



AGENDA
Regular Board of Adjustment Meeting
October 13, 2020 - 6:30 PM
Recreation Center (11836 Verhoeff Drive)

Meeting Information- *This meeting will be held in public at the Huntersville Recreation Center (11836 Verhoeff Dr, Huntersville, NC 28078) and will not be streamed online. Due to the current COVID-19 pandemic, social distancing and face masks will be required. All who wish to attend will need to be screened prior to entering the center. Please arrive early, space will be limited to accommodate the recommended social distancing measures of being no less than 6 feet apart. The Board, attorneys, staff and essential witnesses will receive priority and members of the public will be allowed to the extent we can adhere to social distancing guidelines. In the event that the number present exceeds the maximum capacity permitted under these guidelines, please be prepared to wait outside and for members of the public to be rotated out to provide all who intend to speak the opportunity.*

- 1. Roll Call, Determination of Quorum**
- 2. Approval of Minutes**
 - 2.A. Consider approval of the August 11, 2020 Minutes of the Meeting ()
 - 2.B. Consider approval of the September 15, 2020 Minutes of the Meeting ()
- 3. Hearing of Cases**
 - 3.A. V20-05 - Consider an impervious request for 8201 Sandowne Lane ()
 - 3.B. V20-06 - Consider an impervious request for 15710 Pine Street ()
- 4. Other Business**
- 5. Adjourn**



**Board of Adjustment
Regular Board of Adjustment Meeting Agenda
August 11, 2020 - 6:30 PM
Recreation Center**

A. Roll Call, Determination of Quorum

Quorum was determined, and Chairman Welch called the meeting to order.

Regular Members in attendance: B. Welch, Chairman, J. Kluttz, E. Cecil, W. Smith, and S. Genenbacher

Alternate Members present: J. Bradshaw, P. Jacobson and J. Loucks

Regular Members absent: T. Primiano and D. Brewer

B. Approval of Minutes

B.1. Approval of October 8, 2019 Regular Meeting Minutes

J. Loucks made a Motion to Approve the October 8, 2019 Regular Meeting Minutes, and S. Genenbacher seconded the Motion. The vote carried unanimously (7-0).

C. Hearing of Cases

Prior to testimony, a group attestation was completed for all parties' involved or giving testimony to the case. Each witness thereafter was confirmed individually to have attested prior to testimony.

The Chairman read the disclosure statement to the members: The parties to this case are entitled to an impartial board. A board member may not participate in this hearing if she/he has a fixed opinion about the matter, a financial interest in the outcome of the matter, an undisclosed *ex parte* communication with a party, or a close relationship with an affected person. Does any board member have any partialities, *ex parte* communication, financial interest, or a close relationship with affected persons to disclose and recusal to offer? There were none.

C.1. V20:02: 13111 Serenity Street. The applicant is requesting a variance from Article 4, Detached House, required 5' side yard setback.

Lauren Speight, Planner I (also referred to herein as "staff") presented, and entered the Staff Report into the record through verbal testimony as indicated below, and written documentation, which is attached hereto as Exhibit A, and incorporated herein by reference.

Findings of Fact with Staff's Position (ordinance standards are in italics):

Please see Exhibit 1 for the applicant's responses to the required criteria for granting a variance.

In considering any variance request, the following *Standards for Granting a Variance* (Article 11.3.2.e) must be addressed with findings of fact:

Standards for Granting a Variance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- 1) *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.*

It is Staff's position that:

- a. The strict application of the Ordinance (Article 4, Detached House, Typical A) requires the subject property have a minimum 5' side yard setback.
- b. The survey included with the application demonstrates the home is 4.6 ft from the side yard property line.
- c. The applicants indicate that in order to comply with the 5' setback would require destruction of a portion of the entire property that would result in excessive cost to the owner.

It is Staff's position that:

The apparent oversight of the side yard setback encroachment was not the fault of the original property owner. The strict application of the Ordinance may include adjustment of side yard property lines or removal of the structure in part.

Staff's position is that this criteria has been satisfied.

- 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.*

It is Staff's position that:

- a. All property located in the Town of Huntersville must comply with Article 4 regarding the minimum setback.
- b. The applicant states the property is unique because the encroachment existed since the property was built in 2012.

It is Staff's position that:

Staff's position is that this criterion has not been satisfied.

- 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.*

It is Staff's position that:

- a. The property owner is no the original builder of the home.
- b. County building permit records with the Zoning Plot Plan are no longer available as the home was built in 2012.
- c. The applicants state that they are requesting a variance to eliminate any issue for the future sale of the property.

It is Staff's position that:

As the encroachment appears to have existed since the original construction of the home, Staff finds the hardship did not result from actions taken by the current property owner.

Staff's position is that this criterion has been satisfied.

4)The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

It is Staff's position that:

- a. Article 8.10 of the Zoning Ordinance indicates all detached principal structures in all districts shall preserve a minimum building separation of 10 ft.
- b. The condition is existing. And, to date, Staff has not received any complaints from adjacent property owners.
- c. Staff can administratively waive a deviation of no more than 3% (1.8 inches). The setback minimum is 5 ft for the side yard and the home is 4.6 ft from the property line.

It is Staff's position that:

While the home encroaches into the side yard setback and does not preserve the 5 ft. side yard setback to allow for the required 10 ft. building separation between principal structures, it is not a safety concern nor is it encroaching into the neighboring property. The encroachment is approximately 3 inches more than what can be administratively waived by Staff.

Staff's position is that this criterion has been satisfied.

STAFF POSITION:

The applicant is seeking a variance of 4.8 inches from the Article 4 minimum side yard setback requirement to allow an existing encroachment of a detached house to remain. Staff finds that unless a variance is granted a significant modification to the home may be required. It appears the neighboring properties have approximately the minimum 5ft side yard setback required and modifications to the side yard property lines may not be an option. Staff finds while the application satisfies the 1st, 3rd, and 4th criteria for recommendation for approval of the variance request, the 2nd criterion was not satisfied.

J. Loucks made a Motion to Approve; In considering the findings of fact for V20-02, a request by the applicant for a variance from Article 4, the Board of Adjustment grants approval of the variance request based on a finding that an unnecessary hardship would result from strict application of the ordinance. The Board of Adjustment finds the request meets the criteria for granting a variance based on the following findings of fact, as follows:

1. The property is located at 13111 SERENITY ST HUNTERSVILLE NC 28078
2. The property owners are Michael Todd Campbell and Michele Marie Campbell
3. The property is zoned Neighborhood Residential, Traditional Neighborhood Development Overlay
4. The property has a 5' side yard setback
5. This property is subject to Article 4, Detached House, Typical A of the

Huntersville Zoning Ordinance that shows properties in the Neighborhood Residential zoning district have minimum side yard setbacks of 5’.

6. The house is located in Valencia – Phase I which was subdivided August 11, 2011 under Town of Huntersville Zoning regulations.
7. The approved subdivision plat Map 53, Page 412 lists the minimum side yard setback as 5 ft.
8. The house was built in 2012 and at the time Mecklenburg County LUESA conducted zoning inspections for Certificates of Occupancy on behalf of the Town of Huntersville.
9. Michael Todd Campbell and Michele Marie Campbell purchased the property located at 13111 SERENITY ST HUNTERSVILLE NC 28078 on June 29, 2020.
10. The current owners obtained a survey as part of the normal closing process and discovered that the side of the house encroaches (house sits at 4’6”) on the 5’ side yard setback.
11. On July 9, 2019, Michael Todd Campbell and Michele Marie Campbell submitted a variance application for a variation from Article 4, Detached House, Typical A.

E. Cecil seconded the Motion. The Motion carried unanimously (7-0).

C2. A20:01: 14422 Beatties Ford Drive: A request by Khristopher Ward for an appeal to staff’s decision regarding a gun range at 14422 Beatties Ford Road (Articles 3.2.1, 9.24 and 11.5)

Prior to discussion, Bethany Welch, Chair stated that she had a potential conflict of interest and requested to be recused.

E. Cecil made a Motion to Recuse B. Welch with alternate J. Bradshaw to serve in her place, P. Jacobson seconded the motion. The motion passed unanimously (7-0). Ed Cecil, Vice-Chair assumed the role of Chair for the remainder of the meeting.

Minutes for Item A20-01 were recorded by Sally Lowrance of Lowrance Reporting Service, Inc 9410 Ginhouse Lane Charlotte NC 28277 and are included herein as Exhibit B.

D. Other Business

D1. Election of Chairman and Vice-Chairman

E. Cecil made a Motion to Reinstate B. Welch, J. Klutz seconded the motion. The motion passed unanimously (7-0).

B. Welch nominated E. Cecil to serve as Chairman, P. Jacobson seconded the motion. There were no other nominations. The vote was unanimous.

E. Cecil nominated B. Welch to serve as Vice-Chairman, J. Klutz seconded the motion. There were no other nominations. The vote was unanimous.

E. Adjourn

Approved this ____ day of _____ 2020.

Chairman or Vice Chairman

Board Secretary

TOWN OF HUNTERSVILLE
NORTH CAROLINA
Appeal No. A20-01

In the Matter of the
Arbitration between:

KHRISTOPHER WARD,

v.

TOWN OF HUNTERSVILLE BOARD OF
ADJUSTMENT.

HEARING TRANSCRIPT
on
APPEAL NO. A20-01

On: Tuesday,
August 11, 2020

Held at
Huntersville Recreation Center
11836 Verhoeff Drive
Huntersville, North Carolina 28078

Board of Adjustment
Members Present:

Bethany Welch, Chair
Edward Cecil, Vice-chair
Jason Loucks
Wilbur Smith
Peter Jacobson
Joseph Kluttz
Steve Genebacher
Jonathan Bradshaw

For the Board:

Anthony Fox, Esq.
Parker Poe Adams & Bernstein
601 South Tryon Street, Ste. 800
Charlotte, N.C. 28202

For the Town of
Huntersville:

Craig Justus, Esq.
11 North Market Street
Asheville, N.C. 28801

Angela Beeker, Esq.
Town of Huntersville

For the Applicant:

(Pro Se)
1230 Rickard Drive
Huntersville, N.C. 28078

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Charlotte, North Carolina 28277
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1 P R O C E E D I N / A G S

2 The Board of Adjustments meeting was called to
3 order at 6:45 p.m. by Chairman Bethany Welch.

4 A. Board members were present as stated and a quorum was
5 established.

6 B. Approval of Minutes. Minutes of the October 8, 2019
7 meeting were approved.

8 C. Hearing of Cases.

9 C.1, V20-02: 1311 Serenity Street was heard by the
10 Board.

11 (Chairman Welch was recused for the
12 appeals hearing, case number A20-01.)

13 C.2, A20-01: 1422 Beatties Ford Drive: A request
14 by Khristopher Ward for an appeal to Staff's decision
15 regarding a gun range at 14422 Beatties Ford Road
16 (Articles 3.2.1, 9.24, and 11.5.)

17 (A recess was taken from 7:18 to 7:28 p.m.)

18 MR. CECIL: We're going to be moving onto C.2, A20-01 with
19 regards to 14422 Beatties Ford Drive requested by
20 Khristopher Ward for an appeal to staff's decision
21 regarding a gun range at 14422 Beatties Ford Road based
22 on Article 3.2.1, 9.44, and 11.35. As I understand, the
23 counsel for the appellant would like to make an opening
24 statement.

25 MR. WARD: Ladies and gentlemen on the Board, thank you for

1 gathering here tonight and for volunteering your time to
2 address a critically important zoning determination that
3 affects the health and safety of Huntersville residents,
4 including the families gathered here before you, as well
5 as many children and their families that will partake in
6 the sports complex constructed by the Community School
7 of Davidson. As you know from the administrative
8 record, the Community School and many homes lie within
9 shooting distance of Mr. Quan's range.

10 Tonight you will be presented with clear and
11 compelling evidence showing how there has been a
12 substantial and material change in the nature and use of
13 Mr. Quan's range and how this is no longer a private
14 entity but it is in fact a public commercial range. You
15 will hear no evidence that any prior owner operated a
16 commercial range on this residential property. This is
17 in direct violation of the Huntsville Zoning Ordinance
18 and the Huntersville gun ordinance.

19 You may hear the Town try to deflect focus on
20 Lennar, the developer of Arrington, should have
21 disclosed to perspective home buyers rather than
22 focusing on the fact that Mr. Quan's range is not legal
23 under Huntersville zoning laws. Do not be swayed by
24 these distractions. You are here tonight solely to
25 discuss how Mr. Quan's range violates the Zoning

1 Ordinance.

2 Throughout the presentation of evidence and witness
3 testimony I hope the picture will begin to emerge for
4 you of the historical progression of this property from
5 a rural residential lot 20-plus years ago into a small
6 recorded Farmhouse Cluster in 2009, and how it was
7 ultimately transformed through the acts and omissions of
8 Mr. Quan into the commercial public gun range we are
9 gathered here tonight to address. At the conclusion of
10 this hearing you will be tasked with issuing a ruling
11 predicated not on conjecture, hearsay or personal
12 affectations, but based purely on the mandates of the
13 Zoning Ordinance. Thank you.

14 MR. CECIL: Is there anyone else who would like to make an
15 opening statement? Would the Town like to make an
16 opening statement? Mr. Quan, would you like to make an
17 opening statement?

18 MR. QUAN: No, sir.

19 MR. CECIL: Okay. Well, I would like to make an opening
20 statement, and it has to do with receiving unsolicited
21 and unnecessary and inappropriate letters and
22 documentation from third parties. The most egregious
23 one, in my opinion, is the one from Senator Natasha
24 Marcus, a representative of District 41. I think this
25 letter points out that they do not understand what the

1 Board of Adjustment is, and they should be looking at
2 their own statutes to ascertain what it is, and that's
3 General Statute 3160A-388, the Town of Huntersville
4 Zoning Ordinance Article 1.42, and the UNC School of
5 Government blog on local government law issues.
6 Everything contained in this letter is hearsay, it's
7 irrelevant and immaterial. It will not be admitted into
8 evidence and cannot be admitted into evidence.

9 We have the discretion to allow the public to
10 speak, which is not normal but we allow it even if we
11 don't have any legal standing. They're not here to
12 speak and I'm ruling that this letter will not be
13 admitted into evidence.

14 There also have been additional correspondence
15 directed to the Huntersville Board of Commissioners by
16 residents. This is by John Washam and Sherry Washam.
17 That's also inappropriate. The Board of Commissioners
18 have nothing to do with this hearing in regards to any
19 rulings that we make. None of us have been swayed one
20 way or the other by the legislative letters or the
21 letters going to the commissioners, and I think most of
22 us received them. Has anyone on the Board reached any
23 opinion based on those letters? If you have, raise your
24 hand, if you haven't don't do it.

25 (Negative response by all members of the Board.)

1 MR. CECIL: That's not admitted into evidence. We also have
2 blogs going out from Ms. Marcus to have people here,
3 which is fine. We're here, we're glad you're here so
4 you can see what this process is about and how it's
5 handled. None of these Board members have made up their
6 mind. I haven't made up my by mind. Even with these
7 letters I have not made up my mind, and I'm not going to
8 until we go through this whole procedure, and it may
9 take some time. There is a lot of documents of
10 evidence.

11 Are you ready to proceed, and Counselor, do you
12 have anything else to add?

13 MR. FOX: For the record, just to give further clarification
14 to the Chair's position, this is indeed a quasi-judicial
15 proceeding. It is akin to a court of law ex parte
16 communications, unsworn communications. Communications
17 by individuals that are not subject to cross-examination
18 are not appropriate for consideration before this Board.

19 At this point, Mr. Chair, I would like to begin the
20 hearing by at least entering the stipulations that have
21 been discussed by the parties for purposes of this
22 hearing. The parties in interest will be the applicant,
23 Mr. Khristopher Ward; Mr. Quan, who is the property
24 owner; and the Town. Those individuals will have the
25 ability to present evidence, to cross-examine witnesses

1 with regards to testimony, and will be able to, as I
2 said, present evidence.

3 The parties have stipulated as follows, and I'll
4 hand this to the court reporter when I complete this,
5 that the Board of Adjustment is properly constituted in
6 this matter here tonight and that this matter is
7 properly before the Board, having received and been
8 given proper notice; that the court reporter has been
9 retained and the transcript of the hearing shall
10 constitute the official minutes of the Board of
11 Adjustment relating to this appeal; that all documents
12 and exhibits contained within the administrative record
13 are true and correct copies of the originals, including
14 but not limited to final records, minutes, meeting
15 notes, inspections, and so forth. Any document or
16 exhibit containing a recorded instrument shall be deemed
17 a faithful reproduction of the original record and shall
18 constitute a true and correct copy of the official
19 approved and recorded instrument.

20 The administrative record has been labeled as
21 A20-01, Exhibit Book, and is properly before this Board.
22 I think the exhibit book has been distributed to the
23 Board members as well as counsel. All recorded and
24 publicly available meeting minutes from the Town of
25 Huntersville Board of Commissioners, Town of

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1 Huntersville Planning Board, or any other administrative
2 or legislative division of the Town, whether expressly
3 referenced in the record or not, are admissible to the
4 extent they contain material relevant to the case. This
5 shall include but not be limited to the January 27, 2015
6 Planning Board regular meeting minutes, the February 24,
7 2011 Planning Board regular meeting minutes, and
8 March 16, 2015 Town of Huntersville regular Town Board
9 minutes.

10 Jack Simoneau has been duly appointed by the Town
11 manager as the zoning administrator in accordance with
12 the Zoning Ordinance Article 11 at Section 1 as a
13 stipulation, and the final stipulations of the Board of
14 Adjustment shall and may take judicial notice of the
15 North Carolina General Statutes. Those are the
16 stipulations that have been entered into by the parties.
17 Does any party disagree with that?

18 (No comments.)

19 MR. FOX: Let the record reflect there was no disagreement.

20 MR. CECIL: That shall be admitted into evidence. Are we
21 all ready to proceed? Mr. Simoneau, would you like to
22 present the position of the Town?

23 MR. SIMONEAU: Thank you. I would like to place the staff
24 report into the record as well as the May 11th letter
25 that I had sent to property owners on the decision; also

1 the May 29th decision letter also which was requested by
2 the residents to reconsider, Exhibits 1 through 25.

3 There is also applicable current zoning provisions
4 that are included in the agenda packet, NCGS 1-49 and
5 1-51, and the appeal application. In addition, I have
6 with me, and would like to enter into the record,
7 Exhibit 34, which is a certification of the current copy
8 of the Planning Board minutes dated January 27, 2015;
9 Exhibit 35, a certified copy of the minutes from the
10 Planning Board meeting on the 24th of February 2015;
11 Exhibit 36, a certification of the true and correct
12 minutes from the Huntersville Board of Commissioners on
13 the 16th of March of 2015; Exhibit 37, a certified copy
14 from the Town Clerk, a true and correct copy of the
15 Zoning Ordinance as amended through July 1, 2020;
16 Exhibit 38, a certification of a true and correct copy
17 of the Zoning Ordinance that was adopted November of '96
18 and amended November 25, 1997; and the final is a copy,
19 it is not certified, Exhibit 39, which is Mecklenburg
20 County Zoning Ordinance of January 1992 photocopied
21 January 9, 2011. With that I will just go over the
22 slides we have here.

23 MR. FOX: Before you proceed, are there any objections to
24 those exhibits that have been admitted into the record?

25 (No audible objections.)

