

MEMO

TO: Matthews Board of Adjustment

DATE: March 6, 2015

FROM: Jay Camp

Update on MARA Rezoning Request

In December, MARA applied for a number of variances in conjunction with the rezoning request to change the zoning at the property from RU and R-15 to R/I (CD). Although a variance was granted to allow a request to Town Council to increase the height of the cell tower, the balance of the variances were not addressed and the meeting was continued and later cancelled. Fast forward a few months, and MARA has now completed a joint Public Hearing before Town Board and Planning Board. The Public Hearing went smoothly with strong overall support for the rezoning request.

Also since the request in December, Planning Staff and the applicant have worked to refine the site plan and conditional notes and as a result, fewer variances are now required. The attached site plan labeled VP-100 was prepared specifically for this variance request and the applicants have now indicated they wish to remove the parking area at the back corner of the site labeled "parking C". The Zoning plan, labeled RZ-100, shows existing conditions and possible future parking expansions.

Planning Staff have created a table comparing the standards of the RU and R/I districts and have included it with the staff report.

Board of Adjustment
Wednesday, March 18, 2015
7:00 PM
Hood Room, Matthews Town Hall

AGENDA

- I. CALL TO ORDER
- II. INVOCATION
- III. APPROVAL OF MIINUTES
- IV. ELECTIONS
- V. VARIANCE REQUEST: BA2014-11, MARA, 1200 South Trade
- VI. ADJOURNMENT

**MINUTES
BOARD OF ADJUSTMENT
THURSDAY, DECEMBER 4, 2014
HOOD ROOM, MATTHEWS TOWN HALL**

PRESENT: Chairman Jim Jiles, Members, Walter Monestere, Cecil Sumners, Jim Mortimer, and Jeanne Moore; Alternate Members Jerry Meek, Gary Smith, and Peter Tuz; Attorney Robert Blythe; Senior Planner Jay Camp and Zoning Technician/Deputy Town Clerk Mary Jo Gollnitz

CALL TO ORDER/INVOCATION:

Chairman Jiles called the meeting to order at 7:02 pm and gave the invocation.

APPROVAL OF THE MINUTES:

Jeanne Moore motioned to approve the minutes of the November 6, 2014 meeting. Walter Monestere seconded the motion and they were adopted unanimously.

SWEARING IN:

The following were sworn in: Jay Camp, Cliff Boyd, Keith Powell, and Joel Causey

VARIANCE REQUEST: BA 2014-10 MARA Cell Tower, 1200 S Trade Street

STAFF REPORT:

Senior Planner Jay Camp stated that the applicant wished to have the voting members of the Board acknowledged by raising their hands. Mr. Camp noted that the applicant will be asking for a deferral on Variance Request BA 2014-11 later in the agenda.

Mr. Camp introduced the variance request BA 2014-10 explaining that this is part of a rezoning request for MARA ball fields. The Public Hearing will be held in January to rezone the subject property 227-46-175 at 1200 S Trade Street from RU to R/I (CD). Mr. Camp continued explaining that the RU district is an old district and is no longer supported in the UDO. It is a category that is being phased out. There may be two or three parcels in Matthews currently zoned RU. There has been several discussions regarding rezoning the property and MARA feels the time is now right.

Mr. Camp said that there is a stealth cell tower on the property that was constructed in 2009. It is an 80 foot monopole that is designed as a light pole in the center of the outfield. It is design to be undistinguishable. The variance request is for the extension of the height of the cell tower. Mr. Camp informed the Board that in 2013 the Town Board did amend the UDO which allows property within the R/I district to extend the height of a cell tower 40 feet above the maximum from 80 feet to 120 feet. The text requires the extension happen upon initial construction. He stated that the distinction for the variance request is for an existing stealth tower, not new construction. He further explained that this provision has never been acted on.

Mr. Camp noted that there is a three part process in order to construct the additional forty feet. The first portion is for this Board to grant a variance to allow for the second phase. The second phase is the Town Board allowing the height to increase and the finally phase is the rezoning approval. The variance approval does not actually approve the construction. It opens the door for the applicant to start the process.

Mr. Camp showed the Board an arial photo of the fields and surrounding neighborhood. He pointed out the cell tower location for the Board. He stated that the tower is approximately 270 feet from neighboring properties and is centrally located on the site. He further noted that it is twice the fall zone from neighboring properties.

Chairman Jiles asked if the existing location of the cell tower will stay where it is and will the field lights stay on the tower. Mr. Camp said that the ball field lights are what creates the stealth tower. He stated that MARA Holdings lease is for an equipment area at the base of the cell tower. Mr. Jiles wanted to confirm that staff is not anticipating any changes in the lighting. Mr. Camp said not to his knowledge.

Susan Irvin with Cole, Jenest & Stone representing MARA Holdings LLC and MARA addressed the Board. She stated that in attendance with her was Cliff Boyd, President of MARA; Keith Powell, managing member of MARA Holdings; and Joel Causey, Cole, Jenest and Stone. She stated that the notebook that was provided to the Board are copies of the power point she will be presenting. Included in the notebook are the exhibits.

Ms. Irvin stated that the applicant is requesting the extension on an existing communication tower. She noted that the text allows the extension only on initial construction. She stated that she will be providing a history and findings of fact regarding the request for the Board.

Ms. Irvin stated that the UDO does provided the some of the same conditions that the old zoning ordinance contained. However, there is an amendment that allows the extension of the 80ft tower in the R/I district. The prior ordinance allowed the eighty foot tower, but no extension. She explained that MARA leases to MARA Holdings approximately a 40 by 75 foot area within the Arthur Goodman Park. She showed the survey of the subject property and a copy of the approved light pole communication facility plans from 2009. That is the existing stealth light pole. She further noted that included in the information were the zoning approval and building permits. She stated that under the old and new ordinances the tower complies.

She reiterated that the applicant is asking for the forty foot extension. She noted that without the approved variance the company would have to remove the tower and build a new tower in this location. The hardship is that there is an existing tower that was approved and in order to extend the tower, the applicant would have to remove the tower and build a new tower.

Ms. Irvin went over the Findings of Facts stating that unnecessary hardship could be without the variance, the applicant would have to remove the tower and rebuild the tower. That is not reasonably necessary. She stated that even though the applicant was not able to build a 120 foot facility in 2009, the company did build a facility that could support the 120ft. She said that it makes sense that the extension be requested at initial construction in order to make sure the tower could support the 120ft height. She stated that included in the exhibits is the structural design report that verifies that the stealth light pole is designed to withstand the forty foot extension.

She continued stating that the one issue that the applicant is required to prove is that there are no special privileges that are being given that would be denied others in a similar situation. She stated that the argument is there are no similar situations. It is a unique complex in the community and there are no properties like this in the surrounding area. There are 13 athletic fields, associated amenities and light poles; this affords a unique opportunity for the stealth tower to exist and not be visible. She provided photos of the location of the existing pole/tower and a simulation of the light pole with the extension. She noted that the stealth facility blends in with the other lights.

Ms. Irvin stated that the applicant needs to show that the hardship is peculiar to the property. She reiterated that this is an unusual facility and the structure was originally engineered to support the additional height. It does not result from actions from the applicant. If the applicant could have constructed the higher facility at the time they would have. However it was not allowed at that time.

