

EAST INDEPENDENCE PROPERTIES

**4010 Triangle Dr.
Charlotte, NC 28208
704-391-1041 – Phone
704-394-4350 - Fax**

July 2, 2014

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

Re: Tax Parcels #193-191-02, #193-192-22, #193-192-08

Ladies and Gentlemen:

The Town of Matthews is in the process of working with land owners to replace the old Conditional Zoning Districts with the parallel transitional district, as outlined in Chapter 5 of the Unified Development Ordinance. East Independence Properties and EIP Investments, LLC (EIP) would like to voluntarily move forward with re-zoning Parcels #193-191-02 and #193-192-22 to a MUD (CD) and Parcel #193-192-08 to a BH (CD) zoning to assist the Town with this process. We also request that multi-family be added as a permitted use for Parcel #193-191-02.

All conditions approved in 1994 have been met. The conditions EIP would like to carry forward are:

1. Developer is no longer responsible for construction of Rice Road connection to Sam Newell Road at unknown time in future when Independence access is closed.
2. Landscaping of required 10 foot berm against Sam Newell Road right-of-way is to be completed as each parcel that includes part of the berm is developed. Berm must be maintained by owner at all times (to 10 feet).
3. The required undisturbed landscape buffer along unopened Claire Drive must continue to be preserved.

EIP recently lost a long-term tenant at 1935 Rice Road Ext. because they were unable to obtain visible signage. We are having a difficult time locating a new tenant for the same reason. We would respectfully request that the following signage be allowed:

1. 100 square feet of free-standing signage to advertise the three businesses.
2. Incidental directional signage for the interior: less than 12 ft. in size; less than 4 ft. in height.

Town of Matthews Board of Commissioners
Town of Matthews Planning Board

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I would like to take this opportunity to thank Mary Jo Gollnitz and Jim King for all their assistance with this re-zoning petition. Their assistance has made this process so much easier for us.

If I can provide any additional information or be of additional assistance, please don't hesitate to contact me at 704-364-7009.

Sincerely yours,

A handwritten signature in cursive script that reads "Wendy J. Porter".

Wendy J. Porter, RPA
Vice President Property Management

Attachments

EAST INDEPENDENCE PROPERTIES

**4010 Triangle Dr.
Charlotte, NC 28208
704-364-7009 – Phone
704-394-4350 - Fax**

July 2, 2014

Ms. Kathi Ingrish
Planning Director
Town of Matthews
232 Matthews Station Street
Matthews, North Carolina 28105-6713

Re: Tax Parcels #193-191-02, #193-192-22, #193-192-08

Dear Ms. Ingrish:

The Town of Matthews is in the process of working with land owners to replace the old Conditional Zoning Districts with the parallel transitional district, as outlined in Chapter 5 of the Unified Development Ordinance. East Independence Properties and EIP Investments, LLC (EIP) would like to voluntarily move forward with re-zoning Parcels #193-191-02 and #193-192-22 to a MUD (CD) and Parcel #193-192-08 to a BH (CD) zoning to assist the Town with this process.

We would like to request a waiver to the traffic impact analysis due to the fact that there will be no current increase in daily trips to the properties involved in the requested re-zoning petition. We understand that one may be required if the undeveloped portion of Parcel #193-191-02 is developed.

Thanking you in advance for your consideration of this request, I remain

Very truly yours,



Wendy J. Porter, RPA
Vice President Property Management



2014-614
7-3-2014

DATE FILED <u>6-20-14</u>
APPLICATION NUMBER <u>2014-614</u>
<i>For office use only</i>

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

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

Ladies and Gentlemen:

Your consideration of this petition is requested for:

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

Tax parcel number(s): (1) 193-191-02; (2) 193-192-22; (3) 193-192-08

Address of property: (1) 1935 Rice Rd.; (2) 9508 Northeast Ct.; (3) 9512 Northeast Ct.

Location of property:

Title to the property was acquired on See Attachment "A"
and was recorded in the name of See Attachment "A"
whose mailing address is See Attachment "A"

The deed is recorded in Book Attachment "A" and Page Attachment "A" in the office of the Register of Deeds for Mecklenburg County.