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1 MR. SIMONEAU: So the property in question is in the western
2 part of Huntersville right off Beatties Ford Road, it's
3 14422 Beatties Ford Road, and it's highlighted here.
4 This is a close-up of the property and the zoning map as
5 well. The firing range is located at 14422 Beatties
6 Ford Road and it has a red star. The Huntersville
7 zoning map shows the property today is currently zoned
8 rural. It is just to the west of Arrington subdivision,
9 which is on the right-hand side.

10 Just starting with kind of a history of how this
11 has evolved, William Everette Farrow acquired the
12 property which was 24.43 acres on March 21, 1980. This
13 is a copy of the deed, which is in the agenda packet.

14 Next to come along is the Mecklenburg County
15 Firearms Ordinance of 1988. Section 2, which is shown
16 here, says that you cannot discharge a firearm within
17 900 feet of these uses. The first one is a dwelling
18 unit, a dwelling house, school, church, and other
19 buildings. And then if you look on the right-hand side
20 the exceptions to those are, it says in Section 2, "This
21 ordinance shall not apply to any of the following." The
22 first one is a person discharging of any type of shot or
23 load except slugs. Next is a rifle, pistol, skeet, or
24 trap range operated by a recognized gun club or law
25 enforcement agency requiring firing range, which firing

1 range is substantially in accordance with specifications
2 promulgated by the National Rifle Association or by an
3 equivalent nationally recognized firearms safety
4 authority for type and caliber of firearms being fired
5 except as provided in Section 6 above.

6 And then the last one I will read into the record
7 is a person target shooting on his own property or
8 another's property, if he has on his person written
9 permission for activity from the owner of the property
10 exhibiting reasonable regard for safety and property of
11 other persons, (1), if such person using a backstop
12 substantially in accordance with specifications
13 promulgated by the National Rifle Association or any
14 equivalent nationally recognized firearms safety
15 organization with a type of caliber of firearms being
16 fired; and (2), if such person or persons have written
17 permission for such from all persons owning any of the
18 types of places or structures listed in subsection 2(a)
19 through (f) which are located within 900 feet of target
20 shooting. So that was the Mecklenburg County Firearms
21 Ordinance that came in effect in 1988.

22 MR. FOX: Mr. Simoneau, if you could, in terms of the court
23 reporter and the Board, that was Exhibit 25?

24 MR. SIMONEAU: Yes.

25 MR. FOX: If you have the opportunity to call, if you think

1 about it, when you refer to exhibits from which you're
2 testifying it will make it easier for the Board and
3 court reporter.

4 MR. SIMONEAU: I will try to do that. Next item is
5 Mecklenburg County zoning map, which we have found was
6 dated -- the earliest one we found in Mecklenburg County
7 was dated January 1992, and this is zoned R-3, and then
8 you see the property with a star, and that is Exhibit 4.
9 The Mecklenburg County Zoning Ordinance, which is
10 Exhibit 5, has the property listed as R-3, which is
11 primarily residential for single-family. That was
12 actually Exhibit Number 39 that I'm entering into the
13 record in Mecklenburg County.

14 Next we have the North Carolina Sport Shooting
15 Range Protection Act of 1997, and that is Number 6,
16 Exhibit 6, and that was enacted September 1, 1997. On
17 the right-hand side what the provision calls for is: A
18 sport shooting range that that is operated and is not in
19 violation of existing law at the time of the enactment
20 an ordinance was existing at least three years prior to
21 the effective date of this article shall be permitted to
22 continue in operation even if the operation of the sport
23 shooting range at a later date does not conform to the
24 new ordinance or amendment to an existing ordinance,
25 provided there has been no substantial change in use.

1 If you look on the left-hand side, the definition
2 of the substantial change in use is: The current
3 primary use of the range no longer represents the
4 activity previously engaged in at the range.

5 The next item is the extraterritorial zoning
6 jurisdiction which got extended on November 4, 1997,
7 Exhibit 7. When the Town extended the zoning
8 restriction out to this area, that was on November 4,
9 1997, the Town zoned it OPS, which is Open Space
10 District, and the zoning regulations obviously applied
11 to that point.

12 Also, Exhibit 7 is condition for environmentally
13 sensitive uses not expressly permitted. The firing
14 range was to be classified as an environmentally
15 sensitive use as not expressly permitted. Let me ready
16 to you what that calls for. It says: Uses not
17 expressly named in this ordinance but which may
18 constitute a greater than average impact on the
19 environment or diminish the use and enjoyment of nearby
20 properties by generation of noise, smoke, fumes, odors,
21 glare, commercial vehicle traffic, or similar nuisances
22 are permitted in the SP, which is Special Purpose
23 District, subject to a special use permit according to
24 the procedures of Section 11.4.10. So that's how we
25 would classify a gun range in the OPS district.

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1 The next deals with deals with nonconformities from
2 the Zoning Ordinance, and that is Exhibit 9. Because
3 the firing range is not listed as a permitted use in the
4 OPS, it is considered a nonconforming use. And all of
5 Section 11.5 applies. I've just highlighted Section (c)
6 that says: A nonconforming use shall not be expanded
7 nor shall a nonconforming use be enlarged by additions
8 to the structure in which the nonconforming use is
9 located or through the occupation of additional lands.

10 Next item is the deed. William and Teresa Quan
11 acquire 8.241 acres from the Farrows on February 6,
12 1999. That is Exhibit 3. We move on to June 30, 2010.
13 The Town of Huntersville annexed this property into the
14 Town limits. And that is Exhibit 12.

15 By annexing into the Town limits, the Huntersville
16 code of ordinances applies in which the Town does have a
17 firearms ordinance, and the firearms ordinance, Exhibit
18 13-A, this ordinance is very similar to the Mecklenburg
19 County. So in Section 2 it says other than what was
20 provided for in Section 6 it shall be unlawful for a
21 person to discharge a firearm other than a shotgun or a
22 black powder rifle. A person discharging a shotgun or
23 black powder rifle shall be restricted to the use of
24 ammunition and load whose combined ballistic
25 characteristics make it incapable of firing in excess of

1 900 feet and shall not be discharged within 900 feet of
2 any of the following: (a) is dwelling house and down,
3 next to a school and church and so on.

4 Going over to Section 6 it says: Section 2 shall
5 not apply to any of the following: (a) is a rifle,
6 pistol, skeet or trap range operated by a recognized
7 club or law enforcement agency which firing range is
8 substantially in accordance with the specifications
9 promulgated by the National Rifle Association or by an
10 equivalent nationally recognized firearms safety
11 authority for the type and caliber of firearms being
12 fired except as provided in Section 5 above.

13 The next is: A person legally shooting on his own
14 property or on another's property if he has on his
15 person written permission for the activity from the
16 owner of the property exhibiting reasonable regard for
17 the safety of property of other persons if, one, such
18 person is using a backstop substantially in accordance
19 with the specification promulgated by the National Rifle
20 Association or any equivalent nationally recognized
21 firearms safety organization for the type and caliber
22 firearms being fired; and two, such person has on his
23 person written permission for such activity from all
24 persons owning any type of places or structures listed
25 in subsection 2(a) through (g) which are located in 900

1 feet of the shooting activity there. So again, this is
2 very similar to the Mecklenburg County ordinance, and
3 once the Town brought this into use these restrictions
4 apply.

5 On February 3, 2003 the property was rezoned from
6 OPS to rural, and the firing range still maintains
7 nonconforming use status, Exhibit 13-B, and the rural
8 district also did not allow a firing range to
9 environmentally sensitive uses so it still maintains a
10 nonconforming status. Next item was on February 29th,
11 the Quan property was part of an approved Farmhouse
12 Cluster subdivision, and this red dot or red star here
13 represents where the firing range is. This is Exhibit
14 15-A, and the shaded area on this is designated as Open
15 Space and that's what that shaded area is.

16 Next is Exhibit 18, it's the Arrington Subdivision.
17 It was approved initially as Barnette Tract, but it is
18 actually ultimately named Arrington Subdivision. On
19 January 27 and February 24, 2015 the Planning Board
20 heard this case, and on January 27th, that is actually
21 the first time the Town's staff was aware that a firing
22 range was adjacent to the proposed development. The
23 minutes also note that that was the first time the
24 developer specifically was made aware of the firing
25 range. The Planning Board continued that case while the

1 issue of the firing range was discussed between both
2 parties as well as other issues that were a part of that
3 claim. And ultimately it went -- the February 24, 2015
4 the Planning Board did recommend approval with
5 conditions that is in the agenda packet.

6 On March 16, 2015 the Huntersville Town Board
7 approved this subdivision sketch plan, and the minutes
8 for that meeting read: Commissioner Kidwell said in
9 consideration of the Barnette Tract Subdivision Sketch
10 Plan, the Town Board finds application is complete and
11 complies with our 2030 policies including H1:
12 Development Patterns, E-3: environmental regulations,
13 T-5: context-sensitive Design of Streets and recommended
14 approval as long as written disclaimer be attached in
15 the buyer's paperwork that a private shooting range
16 exists next to the property and that the sidewalk is
17 completed through the front entrance of the Barnette
18 property. That was the condition that was on the
19 minutes from the Town Board, the certified instrument of
20 the Town Board is Exhibit 36. Exhibit 36 is the
21 certified plans.

22 The sketch plans, too small to see on the plan but
23 I blew it up. It's note number 6, has a note that says:
24 Private Shooting Range Disclosure: The developer shall
25 provide written disclosure to each home buyer purchasing

1 a lot from the developer/home builder located within 900
2 feet of the existing shooting range on the adjacent
3 property owned by Mr. Quan, and the tax parcel,
4 notifying them that a private shooting range exists
5 within 900 feet of their property prior to the sale of
6 the lot. So that was the subdivision sketch plan that
7 was approved.

8 Dated March 13, 2015 was a notarized letter from a
9 previous property owner, Mr. Farrow, of the firing
10 range, and it says, "To Whom It May Concern: I, William
11 Farrow, had a private shooting range on the property at
12 14422 Beatties Ford Road, Lemley Township, when I
13 purchased it prior to 1979. The range was transferred
14 to William Quan when he purchased the property from me.
15 Thank you, Wm. Farrow." And it's notarized here on 13
16 March 2015. Teresa Quan was the notary. I do note that
17 the Quans at that time had been divorced. It is his
18 ex-wife.

19 Mr. Tyler Steczyski contacted the Town to register
20 a complaint about the firing range at 14422 Beatties
21 Ford Road on April 6, 2020. He sent this email to the
22 Town attorney, Angela Beeker, and was expressing his
23 dismay that the firing range was in very close proximity
24 to his home. And what I have here is the video that he
25 also sent. I'll put it up so you can hear the sound.

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1 (Mr. Simoneau attempts to play a video.)

2 MR. SIMONEAU: I apologize, I don't know why the sound is
3 not showing up. I want to make sure that the sound is
4 on. I do want to make the record clear that
5 Mr. Steczyski's video was included as part of the
6 record. I apologize, I'll try it one more time.

7 (Video is playing.)

8 MR. SIMONEAU: The sound is not working, I apologize.

9 MR. FOX: For the record, can we stipulate that the video
10 seems to suggest sounds that appear to be gun shot
11 sounds?

12 MR. CECIL: Mr. Quan, do you have any objection they are
13 simulating the sounds; do you have any objection to
14 that?

15 MR. QUAN: I'm sorry, sir, I can't hear you.

16 MR. CECIL: The stipulation that's being requested is that
17 that video with sounds, that the sounds sound like
18 gunshots. Do you have any objection to that?

19 MR. QUAN: No, sir, not at this time.

20 MR. CECIL: Thank you.

21 MR. SIMONEAU: Thank you for your patience. Again, that was
22 part of the initial contact from Mr. Steczynski. This
23 illustration highlighted in yellow is the location of
24 the gun range at 14422 Beatties Ford Road. Down at the
25 bottom is actually where the house is located. The gun

1 range, you can see labeled, is in the northern part of
2 the property. It's approximately 275 feet from the
3 house.

4 In addition to that, he also sent us a copy of the
5 Arrington sales contract, a portion of it, which reads,
6 number 21.6 and that's Exhibit 19: "A private shooting
7 range is located northwest of the community (Shooting
8 Range). The shooting range is not affiliated with the
9 Seller in any way. Buyer acknowledges the Seller has no
10 control over the shooting range's hours of operation and
11 that Seller makes no representation or warranties
12 regarding the shooting range's hours of operation.
13 Gunshots and other sounds from the shooting range may be
14 heard inside the community. The decibel level is
15 variable. If Buyer wishes to learn more about the
16 shooting range, Buyer should contact the owner of the
17 shooting range. Buyer acknowledges and agrees that the
18 Seller and the Association are not responsible for the
19 sounds emanating from the shooting range."

20 I have also highlighted notes 21.10, Property West,
21 which is actually where the range is, it says that the
22 property west of the community is currently comprised of
23 residential properties and Stephens Road Nature
24 Preserve. And I have highlighted north of the community
25 as well to describe what's there. That is Exhibit 19 in

1 your packet.

2 At that point the staff went back. We received
3 multiple concerns from residents, and one of the
4 concerns was that the property was previously wooded and
5 therefore could not have been a firing range. So we
6 went back in the aerial photography. The earliest we
7 could find was February 1993. I've highlighted in the
8 red box where this is.

9 This exhibit is Exhibit 22, and we take it again
10 from February of 1993, March of '98, April '02, and
11 5/2004. I would note there hasn't been much change on
12 the property streetscape at that point. However, on
13 4/13 there is a photograph, and it shows the completion
14 of two berms. One is a steel shot and one is a target
15 area so each one has a different feature. And the
16 construction of that berm happened between 2012 and
17 2013.

18 The last photo that we have in here was dated
19 8/2019, and you can see there's already grading for
20 Arrington Subdivision at that time. At that point it's
21 not been built but the grading has occurred for the
22 subdivision.

23 On May 11th the Town responds to the complaints.
24 We have indicated that no enforcement action against the
25 range or the owner will be taken based on evidence that

1 was included in the agenda packet. In essence,
2 Mr. Farrow's shooting range was established in 1980 and
3 was maintained through that point in time. Our
4 determination was that the use is grandfathered in. The
5 residents then requested that the Town reconsider. They
6 also provided some specific concerns with the May letter
7 2020. Included in the Town's response to that is
8 Exhibit 25.

9 The May 29, 2020 response to request for
10 reconsideration, the final version was again there would
11 be no enforcement action taken. We did include this
12 photograph. On the ground level are the berms, that
13 being the berm on the left, and has the steel shot with
14 a wooden structure, wooden pole through the top, and
15 then the one on the right is for target shooting. And
16 the conclusion once again was that no enforcement action
17 against the range would be taken at this time, again,
18 based upon the sport shooting range starting in 1980.

19 The next was the filing of the appeal of that
20 decision. So we sent the May 29th letter. That was
21 additional information, and we revised the notice that
22 went to residents, that they had 30 days from that date
23 to appeal the decision. And so here we are, we have the
24 appeal submitted June 22, 2020 from Mr. Khris Ward. I
25 did include the graphic here to show that the gun range

1 is approximately 700 feet, it appears, from where guns
2 could be fired to the home of the Wards. And the last
3 photograph here just shows, again, the range itself in
4 relation to the property lines and with the homes that
5 are out there.

6 With that I am finished presenting, and all the
7 information is included in the record. I'm happy to
8 answer any questions.

9 MR. CECIL: Any questions from the Board
10 at this time?

11 MR. JACOBSON: I have a question,
12 Mr. Chair.

13 EXAMINATION BY THE BOARD

14 Q. I appreciate the history lesson, but I guess the thing
15 that I'm struggling with is the establishment of the
16 range. So you are relying mainly on the letters from
17 the previous owner?

18 A. Right.

19 Q. So in the state of North Carolina who licenses and sets
20 up gun ranges?

21 A. I am not able to answer that.

22 Q. Okay. So whose auspices does the gun range fall under;
23 what state entity has control over the gun range? I
24 believe it's the Department of Wildlife.

25 A. I don't have the answer. Mr. Quan is here.

1 MR. CECIL: I do think it's the
2 Department of Wildlife.

3 MR. JACOBSON: Can I direct the question
4 to Mr. Quan?

5 MR. FOX: We may want to -- I know this
6 is a little awkward, but we may want to let the
7 Applicant ask questions of the witness and then the
8 Board, because the Applicant may clarify some of
9 the questions that the Board may have.

10 MR. CECIL: Well, technically it's the
11 Applicant's turn, but just don't make this an
12 opening statement.

13 MR. WARD: Thank you.

14 EXAMINATION BY MR. WARD

15 Q. Mr. Simoneau, for the record I just want to put up a
16 time line so people can (inaudible) dates to. There's a
17 lot of information with respect to the time frames.

18 Mr. Simoneau, you first assumed the role of
19 planning director for the Town of Huntersville in 2001,
20 correct?

21 A. Correct.

22 Q. Congratulations on nearly a 20-year tenure with the
23 Town. As a preliminary clarification, under review of
24 the administrative record you indicated that a shooting
25 range would be designated as an Environmentally

- 1 Sensitive Use Not Expressly Permitted in accordance with
2 Zoning Ordinance Section 9.24, but that such a
3 designation is not permitted within the rural zoning
4 district, correct?
- 5 A. Right.
- 6 Q. Mr. Simoneau, what year did you first meet Mr. Quan?
- 7 A. That would be 2015.
- 8 Q. And according to the administrative record, that was at
9 the same time the department first learned about
10 Mr. Quan's property being used as a gun range, is that
11 correct?
- 12 A. That's correct, that was in January of 2015.
- 13 Q. And at that time did you conduct a formal investigation
14 or site visit to Mr. Quan's property to inspect the gun
15 range?
- 16 A. I did not.
- 17 Q. Were you at all concerned that a previously unknown
18 shooting range was operating in Huntersville within a
19 residentially zoned district?
- 20 A. I was.
- 21 Q. (Inaudible)
- 22 A. I'm sorry?
- 23 Q. In your role as the zoning administrator, one of your
24 primary job functions is to conduct investigations of
25 potential zoning violations, is it not?

1 A. Correct.

2 Q. Thank you.

3 MR. WARD: I'd like to draw the Board's
4 attention to Section 11.1.2 in the Zoning Ordinance
5 which states: The zoning administrator shall
6 enforce, conduct reviews, ensure zoning compliance,
7 and manage the development approval procedures set
8 forth in this article for the Town of Huntersville.

9 Q. Mr. Simoneau, is it possible to view Mr. Quan's range
10 from the nearest public right-of-way at Beatties Ford
11 Road?

12 A. It is not.

13 Q. And on March 16, 2015 at the Town Board meeting didn't
14 you testify under oath in response to a question about
15 Mr. Quan's range that, quote, it's an outdoor type of
16 range, it's not a commercial range, end quote?

17 A. I don't recall specifically. If the minutes reflect
18 that then -- I mean obviously that sounds very similar.

19 Q. For the record, I have the minutes of the Board of
20 Adjustment, that discussion can be found on page 5 of 12
21 for the Town Board minutes and it's the fourth line from
22 the bottom in response to a question from (inaudible)
23 about the shooting range when she asks talking about
24 (inaudible). I believe they provided a copy of the
25 certified minutes I believe as Exhibit 39.

1 MR. CECIL: Six.

2 A. This is also Exhibit 20, the certified copy.

3 Q. And Mr. Simoneau, at the time those remarks were made
4 about Mr. Quan's range you indicated that you had not
5 toured the range personally, and just a mere three weeks
6 prior you conceded that you didn't even know the range
7 existed, correct?

8 A. Correct.

9 MR. CECIL: It's been asked and answered.

10 Q. So all of the references to the existence and location
11 of the gun range as of March 2015 and prior were based
12 on the claims and assertions of unverified outside
13 parties other than counsel, is that correct?

