

**PLANNING BOARD
RESCHEDULED MEETING
TUESDAY AUGUST 18, 2015
7:00 PM
HOOD ROOM, MATTHEWS TOWN HALL**

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES – July 28, 2015
- III. PUBLIC IMPROVEMENT VARIANCE – 1503 Home Place, Delay Installation of Sidewalk
- IV. SET SCHEDULE TO REVIEW YOUTH VOICE APPLICATIONS FOR SCHOOL YEAR 2015-16
- V. ADJOURNMENT

MEMO

TO: Planning Board Members
FROM: Kathi Ingrish
DATE: August 13, 2015
RE: August 18, 2015 Planning Board Meeting

Your Board's scheduled meeting date is the fourth Tuesday of each month, which generally allows two weeks between zoning public hearings and Planning Board review/recommendation sessions. At the Town Board meeting last Monday, the zoning public hearing was continued to next month. That means your Board will not have any zoning cases for review in your August meeting. Meanwhile, a lack of sidewalk construction in front of a new house has created a personal hardship on a couple planning to move into the home from out of state. Because a number of you were willing to reschedule your evening commitments to come a week earlier than usual, we are holding your monthly meeting on August 18 to alleviate some pressures this couple is experiencing with their move.

As a quick explanation about the Town's position on sidewalks, the Town has required sidewalks to be installed on both sides of streets and around cul-de-sacs as part of all new subdivisions for about 20 years. The Town also adopted a policy a couple decades ago that the Town would build sidewalk on one side of main collector and thoroughfare roads as there were available funds to do so. This meant sidewalks may be built incrementally, and there may be gaps in places, but eventually there would be a complete sidewalk network allowing anyone anywhere in Matthews to walk to other places in Matthews.

Here is some history regarding the location where the variance is being requested. Plantation Manor subdivision was created at the end of Reverdy Lane in the late 1990s. Prior to that, Home Place was about a block long on each side of Reverdy, and house lots in the area were all greater than an acre in size. When Plantation Manor subdivision was built, it improved and extended the existing road bed of Home Place and added sidewalks in front of each house. The subject site of the variance request before you is not part of Plantation Manor subdivision, but in a separate subdivision of three lots approved in 2006. That 3-lot subdivision already fronted on an improved street, so only sidewalks were noted on the record plat as needing to be added. Two of the three lots were then combined into a single building site and a house was built and occupied without sidewalk being installed. Now that the third lot has a house and is ready to be sold and lived in, the lack of required sidewalk prevents the County from issuing a Certificate of Occupancy. Mary Jo's staff report gives more details.

The submission deadline for Youth Voice applications is August 20, after next week's meeting. Therefore, your Board may wish to consider how you will review and choose a new Youth Voice representative. I can forward all the applications to each Board member next Friday so you can determine whether you want to interview any/all of the students, and when.

As always, please let Mary Jo or me know if you find you will not be in attendance next Tuesday evening. Also, feel free to call or e-mail us with questions at any time.

**MINUTES
PLANNING BOARD
TUESDAY, JULY 28, 2015
7:00 PM
HOOD ROOM, MATTHEWS TOWN HALL**

PRESENT: Chairman Steve Lee; Vice-chair: Rob Markiewitz; Members David Pratt, Gary Turner, Barbara Dement and Michael Ham; Alternate members David Wieser and David Barley; Town Attorneys Charles Buckley & Craig Buie; Youth Voice Sarah Ward; Planning Director Kathi Ingrish and Zoning Technician/Deputy Town Clerk Betty Lynd.

ABSENT: Member Eric Welsh; Youth Voice Benjamin Dodson

CALL TO ORDER

Chairman Steve Lee called the meeting to order at 7:02 p.m.

APPROVAL OF MINUTES

Mr. Markiewitz made a motion to appoint Mr. Barley as a regular voting member for tonight's meeting. Mr. Ham seconded the motion and the motion carried unanimously.

Mr. Ham made a motion to approve the June 23, 2015 minutes as submitted. Mr. Pratt seconded the motion and the motion carried unanimously.