Present zoning classification: Conditional Requested zoning classification: MUD and B-H (CD)

SEE ATTACHED MAP

Application number
2014-614
For office use only

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

Rezone to a current zoning classification as listed in the Unified Development Ordinance

Signature of property owner (must be original)

Signature of property owner (must be original)

Print name of property owner

Print name of property owner

Property owner's mailing address

Property owner's mailing address

Property owner's mailing address, continued

Property owner's phone number/email address

Property owner's phone number/email address

Wendy J. Porter
Signature of agent (if any)

Petitioner other than owner (if any)

WENDY J. PORTER
Print name of agent

Print name of petitioner

4010 TRIANGLE DR.
Agent's mailing address

Petitioner's mailing address

CHARLOTTE, NC 28208
Agent's mailing address, continued

Petitioner's mailing address, continued

Agent's mailing address, continued

Petitioner's mailing address, continued

704-391-1041
Agent's phone number/email address

Petitioner's phone number/email address

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

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

Application number
2014-614
For office use only

2014-614
7-3-2014

See Attachment "B" for list of Adjacent Properties

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

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TAX PARCEL

PROPERTY OWNER NAME(S)

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OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

SUMMARY OF THE REZONING PROCESS

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

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

Application submitted to and accepted by the Town of Matthews 6/20/14

Town Board of Commissioners formally accepts application and sets Public Hearing date 7/14/14

Notices sent via mail to affected/adjacent property owners on or before 8/25/14

Protest petition filed with Planning Department by 5:00 pm on 9/3/14

Public hearing: petitioner may give explanation of why s/he wishes to have property rezoned and neighboring owners may ask questions and voice opinions on the proposed zoning 9/8/14

Town Planning Board reviews petition, information, and comments from the public hearing, then makes a recommendation to the Board of Commissioners on whether to approve or deny the request 9/23/14

Town Board of Commissioners approves or denies application 10/13/14

GENERAL STATUTE 160A-385: CHANGES.

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

Attachment A

- 1) 1935 Rice Rd.; 193-191-02

Title to the property was acquired on February 12, 1988
and was recorded in the name of East Independence Property
whose mailing address is 4010 Triangle Dr. Charlotte, NC 28208

The deed is recorded in Book 05695 and Page 726 in the office of the
Register of Deeds for Mecklenburg County.

- 2) 9508 Northeast Ct.; 193-192-22

Title to the property was acquired on May 13, 1999
and was recorded in the name of East Independence Property
whose mailing address is 4010 Triangle Dr. Charlotte, NC 28208

The deed is recorded in Book 10469 and Page 172 in the office of the
Register of Deeds for Mecklenburg County.

