safety and welfare shall be secured, and substantial justice shall be done. To reach these findings, the Board of Adjustment shall consider the following 7 standards:***

1. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts.
2. That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Planning Director, or designee, before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later.
3. That the unique hardship situations cited by the applicant are not hardships resulting from personal or household members' circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property.
4. That the strict enforcement of this Title would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Title.
5. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Title denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief.
6. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties.
7. That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance.





Jay Camp &lt;jcamp@matthewsnc.gov&gt;

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**Re: Matthews Patio**

1 message

**Susan Habina Woolard, PE** <shwoolard@matthewsnc.gov>

Wed, Nov 9, 2016 at 8:14 AM

To: Jay Camp &lt;jcamp@matthewsnc.gov&gt;

Cc: CJ O'Neill &lt;cjoneill@matthewsnc.gov&gt;

Good morning, Jay!

Thank you for the opportunity to review and provide input for this patio. We have just begun researching sight triangles and intersection sight distance so as to provide clear definition and direction for the Town's position on these design tools. The timing on this is perfect to help better shape our policy.

Generally speaking, a downtown environment has less need for sight triangles measured as such a setback because of the nature of the traffic -- slower, especially in Matthews with the speed tables, and more observant to the myriad of visual inputs from the downtown environment such as pedestrians, shops, and downtown aesthetic treatments.

Taking a cue from the City of Charlotte, the Charlotte sight triangle policy refers to obstructions in the sight triangle being between 30"-72" which is considered the sight "window" for the driver. As you noted, the wall encroaches somewhat into that window, but the people sitting at the tables within that zone would encroach even more. However, also in practice in Charlotte is that sight triangles in the downtown area are measured from the projected curbline intersection if not exempted altogether. The second exhibit shows the application of the downtown sight triangle measured from the curb.

The exhibits provided by the developer clearly indicate the purpose of the sight triangle being as visibility for approaching vehicles and how adding the patio as shown in the sketch will not hinder the vehicle driver's ability to see other vehicles. Additionally, in my experience, approach sight triangles measured from the r/w in a downtown setting is not appropriate; therefore I would support a variance to measure these triangles from the curbline instead of the r/w.

As an aside, I would really like to see bicycle parking incorporated into this plan. Outdoor dining and cycling are complementary activities.

Please let me know if I can be of further assistance.