14 A. And using aerial photography.

15 Q. Did you use any aerial photography in 2015 of the
16 property?

17 A. Yes, I did.

18 Q. Is that reflected in the record anywhere?

19 A. It is not. But the photographs that you have through
20 Polaris are photographs that I've used, as well as
21 Google Earth.

22 Q. Mr. Simoneau, was your first in-person visit to
23 Mr. Quan's range during your site visit on May 22, 2020?

24 A. Yes.

25 Q. And in rendering your determination did you speak with

1 anyone who had shot on the property prior to Mr. Quan's
2 purchase of the land in 1999?

3 A. I did not.

4 Q. At the time that the Town extended its extraterritorial
5 jurisdiction in November 1997, the subject property,
6 then owned by William Farrow, was part of the
7 unincorporated area of Mecklenburg County, is that
8 correct?

9 A. Correct.

10 Q. When the Town of Huntersville extended its ETJ, and
11 that's extraterritorial jurisdiction, to William
12 Farrow's property, they designated the entirety of the
13 property as an Open Space District, is that correct?

14 A. Yes.

15 Q. Within the OSD, the only uses permitted by right are
16 single family residence, boarding house, and bed and
17 breakfasts, and that's in Exhibit 7, correct?

18 A. Correct.

19 Q. And we've already established that the gun range was not
20 the result of the special use permit and therefore not a
21 conditional or special use allowable within the OSD at
22 that time, is that right?

23 A. Correct.

24 Q. So we know from the record that William Farrow acquired
25 this property on March 21, 1980 via a deed which placed

1 certain conditions on the use of the property, are they
2 not?

3 A. Correct.

4 Q. And the specific restriction within the deed you
5 mentioned is that the property was to be used for
6 residential or farming use only, is that correct?

7 A. Zoning, correct.

8 Q. So would you agree that a gun range would constitute a
9 violation of this deed restriction?

10 MR. JUSTUS: Objection. I don't
11 understand the question.

12 MR. WARD: The document speaks for
13 itself.

14 Q. Mr. Simoneau, are you aware that deed restrictions are
15 statutorily protected interests in land?

16 MR. JUSTUS: Objection to the relevancy
17 of the question.

18 MR. WARD: I would like to introduce
19 General Statute 39-6.4. May I approach?

20 MR. JUSTUS: Mr. Chair, we object to the
21 line of questioning where he's asking the Town to
22 enforce private restrictions that may not be
23 enforceable. It's not up to the Town to decide
24 that question, as it's private restrictions.

25 MR. WARD: Mr. Chair, I'm not asking the

1 Town to enforce the deed restriction. I'm merely
2 asking an opinion on whether or not it violates the
3 deed restriction on the -- let me rephrase.

4 Q. Does the deed restriction allow for a gun range on the
5 property?

6 MR. JUSTUS: Objection to the relevancy
7 of the Town's requirements for establishing a
8 nonconforming use. Private restrictions has
9 nothing to do with that.

10 MR. CECIL: Your objection is sustained.

11 COURT REPORTER: Mr. Cecil, I can't hear
12 you.

13 MR. CECIL: The objection is sustained.
14 It's not relevant.

15 COURT REPORTER: Thank you.

16 Q. Mr. Simoneau, I'd like to make reference to Exhibit 6 in
17 the record and call the Board's attention to Section 14-
18 406(E). The first sentence there reads: The sport
19 shooting range that is operated and is not in violation
20 of existing law at the time of the enactment of an
21 ordinance and was in existence at least three years
22 prior to the effective date of this Article shall be
23 permitted to continue in operation even if the operation
24 of the sport shooting range at a later date does not
25 conform to the new ordinance or an amendment to an

1 existing ordinance, provided there has been no
2 substantial change in use."

3 MR. CECIL: What is your question?

4 Q. The question is, Mr. Simoneau, would you agree that if
5 you are violating a state statute you are in violation
6 of the law?

7 MR. CECIL: Are you going to object?

8 MR. JUSTUS: I am going to object to
9 that. That could involve traffic violations and
10 all kinds of violations of law. It's a pretty
11 broad topic.

12 MR. CECIL: Objection sustained.

13 (Inaudible)

14 Q. With respect to General Statute 39-6.4 which I just
15 circulated, it's titled Creation of Easements,
16 Restrictions and Conditions, Section (a) reads: The
17 holder of legal or equitable title of an interest in
18 real property may create, grant, reserve, or declare
19 valid easements, restrictions, or conditions of record
20 burdening or benefitting the same interest in real
21 property.

22 MR. JUSTUS: Mr. Chairman, we previously
23 objected to this line of questioning given the
24 private restrictions that the Town is not
25 authorized to enforce those, nor do they take that

1 into the question to determine the legally
2 nonconforming use under the Town's zoning law, and
3 so with all due respect we would renew that
4 objection to this line of questioning.

5 MR. CECIL: Counsel, you have to move on
6 from that question. Objection is sustained.

7 Q. In March 2009 the subject property was subdivided into a
8 Farmhouse Cluster, is that correct?

9 A. Yes.

10 Q. And included in that subdivision plat were areas
11 dedicated as Open Space, is that correct?

12 A. Correct.

13 Q. And you previously showed a depiction up there, that the
14 location of Mr. Quan's range falls within the Open Space
15 delineated area on that plat, correct?

16 A. Right.

17 Q. Now, Exhibit 15 contains a copy of the sketch plan and
18 the final recorded plat, and included with this plat are
19 a series of restrictions on the bottom left. I
20 apologize, I don't have it enlarged to reference but
21 perhaps you could do us a favor also and you can read
22 into the record condition number 6 for the record?

23 A. (Reads.) Open space preservation is irrevocable. Urban
24 Open Space is not required in a Farmhouse Cluster.

25 Q. And in reference to Zoning Ordinance 3.2.16, can you

1 please read that portion of the Zoning Ordinance into
2 the record?

3 A. So you're asking me to read what now?

4 Q. Zoning Ordinance Section 3.2.1 subsection 7, can you
5 read that into the record?

6 (Inaudible dialogue.)

7 Q. (Reads.) At least 50 percent of the tract shall be
8 designated as Open Space. Open Space preservation shall
9 be irrevocable. A metes and bounds description of the
10 space to be preserved and limits on use shall be
11 recorded on the subdivision plat and on individual deeds
12 when Open Space lands are not held entirely in common.

13 And it goes on to talk about Open Space lands may
14 be a part of a deeded lot so long as it reflects an
15 irrevocable conservation or Open Space easement
16 requiring such portions of individual lots to remain and
17 be used as Open Space as provided in this section.

18 I'd like to read into the record the following
19 subsection 8, which says: Permitted uses of Open Space
20 lands to be preserved shall correspond generally to
21 physical conditions at the time of subdivision approval.
22 Restrictive covenants shall limit uses to the
23 continuation of certain agricultural activities, and
24 parens, pastureland, crop cultivation, or recreational
25 uses that preserve the view from public streets of rural

1 heritage features to be preserved.

2 MR. JUSTUS: Mr. Chairman, I respectfully
3 object. Mr. Ward, during his presentation of his
4 case, can draw witnesses to read statements, but
5 he's just reading a statement. If he has a
6 question for this witness I would ask for him to
7 ask the question.

8 MR. WARD: Absolutely.

9 MR. CECIL: I agree. Ask a question,
10 please.

11 Q. Mr. Simoneau, was the Farmhouse Cluster subdivision a
12 voluntary process?

13 A. Yes.

14 Q. And that means that the dedication of Open Space was
15 therefore presumed to have been voluntarily approved by
16 the property owners, is that correct?

17 A. To the Town's ordinance, correct.

18 Q. And as the condition on the plat reflects, certain
19 existing recreational activities within that Open Space
20 can be continued, but it does not allow for new
21 recreational uses to be established, is that correct?

22 A. I believe that's the section -- (inaudible).

23 Q. Mr. Simoneau, in your review of the subdivision plat
24 does it depict the gun range on the subdivision plat in
25 that Open Space area or any structures in that Open

1 Space area?

2 A. It does not.

3 Q. I'd like to show a sketch plan. Mr. Simoneau, I don't
4 know if there's a way to tell from that far away, but is
5 the gun range located approximately in the northwest
6 corner of the enlarged area shown here, sorry, northeast
7 corner?

8 A. Yes.

9 Q. And on this sketch plan there are topographical lines,
10 is that correct?

11 A. Yes.

12 Q. And can you tell from the sketch plan what the
13 approximate contour angles are, are they 2 feet?

14 MR. FOX: For the record, this testimony
15 pertains to administrative record Exhibit 15A.

16 A. It looks like 10-foot intervals.

17 Q. The bold lines are 10-foot intervals?

18 A. I apologize, this doesn't show up. It looks like there
19 might be lines in between the 10-foot intervals between
20 the 2-foot intervals.

21 Q. All right. And as part of the record in Exhibit 10,
22 Asst. Planning Director Brian Richards made on or about
23 April 24, 2020 and in conjunction with Det. Wade from
24 Huntersville Police Department, is that correct?

25 A. Yes.

- 1 Q. And then Mr. Richards indicated in his notes that he was
2 told Mr. Quan had made improvements to the natural berm
3 that was in place around 2003, did he not?
- 4 A. And this is exhibit --
- 5 Q. Exhibit 10.
- 6 A. Mr. Quan stated that he did improve the natural berm
7 that was in place in approximately 2003.
- 8 Q. You need to go first to Exhibit 11 where he also
9 informed Det. Wade that he erected a wooden structure
10 over the range in 2003?
- 11 A. Did you say Exhibit 11?
- 12 Q. Yes, sir.
- 13 A. Yes, that does say in 2003 there was a structure over
14 the range.
- 15 Q. And then as part of your site visit on May 22, 2020 you
16 show pictures of the berms. Would you say they were at
17 least 4 feet high?
- 18 A. Yes.
- 19 Q. So then the berm would have been large enough to at
20 least show up on the elevations within the topographic
21 map if they were already in place, is that correct?
- 22 A. Yes.
- 23 Q. I know it's a little difficult to see from the small
24 scale image, but can you locate any berms on that
25 topographic survey in that area where the gun range is

1 alleged to have existed?

2 A. This is in what exhibit?

3 Q. This is Exhibit 15.

4 A. (Examines document.) I cannot see the berms.

5 Q. Do you see Exhibit 15?

6 A. I cannot see the berms.

7 Q. In light of your testimony, is it still your position
8 that the range was always in this location?

9 A. Yes.

10 Q. Mr. Simoneau, are the areas designated as Open Space on
11 the overall plat contiguous?

12 A. Just so I'm clear, you're pointing to the Farmhouse
13 Cluster?

14 Q. Yes.

15 A. Which was 2009?

16 Q. That is correct.

17 A. The aerial photography that I have showed the
18 construction berms between 2012 and 2013 was a natural
19 rise, if you will, from the property back there, which
20 the berms that I showed on the photographs was between
21 2012 and 2013 so they would not have been on this
22 drawing.

23 Q. And I concur that there were improvements in 2012 and
24 2013, but as you just read from the record where the
25 Asst. Planning Director was told there were natural

1 berms in 2003 when there were improvements including the
2 wooden structure was erected, and yet neither the
3 natural berms or the structure appear on the 2009
4 subdivision sketch plan from a licensed surveyor, is
5 that correct?

6 A. Mr. Richards is here and could answer that question. I
7 will just say that what Brian was saying was that as
8 land was going up it acted like a berm.

9 Q. Does it explicitly say that in the record or is that
10 simply your conclusion?

11 A. It says natural berms so that is my conclusion.

12 Q. In your report you're talking about the undivided or
13 contiguous Open Space on the plat. I'll rephrase the
14 question.

15 Do the areas designated as Open Space on the
16 approved plat, are those divided along the back portion
17 of each residential lot within the Farmhouse Cluster?

18 A. Did you see the area that's there on the plane, yes,
19 that was in the back.

20 Q. And are you familiar with Section 7.12.5 of the Zoning
21 Ordinance which requires that those undivided areas be
22 directly accessible to the largest practical number of
23 lots within the development?

24 MR. JUSTUS: Mr. Chairman, I'll object.

25 The appellant did not challenge the approval of our

1 Farm Cluster subdivision or anything related
2 thereto, so this line of questioning about whether
3 there is adequate space available to all the
4 purchasers within the Farm Cluster seems to be
5 immaterial.

6 MR. CECIL: That was what I've been
7 thinking also, unless you can explain the line of
8 questioning to us.

9 MR. WARD: I'd be happy to. If I can
10 direct you to the proper portion of the Zoning
11 Ordinance, so if I can read it back with clarity to
12 you, it's Section 11.2.3.

13 MR. CECIL: Are you challenging the
14 adequacy or the correctness of the site plan for
15 the Farmhouse Cluster?

16 MR. WARD: No.

17 MR. CECIL: I don't understand this.
18 You're going over this which has already been
19 approved by the Board and has not been challenged.
20 I do not know whether the applicant has made any
21 reference with regards to the Farmhouse Cluster
22 that are deemed improper and there's nothing in
23 regards to the Open Space. I have not seen
24 anything. If you could explain that to us we would
25 appreciate it.

1 MR. WARD: I can try to draw your
2 attention to Section 11.3.2 subsection 8 of the
3 Zoning Ordinance which says, "The appellant shall
4 not be limited at the hearing to matters stated in
5 the notice of appeal." And I'm bringing in a line
6 of questioning regarding the existing condition of
7 the property in 2003 as depicted by outside
8 licensed surveyors, and I'm attempting to show to
9 the Board the inconsistency between
10 Mr. Quan's assertions that the range was always
11 there and the survey which clearly shows the
12 absence of any berms or structures, ergo, a
13 substantial change of use.

14 MR. CECIL: I understand that
15 Mr. Richards said that there was a berm.

16 MR. JUSTUS: Mr. Chairman, it could be
17 helpful, and maybe it would expedite things, if
18 Khris would point out in the ordinance where a plat
19 related to a subdivision or a Farm Cluster would
20 within the confines of Open Space be required to
21 depict every single thing within that Open Space,
22 i.e., that there is some requirement when you show
23 Open Space that a level of detail of things you
24 must show within the space.

25 MR. WARD: Actually, there is the

1 requirement that any structure in excess of 100
2 square feet be depicted, and that same survey you
3 called into question also depicts an underground
4 septic area, so I find it suspicious that
5 underground septic leach fields and all the other
6 structures within that subdivision are depicted and
7 yet existing range structures are not. The Board
8 has the authority to weigh the veracity of the
9 evidence presented.

10 MR. CECIL: I believe Counsel's
11 (inaudible) evidence substantial (inaudible) is
12 that there has been an expansion of that range; I
13 think that's his point. Maybe he would like to get
14 to that point.

15 MR. WARD: I think Mr. Simoneau already
16 conceded that there was, from his aerial review, a
17 clear expansion of the berms from 2012 and 2013.

18 Q. And you couched those as safety improvements, is that
19 correct, Mr. Simoneau?

20 A. According to Mr. Quan's plat.

21 Q. Does the Zoning Ordinance -- allow me to rephrase.
22 Under the Zoning Ordinance there is no exception for
23 safety improvements, is there, with regard to a
24 nonconforming use?

25 A. None that I'm aware of.

1 Q. Mr. Simoneau, the Zoning Ordinance is very clear that
2 nonconforming uses may not be expanded, is that correct?

3 MR. CECIL: Do you have a citation for
4 that?

5 MR. WARD: It's in the record Zoning
6 Ordinance 11.5.2, and if you like, I can read into
7 the record the relevant portion there. It's within
8 subsection C: A nonconforming use may not be
9 expanded, nor shall a nonconforming use be enlarged
10 by additions to the structure in which the
11 nonconforming use is located or through the
12 occupation of additional lands.

13 MR. FOX: And is that question for
14 Mr. Simoneau?

15 MR. WARD: The question to Mr. Simoneau
16 is, and this will be my last:

17 Q. Based on your review of the aerials in conjunction with
18 what we just discussed and reviewed on the subdivision
19 sketch plan for 2009, isn't it clear that this use was
20 expanded and additional structures were erected in
21 violation of the nonconforming use ordinance?

22 A. I do not believe it was expanded.

23 Q. And why do you --

24 A. -- and that no additional lands were occupied.

25 MR. CECIL: Could you repeat the last

1 statement, Mr. Simoneau, your last statement, you
2 do not believe --

3 A. I do not believe the nonconforming use was expanded.

4 Q. No further questions, Mr. Simoneau.

5 MR. JACOBSON: Mr. Chair, I motion we
6 take a five minute break just to stand up, move
7 around. This isn't going to end soon, and I think
8 everybody here, including me would at least like to
9 stand up.

10 MR. CECIL: You may stand. We're going
11 to take a five minute break.

12 (A recess was held from 8:41 to 8:55 p.m.)

13 MR. JUSTUS: I just want to clarify for
14 the court reporter, did she get his testimony
15 regarding the expansion and the phrase that his
16 determination was that additional lands had not
17 been occupied, because there was no mic, and then
18 when he came back he didn't give a complete answer
19 so I'm just wanting to see if she picked up on that
20 phrase.

21 COURT REPORTER: I believe I did. Was
22 this when we were on the record?

23 MR. JUSTUS: Yes.

24 COURT REPORTER: Yes.

25 MR. FOX: And that phrase, for purposes

1 of the Board, because the Board could not hear, was
2 what was the phrase that Mr. Simoneau stated
3 after --

4 MR. SIMONEAU: That it was not an
5 expansion --

6 MR. FOX: You have to get to the mic.

7 MR. SIMONEAU: My understanding is that
8 it was not an expansion. Not an expansion and
9 nonconforming use and did not occupy additional
10 lands.

11 MR. FOX: Mr. Ward, do you have any
12 follow-up now that he has stated that?

13 MR. WARD: I just have two quick follow-
14 up questions. I'm going to put up some exhibits in
15 response to that.

16 MR. CECIL: Is this a rebuttal?

17 MR. WARD: In response to statement, yes.
18 I apologize for the back and forth.

19 BY MR. WARD:

20 Q. This is a photo in Exhibit 16 in the administrative
21 record that the Town provided. Mr. Simoneau, did you --
22 I'm going to turn this toward the Council. Do you see
23 vegetation having been removed from the upper left
24 portion of that in addition to earthwork adjacent to the
25 berm?

1 MR. CECIL: As compared to what?

2 MR. WARD: As compared to the right-hand
3 side of the berm.

4 MR. CECIL: Mr. Simoneau, if you wanted
5 to have that brought up to you or do you want to go
6 take a look at it?

7 MR. JUSTUS: If you could bring it over
8 here, that would be awesome.

9 Q. Would you agree that there is a clear discoloration in
10 this area as compared to this side (indicating)?

11 A. Yes, I would agree that there is dirt removed.

12 Q. So there was dirt removed, thank you.

13 And Mr. Simoneau, isn't it true in the original
14 appearance in January 2015 before the Planning Board
15 that Mr. Quan indicated he had, quote, flattened some of
16 it out in regard to where the shooting range is?

17 A. I don't recall that section of the minutes. I think we
18 -- you said (inaudible) in front of me so I can't
19 confirm what Mr. Quan said in January of 2015.

20 Q. I have a follow-up question, Mr. Simoneau.

21 MR. CECIL: And if you would, bring it up
22 to him to let him look at it initially, please.

23 COURT REPORTER: I cannot hear him.

24 MR. CECIL: I know you couldn't. I asked
25 him to bring up the exhibit so Mr. Simoneau could

1 look at it initially.