ADMINISTRATIVE AMENDMENT- Sycamore Commons, Change of Specific Retail User on One Building Pad

Ms. Ingrish stated that one parcel within the Sycamore Commons shopping center was meant to initially be a Barnes and Noble bookstore. At the time, the developers were comfortable making this a zoning condition for the shopping center. Due to economic circumstances, Barnes and Noble never began construction. Therefore, the application is to change the limitations of the use of this parcel from Barnes and Noble to any of the uses allowed within the rest of the shopping center, which is zoned B-1SCD (Shopping Center District). This parcel is located along the road frontage of NC51, next to the Pier One site off the unsignalized entrance to the shopping center.

Mr. Lee stated that the memo to the Planning Board mentioned the Town Board of Commissioners were agreeable to the request. Ms. Ingrish stated that the request was sent to them, and all council members that responded saw no issue with the request.

Mr. Wieser asked if there was an idea of what specific use would be moving into the parcel. Ms. Ingrish stated there was no indication of a specific use at this time.

Mr. J.Q. Freeman of MVP Properties, LLC in Charlotte spoke as the applicant. He stated that their company has the lot under contract from Matthews Market. This Administrative Amendment request is the first step for his company after learning of the condition concerning Barnes & Noble.

Ms. Dement asked if there were other parcels in the town limits where a specific company has the rights to develop. Ms. Ingrish stated that an example would be the Chick-Fil-A, where it was a single user on a parcel. Ms. Dement asked if this was an unusual case. Ms. Ingrish stated that typically there are other conditions that limit potential uses as opposed to a single user, and the applicant would come to request changes to the allowed uses instead of a specific company.

Mr. Barley asked if the staff had any uses that they would want removed from the permitted ones in the shopping center. Ms. Ingrish stated that most B-1SCD uses are allowed in the shopping center and allowing the same uses on this property would keep the development consistent.

Mr. Lee asked if there were any concerns about signage. Ms. Ingrish stated that a change to the Master Sign Plan would be necessary should the site be built as a multi-tenant building.

Mr. Turner made a motion to approve the Administrative Amendment to remove the condition stating Barnes & Noble as the use because it is consistent with land use policies, and is reasonable to allow the same uses as those allowed within the rest of the development. Mr. Pratt seconded the motion and the motion carried unanimously.

VIDEO- Current Land Use Planning Concepts

Ms. Ingrish showed a few videos dealing with planning better downtown areas or areas where pedestrian traffic could be accommodated further.

Planning Board members stated that many of the concepts looked valuable for potential development in Matthews. These concepts included larger and more landscaped sidewalks, roundabouts, and safety zones for pedestrians crossing larger thoroughfares such as John Street and Monroe Road.

She also stated that CATS will have a public meeting in the Hood Room on August 11, 2015 from 6:00-7:30 p.m. concerning what kind of rail system could be implemented from Uptown Charlotte to Matthews.

Mr. Pratt asked that Ms. Merrie Salvo and Mr. Ralph Ramseur's names from the Public Works Department be placed on record for exhibiting great customer service for a matter near his property. They were prompt and handled the matter efficiently.

ADJOURNMENT

Mr. Ham made a motion to adjourn the meeting at 8:07 p.m. The motion was seconded by Mr. Barley and the motion carried unanimously.

Respectfully submitted,

Betty Lynd
Zoning Technician/ Deputy Town Clerk

Agenda Item: Public Improvement Variance – 1503 Home Place - The Glen at Home Place Subdivision

DATE: August 13, 2015

FROM: Mary Jo Gollnitz, Planner II

Background/Issue:

Property owner Kenneth Dykstra is requesting a Public Improvement Variance for the installation of sidewalk along 1503 Home Place. The property is zoned R-15 and is part of The Glen at Home Place Subdivision. It is a three lot subdivision that was approved in 2006. The request is to delay construction of their portion of the sidewalk until the contiguous properties, which do not have sidewalks, are evaluated for sidewalk.

Arcadia Homes was issued a building permit on September 29, 2014 for construction of a new home at 1503 Home Place. A conditional requirement note was listed on the permit that *“sidewalk needs to be installed per the recorded plat”*. Construction of the house moved forward.

Arcadia Homes completed a driveway permit application at the end of July and requested Public Works remove the hold. At this time, the property owner cannot receive his Certificate of Occupancy (CO), and move into his home, until the hold is removed.

The property to the west (1517 Home Pl) was constructed in 2008 and received a CO without the installation of the required sidewalk. Although it was the responsibility of the developer and/or builder to have the sidewalk in place prior to CO being issued, somehow that was overlooked at that time. To the east, the property is currently a single family residence on approximately 1.5 acres that would require sidewalk installation if it were subdivided and developed with additional homes. Staff will be addressing the issue with the property owner at 1517 Home Place regarding sidewalk installation in the near future.