**Susan Habina-Woolard, PE**

Town Engineer

Town of Matthews

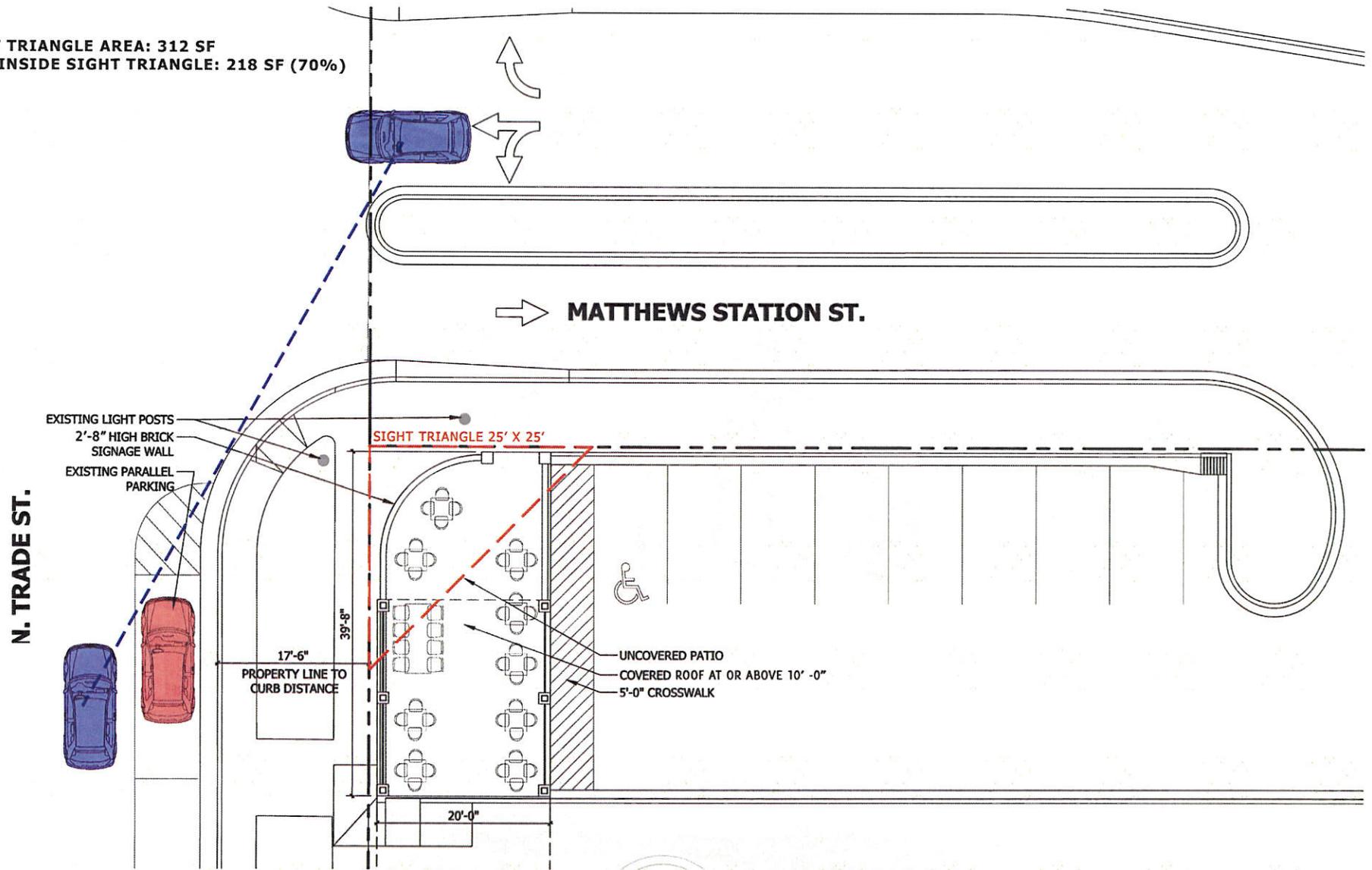
980-285-7118 cell

704-708-1243 direct

[shwoolard@matthewsnc.gov](mailto:shwoolard@matthewsnc.gov)[www.matthewsnc.gov](http://www.matthewsnc.gov)

Pursuant to North Carolina General Statutes Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it may be considered public record and as such are subject to request and review.

TOTAL SIGHT TRIANGLE AREA: 312 SF  
TOTAL AREA INSIDE SIGHT TRIANGLE: 218 SF (70%)



# MATTHEWS STATION PATIO ENDCAP

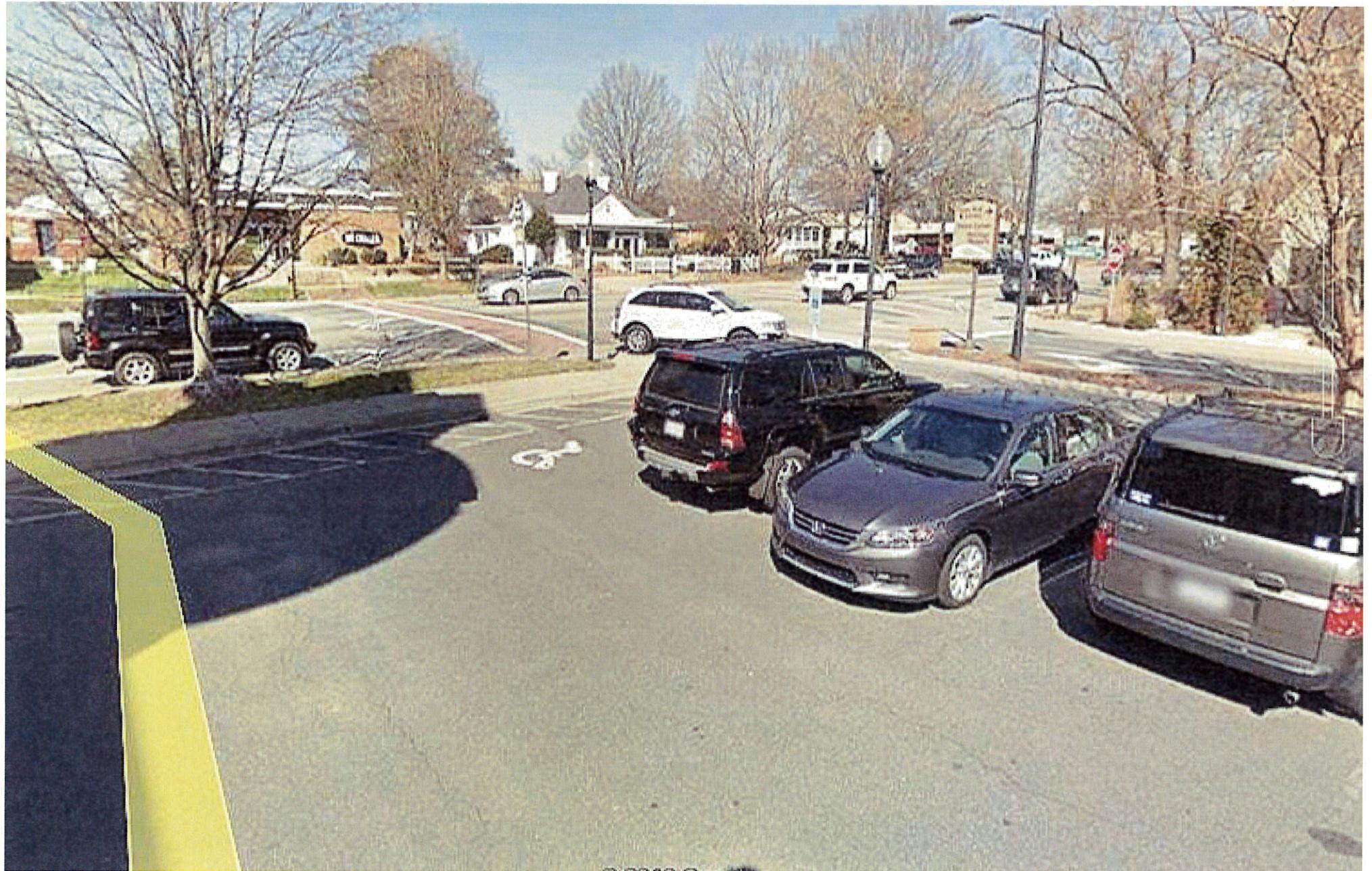
MATTHEWS, NORTH CAROLINA

2016 NOVEMBER 10

PROPOSED PATIO ENDCAP WITH SIGHT TRIANGLE



Exhibit C- Parking Lot View



# Exhibit B- Intersection View





# MATTHEWS STATION PATIO EXTENSION

MATTHEWS, NORTH CAROLINA

2016 NOVEMBER 07

LPA  
Lat Purser  
& Associates, Inc.