She continued stating that it is consistent with the spirit, purpose, intent of the ordinance, public safety is secured and justice is achieved. She noted that it does enhance emergency and communication coverage to the area. That would promote public safety and the advance quality of life for the community.

Ms. Irvin provided coverage maps of cell service in the Matthews area. She explained the hole in the middle of the map for cell coverage. She stated that the hole is where the cell tower in question is located. She further noted that the coverage in houses around the park is terrible. She showed the Board where the increase in tower height would provide additional coverage to the neighbors. That goes to the fourth point of quality of life.

Ms. Irvin went on to state that if the variance is denied the benefit of the public will be substantially outweighed by the harm suffered by the applicant. Without the variance they would have to remove the tower and rebuild. The result of extending the existing facility is not different than the result would be if they complied with the ordinance. In either case the result is a stealth light pole communication facility that blends with the lighting of the park. She stated that the last slide of the power point is the list of exhibits that are in the notebooks.

Cliff Boyd, 2014 present of Matthews Athletic and Recreation Association (MARA) addressed the Board. He stated that he confirms that the information that Susan Irvin presented in her power point presentation is accurate and true.

Keith Powell, managing member of MARA Holding LLC, approached the Board. He stated that they have the tower lease inside the athletic fields. He stated that the information that Susan Irvin has provided is accurate and true.

Ms. Irvin stated that the granting of the variance will not result in moving of the tower. She stated that the intent is to keep the light pole exactly where it is and keep it functioning the way it is now. Mr. Jiles asked if what the distance of the pole is to the nearest property line. Ms. Irvin stated that it was in the original zoning approval letter and it is just over 300 feet. The tower height is less than the distance to the property line. Mr. Jiles clarified that if the tower falls it will stay on their property. Ms. Irvin stated yes. She further noted that Exhibit 4 shows the distance of 301 feet to the nearest property line.

Jim Mortimer asked if there have been any comments from the neighbors who live around the ball fields regarding the change. Ms. Irvin said that they had a conversation with a neighbor who lives nearby and she also heard from their representatives that cell coverage is terrible in the neighboring homes. Mr. Boyd stated that he had received one phone call to clarify the packet of information they had received. He did not receive any comments or concerns from the neighborhood.

Mr. Jiles asked if the change in coverage would mean additional antennae. Keith Powell said that the additional height is for additional carriers. He noted that they currently have one carrier leasing. To get additional carriers they need additional height. He stated that Exhibit 6 shows the tower and it was originally design to handle four or more carriers. He continued stating that the spirit of Matthews ordinances is such that each additional carrier you have, you could receive additional tower height. They were thinking long term and it was beneficial to build it on the front end rather than adding to the tower after the fact. They planned for the future just in case it happened.

Jeanne Moore asked if the applicant would benefit because they have more carriers because of the extension. Mr. Powell stated yes that they have more interest from carriers to locate on the tower.

Cecil Sumners clarified that the applicant will sign all carriers that are interested or just two. Mr. Powell said that they would like to sign as many as they can. This general area, being close to downtown and the greater use of phones in everyday life they will have interested carriers.

Peter Tuz asked for clarification of the coverage map. Mr. Powell said that red is the strongest signal, yellow is the next step down and green is the lowest signal. Mr. Tuz asked where the current tower is located on the map. Mr. Powell pointed to the tower. Mr. Tuz asked why there is no real signal area

around the tower. Mr. Powell said that it is called an in building use. He explained that inside the buildings there is less signal strength and if you go outside the signal would reach farther. He stated that hearing from neighbors verifies that the map is accurate. Mr. Tuz stated that he has been at MARA parking lot and his wife has not been able to reach him at the other end of the park. He asked if the extension will help solve this problem. Mr. Powell stated that it will help solve a lot of the problems. Especially in the park and neighboring areas. It will not handle two miles out.

Jerry Meek asked how many cell towers are in Matthews and how many are eighty feet or above. Mr. Camp said the Town requires annual cell tower registration. He could not say for sure how many were in town. He continued noting that Matthews is a highly populated suburban area. It is hard to find adequate locations for taller cell towers once you move away from Independence Blvd. He explained how there are colocations on transmission towers.

Mr. Meek asked if there are any situations that the applicant would not be able to increase the tower from 80 feet to 120 feet. He continued asking that couldn't anyone who built a tower before 2013 increase the height. Ms. Irvin said that the decision to allow the increase is the Town Board decision and they have factors to consider in determining whether to allow the increase. She continued stating the photographs showing the tower and coverage maps must be provided. If you have a tower and there is already sufficient coverage in the area, that is part of what the Board would consider. They don't just give anyone an extension or on an initial construction. It depends on the appearance and coverage. She stated that the extension is only allowed in the R/I district and she has reviewed the zoning map. There are not that many properties zoned R/I as one would believe.

Mr. Jiles said the variance would apply when the zoning is changed. He asked for clarification that if the zoning does not go through the variance would be void. Attorney Bob Blythe said that it only applies in the R/I district and if the property is not R/I, it would not apply. Mr. Camp stated that the town does not allow communication towers in the single family residential districts. He showed the zoning map and that it is heavily dominated by residential districts. There are very few opportunities to locate in town. There is a table that states what heights can go in which districts.

DELIBERATION:

Chairman Jiles stated that this is a request for variance for increase in height of a cell tower.

Finding of Facts

1. There would be unnecessary hardship from strict application of the ordinance. *Mr. Mortimer said that if the applicant had to tear down the tower and rebuild it would be an additional expense for the new construction.*
2. Hardship results from the conditions that are peculiar to the property, without granting the variance. *Mr. Mortimer stated that there are ball fields and it would be difficult to relocate the cell tower. It is very limited.*
3. The hardship did not result from actions taken by the applicant or property owner. *Mr. Mortimer said it did not.*
4. The requested variance is consistent with the spirit, purpose, and intent of the title, because public safety is secured and justice is achieved. *Mr. Mortimer said that according to the petition the height increase would be safe because the tower was built for 120 feet and it is currently 80 feet. It would provide better coverage for the area which would be substantial justice and public safety. The proposed height of the tower is still a considerable distance from the neighboring property owners.*

Mr. Meek said that the unnecessary hardship is clear and action is clear. He continued stating that the variance is consistent with the spirit of the title. The question he is having difficulty with is #2 in that the hardship is peculiar to the property. The hardship results from the tower being built prior to 2013. Not by

virtue that it is on this property. Does this mean that any tower on property that is zoned in this way would be entitled to a variance to build to 120 ft. However, it is absurd to have them tear down the tower and build new. Ms. Moore stated that this is specific to the zoning district it is in now. Mr. Jiles stated that it is zoning specific. Mr. Meek asked if there are other towers built prior to 2013 in similarly zoned districts, would they be entitled to the increase. Mr. Camp clarified stating that the tower predates the 2013 text amendment and it is currently in the RU district, which the text amendment does not address. If there are other towers in the R/I district they could request the variance. Ms. Moore said that most towers were built prior to 2013.

Mr. Sumners asked if the zoning is R-12 can they automatically ask for a variance. Mr. Jiles asked if that the height is not allowed in other zoning districts. Mr. Camp said that increase would not be allowed in a single family residential district. Mr. Meek asked for clarification that if a property is in the R/I district with a tower that predated the 2013 text, they could apply and would be eligible for the variance. Mr. Jiles stated that they could apply and would be considered on their merits. Mr. Meek asked if the hardship they face is not peculiar to the property but peculiar to the fact that they have a tower that predates the ordinance and is in the R/I zoning. Mr. Blythe stated that this is not in the R/I zoning. That is the purpose of the rezoning request. He continued stating that staff stated that there are only two other R/U zonings in town.