Mr. & Mrs. Dykstra are scheduled to move into their home around August 24.

Matthews Unified Development Ordinance Section 155.712.A allows the Planning Board to determine if unnecessary hardships result from the strict compliance of the regulations, and it may recommend to the Board of Commissioners approval of a variance to these regulations.

Proposal/Solution:

It is in the neighborhood and the Town's best long-term interest to complete the sidewalks; however it would be a hardship on the property owner to delay receiving Certificate of Occupancy because of sidewalk installation.

Recommendation:

Staff suggests that the Planning Board forward a favorable recommendation for the Public Improvement Variance to the Board of Commissioners as it relates to the Glen at Home Place Subdivision.

Kenneth D. Dykstra
1503 Home Place
Matthews, NC 28105

10 August 2015

Kathi Ingrish, AICP
Planning & Development Director

Dear Ms Ingrish:

I am writing to seek a *Public Improvement Variance*. At its most simple, my wife and I are being prevented from moving into our new home because Matthews (or, maybe, Mecklenburg County) refuses to grant a Certificate of Occupancy (CO) since a side walk has not been put in along the frontage (about 70 feet) of our property at 1503 Home Place, Matthews. At an impromptu meeting, today, with Mary Jo Gollnitz, and others, it was plainly stated that withholding the CO was the “only leverage” that the City has to assure that the side walk is completed. Apparently, the City of Matthews determined that there should be an extensive network of side walks, although the rationale for this decision was not disclosed. I can assume that, perhaps, it was made to encourage people to get out and walk and, possibly, to provide an opportunity for neighbors to meet. If this supposition is true, it seems to be a laudable goal. Nevertheless, it created the current situation (described in more detail, below). The *Public Improvement Variance* seeks: **1]** to *delay* construction of our portion of the side walk until such a time as other, contiguous properties, which also do not have a side walk, are evaluated and **2]** to issue a CO on, or before 24 August 2015, so that we can occupy our new home.

It is my hope that there are still some public officials who, in addition to enforcing codes, laws, and provisions, as their position requires, understand that there may be unforeseen consequences when these codes, laws, and provisions are formulated and/or enacted. With this understanding, they either have the authority to make concessions (variance) when needed, and/or are possessed of a sense of compassion, and community, when enforcement results in undue and unnecessary hardship for some individuals. That being said, our situation is as follows:

When considering the information which follows, be aware that, *at no time* since September 2013, when we purchased the lot, or after construction started in November 2014, has there been any mention of the need for side walks to me or to the builder. This situation only came to light on about the 7th or 8th of August. This is a week before we were scheduled to take possession of our new home and 3 weeks before we are due to move in. We started the process of returning to North Carolina in the Spring of **2013**. All the plans to actually accomplish this move have been in place for a long time.

I am a graduate of South Mecklenburg High School, Clemson University, and the Wake Forest School of Medicine. My wife is a graduate of the Duke University School of Nursing. Therefore, when we left North Carolina in 1974 to begin my 30 year military career, it has always been our plan, and desire, to return “home” to North Carolina. The culmination of this plan, which is now very near to being realized, is being blocked by a side walk!

My wife has a 45+ year history of lupus. Within the past several years, complications of the disease and its treatment have begun to appear. Because of very poor circulation to the lower portion of her right leg, she underwent below-the-knee amputation of her right leg in December 2014. She was in a coma and on a ventilator for two weeks after surgery and experienced a large number of very

significant and, at times, life threatening complications. To allow you to “fully appreciate” the severity and complexity of her condition, my wife suffered multiple serious blood, lung, and urinary infections; heart problems (arrhythmia and an infected growth on a heart valve); seizures, blood clots, pneumonia, severe weakness (essentially paralyzed for the first month); a severe decubitus ulcer (bed sore) that required surgical repair, significant depression, and intestinal blockage, to name a few. She has not been home since the 16th of December 2014. While she is making progress, now, it is a very slow and drawn out process. Our new home was designed with the possibility in mind that she would eventually be confined to a wheel chair. We had no idea that this would occur so soon. Once it is determined that she has achieved as much physical recovery as possible, insurance will terminate authorization for her to remain in a skilled nursing facility. I wonder if she will have a home to go to when that happens?