2 Q. I believe that this was part of the Appellant Book,
3 Exhibit 32, yes, 32, with Google Earth images. This is
4 a 2012 depiction of the range from a slightly different
5 angle. What do you see in this area right here,
6 Mr. Simoneau, is that a tree?

7 A. It looks like a tree, yeah.

8 Q. And in that same exhibit book from 2013 do you still see
9 a tree in that area?

10 A. I do not.

11 MR. CECIL: Could you show that to the
12 Board?

13 MR. WARD: Certainly.

14 Q. This is the 2012 Google image, here is the tree that I
15 was referencing, and then from the same viewpoint on
16 Google Earth in 2013 the absence of the tree.

17 MR. JUSTUS: So for clarification, also
18 Mr. Chairman, those exhibits have not been
19 introduced into the record, and in fact, those are
20 the appellant's documents. He didn't even ask the
21 witness if he recognized the particular photograph.

22 MR. WARD: I thought these were an
23 exhibit that you provided in the Town's book, sir.

24 MR. JUSTUS: Well, these are appellant's
25 or applicant's. That would be the correct lingo.

1 MR. FOX: For the record, if you'll refer
2 to Exhibit 32 in the exhibit book.

3 MR. CECIL: Okay.

4 MR. JUSTUS: The numbering is off. If
5 those are not part of the administrative record, if
6 he's referring to the Google Earth pictures in
7 Exhibit 22 then that would be helpful if he'd --

8 MR. CECIL: Is it 22 or 32?

9 MR. WARD: It's in this black book titled
10 Appeal 21-01 Appellate Exhibits, Exhibit 32 which
11 the Town itself provided previously.

12 MR. JUSTUS: It's the applicant's
13 documents that are not part of the administrative
14 record yet. The Town just as a courtesy,
15 Mr. Ward, bound them, but they are not part of the
16 administrative record.

17 MR. CECIL: They haven't been admitted
18 into evidence.

19 MR. JUSTUS: No, they have not.

20 MR. CECIL: We have not seen those.
21 That's why it's definitely difficult.

22 MR. FOX: Then let me ask the question,
23 are those exhibits a part of the administrative
24 record that's before the Board as a different
25 number?

1 MR. CECIL: Are these arbitrary numbers
2 that have been assigned to it then?

3 MR. JUSTUS: No, those are his documents.

4 MR. CECIL: Then he's assigning
5 subsequent numbers to them they would follow in
6 numeric, okay.

7 MR. FOX: What I would instruct the Board
8 to do is at this point strike that testimony
9 referring to records that are not before the Board.
10 He will have an opportunity to present those in
11 your case in chief instead of part of cross-
12 examination.

13 MR. CECIL: I concur. They will not be
14 part of the record at this time, and your questions
15 have been now stricken from the record.

16 MR. FOX: Well, he'll have a chance to
17 review them.

18 MR. CECIL: But you can review them.

19 MR. JUSTUS: Mr. Chairman, I have
20 actually not finished my sort of redirect when
21 Mr. Ward jumped in, which is perfectly fine, but if
22 I could ask a couple clarifying questions of this
23 witness.

24 MR. CECIL: I would expect that.

25 MR. JUSTUS: All right, thank you.

1 EXAMINATION BY MR. JUSTUS

2 Q. So if everybody can look to the screen, this is part of
3 the PowerPoint presentation, this photograph, if you
4 would identify that photograph, Exhibit 4, please Jack?

5 A. This is standing where shooting is done towards the
6 berms, looking towards -- straight ahead is Beatties
7 Ford Road about a half a mile away, and behind it is
8 Arrington subdivision.

9 Q. So you were asked the question about one of the
10 administrative record exhibits that showed notes from a
11 conversation with Mr. Quan that talked about this wooden
12 structure. Do you see a wooden structure in this
13 photograph?

14 A. Yes.

15 Q. And if you would, describe what that wooden structure is
16 to the Board.

17 A. That presents the back of the berm. It is constructed
18 from my aerial photography review between 2012 and 2013.

19 Q. And from your standpoint as the zoning administrator of
20 the Town you were asked questions about whether the
21 nonconforming use had expanded. Do you have an opinion
22 of whether or not the installation of this wooden
23 structure expanded the use of the gun range?

24 A. I have an opinion, and the decision is that it is not an
25 expansion of a nonconforming use. It is occurring

1 within the boundaries where the use previously was.

2 Q. So it is your opinion that the use of the gun range is
3 not expanded by the installation of this wooden
4 structure?

5 A. That is correct.

6 Q. Is there any other reason, does it actually confine the
7 area where gun shooting would take place?

8 A. It doesn't control the bullets where -- with the wooden
9 structure.

10 Q. And in terms of the berms, there was testimony about the
11 berms. If you would, describe to the Board where they
12 may appear in this photograph.

13 A. So the back where the trees are, that's what
14 Mr. Richards referred to as a natural berm because the
15 land goes up and it's wooden, and so that's a natural
16 berm. And what you see the mounds, those are the berms
17 that I believe were created in 2012-2013.

18 Q. And do you have an opinion that the installation of
19 these berms in 2012-2013, whether that expanded the
20 nonconforming use of the gun range?

21 A. I do have an opinion, and it is my opinion that the
22 creation of these berms in this area does not increase
23 nonconformity of the -- the expansion of nonconformity.
24 It is still occurring, the use is still occurring in the
25 same place.

1 MR. WARD: Objection; assumes facts not
2 in evidence. Mr. Simoneau previously testified
3 that he had no knowledge of the range prior to 2014
4 and therefore could not testify to the existence of
5 the range in a particular geographic area.

6 MR. CECIL: Counsel?

7 MR. JUSTUS: Mr. Chairman, he testified
8 that he received information in a written statement
9 indicating a gun range was in existence as of 1980.
10 This was a key point in the determination that he
11 made of nonconformity, so I disagree with
12 counselor's statement.

13 MR. WARD: Your Honor, it doesn't address
14 my objection, which is the geographic area.
15 Counselor did not respond to that objection. He
16 simply responded to the age of the range as
17 reported by a level, not to the geographic area of
18 the range.

19 MR. JUSTUS: And Mr. Chairman, also the
20 testimony has been that he has relied on Google
21 Earth going back to 1993 to show the area
22 consistent with his testimony, that he believes the
23 gun range had been in existence prior to 1993, so
24 there is other information that this witness can
25 provide.

1 MR. CECIL: Before I rule on that I'm
2 going to ask you, Mr. Simoneau, if he will
3 demonstrate his knowledge on that?

4 A. In what regard?

5 MR. CECIL: In regards to the existence
6 of the gun range. You've stated one thing one time
7 and now you've stated something at another time.

8 A. It's the totality of the information that has been
9 provided to us when we first heard about the firing
10 range in January 2015, and it's the letter from
11 Mr. Farrow, his conversations with Mr. Quan, his review
12 of the aerial photography, and your question is what
13 brings me to conclude --

14 MR. CECIL: Your conclusion in regards to
15 Counselor's objection that he stated there were two
16 different answers.

17 MR. JUSTUS: I think his testimony was
18 before 2015 he was not aware of it, not that after
19 2015 he made the determination based on information
20 then collected. So I think he testified he was
21 unaware of the gun range prior to 2015.

22 MR. CECIL: But then he became aware of
23 it with additional information provided to him
24 thereafter?

25 MR. JUSTUS: That's correct, and they

1 investigated it.

2 MR. WARD: But he has not established
3 that he had any evidentiary basis for knowing the
4 geographic confines of the range prior to 2015;
5 that is the basis of my objection. He has not
6 testified this occurred. If he had knowledge prior
7 to 2015 as exists in the administrative record to
8 that fact, just as the record of appeal wasn't made
9 yet to the gun range.

10 MR. CECIL: As I understand it, there's
11 documentation from prior owners that it was used as
12 a gun range prior thereto.

13 MR. WARD: That letter does not dictate
14 where on the property Mr. Farrow's 20 acres the
15 land existed.

16 MR. CECIL: Mr. Simoneau, would you
17 explain how you understood that to be the
18 geographical area so we can clear this up?

19 A. Yes. Mr. Farrow's letter indicated he has been using it
20 as a gun range since actually 1980. Mr. Farrow has
21 indicated that he was shooting the gun in the exact same
22 location, and when I went out there on-site that's what
23 he indicated. There also is a berm, the natural berm.
24 It's a low area and it goes up.

25 MR. WARD: And Mr. Simoneau just said

1 that Mr. Farrow said, and Mr. Farrow is deceased?

2 A. My apologies. Mr. Quan indicated to me that the range
3 has been --

4 MR. WARD: Objection; hearsay.

5 MR. CECIL: It's overruled. The
6 gentleman, Mr. Farrow, was deceased and the person
7 who has the knowledge is Mr. Quan. And I believe I
8 saw a letter or a document from Mr. Farrow?

9 A. Yes, that's correct.

10 MR. CECIL: Did you base your position
11 partly on that letter?

12 A. Yes, I did. That was established that it was a sport
13 shooting range in this area, and that and the aerial
14 photography and in talking with Mr. Quan I am convinced
15 that this is the area where the shooting occurred.

16 MR. CECIL: The best evidence we have is
17 that letter of the deceased person, so I'm going to
18 overrule your objection. You can take exception if
19 you wish.

20 MR. WARD: I do; it's stated in the
21 letter.

22 MR. CECIL: Well, my recollection of that
23 letter is that he states that that has been the gun
24 range, and Mr. Quan was a witness at that time when
25 speaking to Mr. Farrow. I'm not here to represent

1 anyone, I'm trying to get it clarified.

2 MR. FOX: And Mr. Ward, you also have the
3 opportunity to recross.

4 MR. CECIL: Yes, go ahead.

5 MR. WARD: Exhibit 2 --

6 MR. CECIL: Yeah, he's not done yet. You
7 can recross. We're not quite done yet.

8 BY MR. JUSTUS:

9 Q. Turning to Exhibit Number 9, which deals with the
10 nonconforming section of the Town's ordinance, having
11 made the determination and as you've testified you
12 believe that the installation of the wooden structure
13 and the installation of the berms do not constitute an
14 expansion of the nonconforming use. Is there anything
15 in the Zoning Ordinance, and particularly in this
16 section, that would preclude the gun range operator of a
17 nonconforming use to install the structure and berms for
18 safety purposes?

19 A. I am unaware of any.

20 Q. Now, in terms of the Farm Cluster subdivision you were
21 asked a number of questions. You addressed that topic
22 in your staff report in paragraph 13, is that correct?

23 A. Yes.

24 Q. And if you would, since it's a short paragraph and you
25 were asked a number of questions about the Farm Cluster

1 subdivision, if you would read to the Board your
2 determination related to that.

3 A. (Reads.) Number 13, March of 2009 the subject property
4 was incorporated into the Farm Cluster subdivision,
5 Exhibit 15A. Per the recorded plat, Exhibit 15B,
6 geographic area was included as part of the Open Space
7 for the Farmhouse Cluster and notes on the recorded plat
8 provided an Open Space to be continually used for
9 existing uses. Therefore, the inclusion of the firing
10 range in the Farmhouse Cluster subdivision had no impact
11 on Mr. Quan's ability to continue to use the subject
12 property as a firing range.

13 Q. Those are my questions.

14 MR. CECIL: Do you have recross?

15 RECROSS-EXAMINATION BY MR. WARD

16 Q. With respect to Exhibit 2, can you turn to that,
17 Mr. Simoneau, that letter reads in its entirety -- well,
18 let me ask you a question about it. Does that letter
19 explicitly state where on the property at 14422 Beatties
20 Ford Road a gun range was located?

21 A. It does not.

22 Q. And the property is approximately 80 acres, is that
23 correct?

24 A. Correct.

25 Q. And are there multiple areas on that 80 acres that are

1 untree'd?

2 A. There are areas that are untree'd, correct.

3 Q. Then how can you be certain in the absence of any
4 evidence that the area Mr. Quan says was always a range
5 was that range prior to his acquisition and it was not
6 another portion of the property perhaps?

7 A. I came to that conclusion based on aerial photography
8 and based on elevations and based on talking to
9 Mr. Quan.

10 Q. No further questions.

11 MR. CECIL: Mr. Quan, you have the right
12 to ask questions and clarify.

13 MR. QUAN: Yes, sir. William Quan.
14 Thank y'all for coming.

15 MR. JUSTUS: Mr. Quan, this would be your
16 opportunity to ask this witness any questions, and
17 if you don't have any questions of him then you're
18 going to be allowed to present the case. If you
19 have questions of this witness you can ask him
20 questions. If you want --

21 Well, Mr. Chairman, I'm --

22 MR. CECIL: No, you're doing fine. I'm
23 not going to hold a mask on him.

24 MR. JUSTUS: I mean you're going to have
25 this opportunity to actually present witnesses and

1 information in support of your position, but if you
2 have questions to ask, feel free to ask them at
3 this time. If you don't, then it's going to be
4 you're up next.

5 MR. QUAN: (Inaudible)

6 MR. CECIL: You have no questions, okay.
7 Well, you're up, Mr. Quan.

8 MR. QUAN: Sir?

9 MR. CECIL: You're up. Now you can
10 present your case. Mr. Quan, would you like to
11 present your case in regards to why you oppose the
12 application?

13 MR. FOX: Well, before we do that, we
14 have to see if the Board have any questions of
15 Mr. Simoneau.

16 MR. CECIL: All the questions I think are
17 going to wait till after we close, then we go to
18 questions, unless you wanted to break protocol.

19 MR. FOX: (Inaudible)

20 MR. CECIL: Well, I'll ask the Board.
21 Normal protocol is that we ask questions after we
22 close any testimony from the witnesses and we get
23 the summary of the evidence and then we go to our
24 own discussion. If you want to break protocol, do
25 you want to ask questions now or do you want to

1 wait until you usually ask questions of Mr.
2 Simoneau. Do you have anything you want to ask now
3 or do you want to wait later?

4 (No questions from the Board at this time.)

5 MR. CECIL: So you can present your
6 position in regards to any opposition you have
7 against the application. In other words, you've
8 heard his opening statement; now basically you can
9 now say why you support your position and you
10 oppose the application so we can hear what you have
11 to say and then you can call your witnesses.

12 MR. QUAN: Yes, sir. So I understand, the one thing that I
13 did hear of concern was the removal of the tree and you
14 see the berm and tree died. It was the same tree that
15 died and for safety reasons the tree was removed. The
16 tree died, and that's one of the things. The berms that
17 were built, they were for safety enhancements.
18 Sometimes over the course of use of a range you have to
19 turn dirt. You will need to move the dirt for
20 vegetation. That's why it looks -- in some of the
21 pictures that were shown it looks like it's been recut
22 but it was actually not. As far as the existing wooden
23 structure, that was a safety enhancement also that could
24 control any apparent bullets that may be tried to leave
25 the range.

1 As far as my witnesses, some of them folks they're
2 my neighbors. And it's 9:19 now; they've already gone
3 to bed. They're in their seventies. I apologize, I
4 don't have any witnesses at this time. I do have some
5 firing instructors that I work with on a weekly basis.
6 I can ask officer Otis Scott to come up. Otis, you got
7 time? Susie, you'll be next if you've got time He's
8 just going to speak on my behalf if that's okay with you
9 guys. He's my chief of police, sir.

10 MR. CECIL: That will be fine.

11 (Otis Scott comes to the microphone.)

12 MR. CECIL: You did do the attestation?

13 MR. SCOTT: Sir?

14 MR. CECIL: Did you swear?

15 MR. SCOTT: Yes, I did. My name is Otis Scott. One thing I
16 can say about Shane and his range --

17 MR. JUSTUS: You need to make sure you speak into the
18 microphone so the court reporter can get your testimony.

19 MR. SCOTT: One thing I can say about Shane and his range is
20 the safety function of making sure that no rounds get
21 off the range is probably one of the best I've ever
22 seen. Everything he do he does for safety reasons, so
23 the initial dirt or berms is to make sure that no one
24 gets hurt, and that's something he strives. That's what
25 we all strive.

1 MR. CECIL: Mr. Ward, do you have any questions?

2 MR. WARD: I do have some questions.

3 Mr. Quan --

4 MR. CECIL: Are you asking Mr. Quan or the witness?

5 MR. WARD: Mr. Quan.

6 MR. CECIL: Okay. I do have a question of the witness.

7 EXAMINATION BY THE BOARD

8 BY MR. CECIL:

9 Q. How long you been shooting at the range?

10 A. I've shot his range probably four or five times in the
11 last five years, I think.

12 Q. Okay. We may ask you another question down the road,
13 unless you were leaving.

14 A. No, I'll stay.

15 MR. CECIL: Mr. Quan, I think Counsel is
16 going to ask you a question.

17 EXAMINATION OF MR. QUAN BY MR. WARD

18 Q. Mr. Quan, let's start with Exhibit 16. You just stated
19 that the (inaudible) tree died when you opened but
20 previously you erected --

21 MR. JUSTUS: Khris, you're going to need
22 to speak into the mic too so the court reporter can
23 hear you.

24 MR. CECIL: So we can all hear you.

25 MR. JUSTUS: And Mr. Quan, you may need

1 to utilize your mask so your voice is heard.

2 MR. QUAN: I'm having a hard time hearing
3 him.

4 Q. Mr. Quan, you operated your range under the name Broken
5 Arrow Training, is that correct?

6 A. Sometimes.

7 Q. And do you also maintain a Facebook page for Broken
8 Arrow Training?

9 A. Not at this time, sir.

10 Q. And when you were using this application did you
11 advertise yourself as a global business?

12 A. No, sir.

13 Q. I believe when you first appeared before the Board in
14 January of 2015 you indicated that Mr. Farrow used
15 shotguns, rifles, and hunting and other firearms, is
16 that correct?

17 A. That's correct.

18 Q. And you were using other weapons at your --

19 A. I don't refer to them as weapons, I just refer to them
20 as firearms, sir. Mr. Farrow, who was my boss, has
21 copies of improvements. There was some skeet shooting
22 that had taken place. Due to the nature of the property
23 and the land there was some houses back there, so there
24 was some skeet shooting that was done in different
25 places, but when I purchased the property from

1 Mr. Farrow the shooting range that I have now, that is
2 where the boundary, the shooting -- (inaudible).

3 Q. And you also testified previously that skeet shooting is
4 now done out front where shots (inaudible) houses, is
5 that right?

6 A. (Inaudible)

7 Q. I'm asking you is it your testimony today there is
8 shooting done outside the shooting range or is there
9 just one area on the property that you're shooting?

10 A. Yes, sir. I'm sorry, say that again?

11 Q. Is there more than one area on your property on which
12 you shoot?

13 A. No, sir, that's a falsehood. I shoot only in the
14 shooting range.

15 Q. Next I'll draw your attention to the Planning Board
16 minutes that's Exhibit -- I'll come back to that line of
17 questioning.

18 MR. JUSTUS: Are you withdrawing the
19 question at this time?

20 MR. WARD: Yes, I am.

21 Q. Mr. Quan, do you currently allow users of the range to
22 shoot semi-automatic weapons?

23 A. Yes, sir.

24 Q. Do you agree that's different than what Mr. Farrow
25 allowed?

1 A. No, sir, I do not agree with that.

2 Q. And didn't you just testify that you used rifles as well
3 as semi-automatic weapon?

4 MR. CECIL: With all due respect,
5 Counsel, rifle could be a semi-automatic weapon.
6 This is not a place to judge, I'll point that out.
7 But continue with your questioning at this time.