Chairman Jiles reminded the Board whatever decision they come to, that it is dependent upon the rezoning approval. Mr. Camp clarified stating that the Board can grant the variance dependent upon successful rezoning to R/I. Mr. Sumners said that if the property stays RU it voids everything. Mr. Camp agreed. He continued stating that it is a three part process. This Board grants the variance, the Council has to specifically grant the actual extension and the rezoning.

Cecil Sumners made a motion to approve the variance request BA 2014-10, based upon the findings of fact and conditions of zoning being approved for R/I (CD) and the Town Board approving the condition for extension of the tower. Jeanne Moore seconded and the motion passed unanimously.

VARIANCE REQUEST: BA 2014-11 MARA, 1200 S Trade

STAFF REPORT:

Senior Planner Jay Camp stated that the applicant for variance request BA 2014-11 wishes to continue the hearing until the January Board of Adjustment meeting. Susan Irvin representing MARA approached the Board. She stated that they request the hearing be continued. She noted that Mr. Boyd and she met with planning staff today. The variance plan has evolved since August and they have been working with staff to distill what they need. The property is currently zoned RU and staff has asked MARA to rezone the property to R/I. In doing so, some of the elements of R/I do not conform to the location of the proposed improvements on the property and what exists on the property for developable area. They need to come back and ask this Board to consider in helping them conform in order that they are in the same position in terms of ball fields. She continued stating that it is very complicated. They will meet with staff on a regular basis until the January meeting in order to be on the same page with staff on what they are asking for and what they need. They would like to come back in January with a revised variance.

Ms. Moore asked if the applicant needed to take this portion of the variance request to the Council before they come back to the Board of Adjustment. Ms. Irvin said that they will be going to the Town Board on the rezoning January 12. She understands that this Board's January meeting will be rescheduled because the regular meeting falls on January 1. They have spoken with staff and are asking this Board to have your meeting after the January 12th Public Hearing. They will be able to address comments from Town Board and be better able to make specific variance requests.

Mr. Jiles stated that this is very complex and there are a number of variance requests on a zoning district that has not been approved. He does not feel that this Board can make the proper assessments prior to the rest of the processes. The applicant is requesting variances to a zoning classification that is not in place yet. He continued stating that the same is true for the variance approved earlier because it was a single variance request. However, to review nine to 12 items prior to having the zoning in place, he is not comfortable with that.

Mr. Sumners said that he was of the opinion that if you wanted a variance to the table of dimensional standards that you did this in the plans and the Town Board did the approval or disapproval of the innovative things the applicant wishes to do. Ms. Irvin said that she thought he had a good point. They have been going through the process with town staff since August. She continued noting that they are trying to find ways to simplify the variance request. The dilemma that MARA has is that they are making the conversion to R/I district at the request of the town. Right now the RU zoning gives MARA a 20 ft. setback on the side and rear yards and a 40 ft. front setback. With the R/I zoning MARA goes to 50 ft. setback all around the property. They are losing about 2 ½ acres that they could convert to ball fields or parking. She further noted that the reason that they are doing it this way is that she is not sure MARA would move forward with the rezoning if they are not being able to utilize the property up to the 20ft that they now have.

Ms. Moore asked if January may be too soon and February may be better. Ms. Irvin said that if they waited until February that would delay the rezoning. She does feel more comfortable since meeting with staff today. Ms. Moore said that she agrees with Mr. Jiles regarding making a decision on something that is not in place yet.

Mr. Jiles said they operate under the laws and regulation of the Board of Adjustment. They report to the Town when they approve a variance and that decision is binding. What is being asked is to make a determination on the basis of a zoning that has not been approved. They can do that in some cases. He believes that February is more reasonable. Mr. Blythe said that if the Board is going to continue a hearing they need to set a specific date.

Mr. Mortimer said that the Public Hearing will be January 12. The Planning Board will meet later that month and that February may be best. There was discussion on dates and when other boards would be meeting in the January and February.

Mr. Camp provided a procedural update for the Board. He stated that for a rezoning to be approved it would have to meet all the standards of the ordinance. In some cases, this Board needs to grant variances before the rezoning is enacted. Otherwise it would be illegal. He continued stating that the Town Board holds the Public Hearing, then the Planning Board reviews the application and then just before the final decision date this Board reviews the variance requests. Those are conditioned upon the successful rezoning approval. He continued stating that in the long list of variances there are some fundamental variances such as the yard requirement. The property is legal nonconforming today. With a variance approval then it is legal. There are other standards that are more optional. Ms. Moore asked if it is all contingent upon. Mr. Camp said that it will always be contingent upon. Mr. Blythe said that we have always had this.

Mr. Sumners said that on the rezoning that he was involved in that the plans listed the changes based on the table in the ordinance and the Town Board was to approve the change. He asked that if now this Board is going to set the variances. Mr. Camp informed the Board that Mr. Sumners was referencing a rezoning for an apartment development downtown near his home. He continued stating that the rezoning was one of the categories that uses innovative development standards. Those standards allow a developer to come in and request a reduced setbacks or yard during the zoning process therefore bypassing the Board of Adjustment. That is a flexible design district. He stated that there is a distinction between that and a traditional parallel zoning district. In this case a variance is the only vehicle that the applicant has to change what is currently on the property.

Ms. Moore said that this is good discussion because everyone had questions. Mr. Camp agreed stating that it will make the next hearing easier for everyone.

Mr. Jiles said that they have a number of variance requested. He continued stating that the requests impact back yards, screenings, fence requirements and we do look at the impact to neighbors. We do not have any of that information yet. Mr. Camp stated that the Public Hearing has not been held yet. All of the owners have received notice of the variance requests. The Town Board will receive input at the Public Hearing on January 12. All that information will be available to this Board if the hearing is delayed. Mr. Jiles said that they need to have that in hand.

Mr. Blythe cautioned the Board stating that acting on what is in a legislative hearing, is not the same as basing it on sworn testimony here. The Board must divorce themselves from what they may hear at the Public Hearing. Mr. Jiles clarified that it is what is presented at the meeting. Mr. Blythe said yes, it is the sworn testimony.

Mr. Camp said that there is another applicant with several variances that are tied to another rezoning. It is five or six variances and staff feels it would be best if this hearing does not happen on the same night as MARA. He asked the chair to move the regularly scheduled January meeting from the 1st to January 8, 2015. Staff has that tentatively set for the restaurant applicant 2014-622. Then January 22 or 29 they would hold the meeting for MARA.

Mr. Blythe said that the variance request that is being deferred must have a set date before they leave tonight. Mr. Jiles made a motion to continue hearing BA 2014-11 until January 22, 2015. The motion was seconded by Walter Monestere and the motion carried unanimously.

ADJOURNMENT:

Jim Mortimer moved for adjournment. Jim Jiles seconded the motion and the meeting adjourned at 8:15 pm.