During the time of my wife's confinement, I visited her regularly (commuted) to provide the emotional support she desperately needed. As a retired physician myself, I closely monitored her medical care to assure that, in addition to managing her acute problems, physicians did not neglect management of her chronic conditions. The effort required to move her from KS to NC was difficult and emotionally draining because of insurance bureaucracy and red tape. The cost for this air transfer was \$10,000.00 (a very unexpected expense). I made all of the arrangements, for the sale of our Kansas home, in addition to running the house hold and keeping our home in a condition that was conducive to sale. I managed all of the details of building a new custom home 1000+ miles away from our Kansas home, which made it necessary to travel between KS and NC to supervise construction at least 6 times.

We have saved carefully our entire married lives and we built our new home with some of these savings. I try to be very careful of the money we spend (good stewardship) because, if I predecease my wife, she will have no source of income except for our savings. The requirement to pay for a side walk, that someone else thought would be “nice”, was never an issue and never part of our plans, nor could we have imagined they would be (after all, there is no side walk on the adjacent lots). However, I am sure that the possibility that the monetary expenditure, required by the need to put in a side walk, might have an adverse impact upon funds available to my wife (or anyone required to put in a side walk) was not considered by Matthews Planning, just as I could not prepare for this unexpected expense.

With respect to the side walk itself:

- 1] The frontage of our lot is about 70 feet, 11 feet of which is already paved driveway. If we must put in a side walk in this area, it *will not* connect to any other side walk on either end – the side walk to nowhere! The likelihood that this short segment will significantly benefit the community, in the near future, seems extremely remote.
- 2] If the side walk eventually connects with other portions of existent side walk to the right of our property, it will still dead end at the lot line of our neighbor to the left. It is unlikely that this latter property will be developed any time soon and the dead end will persist. If someone walks to the end of the side walk to the left of our drive way, they will be forced to cross the street at a dangerous, blind curve in the road (ironic that someone might get killed or injured while walking to get fit, or visit a neighbor, on a side walk that was mandated by the City).
- 3] The front portion of our lot is a Tree Save Area. If it is required for there to be grass between the street and the side walk, this will necessitate cutting down a large number of beautiful trees for the sake of pavement (“pave paradise and put up a parking lot” as in Joni Mitchell's song). If, as suggested

during today's meeting, the side walk goes up the small hill and through the Tree Save Area, trees will still have to be sacrificed.

4] It would seem prudent, and practical, not to force pavement of a 70 foot segment and, at some later time, pave areas in adjacent lots. It should be done all at once to avoid disrupting traffic in the neighborhood on multiple occasions.

With respect to the use of the CO as leverage to get the side walk installed, I am incensed. No one in Matthews knows me or my wife, yet the assumption is that the City needs "leverage" against its citizens (us, in this case). In effect, you assume that we will be guilty of obstructing Matthew's master plan rather than being the responsible people and citizens that we are. We have longed to finally set down roots near family and friends and become involved in the local community. This is not the welcome we expected. We have built a beautiful and unique home that should reflect positively upon the Community and that truth should be acknowledged. Now we are faced with the possibility that we will have no home in Kansas and a new home in North Carolina that we are not allowed to occupy! Hopefully, the City will permit us to deposit our house hold goods in the drive way until we are allowed to move in. Obviously, I am failing in my resolution to be calm, not sarcastic, and not resort to inflammatory statements, but under the circumstances, this is proving to be a very difficult task and is probably justified (*no one* will be harmed if there is a delay in putting in a side walk).

As if the above considerations are not enough, within minutes of leaving the meeting, I visited my wife and discovered the very real possibility that she may be developing the same problem, in her left leg, that resulted in amputation of the right one. My faith in the general goodness of people may be totally destroyed if the only response (from Matthews or Mecklenburg County), to this request for a Variance, is continued refusal to grant us a Certificate of Occupancy because: "It is the law." Or "Our hands are tied." Such a response makes the rationale for side walks a sham and a hollow "benefit" to the community. There must be some balance between the stringent dictates of a law designed to promote a better community and the needs of one of its citizens (or many of its citizens, since no one can predict what other, unforeseen situations might occur).