**MATTHEWS STATION PATIO EXTENSION**  
MATTHEWS, NORTH CAROLINA

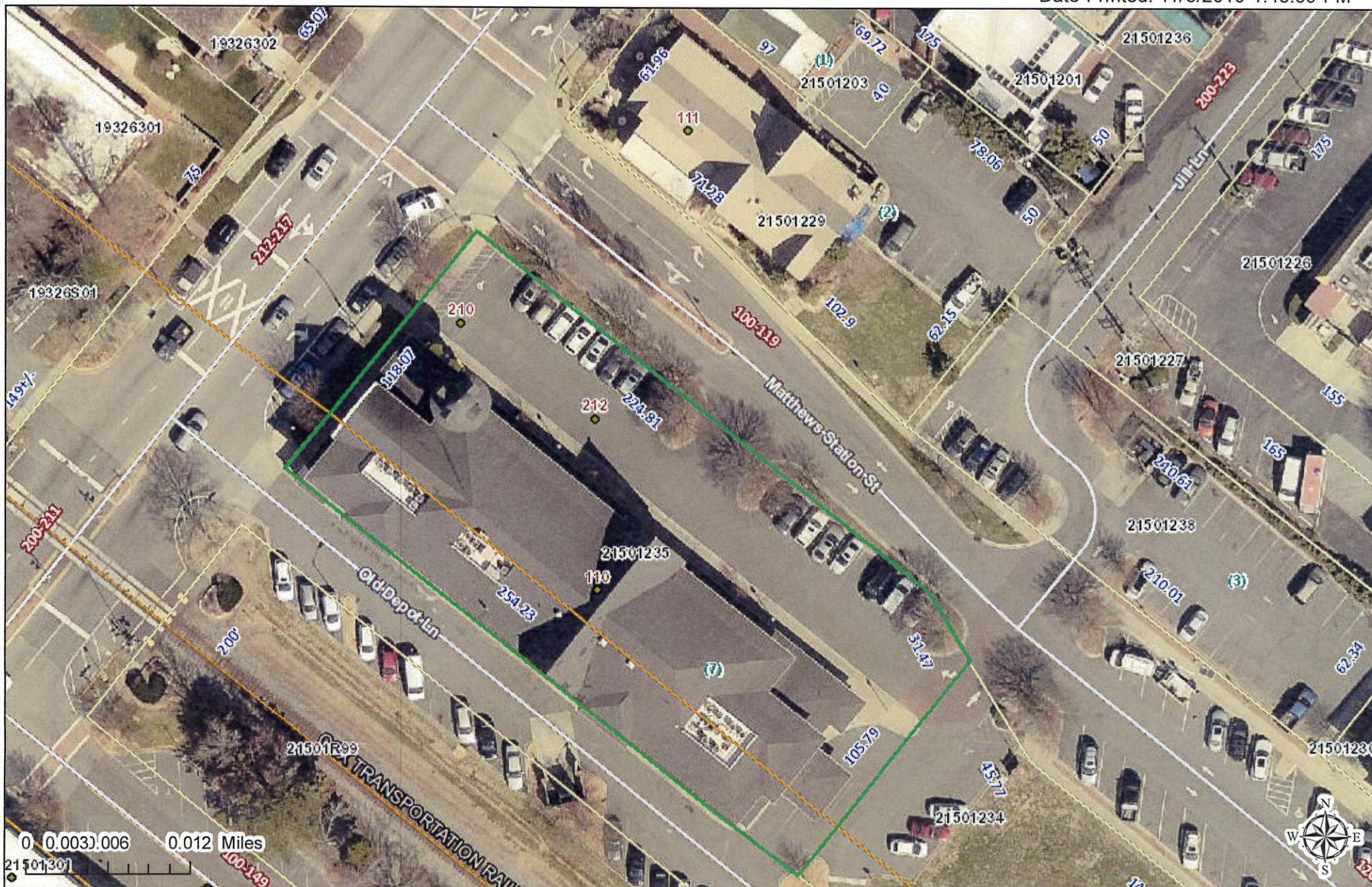
2016 NOVEMBER 07

LPA  
Lat Purser  
& Associates, Inc.



# Polaris 3G Map – Mecklenburg County, North Carolina

Date Printed: 11/8/2016 1:48:59 PM



This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.