Respectfully submitted,

Mary Jo Gollnitz
Zoning Technician/Deputy Town Clerk

**MINUTES
BOARD OF ADJUSTMENT
THURSDAY, MARCH 12, 2015
HOOD ROOM, MATTHEWS TOWN HALL**

PRESENT: Chairman Jim Jiles, Alternate Member Thomas Lawing; Senior Planner Jay Camp

CALL TO ORDER/INVOCATION:

Chairman Jim Jiles called the meeting to order at 7:00 p.m. Mr. Jiles stated that because there was not a quorum present at this meeting, all agenda items would be deferred to a meeting scheduled for Wednesday, March 18th, 2015.

Mr. Jay Camp stated that the applicant for the variance request to be heard at this meeting has agreed to the deferred meeting date of March 18th, 2015.

ADJOURNMENT:

Chairman Jim Jiles adjourned the meeting at 7:03 p.m.

Respectfully submitted,

Betty Lynd
Zoning Technician/Deputy Town Clerk

Matthews Board of Adjustment

Variance Requests for 1200 S. Trade Street – MARA Ball Fields

March 12, 2015

Summary of Request

The applicant is requesting five (5) variances to include variances to the front setback, side and rear yards, landscaping and parking for the proposed R/I (CD) zoning they are seeking. The variances are as follows:

Side Yard, Rear Yard and Setback Variances. Section 155.604.2

1. A 30' variance is requested to the 50' side yard. A 30' variance is requested to the 50' rear yard.

These variances seek to allow the organization to continue use of this portion of the site for existing as well as future activities. As indicated on the site plan existing improvements such as, ball fields, batting cages, dugouts, bleachers, fencing, parking and lighting exist within the 30' area. MARA does not at this know how they may wish to reorient or add fields and other improvements within this 30' area. Future potential parking areas in the 30' variance area are shown on the site plan.

2. A variance of 50' to the 50' front setback.

Parking and one field encroach up to 50' into the 50' front setback based on the new right-of-way line.

Landscaping. Section 155.606.5 and 155.606.6

3. A variance to allow existing and future ballfields and improvements without parking lot landscaping and screening.

There is a small grove of trees existing in the parking lot south of the main entrance to the site. On the exterior boundaries of the site facing adjacent properties, there are various degrees of vegetation.

4. A 6.5% variance is requested to reduce minimum required tree canopy from 15% to 8.5%.

Current existing tree canopy has been calculated to be 20%.

Parking. Section 155.607

5. Variance to 155.607.3 to allow gravel as a surface material for existing and future parking areas.

The applicant intends to maintain the existing parking areas that have always been gravel surface and requests that all future repairs, improvements or additions to parking areas also use gravel as a surface to maintain continuity throughout the property.

Background

The property is located at 1200 S. Trade Street, more specifically identified as Mecklenburg County PID's 227-461-73, 74, 75, & 76 and is currently zoned RU (Rural District) and R-15. The applicant is currently seeking a rezoning to R/I (CD).

The Town first contacted Author Goodman Park (MARA) representatives several years ago about rezoning the property knowing that the RU zoning classification was not going to carry over to the new UDO. Staff explained that when the UDO was adopted it would render the ball fields nonconforming and that a rezoning would trigger the need for multiple variances. Procedurally, most rezonings from outdated zoning categories such as the old Conditional District have required variances to bring the property into full compliance prior to action on the zoning request. The Town has been willing to working with MARA for a number of years. There were a lot of conflicts with schedules, team sports, identifying potential future expansions, and waiting for clarification on the South Trade Street road widening project. Now that the Town Board has agreed to construct extra lanes on S Trade Street in front of Goodman Park, right-of-way has been acquired which has resulted in some reconfiguring on the site already.

Author Goodman Park has been located in Matthews since 1956 and has been zoned RU since the time the property received zoning. The park has grown from 2 to 13 fields along with amenities and accessory improvements. Staff is unable to determine when many improvements were made to the site and assume anything not meeting current code is legally nonconforming.

Now that the UDO has been adopted, the RU district is no longer listed as a zoning classification and the specific land use category is now listed as a group of ballfields for team sports, making it a nonconforming use. Should MARA wish to modify or make improvements to the property, it must first be rezoned to a zoning classification that is recognized by the UDO. The most appropriate zoning classification is the Residential/Institutional district which specifically allows groups of ballfields.

Zoning Code Provisions That Apply to This Request

The following zoning code provisions apply to the existing and future improvements to this site:

Section 155.604.2 TABLE OF DIMENSIONAL STANDARDS

Dimensional Standards for R/I:

Setback = 50 ft.

Side Yard = 50 ft.

Rear Yard = 50 ft.

Section 155.606.5.A. PARKING LOT LANDSCAPING.

Landscaping is required for parking lots to reduce the aesthetic and environmental impacts resulting from paving or the removal of natural vegetation from large areas; to reduce the noise, heat, glare, and dust associated with parking lots, and to control the direction and velocity of surface water runoff. Within the requirements of this section, parking lots should be visually minimized from view from public right-of-ways as much as possible.

1. APPLICABILITY. Landscaping shall be required for all off-street parking facilities with ten (10) or more spaces.

2.a Landscaping...shall be located within the perimeter of the parking lot....

2.c. Required Planting. At least one preserved or planted tree. . . shall be provided for every ten (10) provided parking spaces, or fraction of ten (10) spaces.

2.f. Tree Location Requirement. No parking space shall be located more than forty feet (40') from a tree either in an island or outside of the parking lot.

2.j. Any development existing at the time of enactment of this Title which does not conform to the standards imposed in 155.606.5.A.2. above but did meet required parking lot landscaping standards in effect at time of development, and subsequently desires to make further changes to the parking lot(s) on-site, shall not be required to come into compliance with the parking lot landscaping standards of 155.606.5.A.2. unless more than fifty percent (50%) of the area of the existing lot(s) are disturbed. If more than fifty percent (50%) of the parking lot area(s) are disturbed, only those disturbed areas shall come into compliance with the above landscaping standards.

155.606.5.B POST CONSTRUCTION REGULATIONS

In addition to the provisions for tree canopy and landscaping on developed parcels, requirements of Chapter 8, the Post Construction Ordinance shall also apply. Where the requirements for undisturbed open space can be met with existing or new tree canopy requirements of this section, they may be counted toward each. The preference, as intended in Chapter 8, is the preservation of vegetation in place.

155.606.6.A. SITE PERIMETER SCREENING. Screening is required along all side and rear property boundaries abutting an existing residential use or residentially zoned area. Screening shall be designed and installed to provide a visual buffer of at least 75% opacity to a height of 6’.

3. Section 155.606.7.A.2.a Tree Canopy Requirements

The amount of existing canopy that must be preserved on the site during development is determined by two (2) factors: the zoning district classification; and the percentage of existing tree canopy present before any land disturbing activity, as indicated below:

R/I = 15%

4. Section 155.607.1.C.(1, 4, 8, 17)

1. EXISTING PARKING AND LOADING FACILITIES. Accessory off-street parking or loading facilities which are located on the same lot as the building or use served and which were in existence on the Effective Date of this Title or were provided voluntarily after the Effective Date shall not be reduced below, or if already less than, shall not further be reduced below, the requirements of this Title for a similar new building or change of use.

4. LANDSCAPING. All vehicular use areas providing parking space for five (5) or more vehicles shall be landscaped in accordance with the provisions of §155.606. Ground cover, shrubs, and trees shall be located and maintained so they do not interfere with vehicular or pedestrian circulation or obstruct visibility within the property or at entrances and exits.