I respectfully (at least in so far as possible) submit this request and add that, apparently, a meeting on the 14th of August will address, but not resolve, this issue. This is the day we are to make the final payment on the house and take possession of it. In addition, a more definitive meeting, on the 25th of August, will be one day *after* the earliest time the moving van will pull up to our driveway. This problem is *NOT* of our making. *Someone else* is responsible for not discovering (and notifying us and/or the builder) that a side walk needed to be put in resulting in the denial of a Certificate of Occupancy at a *very late* time in the process of building, and occupying, a new home. I do not understand how anyone could sanction the great distress that this situation is causing us by continuing to refuse to allow us to move into our new home.

Sincerely,

Kenneth D. Dykstra

cc: Mary Jo Gollnitz, CZO



Building Permit

One/Two Family

Property

Address: 1503 HOME PL Parcel: 22764189 Lot: 1 Block:
 Subdivision: Tax Jurisdiction: MATTHEWS

Site Details

Land Area (sq. ft.): Parking Required: Front Street:

Lot

Corner: N Through: N Irregular: N

Minimum Setbacks (ft.)

Front: 40 Left: 10 Right: 10 Rear: 55

Project

Project Number: 348149 Occupancy Type: R3 * RESIDENTIAL - SINGLE FAMI
 Project Name: ARCADIA / NEW RES / PLN EV Contract Cost: \$196,632
 USDC: 101 - One Family Detached Type of Work: New
 Work Details: New. SF Dwelling Detached.
 New Heated Area: 3026 sq. ft. New Unheated Area: 1278 sq. ft. Deck Area:
 Unhtd to Htd: Renovate Existing: Bdrm Add/Upfit:

Owner

Name: KEN & CAROL DYKSTRA Address: 1611 SILVER POINTE S
 Phone: ANDOVER, KS 67002

Trade Details

Electrical

Total Amps: 200 Number of Circuits: 35 Connections at 120 Volts: 30 Connections Over 120 Volts: 5
 Service Type: New Utility Company: DUKE ENERGY

Mechanical

No. of Gas Connections: 4 No. of Appliances: 1 Utility Company: PIEDMONT NATURAL GAS
 Heating/Cooling:

Plumbing

No. of Fixtures: 15 No. of Appliances: 3

Utilities

Type of Service: New

	Public Meter/Connection		Private Service	
	Individual	Master	Individual	Community
Water/Well:	Yes	No	No	No
Sewer/Septic:	Yes	No	No	No

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



Permit: **B2686974**
Issue Date: September 29, 2014

Building Permit One/Two Family

Miscellaneous

Entry Date: 09/11/2014 10:38 am
Issue Date: 09/29/2014
Special Inspections: n/a

Entered By: ARCADIA HOMES INC
Issued By:

Lien Agent

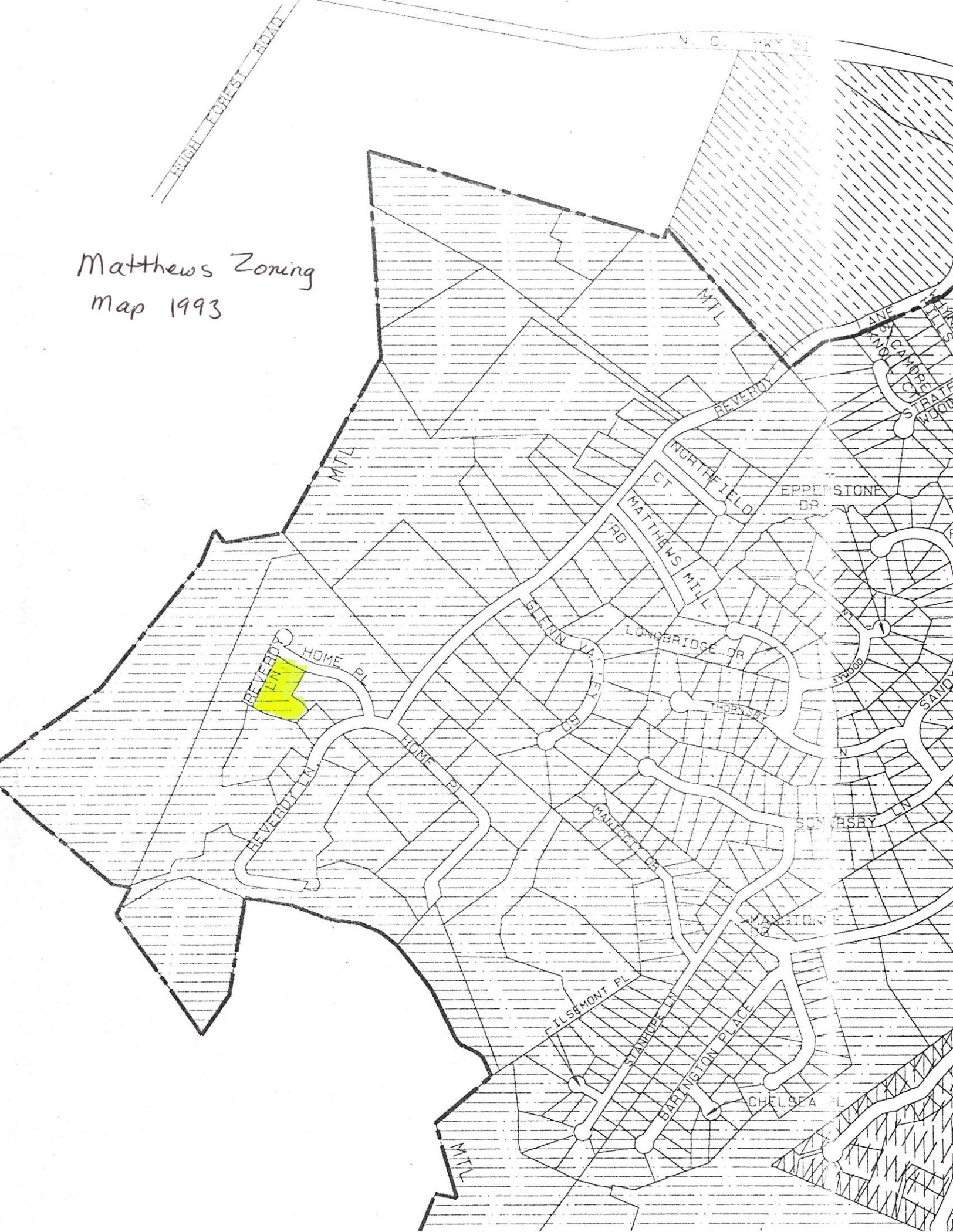
Agent: Old Republic National Title Insurance Company
Phone: (888) 690-7384
Fax: (919) 489-5231
Email: support@liensnc.com
Mailing Address: 19 W Hargett ST Unit: 507, Raleigh, North Carolina 27601
Physical Address: 19 W Hargett ST Unit: 507, Raleigh, North Carolina 27601

Agency Holds

As of the time of this permit issuance, the following holds exist on this project:

Agency	Phone Number	Hold Reason
Matthews Planning	7048474411	Conditional Requirement
Additional Information:	PLEASE CALL RALPH MESSARA AT 704-708-1243. SIDEWALK NEEDS TO BE INSTALLED PER RECORDED PLAT	

Matthews Zoning
Map 1993



own Approval

that the subdivision plat shown hereon has been found to comply with the regulations for Matthews, North Carolina, and has been approved by the Board of Commissioners for recording in the office of the Register of Deeds for Mecklenburg County. The Town dedicates streets, easements, and public parks, but the Town assumes no responsibility to open or maintain any streets, easements, rights-of-way, or other lands shown hereon for public purposes until in the opinion of the Board of Commissioners of Matthews, it is in the public interest to do so.

Jill Pleimann
Town Clerk, Town of Matthews

Approved in accordance with the engineering requirements of the Subdivision Ordinance of the Town of Matthews, North Carolina.