232 Matthews Station Street  
Matthews, NC 28105  
704.847.4411

**APPLICATION FOR A ZONING VARIANCE**

Date Filed: November 11, 2016

Hearing Date: December 1st, 2016 Hearing Time: 7:00

HEARING LOCATION: Hood Room, Matthews Town Hall, 232 Matthews Station Street, Matthews, NC 28105

Property Owner Name(s): Matthews Depot, LLC

Subject Property Street Address: 110 Matthews Station St. Matthews NC, 28105

Subject Property Tax Parcel ID: 21501235

Current Zoning District of Subject Property: Historic Urban Code District/ Downtown Overlay District

Subject Property is Concurrently Seeking a Change in Zoning Classification To: No Change

Property Owner is Applicant Appearing Before Board of Adjustment: No

Applicant Appearing Before Board of Adjustment is Purchasor\*/ Lessee\*/Other\* Representative

\*Written explanation is required Matthews Depot LLC is managed by Lat Purser & Associates, Inc  
JD Yearwood is an employee of Lat Purser & Associates, Inc.

To the Town of Matthews Zoning Board of Adjustment:

This Application for a Zoning Variance is being submitted because the property identified above cannot be used in the following manner: see exhibit A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Without relief from one or more specific provisions of the Unified Development Ordinance (UDO). UDO section(s) which affect this ruling is/are: Section 155.601.13 (a). (c)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

The Board of Adjustment may apply the following standards to verify whether sworn testimony and/or submitted documents/exhibits have been provided to satisfactorily justify the required four findings of fact. Please provide any additional documents and statements that will assist the Board in their deliberations:

- A. That special or unique circumstances or conditions exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts.
- \_\_\_ Are there any other parcels in the vicinity of the subject site which have similar size, topographical, dimensional, configuration, or related characteristics.
- \_\_\_ What is the closest nearby parcel that exhibits similar characteristics, and what is that/are those characteristic(s)?
- B. That the special conditions or circumstances do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Planning Director, or designee, before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later.
- \_\_\_ Was any foundation or other survey done after construction commenced? If so, attach.
- \_\_\_ If the request for variance is due to inaccurate measurements, calculations, or actions by anyone contrary to code requirements, please identify who, what the inaccuracy was, when it occurred, when it was discovered, what work was done after discovery. If development activity continued after discovery of the inaccurate action, why was it necessary to continue prior to review of this variance request?
- C. That the unique hardship situations cited by the applicant are not hardships resulting from personal or household members' circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property.
- \_\_\_ If another person/entity had control of this site, how would that change the need for the specific variance being requested?
- D. That the strict enforcement of these zoning requirements would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of the code.
- \_\_\_ How can the property be used if the requested variance is not granted?
- \_\_\_ Could the property be reasonably used if a variance with less deviation from the adopted requirements be issued?
- E. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that are denied to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief.
- \_\_\_ Why do nearby parcels not need a similar variance to what is being requested?
- \_\_\_ If granted, how will this site be able to support the same/similar development characteristics as surrounding parcels?
- F. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties.
- \_\_\_ If the requested variance is granted, what appearance changes will take place on this site?
- \_\_\_ Will any visual/appearance changes be visible from any public street?
- G. That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance.
- \_\_\_ List any and all impacts that may be felt by/on adjacent parcels if this requested variance is approved.



## Exhibit A

Applicant requests a zoning variance that would allow for an exterior patio structure, to include a covered patio and knee high wall with landscaping below the wall. A portion of this improvement would fall within the Sight Triangle area as described in the UDO and further described below.

- i. As a result of strict application of the Sight Triangle requirements, aesthetic upgrades along property frontage similar to those found in other parts of the Downtown area cannot be achieved at this location.

A variance will allow the applicant to enhance the aesthetic appearance of the Matthews Station development originally constructed in 2001. The Variance will provide a more urban edge and signage, as commonly found in commercial developments within a downtown setting. See Rendering.

The Applicant has included a rounded wall section to help minimize the total impact of the request.

- ii. There are a number of factors that are specific to the subject property:

Most notably, vehicles when stopped at the median exiting Matthews Station Street have to pull beyond the cars parallel parked on N. Trade Street and onto the speed table before turning left. They therefore are not being impacted by the current Sight Triangle and proposed patio structure and wall. See Intersection Exhibit.

Additionally, the Sight Triangle area as defined in the UDO is currently being utilized as parking spaces as was approved in the original development of the parcel. The new patio structure and wall will help reduce some the existing sight line impacted by those vehicles. See Parking Lot Exhibit

The speed table lining both sides of the intersection on North Trade Street reduces speeds below 25 mph, allowing drivers to be more aware of their surroundings.

- III. The Hardship described above is a result of the Unified Development Ordinance and the unique characteristics of the Site, both of which are described above.
- IV. The variance requested is in alignment with the joint vision created by Applicant and the Town Matthews. The patio and wall feature will give definition and identity to the Matthews Station project which includes the Town Hall & Library. Additionally, Applicant will continue to work with the Town of Matthews on final design to provide signage opportunity to the Town and ensure consistency with other similar projects in the downtown area.

The proposed patio and wall structure will encourage pedestrian traffic and will help further incorporate the Matthews Station development into the improving Downtown Matthews corridor.

- A. The Variance will help add consistency within the Downtown area, as a similar feature is currently located at the North End development.

A variance was previously granted to Parcel: 21501229 in 2009, which is located on the opposite corner of Matthews Station Street & N. Trade Street, which includes improvements within the Sight Triangle area.