- 3) 9512 Northeast Ct.; 193-192-08

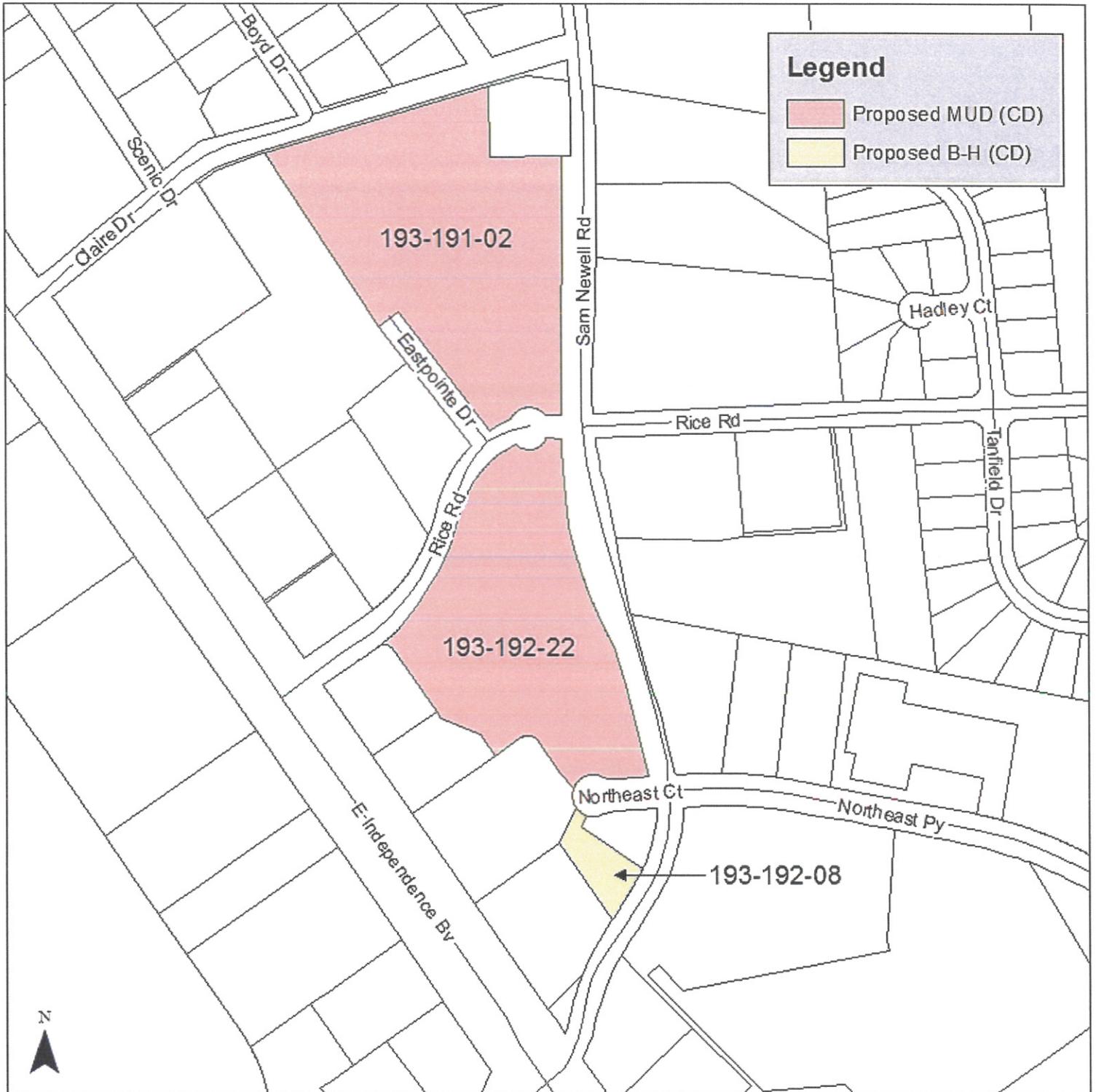
Title to the property was acquired on Jan 18, 1990
and was recorded in the name of East Independence Property
whose mailing address is 4010 Triangle Dr. Charlotte, NC 28208

The deed is recorded in Book 06192 and Page 525 in the office of the
Register of Deeds for Mecklenburg County.