17. Disabled Parking Facilities. Any parking area for use by the general public shall provide parking spaces designated and located to accommodate the disabled. Parking spaces reserved for the disabled shall be located, designed, identified, and otherwise provided in accordance with the most restrictive requirements of the Americans with Disabilities Act of 1990 (ADA) Guidelines, 28 C.F.R. Part 36, Appendix A, and the North Carolina Building Code as the same are from time to time amended. [formerly known as §153.122]

155.607.3.A. GENERAL DESIGN STANDARDS – OFF-STREET PARKING FACILITIES.

1. Surface Material. Every off-street parking space and off-street loading space, including all access and aisle drive areas and maneuvering space associated with the parking area, shall have an all-weather dust-free surface Except as may be provided otherwise, gravel and other stabilization material without a permanent wearing surface is not a permitted surface material for vehicular use areas.

5. Off-street parking areas shall be designed so that the parked vehicles do not encroach upon or extend onto public rights-of-way, [or] sidewalks. . . .

155.401.1.I RELIEF FOR MINOR NONCONFORMITIES REQUIRING VARIANCE ACTIONS DURING REZONING FROM AN OUTDATED ZONING CLASSIFICATION.

1. While an application or motion to change a parcel from a classification that is no longer available in these regulations to a current zoning district designation may be desirable, this action may create some conditions on a parcel that would become nonconformities. In order to reduce the necessity of resulting multiple similar zoning variance actions, certain minor nonconforming elements may be determined to be exempt from strict compliance through the following:

- a. Any existing development which meets the setback and rear yard requirements of its zoning district prior to amendment but will exceed front setback and/or rear yard minimums in the proposed new zoning district, up to twenty feet (20'), will be considered to be in conformance to the new zoning district provisions.
- b. Any existing development which meets the side yard requirements of its zoning district prior to amendment but will exceed one or more side yard minimums in the proposed new zoning district, up to ten feet (10'), will be considered to be in conformance to the new zoning district provisions.

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 existing development of ball fields, their associated accessory structures, and parking are all within 50' of both side property lines and the front lot line. Requiring compliance to 50' yards on all four exterior boundaries would significantly impact the arrangement of fields and uses of the entire development site, resulting in the loss of currently used land for fields and parking.

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 existing use, parking, ball fields and amenities were legal nonconforming under the RU zoning district.

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 use was established in 1956, and initial development occurred on the property before zoning was assigned. Further changes and additions have occurred incrementally over time, both prior to zoning and once zoning was in effect, and presumed to be in compliance with the code at the time of construction.

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 purpose and intent of the UDO is achieved through the conversion of the property to a zoning classification recognized in the Unified Development Ordinance. The proposed rezoning will create conflicts with the requirements of the UDO and the proper variances will be in keeping with the spirit and intent of the UDO and substantial justice will be achieved.

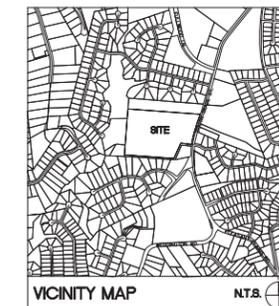
Findings of Fact Standards for Zoning Variances

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.

Quick Comparison of RU and R/I Standards for MARA

<u>RU Standards (in old ZO)</u>	<u>Current R/I Standards</u>	<u>Comments</u>
The old RU district allowed "parks and playgrounds, operated on a noncommercial basis for purposes of public recreation" as a permitted use.	In the UDO, we have a more appropriate category for them: "Athletic or sports fields, ballfields, in a concentration of three or more, and similar outdoor physical recreation facility intended for use by teams of participants	New land use classification more accurately fits the use of this property. Now that this land use activity is spelled out separately, the general "park" listing no longer applies here. This, along with the elimination of the Rural District, now makes MARA site a legal nonconforming use.
RU min front setback 40'	R/I min front setback 50'	They are existing legal nonconforming in RU and will be nonconforming in the R/I -- both parking and other fields, fence, etc. improvements are located closer to the front property line than 40' or 50'.
RU min side yard 20' (when an institutional use)	R/I min side yard 50'	They have multiple improvements - fields, parking, bleachers, batting cages, etc. as close as 20' to their side yards.
RU min rear yard 20' (when an institutional use)	R/I min rear yard 50'	Parking and ballfield improvements exist today within the front setback up to the front property line.
In RU parking is not allowed in required 40' front setback.	In R/I parking is not allowed in 50' required front setback.	Existing parking is at the front property line, both before and after S Trade Street right-of-way acquisition, so is and will continue to be nonconforming.
In RU, it's unclear whether parking can be gravel.	In R/I parking must be hard surfaced.	MARA's parking has always been gravel surfaces, and they wish to continue to use gravel for future expansions of parking areas. Town Planning office has no records of any prior parking plans. Storm water control and zoning regulations require plan submission and approval for all future improvements.
In RU, they would be required to have 430 parking spaces.	In R/I they would be required to have the same.	The S Trade Street road widening will impact some of their parking, and they are already in the process of revising/expanding the gravelled areas on both street frontage parking areas to remain at 430 spaces, so they will not have any loss of on-site parking spaces. Vacant property across S Trade St has been used as unofficial overflow in the past, but is now approved for development, so additional parking would be beneficial.
In RU walls/fences in required yards cannot exceed 6'.	In R/I the same.	This is included as existing improvements within required yards.
In RU one identification sign up to 40 sq ft, externally lighted only.	In R/I one identification sign per 500' of street frontage OR 1 per public street vehicular access, with internal lighting. Each sign must be outside of any sight triangles, and can be lighted, up to 40 square feet, and up to 5' in height if within 10' of a sidewalk (or up to 10' if further interior to the site).	MARA's freestanding sign was removed with initial clearing work for S Trade St widening project. Under the R/I zoning classification, they can install 2 signs, 40 sq ft each, at two driveways.
In RU, bulletin board sign is not allowed	In R/I, one bulletin board sign up to 18 sq ft, externally lighted	A bulletin board sign could be used to announce upcoming tournaments, opening dates, etc.; this is separate from a freestanding ID sign
Under RU they got a stealth light pole/communications tower at 80'.	Under R/I, the stealth tower is eligible to go up another 40' in height with Town Board site plan approval, at time of initial construction.	*** MARA requested and was granted a zoning variance in December to proceed with this request since the existing tower was "initially designed" to be increased in height just not built to the full extent. Town ordinances (both old ZO and current UDO) have a specific "site plan approval" procedure for increasing the height of a stealth tower in the R/I district only, which can be reviewed and approved concurrently with the R/I zoning request.
RU required minimum tree canopy 20% of site	R/I required minimum tree canopy 15% of site	R/I allows greater flexibility
PCO applied to RU as of 6-30-07 for any land disturbing activity; any redevelopment that disturbs more than 20,000 sq ft, or any expansion that increases net "built-upon area" (including gravel) requires PCO review	PCO applies to R/I for any land disturbing activity; any redevelopment that disturbs more than 20,000 sq ft, or any expansion that increases net "built-upon area" (including gravel) requires PCO review	As part of Phase 2 of storm water regulations, all parcels of land within Matthews are subject to these requirements; recent state legislation has considered allowing some leniency/flexibility on gravel surfaces



SURVEY DISCLAIMER
"ALTA/ACSM LAND TITLE SURVEY" SURVEY ISSUE DATE AUGUST 31, 2014. PROVIDED BY RB PHARR AND ASSOCIATES, P.A., 420 HAWTHORNE LANE, CHARLOTTE, NC 28204, 704-376-2186