B. N.A.

C. N.A.

- D. If the requested Variance is not granted, the area will remain as parking. The granting of the Variance will allow the parking in this area to be better screened from N. Trade Street.

- E. If granted, patio area will be similar to what is found at other buildings in the Downtown area.

- F. The proposed improvements will be incorporated into the design standards used in the original development as shown in the attached conceptual rendering.

- G. No perceived negative impact

Adjacent owners to Matthews Depot LLC Parcel #21501235

Tax Parcel ID	Property Owner Name	Street	City	State	Zip
21501234	TOWN OF MATTHEWS	232 MATTHEWS STATION ST	MATTHEWS	NC	28105
21501238	TOWN OF MATTHEWS	232 MATTHEWS STATION ST	MATTHEWS	NC	28105
21501229	MARY JANE (TRUSTEE) LEFEBYRE	2593 ARAGON CT	SAN JOSE	CA	95125
19326303	225 N TRADE LLC	PO BOX 517	MATTHEWS	NC	28106
19326302	KTP PROPERTIES LLC	517 W POPLAR ST	PULASKI	TN	38478
19326S01	CSX TRANSPORTATION INC.	500 Water Street	Jacksonville	FL	32202
21501R99	CSX TRANSPORTATION INC.	500 Water Street	Jacksonville	FL	32202



**Matthews Board of Adjustment  
Variance Request for Matthews Festival  
December 1, 2016**

**Summary of Request**

The applicant requests variances to transitional right-of-way requirements for both parking and the construction of two new buildings.

**Background**

The Matthews Festival Shopping Center at the corner of US 74 and NC 51 is currently undergoing a rezoning from the old Conditional district to B-1 SCD and B-H (CD). The owners are pursuing a renovation of the entire center, demolition of some structures and the construction of two new outparcel buildings.

Staff has identified two variances that are required for the rezoning to move forward as currently designed. Within the UDO, the Town has requirements for the reservation of land for future right-of-way expansion called transitional right-of-way. The purpose of these requirements is to reserve land for roadway expansion and ensure that buildings and improvements are not disturbed if a road is widened. For US 74, the expected width of the ROW has for many years been 350'. Currently, the NCDOT is designing the expansion of the road from 4 to 10 lanes. Work is planned to begin around 2022. The most recent maps provided by NCDOT indicate that the widening in this location can be accomplished within the current 200' ROW thus negating the need for additional land. Although the widening plans are only a draft at this time, there is no evidence thus far that more land is needed, meaning that the existing improvements at the site would not be disturbed.

**Summary of Each Variance Request**

***Variance 1: Allow parking located in the transitional ROW to be counted toward minimum required parking for the site.***

If no new construction was occurring, the site could continue to use the existing parking that was in place prior to the transitional ROW requirements being put in place. However, due to the construction of new buildings and renovation of the parking area, the site must meet current code. Normally, the only parking allowed in the transitional ROW is overflow parking above and beyond required minimum parking.

**Matthews Board of Adjustment  
Variance Request for 2915 Windsor Chase Drive  
December 1, 2016**

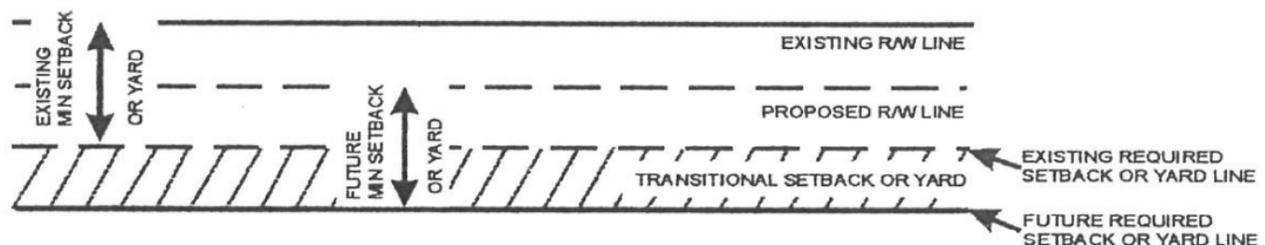
**Summary of Each Variance Request Cont'd**

***Variance 2: Allow buildings to be constructed at least 40' from the current right of way.***

When measuring for setbacks for new buildings where transitional ROW is required, the measurement for the front setback is typically taken from the back of the proposed ROW. In this case, the district has a 40' front setback. The transitional ROW is about 75', so the setback would be 115' from the edge of the current ROW. The applicant indicates on the attached variance exhibit that the building is at the 40' setback from the current ROW although it looks as if portions of the new building may be a few feet forward

**UDO Requirements**

Section 155.601.18 states "affected property owners shall have the right to request a variance to transitional setback or yard requirements to the Board of Adjustment. In granting relief, the Board may impose reasonable and appropriate conditions and safeguards to protect the interest of neighboring properties".