8 Q. Do you allow AK-47s on your property with silencers?

9 A. No, sir. There's never been an AK-47 fired on my range.

10 Q. I'd like to introduce into evidence Impeachment Exhibit
11 1 for the record. For the court reporter, this is a
12 picture showing two men --

13 MR. JUSTUS: Mr. Chairman, it would be
14 helpful for the purposes of a big long objection if
15 we'd get the exhibit first and let us look at it
16 before handing it out.

17 MR. CECIL: And no questions until you
18 hand it out.

19 (Appellant Exhibit 1 is distributed.)

20 MR. CECIL: Proceed, Counselor.

21 Q. (Inaudible)

22 COURT REPORTER: I cannot hear him.

23 MR. CECIL: She can't hear you, and also
24 will you repeat the question in regards to you're
25 saying an AK-47?

1 MR. WARD: Yes. The prior question was
2 do you allow AK-47s for use on the property with
3 silencers, and I believe his response was no.

4 A. That is correct. I do not allow the use of AK-47s.

5 MR. CECIL: What do you see in the photo?

6 A. These two rifles are AR-15 rifles, sir. These are
7 AR-15s, and they are known as firearms.

8 MR. CECIL: Counsel, do you intend to
9 admit this into evidence and the photo shows
10 AK-47s, and I even know these are not AK-47s.
11 These are AR-15s, Counselor. So this is not an
12 impeachment exhibit and won't be admitted into
13 evidence unless you want to admit it into evidence
14 that he was telling the truth.

15 MR. FOX: I think that it's important for
16 the Board that it's received as an impeachment
17 testimony and the Board can prescribe the weight to
18 give it.

19 A. I am an NRA-certified range safety officer. I teach
20 people the safe use of firearms and the proper use of
21 firearms. In doing so I have to know the multiple types
22 of firearms. I'm not saying I'm an expert at it, but I
23 do know the job that I do I actually carry a firearm for
24 a living. I'm not at liberty to discuss in public due
25 to security matters exactly what I do. I apologize for

1 that, this being an open forum. Being the subject
2 matter of expert, I do know the difference between an
3 AK-47 and an AR-15.

4 MR. CECIL: Counsel, do you still want to
5 admit this photo in as an impeachment photo now
6 that you know what the photo shows?

7 MR. WARD: I will withdraw it.

8 MR. CECIL: Okay, so it will not be
9 admitted into evidence.

10 Q. Mr. Quan, you just stated that you're a firearms expert.
11 When did you first receive your NRA certification?

12 COURT REPORTER: I cannot hear him.

13 Q. Mr. Quan, when did you first receive your NRA
14 certification?

15 A. It was around 10 years ago. I don't have the document
16 with me.

17 Q. And is your NRA certification still valid?

18 A. Not at this time it is not. I did not renew it.

19 Q. Do you know when your certification lapsed?

20 A. About a year ago, sir.

21 MR. WARD: I will distribute my Exhibit 2
22 prior to asking a question.

23 Q. I'd like to draw your attention to the fact that the NRA
24 supreme program specialist (inaudible). These should be
25 taken together. This correspondence from the NRA

- 1 supreme program specialist says that you were first
2 certified in 2012, which is about the time you erected
3 that first berm, and then the certification has lapsed
4 and not been renewed since 2014 by declaration
5 (inaudible) in which your certification has lapsed
6 (inaudible), is that correct?
- 7 A. At this time I am not a legitimate NRA instructor
8 because I did not renew my renewal on the shooting
9 range.
- 10 Q. And Mr. Quan, there is a tree stand on your property
11 that Mr. Simoneau noted on his May 22nd visit was in a
12 conservation area. Have you ever shot from the tree
13 stand?
- 14 A. Yes, sir, prior to the easement to the (inaudible) being
15 sold. It's not really a freestanding, it's scaffolding.
16 That was definitely used for a 100 yard site. When the
17 property was sold and that that actually owns that
18 property, the scaffolding, which you call a tree stand
19 was abandoned and replaced. It has not been used.
- 20 Q. So what year was that conservation?
- 21 A. I don't have that with me right now, sir. Actually I
22 may have it back in some of my notes.
- 23 Q. Did you erect that tree stand?
- 24 A. Yes, sir.
- 25 Q. And you said that the stand was for siting a range 100

1 yards?

2 A. It was mostly used to (inaudible), but we had a very bad
3 coyote problem, and we used it basically to take care of
4 some of the coyotes that were killing cats, and so it's
5 a pretty good little area there to find coyotes.

6 Q. You were in the military, is that correct?

7 A. Yes, sir. Served from 1980 to 1986 United States Marine
8 Corp. Following that, engineer. After that I served in
9 the South Carolina State Guard. I retired a First
10 Sergeant military division.

11 Q. Were you aware when you purchased your property from
12 Mr. Farrow there was a deed restriction on the type of
13 use?

14 MR. JUSTUS: Objection to this line of
15 questioning.

16 MR. CECIL: I think it's facts not in
17 evidence. Have you got any evidence about this
18 deed restriction?

19 MR. WARD: Exhibit 3 of the
20 administrative record on the deed itself it says:
21 All such valid and enforceable easements,
22 conditions and restrictions as may appear of record
23 and the lien of ad valorem taxes for the current
24 year which Grantee assumes and agrees to pay. The
25 chain of title to the property in Exhibit 1

1 previously showed that there was a conditional use
2 that the property is to use residential or farming
3 uses only.

4 MR. CECIL: You're not offering this into
5 evidence, are you, or are you just repeating it?

6 MR. WARD: I'm merely asking if he was
7 aware of the title and deed restriction.

8 MR. CECIL: What violation?

9 MR. WARD: For the firing range.

10 MR. CECIL: Is there an objection?

11 MR. JUSTUS: Yes. This goes back to the
12 line of questioning that this deals with
13 nonconforming rights based on the Zoning Ordinance
14 of the Town, not on private restrictions. Mr. Ward
15 is not even indicating any testimony or facts that
16 Mr. Ward has the right to enforce the private deed
17 restriction that might exist back in 1980, so it
18 has no materiality to this proceeding.

19 MR. CECIL: Your objection is overruled
20 -- I mean sustained, sorry. We've been going back
21 and forth. The objection is sustained. And it has
22 been discussed before regarding the same issue.

23 Q. Mr. Quan, do you teach concealed carry weapons courses?

24 A. I'm sorry, I didn't hear you.

25 Q. Do you teach concealed carry weapons courses?

1 A. No, sir, not this time.

2 Q. When did you stop teaching concealed carry weapons
3 courses?

4 A. I do not teach concealed carry. Personally I do not
5 teach it.

6 Q. How many instructors come out and use your range?

7 A. Approximately two to three instructors.

8 Q. Isn't it true that you told Det. Wade in his August 2020
9 visit that there was only one other instructor at the
10 shooting range?

11 A. At that time there was only one instructor.

12 Q. So you can see that over the last few months there were
13 no other instructors?

14 A. I'm sorry?

15 Q. So you can see that over the last few months there have
16 been no other instructors?

17 A. No, there's just been the two instructors in the last
18 three months, two instructors.

19 Q. And can you name those two instructors for the record,
20 please?

21 A. Yes, sir. Officer Rob Austin. And they may not be the
22 same officer. And Officer Rojas. I'm not sure if he's
23 still here or not.

24 Q. Does Mr. Rojas operate under a commercial entity name or
25 is it just he's at the gun range?

1 A. I'm not privy to that information, sir.

2 Q. Does Mr. Robin Austin (inaudible).

3 A. I think that's correct, yes, sir.

4 Q. And are you familiar with Zumbi, LLC?

5 A. I am not, sir.

6 MR. WARD: I'd like to introduce a new
7 exhibit and it's just one. I apologize I don't
8 have multiple copies.

9 Q. This is Appellant's Number 1 for the record. This is a
10 picture of --

11 MR. CECIL: Counsel, you have to
12 understand, this is his case that he's presenting
13 now, so you're asking what type of -- you're trying
14 to do rebuttal questions, impeachment, what are you
15 trying at this time with your questions?

16 MR. WARD: I'm establishing there has
17 been a substantial change in use in the last two
18 months, and that's expansion of use (inaudible) may
19 no longer be applicable when at the beginning it
20 states it is not prior expansion of use. It's a
21 picture of Mr. Quan --

22 MR. CECIL: I think you need to show that
23 the exhibit will be --

24 MR. JUSTUS: Object.

25 MR. CECIL: -- in the relevancy.

1 MR. JUSTUS: Objection. He would have to
2 identify the exhibit, which I'm assuming Mr. Ward
3 was going to do, but let me clarify one thing, and
4 this is mentioned in the staff report. The
5 nonconforming determinations made by the Zoning
6 Department is based on the Town's Zoning Ordinance.
7 In addition to that, the Town indicated that they
8 were precluded from enforcing the Firearm Ordinance
9 because it states that that Firearm Ordinance is a
10 general police power ordinance. It's not part of
11 the zoning code.

12 So I've already -- we've actually had
13 this discussion with Mr. Ward with Board's counsel,
14 that the Board is not set up to determine anything
15 related to the state statute or anything related to
16 the Firearm Ordinance because that's a police power
17 ordinance and this Board only deals with zoning
18 ordinances. So if Mr. Ward wants to ask questions
19 about has the use expanded, that is a zoning
20 question, and so I just want to clarify that. That
21 was pointed out to the Board in the staff report,
22 the first page of the staff report.

23 MR. WARD: I would agree that would be an
24 expansion of use, that that would be more
25 appropriate, number one, it goes to multiples

1 included in the structure that Mr. Quan just
2 indicated he didn't know and that in this picture
3 Mr. Quan is saying he didn't know this group,
4 Zumbi, LLC, that has training course on his
5 property.

6 MR. FOX: Mr. Ward, for purposes of the
7 exhibit, this is still Mr. Quan's direct testimony
8 and you will have the opportunity to introduce that
9 as part of your testimony so you may want withhold
10 that. But if your question is with regards to
11 Mr. Quan about the nature of that and what that
12 depicts you can certainly ask questions of that.

13 MR. WARD: I'll save it for my case in
14 chief, but I do have two other questions briefly.

15 MR. CECIL: Are you withdrawing that?

16 MR. FOX: The exhibit.

17 MR. JUSTUS: Well, I would ask that the
18 Board disregard what Mr. Ward was testifying to
19 because he's testifying about some document that's
20 not been admitted into evidence. I certainly think
21 he could have asked Mr. Quan about the exhibit but
22 for his unilateral statements, the Mr. Ward's
23 unilateral statements of what this is I think it's
24 not appropriate at this time because there's no
25 foundation for that.

1 MR. CECIL: I agree. He will bring it up
2 at a later time.

3 MR. FOX: And Mr. Ward, still for the
4 record would you like to reserve the right to
5 develop -- the right to lay the proper foundation?

6 MR. WARD: I'd like to ask two additional
7 questions of Mr. Quan.

8 BY MR. WARD:

9 Q. It's your assertion that this range has been there for a
10 very, very long time. Can you explain why it is not
11 registered on the North Carolina Wildlife database since
12 it has been in existence for a long period of time?

13 A. Because it is not a commercial use property. You don't
14 register lands with Wildlife unless you want people to
15 come that you do not know and that you cannot verify
16 their backgrounds. It's not a commercial use. I just
17 do not let anybody shoot on this range. It's not open
18 to the general public, sir. That's why it's not
19 registered. It's a private skill shooting range.

20 Q. Are you aware that the database is actually maintained
21 by the North Carolina Wildlife Division an (inaudible)
22 public and private (inaudible)?

23 A. I was not aware of that part of what you just said about
24 public and private because it is a private, and anybody
25 -- I do not have to register -- to my knowledge I do not

1 have to register with them.

2 Q. You were previously affiliated with the NRA. Are you
3 aware that your name does not show up on the NRA
4 database of it either?

5 A. The NRA will not -- they do not -- how do I explain?
6 They're not going to go out and say this range is good
7 and safe. The NRA, they will have their senior officers
8 to make range recommendations to safety improvements.
9 As far as the NRA goes, they're not going to certify a
10 range because it's completed NRA under liability. This
11 is a private sport shooting range. The NRA has nothing
12 to do with the range. So like I said, they will come
13 out and make recommendations for safety improvements and
14 that's about it. You know, as far as putting a stamp of
15 approval on, no, sir they don't do that.

16 Q. So is your testimony that the NRA does not maintain a
17 database of NRA-affiliated ranges, is that correct?

18 A. I don't understand that question.

19 Q. Let me ask it --

20 A. The database -- yeah, because it's just a private sport
21 shooting range, sir, it's not on the database.

22 Q. Mr. Quan, this is a document I'd like to introduce from
23 the NRA. Can you please tell us for the record what you
24 see listed here in the key section?

25 MR. CECIL: Would you show it to Counsel,

1 please?

2 MR. JUSTUS: I'm going to object to the
3 relevancy of this. Is this -- I'm not sure how
4 this is getting at any of the questions that was
5 before this body, whether or not the NRA has
6 somehow endorsed or acknowledged this particular
7 gun range. I don't know how this exhibit is
8 material.

9 MR. CECIL: What is the purpose of this
10 line of questioning?

11 MR. WARD: It gets to the question of the
12 assertion that this range has been in operation
13 since 1988, yet despite the long tenure it has not
14 been on this database, it did not appear on the NRA
15 database. It calls into question the veracity of
16 Mr. Quan's assertion that (inaudible). There is no
17 evidence or any outside parties that will state to
18 verify or support the claim that the range is in
19 existence.

20 MR. JUSTUS: Mr. Chairman, I would
21 respectfully ask the witness to set the foundation
22 for what the NRA does and how they go about
23 determining what they put on a map so that there is
24 at least a foundation. To determine whether the
25 absence of information is relevant there's no

1 foundation at all for this matter.

2 MR. CECIL: You're asking counsel to do
3 it, not the witness?

4 MR. JUSTUS: I'm asking the counsel to
5 establish that foundation.

6 MR. CECIL: That's what I'm saying. You
7 said witness so you meant counsel?

8 MR. JUSTUS: I mean for Counsel to
9 establish that foundation.

10 MR. CECIL: I agree, there is no
11 foundation because time in regards to the basis of
12 his question.

13 (To Mr. Ward) If you can establish it
14 then you can ask it.

15 MR. WARD: I don't know how to ask the
16 question. (Inaudible) I have no further
17 questions.

18 MR. CECIL: Counsel, do you have any
19 questions?

20 MR. JUSTUS: I do.

21 EXAMINATION BY MR. JUSTUS

22 Q. Mr. Quan, during Mr. Farrow's ownership of the property
23 did you shoot out there?

24 A. When I was home on leave from the Marine Corps in 1980
25 -- around 1981-82 we did go down to where the existing

1 range is and we shot that way actually single shot, and
2 we were actually (inaudible).

3 Q. All right. So at the time that you visited the property
4 in the early '80s, in terms of the land that constitute
5 the firing range can you describe that land and compare
6 it to today's land that you're using?

7 A. It is the same range that Mr. Farrow's building's at. I
8 bought the place; I could build it, and his dad
9 originally bought it. His dad saw a natural place to
10 safely shoot firearms, and that's why he established
11 that area there. And that's where we would go. And
12 when we would shoot center-fire rifles or handguns and
13 stuff, that's where we would go to shoot because it was
14 a naturally safe place to shoot guns. And it's actually
15 in the same area, it's exactly the same place.

16 If you look at that picture there behind the wooden
17 structure it's a natural berm that goes up over 40 feet
18 high. It's over half a mile thick and it goes all the
19 way to Beatties Ford Road, but it's just a natural safe
20 shooting area and that's why Mr. Farrow established
21 that. He was a pretty good guy to be around and for him
22 to say -- and may I add, since 1999 I never had a single
23 accident on my range. I never had a errant bullet ever
24 leave my range.

25 Q. So then you were looking at a photograph that is from

1 the Town's PowerPoint presentation and --

2 MR. FOX: Can you reference the specific
3 exhibit?

4 MR. JUSTUS: Yes.

5 Q. So from Exhibit 23 you were just looking up at a stream
6 at a photograph, and that is in Exhibit 23 it's on the
7 first page of Exhibit 23. It's the May 22, 2020 site
8 visit summary, and in the photograph there is the first
9 picture that's shown. So this is important to
10 understand, can you speak up if you move away from the
11 microphone?

12 A. Oh, yeah.

13 Q. All right. If you would, just over on that screen turn
14 it a little bit? Turn it toward the Board.

15 MR. FOX: And you can also follow that in
16 Exhibit 23 as well.

17 Q. All right, using Exhibit 23 photograph number 1, the
18 first photograph on there. Walk the Board through what
19 was there in the early '80s when you were out there
20 shooting on Mr. Farrow's property and just walk us
21 through the time when you've been out there and during
22 your tenure of the land that's being used for firing --
23 for gun range purposes.

24 A. Can y'all hear me okay? When I first started entering
25 the range with Mr. Farrow on it, the existing range was

1 approximately from here to this area (indicating), and
2 it was a natural berm. From the ground level here, and
3 you can't see it due to the trees, there's a -- I'm
4 sorry about my shoulder, I just had some surgery --
5 there's a natural berm that is approximately 20 feet
6 high here. (Indicates.)

7 During the progression of it, what I did for safety
8 enhancement improvements to make it safer after I
9 purchased the property, I actually condensed the range
10 in. I built an additional side berm here, which the
11 ground has been turned to get rid of the weeds and
12 stuff. That berm there has been turned for the weeds.
13 I actually pushed dirt up here. That's why there's no
14 grass here. If anybody shot on the firing range you
15 know you've got to turn the dirt. And then I built a
16 structure on this side to contain any errant bullets.
17 Also I constructed this berm right here. All this was
18 confined in. The original shooting range actually
19 extended.

20 By the way, this points -- this is going towards
21 Beatties Ford Road. Arrington subdivision is that way.
22 My rounds are going inside these berms. They're not
23 going nowhere near Arrington. But the original range
24 actually extended over 100 yards back to the creek.
25 When the creek was sold several years ago I was no

1 longer able to use the creek anymore, so now the actual
2 range has condensed. It's around 70 yards. Did I
3 explain it okay?

4 Q. Yes, sir. What is the height of the -- within the
5 wooden structure what is the height of the seating in
6 the wooden structure?

7 A. These are telephone poles. I actually had a couple Navy
8 SEALs, they're good at picking up telephone poles. They
9 helped me pick these up, and these are on telephone
10 poles. It's approximately 14 feet high to the top of
11 this right here, sir.

12 Q. Those are my questions.

13 MR. CECIL: Any rebuttal? Rebuttal is
14 based on the questions asked by Counsel.

15 MR. WARD: Yes, sir, I understand.

16 REBUTTAL EXAMINATION BY WARD

17 Q. Mr. Quan, you just stated that I believe you shot -- you
18 previously stated that you shot on the property in
19 1981-1982, is that correct?

20 A. Yes, sir.

21 MR. CECIL: Mr. Quan, do you want to come
22 back up to the microphone, please? Thank you.

23 Q. Was that the first time you had ever shot on the
24 property?

25 A. It's been so long ago. I know when I came home on leave

1 and when we came home on leave we did a lot of stuff. I
2 can't tell you any basic time, sir, at this time, I'm
3 sorry.

4 Q. And you also stated that Mr. William Farrow's father was
5 the one who owned the land, is that correct?

6 A. Mr. Farrow originally bought the property and then Billy
7 lived there. When his father died Mister Billy
8 inherited the property from him.