LEGEND

SYMBOL	DESCRIPTION
	LIMITS OF EXISTING (AFTER ROADWORK) PARKING
	LIMITS OF POTENTIAL FUTURE EXPANSION PARKING REQUIRING A VARIANCE
	FUTURE ROADWAY IMPROVEMENTS BY OTHERS
	AREAS WITHIN FRONT SETBACK, SIDE YARD AND REAR YARD REQUIRING A VARIANCE
	BALL FIELD IDENTIFICATION
	LIMITS OF TREE CANOPY COVERAGE, INCLUDING EXISTING AND POTENTIAL DEVELOPMENT REQUIRING A VARIANCE

- VARIANCE KEY**
- 1. Side Yard, Rear Yard and Setback Variances** Section 155.604.2
 - a. A 30' variance to the 50' side and rear yards to allow sports field improvements and accessory structures, including batting cages, dugouts, bleachers, fencing and lighting ("sports fields").
 - b. A 30' variance to the 50' side and rear yards to allow existing and potential future parking within the side and rear yards. (Existing (After Roadwork) Parking A, Potential Future Expansion Parking B; Future Parking C on Variance Plan, with the condition that the Town Board approve the location and design of Potential Future Parking C).
 - c. A variance to the 50' front setback to allow existing and future parking and existing sports fields within the front setback as shown on the plan (Existing (After Roadwork) Parking B; 50' variance; Existing (After Roadwork) Parking A; 30' variance; Potential Future Expansion Parking A; 30' variance).
 - 2. Landscaping** Section 155.606.2 and 155.606.6
 - a. A variance to allow existing and future sports fields and parking without the additional streetscape, perimeter, interior, landscaping and screening treatments.
 - b. A 0.5% variance from the tree canopy requirement of the 15% canopy coverage to allow the existing tree canopy and potential future tree canopy, as shown on the Variance Plan, to satisfy the requirements of section 155.606.
 - 3. E parking** Section 155.607
 - a. From the design requirements of the Ordinance as to interior landscaping to allow existing and future parking to the extent not currently compliant.
 - b. To allow gravel parking for existing and future parking areas. (Alternative surface is allowed under 155.607.1.C.8 for nonresidential use in a residential district).
- Note:
As specified by the Matthews Board of Adjustment, the above variances shall not expire after a period of 6 months from the granting of the variances.

SEE ATTACHED SITE SURVEY FOR PROPERTY DESCRIPTION AND ADDITIONAL SITE INFORMATION.

MARA

1200 South Trade Street
Matthews
North Carolina, 28105

ARTHUR GOODMAN MEMORIAL PARK REZONING

1200 South Trade Street
Matthews
North Carolina, 28105

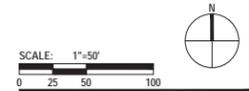
VARIANCE PLAN

Project No.
4371

Issued
11/13/14

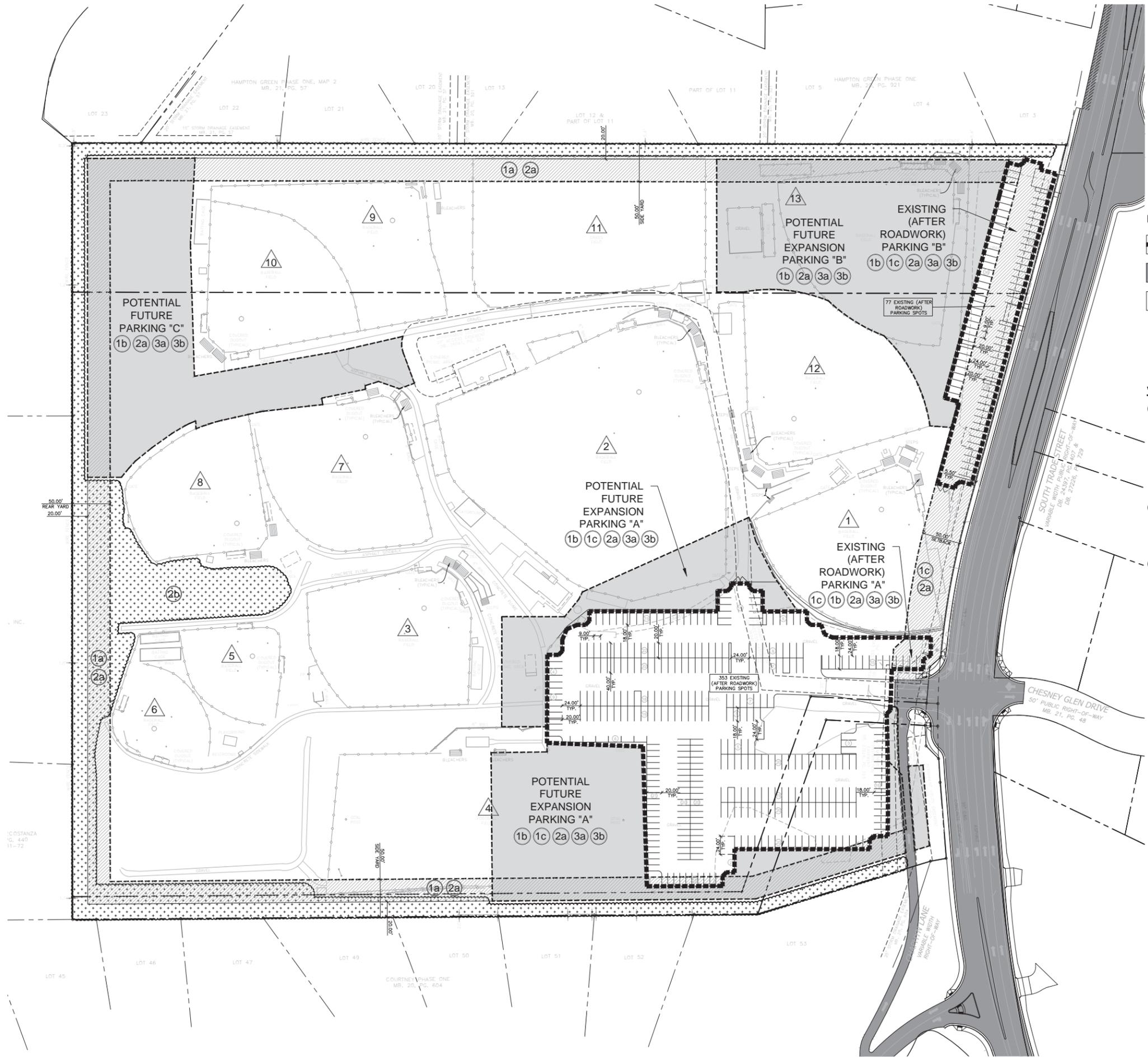
Revised

- 01/21/15 - TOWN OF MATTHEWS COMMENTS
- 02/18/15 - THIRD TOWN OF MATTHEWS SUBMITTAL



VP-100

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APPLICATION FOR A ZONING VARIANCE

Date Filed: 11/14/14

Hearing Date: 12/4/14

Hearing Time: 7pm

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

Property Owner Name(s): Matthews Athletic & Recreation Association

Subject Property Street Address: 1200 South Trade Street, Matthews, NC 28105

Subject Property Tax Parcel ID: 227-461-73, 74, 75, 76

Current Zoning District of Subject Property: RU

Subject Property is Concurrently Seeking a Change in Zoning Classification To: R/I CD

Property Owner is Applicant Appearing Before Board of Adjustment: _____

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: With the adoption of the new Unified Development Ordinance of the Town of Matthews (the "UDO"), the Town Planning Office has requested that the Arthur Goodman Memorial Park (the "Park") be rezoned from the existing RU zoning, which is not a zoning classification defined in the UDO, to the R/I CD zoning classification under the UDO. Matthews Athletic and Recreation Association has been working with the Town of Matthews to assist the Town in its efforts to assign the R/I CD zoning classification to the Park.