### Example Findings of Fact

*In reaching a decision on a variance request, the Board shall make findings upholding all of the following criteria:*

1. Unnecessary hardship would result from the strict application of this Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

**The property owner seeks to count existing parking spaces toward required parking. The inability to count these spaces reduces the amount of development that can occur and results in a property that is overparked, thus using the land inefficiently. The proposed locations of the buildings from the current ROW are based on plans from NCDOT that are not expected to change significantly enough to impact the site.**

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)

**The property is not extremely deep yet has a large amount of road frontage with numerous parking spaces along the roadway.**

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

**The applicant seeks to reuse spaces constructed prior to the transitional ROW requirements that were adopted in 2000, 13 years after development of this site in 1987.**

4. The requested variance is consistent with the spirit, purpose, and intent of this Title, public safety is secured, and substantial justice is achieved.

**There is no public safety concern with the request. The buildings are located with a 40' setback from existing ROW and what is expected to be the future ROW once the road is expanded.**

### Findings of Fact Standards for Zoning Variances

***In granting any zoning variance, the Board of Adjustment shall make findings that the spirit of the ordinance shall be observed, public safety and welfare shall be secured, and substantial justice shall be done. To reach these findings, the Board of Adjustment shall consider the following 7 standards:***

1. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts.
2. That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Planning Director, or designee, before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later.
3. That the unique hardship situations cited by the applicant are not hardships resulting from personal or household members' circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property.
4. That the strict enforcement of this Title would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Title.
5. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Title denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief.
6. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties.
7. That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance.





232 Matthews Station Street  
Matthews, NC 28105  
704.847.4411

### APPLICATION FOR A ZONING VARIANCE

Date Filed: 11/11/2016

Hearing Date: 12/1/2016 Hearing Time: 7:00 PM

HEARING LOCATION: Hood Room, Matthews Town Hall, 232 Matthews Station Street, Matthews, NC 28105

Property Owner Name(s): Matthews Festival limited partnership, a South Carolina limited partnership

Subject Property Street Address: 10410 East Independence Boulevard, Matthews, NC 28105

Subject Property Tax Parcel ID: 193-292-09, 193-292-27 and 193-292-26

Current Zoning District of Subject Property: C

Subject Property is Concurrently Seeking a Change in Zoning Classification To: B-1 SCD and B-H

Property Owner is Applicant Appearing Before Board of Adjustment: YES

Applicant Appearing Before Board of Adjustment is Purchasor\*/ Lessee\*/Other\* \_\_\_\_\_

\*Written explanation is required \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

To the Town of Matthews Zoning Board of Adjustment:

This Application for a Zoning Variance is being submitted because the property identified above cannot be used in the following manner: SEE ATTACHED

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Without relief from one or more specific provisions of the Unified Development Ordinance (UDO). UDO section(s) which affect this ruling is/are: SEE ATTACHED

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

**FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE**

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. By law, the Board is required to reach four (4) conclusions as a prerequisite to issuing a variance: (i) that unnecessary hardship would result from the strict application of the ordinance; (ii) that the hardship results from conditions that are peculiar to the property; (iii) that the hardship does not result from actions taken by the applicant or the property owner; and, (iv) that the variance is consistent with the spirit, purpose, and intent of the zoning code, public safety is secured, and substantial justice is achieved. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these four required conclusions. IT WILL BE YOUR RESPONSIBILITY TO PRESENT THESE FACTS BY SWORN TESTIMONY AND COMPETENT EVIDENCE.

- (i) UNNECESSARY HARDSHIP WOULD RESULT FROM THE STRICT APPLICATION OF THE ORDINANCE. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. (State facts and arguments to show that the variance will not result in advantages or special privileges to the applicant or property owner that the ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief.):

The strict application of Section 155.601.18 Special Requirements for Lots along Thoroughfares on the existing Matthews Festival Shopping Center will result in a hardship on the property. The hardship is a result of the inability to use existing parking spaces located within the future right-of-way to meet the minimum parking requirements of the UDO, and the inability to replace these existing parking places elsewhere on Site. The inability to meet the parking requirements of the UDO as a result of the additional right-of-way requirement creates a hardship that limits the ability to reinvent and reinvest the existing shopping center with new buildings and tenants

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- (ii) THE HARDSHIP RESULTS FROM CONDITIONS THAT ARE PECULIAR TO THE PROPERTY, SUCH AS LOCATION, SIZE, OR TOPOGRAPHY. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. (State facts and arguments to show that special and unique circumstances or conditions exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning district.):

The hardship to Site is a result of its location along Independence Boulevard coupled with the fact that the Site was developed as a shopping center prior to the requirements for the reservation of additional right-of-way. The requirement to reserve additional right-of-way and the resulting increase in the required building setback results in the loss of a substantial amount of land area currently utilized by the existing shopping center, that cannot be replaced. In addition, the very linear shape of the property with ± 1,272 feet of frontage/length along Independence Boulevard combined with a limited and irregular depth of ± 587 feet creates an inability of the Site to replace the loss of land area effected by the future right-of-way, and currently used for parking spaces. These factors combine to create a hardship that severely limits the ability to reinvent and renovate the existing shopping center with new buildings and tenants

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**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

(iii) THE HARDSHIP DOES NOT RESULT FROM ACTIONS TAKEN BY THE APPLICANT OR THE PROPERTY OWNER. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. (State facts and arguments to show that the hardship did not result from personal circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property.):

The hardship to the Site is not a result of the actions of the property owner. The hardship was created when the zoning regulations were changed to require the reservation of additional right-of-way along thoroughfares. Because the requirement to reserve the additional right-of-way occurred after the approval and construction of the existing shopping center, the shopping center cannot be redesigned to accommodate or implement the requirement for additional right-of-way without the loss of large area of land used for existing parking, creating a hardship.