Attachment B

Adjacent Property Owners

100 Ft. Buffer for Public Hearing					
Parcel No.	Name	Address	City	State	Zip
193-191-03	John A Stewman III	2814 Flintwood Ln.	Charlotte	NC	28211
193-434-98	Movimiento Internacional	PO Box 691415	Mint Hill	NC	28227
193-434-97	" "	" "	" "	" "	" "
193-434-96	Michael A. Lang	2124 Sam Newell Rd.	Matthews	NC	28105
193-191-09	Town of Matthews Planning	232 Matthews Station St.	Matthews	NC	28105
193-191-02	East Independence Properties	4010 Triangle Dr.	Charlotte	NC	28208
193-192-22	" "	" "	" "	" "	" "
193-192-08	" "	" "	" "	" "	" "
193-434-95	Walking by Faith Church	PO Box 691654	Charlotte	NC	28227
193-431-23	Thu Nguyen	14389 Nolen Rd.	Charlotte	NC	28227
193-431-22	Associated Reform 1 st Presbyterian Church	123 Stewart Ave.	Mooresville	NC	28115
193-431-30	Charlotte Property Management	PO Box 2256	Clearwater	FL	33757
193-303-09	SC Windsor Associates LP	340 Royal Poinciana Wy., # 316	Palm Beach	FL	33480
193-192-10	Tae Kyu Park	8908 Magnolia Heights Ct.	Charlotte	NC	28270
193-192-07	Western Auto Supply Co.	PO Box 2710	Roanoke	VA	24001
193-192-06	Pep Boys	3111 W. Allegheny Ave.	Philadelphia	PA	19132
193-192-11	Pleasant Holdings LLC	PO Box 18624	Charlotte	NC	28218
193-192-18	National Retail Properties LP	450 South Orange Ave., # 900	Orlando	FL	32801
193-191-19	Krispy Kreme Doughnut Corp.	1301 International Pkwy, Ste 300	Ft. Lauderdale	FL	33323
193-191-17	Slam Properties LLC	2727 Paces Ferry Rd. Ste 11-1200	Atlanta	GA	30339
193-191-23	East Village Shopping Ctr. LLC	7027 Seton House Ln.	Charlotte	NC	28227
193-191-01	Lipack Family Holdings LLC	16080 Briar Creek Dr.	Delray Beach	FL	33446
193-202-07	Larry Allen Fisher	P.O. Box B-5	Ft. Lauderdale	FL	33034
193-202-09	Daniel Jackson	2221 Sam Newell Rd.	Matthews	NC	28105
193-204-15	" "	" "	" "	" "	" "
193-203-20	Julian Brown	9025 Boyd Dr.	Matthews	NC	28105
193-303-12	Michael Eugene Todd	17900 Culrose Ln.	Charlotte	NC	28278
Additional Properties in 200 ft. Buffer for Community Meeting					
193-202-06	Larry Allen Fisher	Same as above			
193-203-10	Daniel Jackson	Same as above			
193-204-14	Daniel Jackson	Same as above			
193-191-14	CARS DB4 LP	8120 Greensboro Dr.	McLean	VA	22102
193-203-08	Jefferine Hope Grier	9023 Boyd Dr.	Matthews	NC	28105
193-431-28	Janet Elise Kempf	2508 Old White Ln.	Charlotte	NC	28226
193-303-15	SC Windsor Associate LP	N56 W. 17000 Ridgewood Dr.	Menomonee	WI	53051





Conditional Notes from the Original 1988 Rezoning:

1. This conditional District Plan proposes a mix of office, business, commercial and service uses that are allowed in B-1, B-2, and O-9 districts. The development of this site will provide a service oriented business district for the Town of Matthews.
2. All proposed road and access points will be designed to N.C.D.O.T. standards and the location of such roads and access points will meet all standards for optimum safety and traffic flow.
3. If legally permissible, proposed individual parcel development will be preceded by a site plan for that parcel, showing building placement, parking and traffic circulation patterns, buffer design, and specific uses, to the Town Council for approval.
4. The proposed collector road will be designed under the guidance of N.C.D.O.T. and the Engineering Department of Mecklenburg County. The exact location has not yet been determined, however the developer of this project, by this plan, will dedicate additional Right-of-Ways as required.
5. The developer commits to the construction of Rice Road extension and improvements to the intersection of Rice Road and Sam Newell Road, as well as the intersection with Independence Blvd.
6. The developer will provide engineering plans for the site grading and erosion control for total site prior to any construction. All development will meet Mecklenburg County Standards. Individual site development plans will be submitted as users begin their plans.

Natural Vegetation in the buffer will be left undisturbed where possible.