Continued on Insert 1 on Exhibit A; see Variance Notes attached as Exhibit B

Without relief from one or more specific provisions of the Unified Development Ordinance (UDO). UDO section(s) which affect this ruling is/are: 155.604.1, 155.606.2, 155.607, 155.308

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 Park has been a part of Matthews for almost 60 years and during that time, with volunteer efforts and community support, has grown from 2 sports fields to 13 fields serving over 2000 Matthews youth. If the requested variance is not granted, much needed facilities within the Park will not be realized for the Matthews community, existing facilities could not be improved, expanded or rebuilt in some cases; the existing parking would be further diminished and the addition of critical parking would not be feasible or possible; the entrance sign in the area included in the widening of South Trade Street would be unuseable to identify the Park. The variances will not result in advantages or special privileges to MARA over other properties and structures because MARA is a unique Park complex within the community unlike surrounding properties and has established the sports fields and amenities within the Park since 1956.

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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 results from the adoption of the new UDO and resulting need to rezone the Property to the R/I CD zoning classification, which has restrictions and requirements that do not conform in every respect to the RU district. The unique use of the Park's land for sports fields, improvements and accessory structures makes it unlike other properties and therefore it does not conform to the standards of typical non-residential properties in the R/I district. The location of the property along South Trade Street and the resulting improvements associated with the widening of South Trade Street will cause the removal of approximately 25 parking spaces and the entrance sign to the Park.

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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 of which the applicant complains is a result of the elimination of the RU zoning district with the adoption of the new UDO.

With the adoption of the new Ordinance, the Town has requested that the Park be rezoned to R/I CD and the existing and future improvements of the Park do not conform in every respect to the R/I CD requirements. Not only has the elimination of the RU District created the hardship, but the widening of South Trade Street also causes additional hardships by removing approximately 25 parking spaces and by removing the entrance sign to the Park.

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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.):

Public health, safety and welfare is advanced with the continued use and enjoyment of the Park by the youth and families of Matthews;

the character and quality of the community is enhanced by the benefits, services and volunteer efforts of the Park; the adoption of the new zoning classification for the Park is consistent with the new UDO of Matthews. From the public street, no changes will be visible if additional parking is added. The current setbacks and side yards of 20' with the RU zoning have been observed and will not be violated with the granting of the variance. The addition of future parking in the rear yard will address parking needs without impacting the adjacent property to the rear of the site, which will remain undeveloped. In addition, the widening of South Trade Street creates the need to move the Park's entrance sign but the proposed relocation of the existing sign will be in a similar relationship to the future street and subject to approval of the Town Planning Office. The variances will allow the existing improvements to continue, to be rebuilt if damaged and to be improved. Future parking areas will benefit adjoining properties because they will provide much needed parking to the community and the continued improvement of the Park will be an amenity to adjoining properties.

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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.

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.

See Attached Signature Page

Print applicant name

Signature of applicant

Mailing address of applicant

City, State Zip

Email address of applicant

Date

See Attached Signature Page

Print representative name

Signature of representative

Mailing address of representative

City, State Zip

Email address of representative

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.