9 Q. So when you appeared before the Planning Board in
10 February 24, 2013, and this is taken from about six
11 pages in, about three-quarters of the way down, you
12 indicated to the Planning Board members the range is in
13 the same place it has been since 1974. Wasn't that
14 prior to Mr. Farrow's acquisition of the property?

15 A. I'm not sure when he got the property.

16 Q. I thought you said 1984, and it's in the administrative
17 record. (Inaudible)

18 MR. CECIL: Counsel, with all due respect
19 you're going over the same testimony.

20 Q. No further questions.

21 MR. JUSTUS: No questions.

22 MR. CECIL: No questions? Do you have
23 anything else you'd like to say?

24 MR. QUAN: I hope not.

25 MR. CECIL: Do you want to break protocol

1 and ask questions of you at this time while he's
2 there? I think we should.

3 MR. JACOBSON: I would love to.

4 MR. CECIL: Okay. Mr. Jacobson?

5 EXAMINATION BY THE BOARD

6 BY MR. JACOBSON:

7 Q. Do you charge people to use the range?

8 A. Absolutely not, sir.

9 Q. So there's no fee for anybody to use the range?

10 A. Not to use the range, sir. (Inaudible)

11 Q. All right. Do you derive any revenue from the range?

12 A. No, sir, not from the range, not at all.

13 Q. Okay, I'm trying not to get into semantics. So you
14 charge for classes held at the range?

15 A. No, sir, not at the range. I may teach classes in
16 Houston, Texas. I may teach classes in Charlotte. I
17 may get a bushel of corn for my payment. It varies,
18 sir.

19 Q. So there is no revenue attached to the range that's
20 coming in?

21 A. That is correct, absolutely.

22 Q. And there is no --

23 A. It's not a commercial business.

24 Q. And there is no commercial business so there is no tax
25 returns?

1 A. No, sir, it is not a commercial business and I do not
2 charge for the use of the range, sir.

3 Q. Do you have an insurance policy on the range?

4 A. I have my homeowners insurance and my NRA insurance.

5 Q. And do they -- is there a rider on them that accepts
6 that you have a range? Does the insurance policy know
7 that you operate a range?

8 A. The policy that I have, it covers the NRA instructor,
9 which is probably not covering them now because I didn't
10 renew my instructorship. It lapsed a couple years ago.
11 But it covers an NRA instructor wherever he instructs.
12 He may go to several different ranges, and that's the
13 coverage, sir.

14 Q. How long have you carried that insurance that covers the
15 range?

16 A. Approximately 10 or 11 years now. I'd have to look at
17 it.

18 Q. So that would go back to approximately 2010, 2009. So
19 you carried no insurance on the range when you first
20 started operating?

21 A. Yes, sir, that's a true statement.

22 Q. Okay. Thank you.

23 MR. CECIL: Any other questions at this
24 time?

25 BY MR. GENEBAKER:

1 Q. (Inaudible)

2 COURT REPORTER: Can you pull the
3 microphone closer?

4 Q. We've spent a lot of time looking at paragraph E there
5 at the bottom, and it's been stressed many times from
6 both sides what has been the most substantial change in
7 use. So what I'm hearing is you shot there yourself in
8 the early '80s, and after today -- it's a gun range, is
9 that right?

10 A. Yes, sir.

11 Q. And it's still a gun range today?

12 A. Yes, sir.

13 Q. So there's been no change in use. Its use is the same
14 thing today as it was back in the '80s?

15 A. That's correct, sir.

16 Q. That's all I have.

17 MR. WARD: Mr. Chairman, can I ask two
18 follow-up questions in response to the testimony
19 with regard to the Board's questions?

20 MR. FOX: See if the Board is finished
21 asking questions.

22 MR. CECIL: Yes, after we're done at this
23 time but we have some other questions later. Is
24 there any more questions at this time?

25 MR. LOUCKS: I've got questions for Jack.

1 I don't have any questions for Mr. Quan.

2 MR. CECIL: Okay, that'll come up after.

3 Okay, Mr. Ward.

4 REBUTTAL EXAMINATION BY MR. WARD

5 Q. Mr. Quan, you stated there was no compensation for the
6 use of the range. Do you collect the range maintenance
7 fee from shooters on the range?

8 A. No, sir.

9 Q. Are you aware that the companies using the range charge,
10 that they charge a per-person fee payable in cash?

11 A. Can you state that again? I didn't hear you.

12 Q. Are you aware that the companies using your range are
13 charging a per-person range maintenance fee payable in
14 cash?

15 A. No, sir, I'm not aware.

16 Q. There's an exhibit that I would like to introduce that I
17 believe was previously circulated to the Town and
18 introduced into evidence, and this is a photo which will
19 show the company who advertises using your range and it
20 goes into (inaudible) as a shooting range and charging
21 them a -- I assume (inaudible), it seems to contradict
22 your testimony that your testimony on (inaudible).

23 MR. JUSTUS: Mr. Chairman, with all due
24 respect, I would ask that statement be disregarded.
25 Again, if Mr. Ward wants to offer up an exhibit for

1 impeachment purposes certainly he could on his
2 direct case. If he wants to call Mr. Quan and see
3 if he can identify an exhibit he can, but just to
4 sit here and state this is what this document is
5 going to show, there's no foundation for that.

6 MR. CECIL: I agree. Your objection is
7 sustained.

8 (To Mr. Ward) I know you want to bring
9 that photo in, but you're referring to companies
10 and I don't -- there's no foundation of anything
11 that these people or companies or individuals.
12 What are you trying to establish in that regard?

13 MR. WARD: I'm trying to establish that
14 these are not (inaudible) -- Mr. Quan's testimony
15 the individual instructor for two courses. These
16 are outside registered LLCs that advertise the use
17 of his property and they recruit their own
18 students, do their own advertising, say they are
19 not (inaudible) Mr. Quan despite his assertion that
20 each person that comes onto his range, but it also
21 charges a range maintenance fee despite his
22 assertion that he doesn't collect any revenue in
23 his operation.

24 MR. CECIL: Well, you're going to have to
25 establish that you're not here to impeach him,

1 because he says he does not get any revenue from.
2 It's the third parties who are getting the revenue.
3 Are you trying to establish that Mr. Quan is
4 getting something from that revenue? And if you
5 are, you're going to have to establish that.
6 You're going to have to lay the foundation, and
7 with all due respect have some witness indicate
8 same to satisfy me.

9 MR. WARD: (Inaudible)

10 MR. CECIL: That's fine.

11 MR. JUSTUS: And there's going to be a
12 problem with hearsay unless it's Mr. Quan's
13 information he's putting out to the public. If
14 it's some third-party putting out information he's
15 going to have to have somebody testify directly
16 that that is information they have put out,
17 otherwise it's going to be hearsay.

18 MR. CECIL: Maybe you should ask him
19 directly if he knows. It's been asked and
20 answered, hasn't it?

21 MR. WARD: He claims he doesn't know the
22 LLCs using his shooting range so (inaudible). He's
23 already testified he doesn't know them.

24 MR. CECIL: Well, your case in chief, if
25 you want to rebut him based on the photo and

1 establish that photo shows that he actually knows
2 this company, I mean, you'll have to do so, but I
3 don't think so at this time. You still have the
4 opportunity to. Is that it, Counsel, that's it?

5 MR. WARD: That's it.

6 MR. CECIL: Any more questions from the
7 Board at this time? Counsel?

8 (No further questions.)

9 MR. QUAN: Appreciate it.

10 MR. CECIL: All right. So now we're
11 going to go -- do you have anything else to
12 present, other persons in favor of this
13 application?

14 MR. WARD: I'd like to call Tyler
15 Steczynski as my soul witness.

16 (Tyler Steczynski comes to the microphone.)

17 MR. CECIL: Hello, sir. You have made
18 the attestation?

19 MR. STECZYNSKI: Yes, I did.

20 MR. CECIL: Have you signed?

21 MR. STECZYNSKI: Not yet.

22 MR. CECIL: Okay, if you will do so,
23 please. You can do it after your testimony.

24 DIRECT EXAMINATION BY MR. WARD

25 Q. Tyler, have you done any research into Mr. Quan's range

1 and its operations?

2 A. Yes.

3 Q. And did that research consist of online searches?

4 A. Yes.

5 Q. And what did those searches reveal?

6 MR. JUSTUS: Objection. He's going to
7 have to be more specific about laying a foundation.
8 He's jumping to conclusions. He's going to have to
9 be more foundational.

10 MR. WARD: I will rephrase.

11 MR. CECIL: I agree.

12 Q. Mr. Steczynski --

13 A. Tyler.

14 Q. Okay.

15 MR. CECIL: Oh, yes, he hasn't done so.
16 We know who he is but he needs to introduce
17 himself.

18 A. My name is Tyler Steczynski. I'm one of the Arrington
19 residents.

20 MR. CECIL: What is your address?

21 A. 8029 Barnette Crest Drive, Huntersville, North Carolina.
22 I've got a home that's 275 feet away from the gun range.

23 MR. CECIL: Thank you.

24 A. Yes, sir.

25 Q. Tyler, in the course of your online research did you

1 look at any Instagram pages?

2 A. Yes.

3 Q. And did those Instagram pictures contain any pictures of
4 Mr. Quan's range?

5 A. Yes.

6 Q. Did those pictures include evidence of having
7 instructors on his range?

8 A. Yes.

9 Q. Was one of those entities that you observed Zumbi, LLC?

10 A. Yes.

11 Q. And was one of those entities Shoot2Win Charlotte?

12 A. Yes.

13 Q. And was one of those entities Reactive Solutions, LLC?

14 A. Yes.

15 Q. And did you see videos in addition to photos of those
16 entities posted on Instagram?

17 A. Yes.

18 Q. Did you see any advertisements for those entities with
19 the Instagram photos?

20 A. Yes, both on the Shoot2Win and the Zumbi, LLC.

21 Q. And were those advertisements in relation to Mr. Quan's
22 range, Broken Arrow Training?

23 A. Yes. It said that the range was the location --

24 MR. JUSTUS: Mr. Chairman, under the Best
25 Evidence Rule, if he's referring to an actual

1 document that he can present that says what he
2 wants to say it says, then he should make that
3 available. We can then attest to whether or not he
4 has the sufficient foundation to establish its
5 authenticity. If he's just rattling off what he's
6 seen rather than showing us what he has
7 documented, most likely --

8 MR. CECIL: Is this based on a photo or a
9 document?

10 A. There is -- well, it's several Instagram advertisements.
11 One is a flyer and then there's other (inaudible) on
12 radio specifically for a shooting range.

13 MR. CECIL: So this is not for Mr.
14 Quan's, is it?

15 A. No, they're (inaudible) businesses.

16 MR. CECIL: Counsel, can you tell me what
17 the relevancy is then, because this is not for
18 Mr. Quan?

19 BY MR. WARD:

20 Q. Those advertisements specifically name Broken Arrow, do
21 they not?

22 A. Yes.

23 Q. If I were to show you that picture today would you be
24 able to identify it for the record?

25 A. Yes.

1 Q. Tyler, is this a depiction of the image as you saw it on
2 Instagram? (Indicates.)

3 A. This is either from the (inaudible) or from the where I
4 would have seen this where it specifically stated Broken
5 Arrow Training as you can see, and there is the ad.

6 MR. JUSTUS: I object. Does it say
7 Broken Arrow on that?

8 A. Yes, it does.

9 MR. WARD: Broken Arrow Training,
10 Huntersville, North Carolina.

11 MR. JUSTUS: And is that a document -- I
12 would object again. Unless you have the author of
13 that, this is by definition hearsay. Unless you
14 have the author of that or if you can get some
15 witness here to testify that that is the substance
16 of (inaudible), for me, this is hearsay.

17 MR. CECIL: Can you authenticate that?

18 MR. WARD: What I can do is I could go on
19 the website and pull up the actual image -- the
20 publisher, it would be the website itself. There's
21 no way to evaluate who the specific author is, but
22 the publisher will be the website in question.
23 (Inaudible) I can show you the advertisements or
24 we can go to Zumbi, LLC's website and I can show
25 you the evidence there.

1 MR. CECIL: I think he can testify,
2 Counselor. We're overruling the objection. He can
3 testify as to a specific document.

4 BY MR. WARD:

5 Q. Tyler, (inaudible) identity, do you recognize it as
6 specifically the Broken Arrow Training in Huntersville,
7 North Carolina?

8 A. Correct.

9 Q. (Inaudible) the range maintenance fee?

10 A. Yes, a \$20 range maintenance fee collected on the day of
11 training.

12 Q. Was there any other fee referenced on that?

13 A. There's the cost of the actual training itself.

14 Q. You indicated that you had seen other advertisements
15 online as well, including Instagram, is that correct?

16 A. That is correct.

17 Q. And one of the entities that you witnessed was Shoot2Win
18 Charlotte?

19 A. That is correct.

20 Q. If I were to show you a picture introduction of an
21 advertisement from Instagram dated (inaudible). Is that
22 the photograph?

23 A. (Examines document.) Yes.

24 MR. JUSTUS: Mr. Chairman, I'll object to
25 the relevancy of this. Mr. Quan has already

1 testified that Mr. Quan doesn't receive
2 compensation for his operation of this shooting
3 range. If someone, if another business off-site
4 has a service that says -- and I'll give you a
5 for-example. If I was going to teach someone
6 tennis lessons and I collected a fee and I went
7 down to the public park and I played tennis and I
8 collected a fee, that public park doesn't become a
9 commercial park just because I collected a fee. So
10 he's talking about third parties, not Mr. Quan,
11 apparently making money off their training. It
12 doesn't turn the property into a commercial
13 business.

14 MR. CECIL: I agree, Counsel, but he's
15 got the burden of proof. He's going to have to
16 establish it. As it stands right now I see no
17 nexus to Mr. Quan.

18 Counsel, are you going to try to
19 establish that Mr. Quan has a relationship with
20 these entities and is collecting a fee from them?

21 MR. WARD: Yes, sir. Mr. Quan previously
22 testified that he didn't know Zumbi, LLC, so this
23 is (inaudible) with regard to any of this comes on
24 to the (inaudible) advertising the range.

25 Q. Mr. Steczynski, have you seen any pictures in which

1 Zumbi, LLC and Mr. Quan appear together?

2 A. I know it was specifically instructors, but I texted
3 Zumbi, LLC those pictures (inaudible).

4 Q. If I was to show you a picture of Mr. Quan with Zumbi,
5 LLC close together, do you (inaudible)?

6 A. Yes.

7 Q. Have you ever seen this photo in the course of your
8 Instagram review?

9 A. Yes, I have.

10 Q. And how do you know that Mr. Quan is in the picture?

11 A. Just because of the research I've done.

12 Q. Can you point him out on that picture?

13 A. Yes. He's the one in the hat (inaudible).

14 MR. CECIL: Everyone's got a hat so --

15 A. Oh, I'm sorry. (Indicates.)

16 Q. So to summarize, you saw an advertisement from Zumbi,
17 LLC indicating they were holding a course on Mr. Quan's
18 range and you subsequently saw the photo of Zumbi, LLC
19 with Mr. Quan on the range, is that correct?

20 A. That is correct.

21 Q. And you also agree that there was a fee charged for the
22 course and the second fee connected to that for the
23 range maintenance fee, is that correct?

24 A. That is correct.

25 Q. Thank you.

1 MR. JUSTUS: May I ask a question?

2 MR. CECIL: No, you can't. You can hold
3 it and then ask, but he will be asking questions.

4 Q. Mr. Steczynski, do you -- have you seen similar pictures
5 of Shoot2Win Charlotte at Mr. Quan's range?

6 A. Yes.

7 Q. If I were to show you one of those pictures on the
8 Instagram page would you be able to recognize him?

9 A. Yes.

10 MR. WARD: I would like to introduce this
11 exhibit, and I have not been numbering these, so I
12 apologize.

13 (Mr. Ward shows a document to the witness.)

14 Q. Mr. Steczynski, is this a picture that you have seen
15 yourself on Instagram?

16 A. This is one of many.

17 Q. And this is the posted by Shoot2Win Charlotte, is that
18 correct?

19 A. That is correct.

20 Q. And is Mr. Quan depicted in this picture?

21 A. Yes.

22 Q. Can you identify him for the record, please, sir?

23 A. Front and center.

24 Q. And is there -- for the record, does it designate the
25 location that this picture was taken?

1 A. Well, based on the column on the right-hand side it
2 would have been at a private, quote, location.

3 Q. Is there any reason you would believe that this picture
4 was taken on Mr. Quan's range specifically?

5 A. Yes.

6 Q. What about this picture makes you certain that it's on
7 his property?

8 A. The crossfit (inaudible) at the back of the photo,
9 something about deed restrictions on this property.

10 Q. Thank you.

11 COURT REPORTER: I'm sorry to interrupt,
12 but can I ask to please be sure the witness faces
13 the microphone, not counsel?

14 THE WITNESS: Okay. Yes, ma'am.

15 MR. WARD: Mr. Chair, what is the
16 procedure for video? You mentioned previous to the
17 process that monitors would be available for
18 presenting evidence. How would the Board handle
19 that? I can play a variation on my cable.

20 MR. CECIL: Do you need to review it
21 before --

22 MR. JUSTUS: Well, I'm not sure.

23 MR. CECIL: He's going to show a video.
24 I have no idea what it is.

25 MR. JUSTUS: I have no idea.

1 MR. KLUTTZ: If I could ask a question,
2 so is the relevance that this data to prove that
3 there are (inaudible) firearms instructors?

4 MR. WARD: No, sir, the relevance of the
5 video is to prove that both these entities and
6 others in the video are actively marketing for the
7 use of Mr. Quan's range and there are students on
8 Mr. Quan's range for a fee. In some of the videos
9 you will see as Mr. Quan instructing students as to
10 (inaudible), all of which goes to the substantial
11 change of use from a private range where Mr. Farrow
12 was shooting by himself with a friend versus the
13 use today, which is multiple commercial groups
14 including their own suites and using Mr. Quan's
15 range to share courses for a fee.

16 MR. FOX: The question for the Board is
17 whether or not evidence of a change in use is
18 appropriate, the issue is whether or not the
19 nonconforming use, specific or valid use, or has
20 been expanded or not.

21 MR. JUSTUS: Mr. Chairman, at this point
22 in time we have to get some foundation of how the
23 video was created, whether it's a compilation of
24 things that his witness put together or if it was
25 something Mr. Quan created. We just have to have a

1 foundation for it.

2 MR. FOX: We do have to have a
3 foundation.

4 MR. CECIL: Yes, as to who took it, when
5 it was taken, how it was taken, and the relevancy
6 to the issue. As I understand, he's trying to
7 establish that Mr. Quan knows these people and he's
8 letting them use his facilities, but then you were
9 questioning him whether he was getting a fee. So
10 I'm trying to tie this together. He says he's not
11 getting a fee, but you have not established that he
12 is getting a fee, so I'm trying to figure --
13 establish all this and put it together, the
14 relevancy of it, in regards to Mr. Quan and the
15 fee.

16 MR. WARD: Mr. Chairman, it goes to the
17 issue of Mr. Quan has indicated there is an
18 expansion of the use and a change in character of
19 the use where other registered groups bring
20 (inaudible) to the range and therefore they are not
21 being recognized by Mr. Quan. He has no say in who
22 is brought to the range as part of the sign-up for
23 the courses because he says he doesn't teach those
24 courses -- (inaudible). In addition, the fees are
25 all payable in cash, so of course he will say he

1 doesn't collect a fee because it's not traceable.

2 MR. CECIL: I'm trying to ascertain, if
3 you trying to say the substantial change is
4 physical or is the substantial change because other
5 people are using it; what are you trying to
6 establish?