Conditional Notes as Amended July 11, 1994

1. First westbound drive entrance (Western Auto) on Independence is no longer restricted to right-in only.
2. Dedication of additional right-of-way on Sam Newell Road for future collector road realignment will be recorded on a subdivision plat within six months of approval date above (January 11, 1995).
3. Developer is no longer responsible for the construction of Rice Road connection to Sam Newell Road at unknown time in future when Independence access is closed.
4. Landscaping of required 10 foot berm against Sam Newell Road right-of-way is to be complete as each parcel that includes part of the berm is developed. Berm must be maintained by owner at all times (to 10 feet).
5. Additional pavement on Sam Newell Road from (unopened) Claire Drive to right-turn lane for North East Court no longer required. Additional right-of-way equal to 50 feet from the existing centerline along this portion shall be dedicated through a subdivision plat within six months of approval (January 11, 1995).
6. The required undisturbed landscape buffer along unopened Claire Drive must continue to be preserved.
7. All references to East Point Drive as a cul-de-sac off Rice Road Extension are deleted.
8. Remaining utilities must be installed - water line in Rice Road Extension still unfinished - within six months of plan approval by CMUD.
9. Sidewalk, curb and gutter as were previously required on the project side of Independence must be completed within six months of approval date (January 11, 1995).
10. Sidewalk on both sides of Rice Road Extension must be completed and the road must be shown on a recorded subdivision map within six months of approval (January 11, 1995).
11. Revised plans for improvements to Sam Newell Road, as shown on the "Driveway Permit" drawings dated/revised 6-8-94 are approved, and construction must be completed within six months of driveway permit approval.

PARCEL "A"	
TAX PARCEL NUMBER	193-191-02
EXISTING ZONING	Conditional
PROPOSED ZONING	Multi-Use District; MUD (CD)
EXISTING USE	Day Care
PROPOSED USE	Day Care / Office / Multi-Family
SITE AREA	8.2 Acres
MAXIMUM BUILDING AREA	10,256 sf
MAXIMUM BUILDING HEIGHT	45 / 65 ft; see note below
REQUIRED PARKING	34 spaces (or 29 w/ 15% reduction allowance)
PARKING PROVIDED	31 spaces
MINIMUM SETBACK	14 ft
BUILD-TO LINE	20 ft
MINIMUM SIDE YARD	N/A; see note below
MINIMUM REAR YARD	N/A; see note below
NOTE: Required minimum side and rear yards must be increased one foot (1') for each foot or fraction of a foot in height over the given maximum when adjacent to a residential district, or one foot (1') for each two feet (2') in height over the given maximum when adjacent to all nonresidential districts.	
Additional Conditional Notes:	
1. All uses allowed in office district and multi-family uses shall be allowed on this parcel.	

PARCEL "B"	
TAX PARCEL NUMBER	193-192-22
EXISTING ZONING	Conditional
PROPOSED ZONING	Multi-Use District; MUD (CD)
EXISTING USE	Movie Theater
PROPOSED USE	Movie Theater
SITE AREA	6.8 Acres
MAXIMUM BUILDING AREA	41,092 sf
MAXIMUM BUILDING HEIGHT	45 / 65 ft
REQUIRED PARKING	453 spaces (or 385 w/ 15% reduction allowance)
PARKING PROVIDED	approx. 450 spaces
MINIMUM SETBACK	14 ft
BUILD-TO LINE	20 ft
MINIMUM SIDE YARD	N/A; see note below
MINIMUM REAR YARD	N/A; see note below
NOTE: Required minimum side and rear yards must be increased one foot (1') for each foot or fraction of a foot in height over the given maximum when adjacent to a residential district, or one foot (1') for each two feet (2') in height over the given maximum when adjacent to all nonresidential districts.	
Additional Conditional Notes:	
1. All uses allowed in the Neighborhood Business district, B-1, shall be allowed on this parcel.	
2. Existing signage to remain.	

PARCEL "C"	
TAX PARCEL NUMBER	193-192-08
EXISTING ZONING	Conditional
PROPOSED ZONING	Highway Business; B-H (CD)
EXISTING USE	Towing
PROPOSED USE	Towing
SITE AREA	0.5 Acres
MAXIMUM BUILDING AREA	3,111 sf
MAXIMUM BUILDING HEIGHT	
REQUIRED PARKING	13 spaces
PARKING PROVIDED	16 spaces
MINIMUM SETBACK	40 ft
MINIMUM SIDE YARD	0 ft
MINIMUM REAR YARD	10 ft
Additional Conditional Notes:	
1. All uses allowed in the Highway Business district, B-H, allowed on this parcel, with no outside storage and vehicle inventory for Matthews Towing shall be limited to marked parking spaces.	