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(iv) THE REQUESTED VARIANCE IS CONSISTENT WITH THE SPIRIT, PUPOSE, AND INTENT OF THE ZONING CODE, PUBLIC SAFETY IS SECURED, AND SUBSTANTIAL JUSTICE IS ACHIEVED. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.):

The granting of the variance is consistent with the spirit, purpose, and intent of the Zoning Code by allowing the existing shopping center to be renovated and expanded in compliance with the current UDO regulations. By granting the variance to eliminate the need to reserve additional right-of-way along Independence Boulevard the public safety is maintained and secured by allowing the existing shopping center to be reinvigorated and rehabilitated, and to continue to provided needed retail services and goods to the public.

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**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

*I certify that all of the information presented by me in this application, including attachments, is accurate to the best of my knowledge, information and belief.*

Matthews Festival Limited Partnership

Keith MacVean and Alex Kelly

Print applicant name

Print representative name



Signature of applicant

Signature of representative

200 Wingo Way, Ste 100

100 N Tryon Street, Ste 4700; 2820 Selwyn Ave, Ste 425

Mailing address of applicant

Mailing address of representative

Mt Pleasant, SC 29464

Charlotte, NC 28202, Charlotte, NC 28209

City, State Zip

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[kberinger@zpi.net](mailto:kberinger@zpi.net)

[keithmacvean@law.com](mailto:keithmacvean@law.com); [akelly@tribek.com](mailto:akelly@tribek.com)

Email address of applicant

Email address of representative

11/10/2010

11/11/2016

Date

Date

NO REQUEST FOR A ZONING VARIANCE WILL BE CONSIDERED COMPLETE AND PROCESSED PER § 155.403.2.B. UNTIL ALL SECTIONS HAVE RESPONSES, ALL DOCUMENTS AND EXHIBITS ARE ATTACHED, AND THE PROPERTY OWNER HAS SIGNED THE APPLICATION FORM.

IN THE SITUATION THAT THE PROPERTY OWNER IS NOT AN INDIVIDUAL, PLEASE INCLUDE DOCUMENTATION THAT APPLICANT IS AN AUTHORIZED REPRESENTATIVE.

IF THE PROPERTY OWNER IS NOT THE APPLICANT APPEARING TO SPEAK BEFORE THE BOARD OF ADJUSTMENT, SUCH AS LESSEE, PLEASE PROVIDE EXPLANATION OF RELATIONSHIP TO APPLICANT/REPRESENTATIVE. PRESENTING REPRESENTATIVE'S AUTHORITY TO APPEAR SHALL BE VERIFIED BEFORE THE APPLICATION IS CONSIDERED COMPLETE.

Application for a Zoning Variance Continued

**This application for a Zoning Variance is being submitted because the property identified above cannot be used in the following manner:**

Without this requested variance, to reduce the future right-of-way along Independence Boulevard to be equal to the existing right-of-way (95.70 feet from the center line), the ability to reinvest in, and reinvent the existing Matthews Festival shopping center will be severely impacted and as a result a reinvestment in the existing shopping center that involves new buildings would become unattainable.

**Without relief from one or more specific provisions of the Unified Development Ordinance (UDO). UDO section(s) which affect this ruling is/are:**

Without relief of the provision of the UDO that require the reservation of additional right-of-way along Independence Boulevard and the inability to use the reserved right-of-way to meet the minimum parking requirements of the Ordinance, the renovation and reinvention of the existing shopping center be accomplished.

The specific provision of the UDO which affect the existing shopping center are; 155.601.18 Special Requirements for Lots along Thoroughfares; 155.701. Streets, and 155.707.A.1. Improvements.

The requested variance proposes to reduce the requirement to reserve 175 feet of right-of-way from the existing center line of Independence Boulevard, to the existing right-of-way as measured from the existing center line or 95.70 feet, and to allow the required 40 foot building setback to be measured from the existing right-of-way instead of the future right-of-way line.

**(i) Unnecessary Hardship Would Result from the Strict Application of the Ordinance. Cont.**

The application of the transitional setback requirements of the UDO will result in the inability to count a total of 135 parking spaces toward the required parking for the shopping center. The proposed site plan for the Site requires that a minimum of 678 parking spaces be provided, if the 135 spaces located within the transitional right-of-way cannot be counted toward the minimum parking requirements of the UDO, the shopping center will not be able to meet the minimum parking requirements of the UDO, and will need to find a location for an additional 64 parking spaces.

**(iv) The Requested Variance is Consistent with the Spirit, Purpose, and Intent of the Zoning Code, Public Safety is Secured, and Substantial Justice is Achieved. Cont.**

The proposed variance will not affect the future plans to widen Independence Boulevard. NCDOT plans to widen Independence Boulevard (U-2509) that also include the plans to rebuild the interchange of existing Matthews Township Parkway and Independence Boulevard does not require additional right-of-way along the Site's frontage. There currently

exists along Independence Blvd. almost 50 feet of existing right-of-way that is unused (grass shoulder). The existing right-of-way for Independence Boulevard as measured from the center line is 95.70 feet.