7 MR. WARD: We previously discussed his
8 expansion of boundaries. This is going to the
9 expansion of the type of use. Mr. Simoneau on the
10 administrative record provided (inaudible) because
11 it was a private range not a commercial range, and
12 I am now seeking to establish that it is very much
13 a commercial range where there is commercial
14 entities. Some of them were registered with the
15 Secretary of State some of them are not. Our
16 evidence is depicting them using his range.

17 MR. CECIL: You can proceed, but you're
18 still going to have to lay the foundation for this
19 video.

20 MR. WARD: I'm sorry?

21 MR. CECIL: You're still going to have to
22 lay the foundation for this video and explain
23 everything about it.

24 MR. JUSTUS: And I want to say,
25 Mr. Chairman, with all due respect we've had

1 several conversations between the lawyers about
2 evidence, and the only thing I knew that was being
3 kept in the dark was impeachment evidence. We're
4 trying to figure out what everybody's evidence was
5 in advance of this hearing so we could try to speed
6 this along, so I've not seen this video and was
7 unaware of it completely.

8 MR. CECIL: Normally you have to expose
9 evidence that you are going to present prior to the
10 hearing unless you're planning on using this as a
11 rebuttal impeachment. Is that what your purpose
12 is?

13 MR. WARD: Is there a measure about
14 impeachment (inaudible) does it appear on his range
15 in the video and that he doesn't collect fees, even
16 though on the video they advertise for a fee for
17 the course.

18 MR. CECIL: Well, is it Mr. Quan
19 advertising for the fee or is it a third party
20 advertising for the fee? That's where the
21 relevancy comes in. If you're trying to establish
22 a rebuttal or an impeachment of Mr. Quan saying he
23 does not receive a fee, will this video show him
24 receiving the fee?

25 MR. WARD: Mr. Quan said that he doesn't

1 know these groups and yet he is on camera
2 (inaudible) and that it was his testimony -- all
3 the question of others not collecting fees
4 (inaudible).

5 MR. CECIL: As you know, he'll be able to
6 clarify that and answer questions also.

7 MR. JUSTUS: And in terms of this witness
8 saying this group is Zumbi, this witness saying
9 this group is X, this witness is unable to say
10 that. He is not a direct witness with personal
11 knowledge of this group. And to your point, in
12 terms -- if they have evidence that Mr. Quan was
13 receiving money versus the third party receiving
14 money, you know, that's the problem because we
15 don't have this nexus you speak of. This video is
16 just going to be more of the same.

17 MR. CECIL: We need some direct testimony
18 that Mr. Quan is receiving a fee to rebut him.

19 MR. JUSTUS: And I will say,
20 Mr. Chairman, this photograph, at least the one
21 photograph, the person that created the content is
22 the room here that actually created the content.

23 MR. CECIL: I can see it right there.

24 MR. JUSTUS: Correct. So to have this
25 witness speculate what this all means is the

1 problem we're going down this road we're going down
2 here.

3 MR. CECIL: If we go this way I will
4 swear him in and he can rebut this witness if
5 necessary. So if he has direct testimony in
6 regards to this photo and can testify that Mr. Quan
7 does or does not get a fee, then I will swear him
8 in. Do you want to do that? I'm going to assume
9 he is going to impeach your witness.

10 MR. WARD: Mr. Chairman, you're asking us
11 to prove a negative. You're asking us to prove a
12 transaction that's untraceable, and then you're
13 asking me to call a witness who (inaudible).

14 MR. JUSTUS: Wait, how --

15 MR. CECIL: Whoa, Counsel, with all due
16 respect how do you know that's what he's going to
17 testify to, as he hasn't testified? You're already
18 impeaching this witness and we have no idea what
19 he's going to say at this time, but he is here.

20 MR. FOX: We may want to proceed. How
21 long is the video for?

22 MR. WARD: 30 seconds.

23 MR. CECIL: Counsel, do you have any
24 objection to that? You can have a rebuttal. If
25 you wish to call the witness, you can call the

1 witness and we'll swear him in. After this video
2 are you going to be asking a number of questions,
3 because a number of us would like to take a break
4 after the video?

5 MR. WARD: After the video -- (inaudible;
6 away from microphone.)

7 Q. Mr. Steczynski, before I play this, have you ever seen
8 this clip before?

9 A. Yes.

10 (Video is played.)

11 MR. CECIL: Okay, Counselor, who took
12 that film?

13 MR. WARD: Instagram page for Shoot2Win
14 Charlotte.

15 COURT REPORTER: Mr. Ward --

16 MR. WARD: Sorry, that that was on the
17 Instagram page of Shoot2Win Charlotte and I --
18 (inaudible).

19 MR. CECIL: And what is it you were
20 supposed to establish by that video?

21 MR. WARD: That video was taken on
22 Mr. Quan's range. As you can see, the shooting
23 gallery is still targeted in (inaudible)'s
24 direction.

25 MR. CECIL: Okay, and what has that

1 established that Mr. Quan took a fee, because I
2 thought that's what this whole basis of this line
3 of questioning has to do with Mr. Quan here,
4 rebutting Mr. Quan or trying to impeach Mr. Quan in
5 regards to a fee, you're also saying that he stated
6 he didn't know some of these entities. So which
7 one is it, that he's getting a fee that you're
8 trying to rebuttal on, or that he knows these
9 entities?

10 MR. WARD: This video doesn't
11 specifically reference the fee but I think it does
12 show that he knows the entity, that it was welcome
13 on his property (inaudible), that he allowed them
14 on the property.

15 MR. CECIL: Well, Mr. Quan will be able
16 to explain the situation at the time. He'll be
17 able to explain it and ask your own questions here.

18 A. Yes, sir. Zumbi, LLC is the one I explained where I saw
19 the phrase maintenance fee. I did not specifically see
20 a maintenance fee for Shoot2Win, which is who is in
21 attendance today, so I just wanted to clarify that, to
22 what I testified to.

23 MR. CECIL: Okay, so the only one that
24 you know of that charges a fee was Zumbi?

25 A. Zumbi, LLC, I'll just use LLC.com.

1 MR. CECIL: Do you know that Mr. Quan has
2 -- I'm going to ask the question, do you know that
3 Mr. Quan common received any money at all from
4 either of these entities? Do you personally know?

5 A. I cannot personally prove that. I can just see that it
6 takes place at his range. I saw the note maintenance
7 fee.

8 MR. CECIL: I understand, but I don't
9 think that's being questioned, but the question is
10 do you have specific knowledge that Mr. Quan is
11 obtaining a fee, which is the important part of
12 this rebuttal and impeachment?

13 A. I cannot say that for sure.

14 MR. CECIL: Thank you. Are you done?

15 MR. FOX: And does Mr. Justus have any
16 questions or this witness?

17 MR. JUSTUS: I do.

18 CROSS-EXAMINATION BY MR. JUSTUS

19 Q. And I apologize to this witness. How do you say your
20 last name?

21 A. Steczynski.

22 Q. Can I call you Tyler?

23 A. Yes, that's fine.

24 Q. So you understand that the objective here is to only
25 make a determination that the use of the property in

1 question was an environmentally sensitive use, correct?

2 A. I understand that the general (inaudible), but I don't
3 know it to the extent that (inaudible) Counsel.

4 Q. So you have been on your property and you've heard
5 gunfire from this property, correct?

6 A. Yes, sir, I have.

7 Q. In hearing the gunfire can you distinguish gunfire that
8 occurred where one of these companies, Zumbi or
9 somebody, is being paid money distinguished from gunfire
10 where nobody is being paid money at all?

11 A. To answer your question, I can correlate the time frame
12 and the date of the advertisement to when I started
13 (inaudible) the shooting occurring, so I can't say I
14 specifically saw the money but I know that (inaudible)
15 at that time.

16 Q. Does the exchange of money affect the noise at all?

17 A. It does not.

18 Q. Does it affect the things that you complain of at all,
19 the exchange of money?

20 A. The fact that it's used as a --

21 Q. The fact there's any exchange of money, does it affect
22 the environment in any way, does it affect the off-site
23 impacts of this use in any way?

24 A. Not that I'm aware of.

25 Q. Do you know if the money is actually exchanged on the

1 property versus off the property?

2 A. I have no opinion on that.

3 Q. So just for clarification, the exhibits you handed up,
4 the photographs, Instagram, any link that says Mr. Quan
5 received compensation?

6 A. It just states the range, the location, and then the
7 range maintenance fee.

8 Q. That's all.

9 EXAMINATION BY THE BOARD

10 BY MR. KLUTTZ:

11 Q. You're not on trial here, you know that, right?

12 A. I love public speaking, so.

13 Q. Not me. I think several things could be clarified here
14 and a couple questions I have for you and maybe some of
15 the other residents of Arrington subdivision, were any
16 of you provided written exposure that there was a
17 shooting range within 300 to 900 feet of your homes?

18 A. So there was the exhibit that I think I saw in earlier
19 was not what we thought -- we did not get that prior to
20 buying. We were supposed to get it in a separate to let
21 us know that we were specifically within 900 feet. I
22 did not see that, however, I do not believe that that
23 changes the commercial nature of it by letting somebody
24 use --

25 Q. I'm not -- I just want to know if you got like the

1 disclosure. Like I said you're not on trial, and I'm
2 just trying to get through the weeds on this.

3 A. So we absolutely did not get a disclosure to that.

4 Q. Is it safe to say that some residents of Arrington when
5 they purchased their homes were given a written
6 disclosure that said there is a private shooting range
7 within 900 feet of the property?

8 A. No, sir, there was not. There was not.

9 Q. Nobody got it, thank you.

10 BY MR. CECIL:

11 Q. What was it then that we showed -- what was that that
12 was presented showing that there was a gun range?

13 A. So are you referring to the exhibit I just referenced?

14 Q. Yes.

15 A. So that was stating that there is a shooting range
16 referenced, and then you can see what's listed adjacent
17 to it, which is what I would expect for Mr. Quan's
18 property to be listed as because it's literally in my
19 back yard. So I reviewed that and I didn't see that. I
20 had zero indication to know that I was within 900 feet
21 of the range, yeah.

22 BY MR. KLUTTZ:

23 Q. I know you answered my question, but I'm just going
24 through the staff report, and I've looked at a lot of
25 similar -- nothing similar to this but a lot of staff

1 reports, and I'm just trying to quantify what I'm
2 reading is what I said. If not, I apologize. I think
3 it's safe to say you guys live near a shooting range and
4 it's closer than you want it to be, and I think we also
5 can quantify that whether it's Shoot2Win or Zumbi or
6 whatever, we've established that it's people shooting
7 and we can't establish that Mr. Quan's getting paid a
8 fee to shoot, and that's just -- I guess you could base
9 what you think based upon what you've seen and you can
10 hear some shooting stuff, but I think at the end of the
11 day -- and in your research, I mean you put some good
12 information out there that created, and somebody might
13 say how do you not know if you're here in the middle of
14 the picture.

15 I don't know Zumbi, and if I was the middle of the
16 picture with all these guys I could just be in the
17 picture with all those guys, and I don't know that
18 there's a way -- I don't know if it's Shoot2Win. All I
19 know is it's people that show up and shoot.

20 Now, I understand that it's something that's
21 jacking the Town, and the Town's counsel could determine
22 if there's a change in use here, if it's a commercial
23 use, but I think the information you provided has been
24 good, I just don't think it proves that it's a
25 commercial use. I think it proves that -- and that's

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1 why I say it puzzles me as to why there was no written
2 disclosure, but it looks to me like this is very clearly
3 stated, and I guess I'll have an opportunity to ask Jack
4 later, the Town staff later, but it looks to me like
5 it's very clearly stated that the developer shall
6 provide written disclosure.

7 What we all know is that once a developer shows a
8 home, there's a lot of different people so unless you
9 were dealing with the developer, that's who actually
10 built your house, it would be harder to say if I sold
11 you my house in this neighborhood and the developer told
12 me there's a shooting range that I don't see here where
13 I'm obligated to tell you there's a shooting range. I
14 just see where whoever took the house and developed the
15 property, so -- that being said you gave us a lot of
16 good information, and I've got a few more questions.

17 MR. CECIL: We'll defer your questions
18 because we want to complete Counsel's.

19 MR. FOX: With all due respect, the
20 applicant is still putting on his case, so we will
21 allow the applicant to present his case.

22 MR. CECIL: Have you completed your
23 presentation?

24 MR. WARD: I have no other questions, but
25 I do have another witness.

1 MR. CECIL: Well, let's see if -- we have
2 -- Mr. Quan, do you have any questions of this
3 witness?

4 MR. QUAN: No, sir, I don't have any
5 questions.

6 MR. CECIL: Anyone else have any
7 questions?

8 (No questions. The Witness steps down.)

9 MR. CECIL: All right, do you want to
10 present your next witness then?

11 (Toolie Sullivan moves to the microphone.)

12 MR. CECIL: Do you want to take a break?

13 MR. KLUTTZ: Yeah, I that's a good idea.

14 MR. CECIL: Well, she's already up here
15 holding, literally.

16 DIRECT EXAMINATION BY MR. WARD

17 Q. Please state your name for the record.

18 A. My name is Toolie Sullivan.

19 MR. CECIL: And where do you reside?

20 A. I live at 10914 Greenfelt Avenue in Arrington.

21 MR. CECIL: All you have to do is take a
22 deep breath. Don't worry about us. Everything
23 will be okay. You have counsel there. And I'm
24 also here to protect you.

25 Q. Toolie, there's been a lot of discussion about the

1 collections of fees. Do you have any personal knowledge
2 as to whether or not Mr. Quan actually collects a fee
3 for use of his range?

4 A. He told me when I went there to try to make peace and to
5 find out the range schedule of the shooting so I could
6 know when not to be home when the shooting occurs. And
7 he talked to me for a while. He was very kind. He
8 explained where he worked and that he was partially
9 retired and he didn't charge his friends to use the
10 range, but that concealed carry was there. And he did
11 that just for income because he was partially retired.

12 MR. CECIL: So just to clarify, Counsel,
13 you're stating that Mr. Quan indicated to you that
14 what monies he got was from concealed carry and
15 Mr. Quan has testified that he's no longer doing
16 concealed carry classes and that his concealed
17 carry classes, as I recall, were taught off the
18 range?

19 MR. QUAN: Correct, sir.

20 MR. CECIL: That's my recollection. So
21 if he collected -- do you recall this -- and I have
22 a pretty decent memory for my age, is that he
23 stated he collected fees for the concealed carry
24 off of the gun range in Charlotte, is that correct?

25 MR. QUAN: Yes, sir.

1 MR. CECIL: So you have no personal
2 knowledge that he collected any fees on the range
3 for any activity on the range?

4 A. Correct.

5 MR. CECIL: Okay. See, that was easy.
6 Counsel, I didn't mean to -- but I just wanted to
7 get it clarified.

8 MR. WARD: And I just have one question.
9 There was in exhibit previously, though, we
10 referenced where the same groups, Shoot2Win
11 Charlotte (inaudible) that Mr. Quan had on his
12 range referencing a concealed course. That I
13 believe you told me to defer until now, and based
14 upon Miss Toolie's testimony. I'd like to
15 introduce that exhibit (inaudible) concealed carry
16 on Mr. Quan's property and that there's a picture
17 (inaudible) on the carry course.

18 Q. And Toolie, when did you go to Mr. Quan's residence?

19 A. Maybe five weeks ago.

20 MR. CECIL: State it again, please?

21 A. About five weeks ago.

22 MR. CECIL: So what you have is
23 documentation where you can lay the foundation that
24 within -- how old is that photo?

25 MR. WARD: I'd have to look at the exact

1 date on it.

2 MR. CECIL: Is this the photo?

3 MR. WARD: Yes. June 25th.

4 MR. CECIL: Of this year?

5 MR. WARD: Yes.

6 MR. CECIL: And was that photograph
7 establishing Mr. Quan is having concealed carry
8 courses and that he's collecting a fee for it?

9 MR. WARD: This is actually the same
10 picture that Mr. Steczynski previously testified
11 to. The only difference is it's posted on
12 Mr. Quan's personal Facebook page which he has
13 subsequently deactivated after he made this post.

14 MR. CECIL: But wasn't this a photo of
15 another organization?

16 MR. WARD: It was a picture of --

17 MR. CECIL: On the back side? This is
18 what you're establishing is a concealed carry
19 class?

20 MR. WARD: Well, it says very clearly --

21 BY MR. WARD:

22 Q. (To the witness) Can you read this for the record?

23 MR. JUSTUS: I'm sorry, why is this
24 witness reading this? Wouldn't it be more
25 advantageous for him just to call Mr. Quan and ask

1 him about this photo?

2 MR. CECIL: Well, we also have someone
3 else here.

4 MR. JUSTUS: We also have that, but this
5 witness reading this doesn't add a foundation to
6 this.

7 MR. CECIL: You go ahead and present your
8 case. It's not an issue, I'm just trying to do --
9 I need to clarify photos so I know what I'm looking
10 at, okay? Now, I understand this one, and that
11 gentleman sitting right over there, and if he needs
12 to testify he can. Okay, go ahead, please,
13 Counsel. I don't think she needs to read it. You
14 can go ahead and read it.

15 Q. It's posted by Broken Arrow Training on Facebook, and
16 Mr. Quan already indicated that it's his account that he
17 has subsequently deactivated prior to this hearing, and
18 that the statement is: Friends and family for a
19 concealed carry, CCW, class. This is a photo taken from
20 Mr. Quan's personal Facebook page for Broken Arrow
21 Training range. It's indicated it was dated June 25.

22 MR. CECIL: I'll just ask you, because we
23 can't hear a word.

24 MR. WARD: I'm sorry. This is a photo
25 taken from Mr. Quan's Facebook page of Broken Arrow

1 Training range, and indicated was dated June 25th
2 and the tag line is: Friends and family for a
3 weapons class all (inaudible). And Mr. Steczynski
4 here has testified that he recognized the
5 identification on the back of the photo as well as
6 Mr. Quan in the foreground.

7 MR. CECIL: And you've laid the
8 foundation this is June 25, 2020?

9 MR. WARD: June 25, 2020, right. And
10 this would have predated Toolie's visit
11 approximately five weeks ago when he says he no
12 longer does that (inaudible) that he did prior to
13 her arrival.

14 MR. CECIL: But does this photo establish
15 the fact that he collected a fee?

16 MR. WARD: She just testified that she
17 was told by Mr. Quan that he collects fees for his
18 concealed carry weapons courses.

19 MR. JUSTUS: She just testified that for
20 friends and family he didn't charge a fee so again,
21 I think Mr. Quan will be testifying about that in a
22 second.

23 MR. CECIL: So we don't know if this is
24 friends and family or something else? It says
25 friends and family? I can't see, I get fogged up.

1 So that's friends family, and if he testified he
2 doesn't charge for friends and family then what is
3 he charging for?

4 MR. FOX: If you want, he can call
5 Mr. Quan.

6 MR. KLUTTZ: And again, you're not on
7 trial here. You just told us about a conversation
8 you had with Mr. Quan. Sir --

9 MR. CECIL: We're not quizzing you, we're
10 quizzing him.

11 MR. KLUTTZ: I think you need to talk to
12 Mr. Quan.

13 MR. CECIL: Yeah. So before you go, do
14 you have any questions of Mr. Quan -- do you have
15 any questions of this witness in regards to this
16 fee situation?