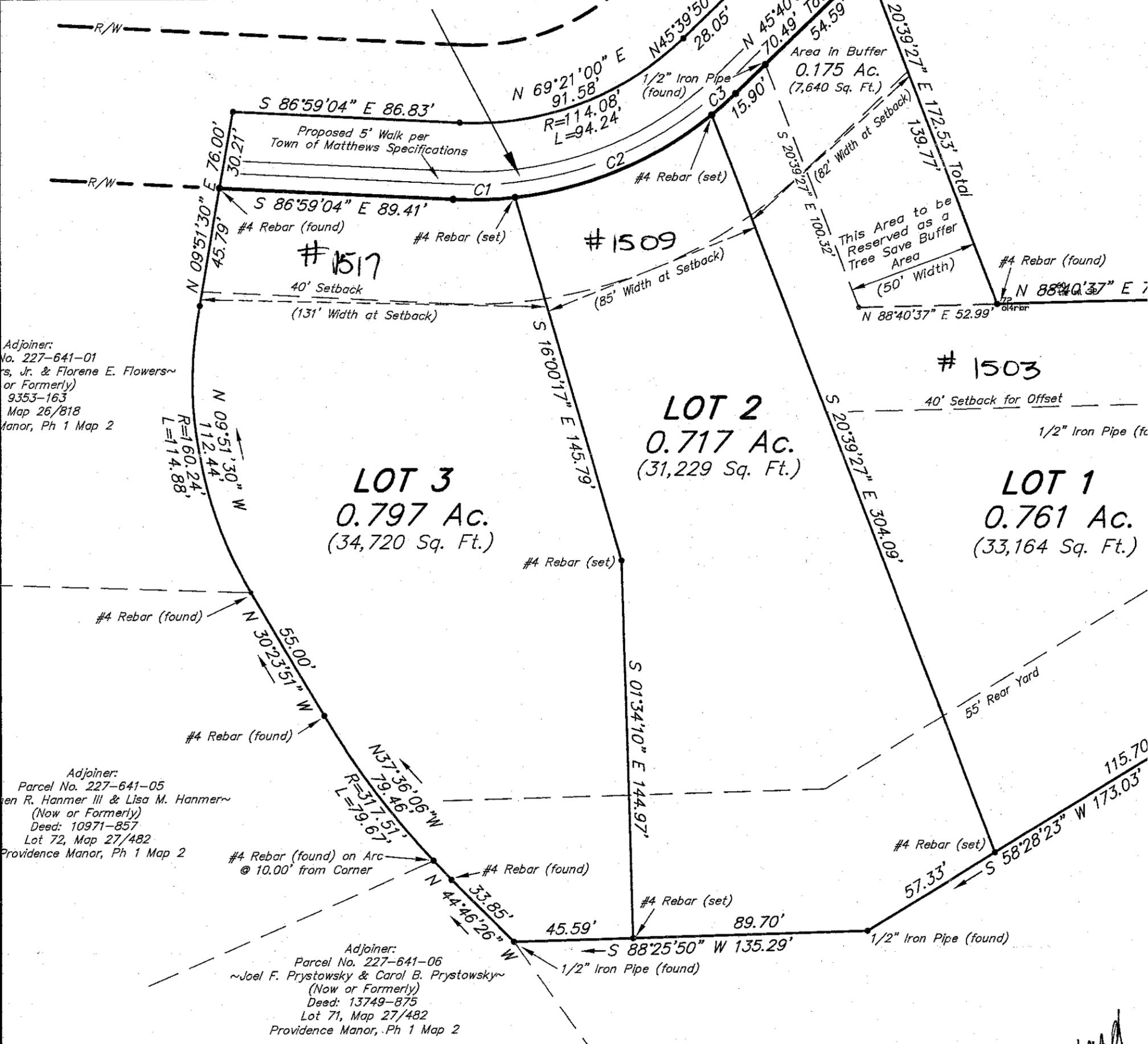
Gay Myers 5/15/06
County Engineering Staff Date

Fish, review officer of
burg County
map or plat to which this
has been recorded.

5-23-06
Date

0.186 Ac.
(8,081 Sq. Ft.)
in R/W Dedicated to
Town of Matthews

HOME PLACE
60' PUBLIC R/W



Adjoiner:
No. 227-641-01
s, Jr. & Florene E. Flowers
or Formerly)
9353-163
Map 26/818
Manor, Ph 1 Map 2

Adjoiner:
Parcel No. 227-641-05
en R. Hanmer III & Lisa M. Hanmer
(Now or Formerly)
Deed: 10971-857
Lot 72, Map 27/482
Providence Manor, Ph 1 Map 2

Adjoiner:
Parcel No. 227-641-06
~Joel F. Prystowsky & Carol B. Prystowsky
(Now or Formerly)
Deed: 13749-875
Lot 71, Map 27/482
Providence Manor, Ph 1 Map 2

CURVE TABLE

SECTION	RADIUS	LENGTH	CHORD
17'59"E	144.08	23.72	23.69
04'16"E	144.08	83.05	81.90
07'02"E	144.08	12.28	12.27