VARIANCE APPLICATION SIGNATURE PAGE

Applicant Name

Matthews Athletic and Recreation Association

Phone number of Applicant

704-309-7824

Phone number of Representative

704-309-7824

Representative Name

Cliff Boyd, President

Date

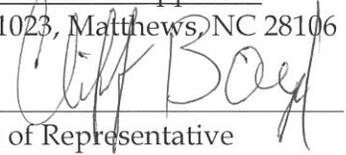
11-12-14



Signature of Applicant

Mailing Address of Applicant

P.O. Box 1023, Matthews, NC 28106



Signature of Representative

Mailing Address of Representative

P.O. Box 1023, Matthews, NC 28106

Date

11-12-14

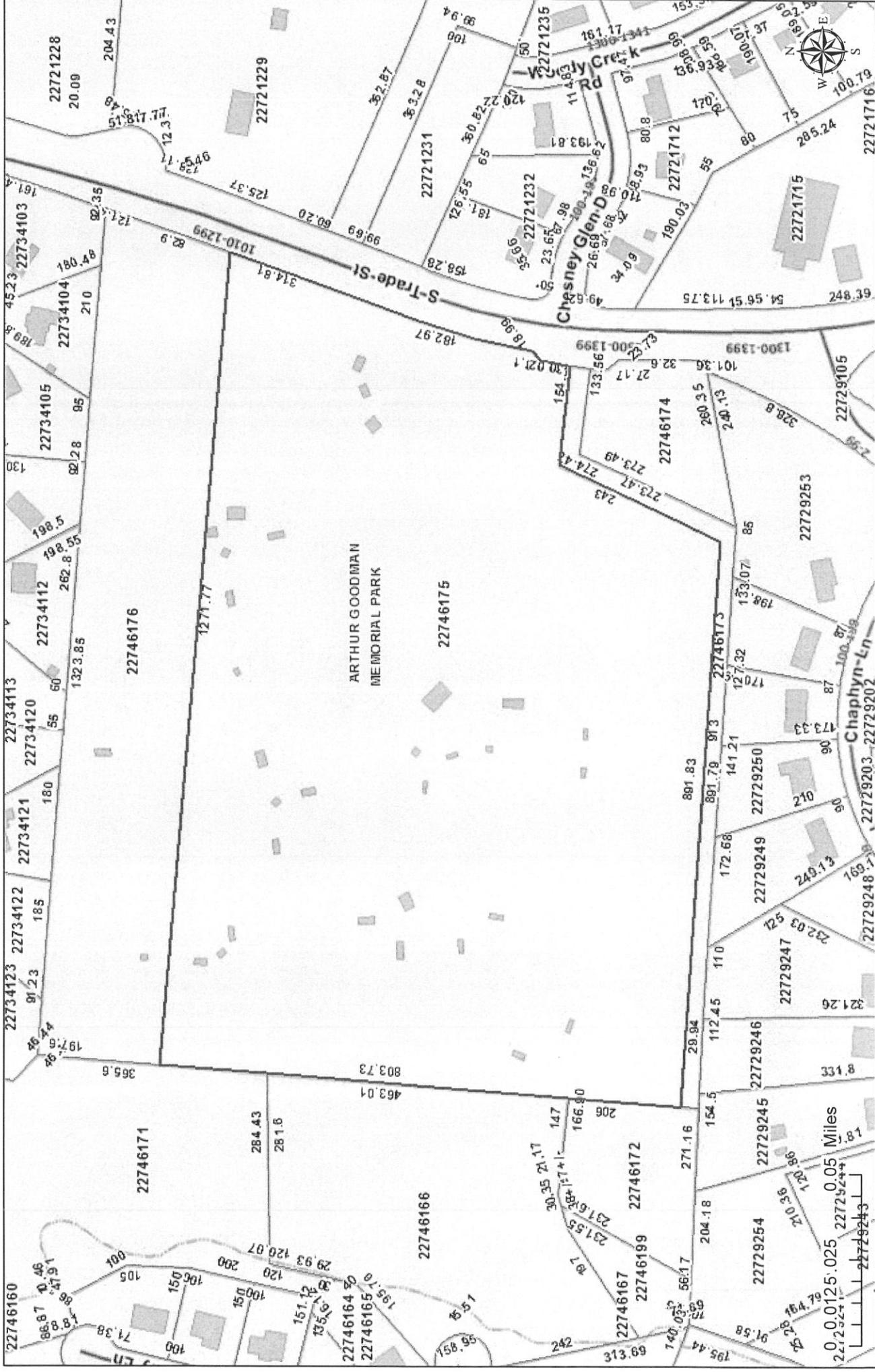
ADJACENT PROPERTY OWNER INDEX

	PROPERTY OWNER	PARCEL ID	ADDRESS	CURRENT ZONING
1	CHARLOTTE C. KLUDZUWEIT	22729253	100 CHAPHYN LN. MATTHEWS, NC 28105	R-15
2	SHERRI H. SILVIA & JOHN J. SILVIA	22729252	112 CHAPHYN LN. MATTHEWS, NC 28105	R-15
3	THEODORE BOOHER	22729251	120 CHAPHYN LN. MATTHEWS, NC 28105	R-15
4	DAVID L. BLANKEN & P. DENISE	22729250	128 CHAPHYN LN. MATTHEWS, NC 28105	R-15
5	ADAM C. KITCHEN & LORI B. KITCHEN	22729249	136 CHAPHYN LN. MATTHEWS, NC 28105	R-15
6	JOHN W. MITCHELL & WILDA E. MITCHELL	22729247	1421 BRITTLE CREEK DR. MATTHEWS, NC 28105	R-15
7	STEVEN SCOTT VAN DUSEN & AMY D. VAN DUSEN	22729246	1415 BRITTLE CREEK DR. MATTHEWS, NC 28105	R-15
8	JAMES M. HOWARD & LINDA J. HOWARD	22729245	1407 BRITTLE CREEK DR. MATTHEWS, NC 28105	R-15
9	CATHERINE G. DECOSTANZA	22746172	1401 BRITTLE CREEK DR. MATTHEWS, NC 28105	R-15
10	RIDGEROCK RETAINING WALLS, INC.	22746166	P.O. BOX 241233 CHARLOTTE, NC 28224	R-15
11	CLG VENTURE	22746171	6620 FAIRVIEW RD. CHARLOTTE, NC 28210	R-15
12	HAMPTON GREEN SWIM CLUB	22734123	P.O. BOX 2546 MATTHEWS, NC 28106	R-15
13	HAMPTON GREEN SWIM CLUB	22734122	P.O. BOX 2546 MATTHEWS, NC 28106	R-15
14	BRYAN YORK & JOANN YORK	22734121	1023 EVIAN LN. MATTHEWS, NC 28105	R-15
15	JAMES ARTHUR GREEN & JOYCE ANN	22734120	1021 EVIAN LN. MATTHEWS, NC 28105	R-15
16	ROBERT P. FORD & KAREN J. FORD	22734113	1016 TALBOT CT. MATTHEWS, NC 28105	R-15
17	JAMES A. JOHNSON & CYNTHIA JOHNSON	22734112	1017 TALBOT CT. MATTHEWS, NC 28105	R-15
18	ERIC D. BROCK & MELODY P. BROCK	22734111	1013 TALBOT CT. MATTHEWS, NC 28105	R-15
19	ROBERT D. AYCOCK, JR. & GWYNN D. AYCOCK	22734105	1010 BYDEFORD CT. MATTHEWS, NC 28105	R-15
20	JAMES O. ROGERS & KIMBERLY A. ROGERS	22734104	1011 BYDEFORD CT. MATTHEWS, NC 28105	R-15
21	DAVID MICHAEL BERMAN	22734103	1007 BYDEFORD CT. MATTHEWS, NC 28105	R-15
22	H. W. MARTIN & RUTH K. MARTIN	22721228	1011 S. TRADE ST. MATTHEWS, NC 28105	R-15
23	MILDRED F. SUTTON HYLTON	22721229	176 WOODBERRY ST. WHITE LAKE, NC 28337	R-15
24	MILDRED S. HYLTON, SCOTT A. HYLTON, & B. C. HYLTON	22721230	176 WOODBERRY ST. WHITE LAKE, NC 28337	R-15
25	SCOTT A. HYLTON & BRANTLEY C. HYLTON	22721231	176 WOODBERRY ST. WHITE LAKE, NC 28337	R-15
26	GARY L. JUDD & DONNA D. JUDD	22721232	101 CHESNEY GLEN DR. MATTHEWS, NC 28105	R-15
27	TANEY O. BROWDER & MARA L. BROWDER	22721713	108 CHESNEY GLEN DR. MATTHEWS, NC 28105	R-15

28	CHARLOTTE KOREAN BAPTIST CHURCH	22721715	1015 S. TRADE ST. MATTHEWS, NC 28105	R-15
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Polaris 3G Map – Mecklenburg County, North Carolina

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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.

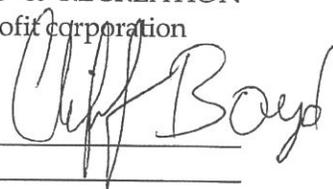
RESOLUTIONS

The undersigned certifies that:

1. The undersigned, Cliff Boyd ("President") is the President of Matthews Athletic & Recreation Association, a North Carolina non-profit corporation ("MARA").
2. The mailing address of MARA is P.O. Box 1023, Matthews, 28106.
3. The President is authorized, on behalf of MARA, to execute all documents and instruments and take all actions necessary or required in connection with the variance and rezoning approval applications before the Town of Matthews, NC (the "Applications"), concerning that certain tract, piece or parcel of land lying and being in Matthews, NC, known as Arthur Goodman Memorial Park (the "Park"), which MARA owns and operates as a non-profit athletic and recreational facility, and to represent MARA in meetings and hearings in connection with the Applications. Any and all prior acts entered into or taken by the President, on behalf of MARA, which are not inconsistent with the provisions of these Resolutions, are hereby ratified and approved.
4. These Resolutions may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.
5. MARA shall be bound by the signature of the President of the Company without the necessity of joinder by any other person(s) or party(ies).

Executed this 14th day of November, 2014.

MATTHEWS ATHLETIC & RECREATION
ASSOCIATION, a non-profit corporation



Name: Cliff Boyd

Title: President

EXHIBIT A

Inserts for Variance Application

INSERT 1

The Park has been at this location since 1956 and over the years, through volunteer efforts and community support, has grown to 13 sports fields serving over 2,000 Matthews youth in 10 sports each year. Sports offered to the Matthews community include baseball, softball, basketball, football, and leagues dedicated to children with special needs. The existing and future improvements of the Park do not conform in every respect to the R/I requirements of the UDO, so this application to the Board of Adjustment requests variances to accommodate those differences.

MARA ANNUAL MEETING
ELECTION BALLOT (Officers)
Thursday November 15, 2012

Officers (Please circle your choice)

President-Elect - Elected

Cliff Boyd

Secretary - Elected

Michael Bare

Treasurer - Elected

John Duncan