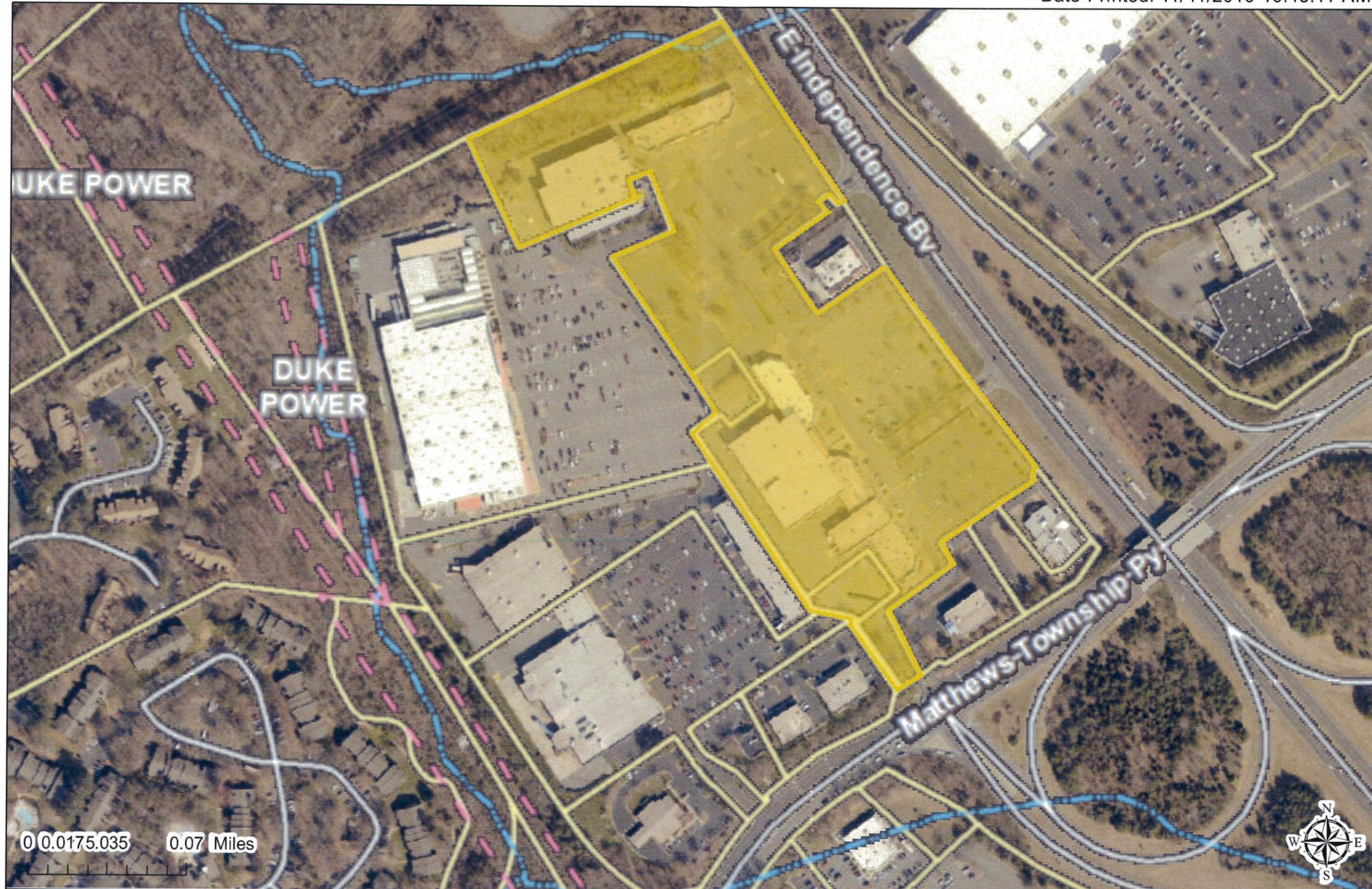
Adjacent Property Owners

	A	B	C	D	E	F
1	Parcel ID	Owner's Name	Address Line 1	City	State	ZIP Code
2	19323103	Duke Power Company	422 South Church Street	Charlotte	NC	28242
3	19329207	Realty Income Corp	11995 El Camino Real	San Diego	CA	92130
4	19352106	Lowe's Home Centers, Inc.	PO Box 1111	North Wilkesboro	NC	28656
5	19329208	Texas Roadhouse Holdings, LLC	6040 Dutchmans Lane, Ste 400	Louisville	KY	40205
6	19352107	IA Matthews Sycamore, LLC	PO Box 9271	Oak Brook	IL	60522
7	19329211	New Private Restaurant Properties, LLC	2202 N West Shore Blvd, #470C	Tampa	FL	33607
8	19323133	HD Development of MARYland Inc	PO Box 105842, Ste 3608	Atlanta	GA	30348
	19329217	Matthews Township Shopping Center, LLC	500 N Dearborn Street, Ste 400	Chicago	IL	60654
	19329218					
9	19329219					

# Polaris 3G Map – Mecklenburg County, North Carolina

## Variance Map

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This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.