17 MR. QUAN: No, sir. I do need to make a
18 statement about when she came to my home that day.

19 MR. CECIL: You will be able to do so.
20 Thank you, ma'am. You did fine. Counselor?

21 MR. WARD: I have no other questions.

22 MR. CECIL: Anyone else at this time?

23 MR. JUSTUS: So is he done with his case?

24 MR. CECIL: Are you done with your case
25 in chief?

1 MR. WARD: I'll call Mr. Quan next.

2 MR. CECIL: Do you want these introduced
3 into evidence and do you have them numbered?

4 MR. FOX: We'll take a break.

5 MR. CECIL: We'll take a break, you do
6 it, and I think you've laid the foundation and
7 we'll be able to identify them. Should we take a
8 break now?

9 Go on, Mr. Quan. You have the right to
10 rebut any testimony that has been given.

11 MR. QUAN: What was the lady that just
12 talked? What did she say her name was?

13 MR. CECIL: She said that she came to
14 your house, you were very basically --

15 MR. FOX: Name.

16 MR. CECIL: What is her name, is that
17 what you were --

18 MR. WARD: Toolie Sullivan.

19 MR. QUAN: Yeah. The lady that reached out on me through
20 Facebook did not identify herself as this lady, and she
21 wanted some dialogue and said dialogue was good between
22 the community, Arrington, and myself. So I allowed her
23 to come to my home, and we sat on my porch and we talked
24 about what was going on and what I can do. I explained
25 several things that I can do because she broke down

1 crying less than five minutes into the conversation.

2 And as far as her statement, this falsehood, there
3 was nothing about concealed carry classes because I do
4 not teach concealed carry classes. There was a
5 statement that she made that her fiance wanted to take
6 some firearms training with me and I said absolutely,
7 there would be no charge for that. And I'm sorry this
8 happened. I hate to see a lady cry.

9 MR. CECIL: I do too. It's a sensitive situation, but did
10 you -- I'll ask unless you want to. Do you want to ask
11 a question in regards to --

12 MR. JUSTUS: Well, I think it's appropriate to go ahead and
13 address the photograph over there. Mr. Ward, what is
14 the exhibit number, is it Appellant 1?

15 MR. WARD: I do not remember the numbering. I will have a
16 sequence trying to match up when we break, so I can
17 designate it as Exhibit C.

18 MR. CECIL: Do it as Exhibit X right now, and we can proceed
19 with a number, would that be satisfactory?

20 MR. JUSTUS: Yes. I had thought that he was going to start
21 with Appellant 1 instead of picking up on our numbers.

22 MR. CECIL: Do you want to do this as Appellant 1 and then
23 we can --

24 MR. FOX: So let's just pick a number, and let's make it 1.

25 MR. CECIL: It's Appellant Exhibit 1. Now, is there a

1 question?

2 FURTHER EXAMINATION BY MR. JUSTUS

3 Q. Mr. Quan, if you would just explain to the Board --
4 first off, do you recognize Appellant Exhibit 1, this
5 photograph?

6 A. Yes, sir, I do.

7 Q. And what is the photograph?

8 A. That's a photograph of a concealed carry class that
9 qualified on my range, sir.

10 Q. And were you conducting the concealed claimant carry
11 class?

12 A. No, sir. I cannot as a safety officer teach that
13 specific class that day because I own the range, and
14 safety is of utmost importance and we always have
15 several safety officers, and I do not conduct them.

16 Q. Did you receive any compensation for this course?

17 A. No, sir, absolutely not.

18 Q. Now, the appellant had introduced some Instagram
19 information; I think Mr. Austin is going to come up and
20 testify. The information that you've seen that the
21 appellant has introduced about these charges, did you
22 ever receive those fees and charges?

23 A. No, sir. I do not charge for the use of the range at
24 all.

25 Q. From the standpoint of being obviously an expert more so

1 than a layman in shooting guns, is there any difference
2 in shooting a gun if later on somebody hands someone a
3 check for training versus someone shooting a gun and
4 there's no exchange of money? Is there any difference
5 in that than actually shooting the gun?

6 A. I don't understand what you're asking.

7 Q. I guess I'm asking what is a nonsensical question, but
8 at the end of the day in terms of gun shooting is there
9 any difference in how anybody conducts a gun versus
10 whether somebody got paid train to not paid to train? I
11 just --

12 MR. CECIL: Would you like me to try to
13 connect the dots?

14 MR. JUSTUS: Well, I asked that of
15 another witness, but he's the expert.

16 Q. At the end of the day, you operate this gun range and
17 you don't receive any compensation?

18 A. No, sir.

19 Q. That's all.

20 FURTHER REBUTTAL EXAMINATION BY MR. WARD

21 Q. Mr. Quan, how long have you been operating the range
22 without compensation? Has it always operated without
23 compensation?

24 A. That's correct, sir.

25 Q. So what benefits, material or otherwise, do you have in

1 offering the free use of your range?

2 A. For the satisfaction of teaching the safe use of
3 firearms and the proper use of firearms, and to be able
4 to teach children in the safe use the firearms. That's
5 the satisfaction that I get from it.

6 Q. So the costs associated to the construction of the berm,
7 the erection of the structure, cleaning up, everything
8 else but more exclusively by you 100 percent --
9 (inaudible)?

10 A. No, sir, that's not true, sir.

11 Q. And who pays for your (inaudible)?

12 A. Some of those folks, the gentleman in the top left is my
13 cousin. He was not charged to my knowledge by anybody's
14 class. He stays and helps me. Several of those stayed
15 and helped pick up, you know, some of the trash and help
16 clean up, and friends.

17 Q. What about the students that you don't know also --

18 A. I do not. I do not train or offer any kind unless I can
19 verify their background. I'm not allowed to teach three
20 guys how to operate an AR-15 and AK-47. That's not my
21 intention.

22 Q. And you saw the exhibits previously as advertisements
23 for these other groups that advertise the use of your
24 range and shooters. How do you screen those students
25 when they arrive at the facility?

1 A. (Inaudible)

2 Q. (Inaudible)

3 A. They're trained by the (inaudible), and I take their
4 word for it, that they can verify their own.

5 Q. Do you just screen everyone that comes onto your range?

6 A. Screened as a third-party, yes, sir.

7 Q. No further questions.

8 MR. CECIL: Do you have anything you want
9 to add?

10 THE WITNESS: I would like to add
11 something later, it depends how this thing turns
12 out, because I'm willing to extend an olive branch.
13 As far as my range is concerned, on Sundays I never
14 shoot after 1 PM, and there were some emails that I
15 was privy to from the Town that said Mr. Quan is a
16 clear and present danger to the children of
17 Arrington, to the Town of Huntersville, and our
18 children. That hurt me really bad. I'm not a
19 clear and present danger, I just carry a firearm.

20 The better part of my life I've protected
21 this country, but there's been some not so good
22 things said about me, but to extend an olive branch
23 I made the decision around two months ago to quit
24 shooting center-fired rifles on the range because
25 they are so loud. They can be loud. So I do not

1 allow center-fired rifles to be shot at my range.
2 Now it's 22s and primarily 9 millimeter handguns
3 when you can find them.

4 So I do not shoot on holidays, you know.
5 10 AM in the morning, we do not shoot before 10 AM
6 in the morning and at 8 o'clock at night, 8 PM the
7 range is shut down. There was some emails that I
8 was privy to from the Town where it stated that
9 there was gunfire at 10:30 at night. I go to bed
10 at 8:30 at night. I'm sorry, there's just a lot of
11 false things that were said about me.

12 MR. CECIL: Well, just to let you know,
13 those statements that you consider to be false are
14 just considered to be irrelevant and immaterial,
15 just making opinions known, and we do not look at
16 that as being evidence. So we don't look at that
17 as being anything degrading, have an effect on you
18 at all. That's their opinion and we don't have to
19 listen to that.

20 THE WITNESS: Yes, sir.

21 MR. CECIL: We listen to facts only.

22 A. I'm sorry.

23 Q. No, you don't have to apologize, I just want you to know
24 don't take that to heart in this regards at this moment.
25 Okay, anything else? Should we all take a break?

1 Counsel, are you completed with your -- or do you have
2 more?

3 MR. WARD: I am complete with this
4 witness.

5 MR. CECIL: Will you mark up your
6 exhibits? Do you have any other witnesses?

7 MR. WARD: No, sir.

8 MR. FOX: Does the Town have any?

9 MR. JUSTUS: I think we just have the one
10 rebuttal witness for this.

11 MR. CECIL: As we come back, we'll have
12 to get you sworn in. And I knew it was you, don't
13 ask me how.

14 We're going to take a five-minute break.

15 (A recess was taken from 11:02 to 11:10 p.m.)

16 MR. FOX: The Board has before it seven exhibits from the
17 applicant. The exhibits will be labeled Exhibit Number
18 1 being a photograph labeled Broken Arrow Training,
19 June 25th at 3:53 PM. Exhibit Number 2 will be another
20 photograph of Shoot2Win Charlotte. Exhibit Number 3 is
21 what is labeled Upcoming Training Classes July 25, 2020.
22 Exhibit Number 4 is also a photograph with wording that
23 indicates Shoot2Win, and we'll try to make sure we don't
24 confuse it, but it has 105 likes at the bottom. Exhibit
25 Number 5 is a photograph that indicates Pistol and the

1 number 1. Exhibit Number 6A are emails from the NRA
2 firearms instructor confirmation, the first one dated
3 Monday, August 3, 2020 at 9:12 AM; the second Exhibit,
4 6B, is also an email chain starting on Monday, August 3,
5 2020 at 9:10 AM. Exhibit Number 7 is again the
6 photograph of an individual showing a weapon from
7 Shoot2Win with 357 views.

8 Is there a motion to move the Applicant's
9 exhibits into the record?

10 (Motion was made to accept Applicant's Exhibits 1
11 through 7 into the record by Khristopher Ward.)

12 MR. FOX: Would opposing counsel like to be heard?

13 MR. JUSTUS: Mr. Chairman, I was just going to renew the
14 objections. I have several to these exhibits. They
15 included relevancy, they included hearsay, and lack of
16 foundation, so I'm just going to renew my objections.

17 MR. CECIL: We'll admit them into evidence noting your
18 objections. All right, while we're doing that, Khris,
19 are you done? Because I've been asked by others.

20 MR. WARD: I had an initial opening statement, I also have a
21 closing statement. (Inaudible)

22 MR. CECIL: Yeah, an opening statement and a closing
23 statement, and you've done that.

24 MR. JUSTUS: I do have one rebuttal witness.

25 MR. CECIL: Now, are we going to this witness now?

1 MR. JUSTUS: Yes.

2 MR. CECIL: Please come forward, Mr. Austin. After I give
3 you this attestation I will request that you sign.

4 (Mr. Austin comes to the microphone and an oath is
5 administered by the Board Chair.)

6 DIRECT EXAMINATION BY MR. JUSTUS

7 Q. Mr. Austin, if you'll go ahead and state your full name
8 for the Board.

9 A. My name is Robin Austin, resident of Mecklenburg County;
10 2508 April Liu Lane, Charlotte, North Carolina, 28213.

11 MR. CECIL: You can bring that up to you
12 a little bit so you don't have to bend over.

13 Q. And what do you do for a living?

14 A. I'm a law enforcement officer for Mecklenburg County.

15 Q. Do you work for the Sheriff's Department?

16 A. Yes, sir.

17 Q. So you've been in the room during this hearing where
18 there were several exhibits presented about groups that
19 use the gun range that Mr. Quan owns, correct?

20 A. Yes, sir.

21 Q. One of the documents is the appellant exhibit that has
22 Pistol 1 at the top.

23 A. Yes, sir.

24 Q. Are you familiar with that document?

25 A. I am, sir.

1 Q. I think it's Appellant -- what Appellant exhibit is it,
2 which you rattled off, Anthony?

3 MR. FOX: Number 4.

4 Q. All right, Appellant's Exhibit 4.

5 MR. WARD: That's not right.

6 MR. CECIL: Number 5, Pistol 1.

7 Q. If you can just tell the Board about this document.

8 A. The document is an advertisement for a basic pistol
9 course, and as is clear on the document, the lead
10 instructor is myself with Shoot2Win Charlotte, which is
11 an African-American gun club with co-instructors that I
12 invited.

13 And just to clarify some things, I've been a
14 firearms instructor with the State of North Carolina
15 Justice Academy since 2005, and I've been a concealed
16 carry instructor for the State of North Carolina since
17 2010. When I have events and individuals come to the
18 event that are members of the National American Gun
19 Club, I do have insurance. I have a \$2 million
20 insurance policy with a \$4 million advocate so they're
21 covered.

22 And so it's a basic pistol course. I advertise for
23 it. I do charge a fee that I collect, and I keep that
24 fee. (Inaudible) Mr. Quan, and we established a
25 relationship, and I don't pay him any money and I was

1 very gracious that he allows us to use his range. So
2 this is an advertisement for that course.

3 Some of the people that I am employed with are
4 Zumbi, that I invited to be co-rated safety officers
5 because of the number of students. We normally have no
6 more than one instructor for 4 to 5 people so if we've
7 got seven or eight or nine or ten students I want to
8 have enough rated safety officers to make sure that
9 everything is safe.

10 Q. So can you tell me, if you can recall, the first time
11 when you would have utilized Mr. Quan's firing range?

12 A. It was sometime this year. And we -- you know, before
13 using the range we actually became friends. That's why
14 we're friends and family, so that's I guess sometime
15 this year, earlier this year.

16 Q. So this advertisement is from earlier this year?

17 A. This is June 7th, and it's really noted on the document
18 that it's the June 7th class.

19 Q. And in any of the photographs, were you in any of the
20 photographs?

21 A. I was, yes, sir.

22 MR. CECIL: I think that's Exhibit 4.

23 A. I might have be in all of them.

24 MR. CECIL: I recognize you.

25 Q. Can you identify yourself in any of the photographs that

1 have been marked as appellant exhibits?

2 A. Yes. I'm in the foreground in both photos.

3 Q. So Appellant Exhibit 2 and Appellant Exhibit 4 you're in
4 the foreground of both photos?

5 A. Yes, sir.

6 Q. And tell the Board, what do the photos reflect?

7 A. It was after a course that I posted through Shoot2Win
8 Charlotte, and actually the first which I believe the
9 site is Zumbi Tactical, that was actually my event that
10 I invited him to be a rated safety officer.

11 Q. You invited who again?

12 A. The gentleman from Zumbi Tactical. And the second one
13 was a concealed carry course that I'd been the concealed
14 carry instructor since in 2010. I hold concealed carry
15 courses, and that was the other Exhibit 4, also with
16 foreground.

17 Q. Those are the questions I have.

18 CROSS-EXAMINATION BY MR. WARD

19 Q. Mr. Austin, is the time line of this course accurate, so
20 that you were shooting from 12 to 4 Eastern?

21 A. I believe that's correct, sir.

22 Q. And Mr. Quan previously testified that he doesn't shoot
23 before 1 PM?

24 A. That is exactly right. I did shoot till 1 PM. The
25 course is a four-hour course. There is classroom

1 portions between 12:00 and 1 o'clock, and we actually
2 didn't shoot that day until 1:45.

3 Q. Are you absolutely certain of that?

4 A. Absolutely unequivocally certain, without a shadow of a
5 doubt or any mental hesitation or reservation
6 whatsoever.

7 Q. Did you mark it down the start at the gun range on a
8 calendar, because it's a very precise time line you seem
9 to have laid out?

10 A. The reason we didn't start the classes, we had two
11 complaints. We didn't start shooting until 1:45.

12 Q. So in that four-hour window how much actual time is
13 spent on the range shooting?

14 A. Between 1:45 and 4 o'clock.

15 Q. So just over two hours. Now, down below it says that
16 each person is responsible for bringing between 200 to
17 500 rounds of ammunition, and you had also indicate that
18 there are multiple instructors if there was more than
19 four to five students per instructor, is that correct?

20 A. Yes, sir.

21 Q. So given that there were three instructors that day
22 between Reactive Solutions, Zumbi, and yourself, were
23 there 12 to 15 students?

24 A. We complemented -- or we provided more than actually was
25 necessary. I believe there might have been about 10-12

1 students that day, so had to have instructors and
2 students and (inaudible) participated in the class
3 appreciated the fact that we had a lot of instructors
4 for students going on.

5 Q. Now, you said Zumbi Tactical was a range safety officer
6 that day?

7 A. Acting; acting as a range safety officer. So this was
8 not his class, this was actually my class. I just put
9 his logo on there.

10 Q. Isn't it Mr. Quan who is normally the range safety
11 officer?

12 A. He is an additional range safety officer.

13 Q. So he was there that day?

14 A. Right. So we go off -- anytime we go out to shoot on
15 his property, I let everyone know the major range safety
16 person that makes all the tactical decisions on his
17 property is Mr. Shane Quan.

18 Q. I have no further questions.

19 MR. CECIL: Thank you, sir. Unless
20 Mr. Quan does. Do you have any questions of this
21 witness?

22 MR. QUAN: No, sir.

23 EXAMINATION BY THE BOARD

24 BY MR. BRADSHAW:

25 Q. I have a question. Sir, when Mr. Quan acts as your main

1 safety officer, he's not compensated for that role?

2 A. No, he's not. And really it's done out of respect
3 because it is his home. So we let everyone know that
4 even though I'm the chief instructor he's the range
5 safety officer there, and if they see anything that's
6 out of the ordinary or unsafe they would call.

7 By MR. CECIL:

8 Q. How long have you been using that range?

9 A. This year, earlier this year.

10 Q. At any time has Mr. Quan ever asked you for any
11 remuneration of any kind?

12 A. Absolutely not, sir.

13 Q. Do you help police the area a little bit, clean up?

14 A. Yes, sir.

15 Q. That's part of your using the facility then, I presume?

16 A. Yes.

17 Q. Thank you, sir.

18 MR. CECIL: Are we going to have a
19 rebuttal? Do you plan a closing statement after
20 your opening statement? What do you like? Would
21 you like a brief closing statement?

22 MR. WARD: Sure, unless the Board has any
23 other questions.

24 MR. CECIL: Anyone else down here have
25 questions at this time? I have a question, Jack.

1 BOARD QUESTIONS TO MR. SIMONEAU

2 BY MR. CECIL:

3 Q. You've heard a lot today in regards to the rebuttal in
4 regards to all these photos claiming that this is a
5 change in circumstances or change in use. Has any of
6 this that you've heard from the applicant, anything from
7 applicant's counsel or other witnesses, does that make
8 any difference to your determination?

9 A. No, it does not. It's a nonconforming use that has not
10 expanded beyond the boundaries and nothing I have heard
11 would cause me to change the decision.

12 MR. CECIL: Thank you. Any other
13 questions for Mr. Simoneau?

14 BY MR. KLUTTZ:

15 Q. So when I read the staff report, Mr. Simoneau, one of
16 the things I see that I've read probably half a dozen
17 times is where it says even if the range was in
18 violation of the firearms ordinance or the Town Zoning
19 Ordinance, the Town is precluded from taking any
20 enforcement action against the range under North
21 Carolina General Statute 1-491-51. My question to you
22 is if this Board doesn't grant the appeal what is -- and
23 maybe this is to Town Council -- what is the next step
24 in the process and do the residents of Arrington have an
25 opportunity to appeal beyond this decision?

1 MR. FOX: The decision of this Board and
2 its approval by either party to the member of the
3 Superior Court so the greater petition (inaudible).
4 That appeal is based solely on the record that's
5 created here tonight. There is no due evidence
6 about if a party went to the Board with that option
7 and the Court will base its decision solely upon
8 the record that is presented before the Court. The
9 Court is advised in determining whether to uphold
10 the determination of this Board, mainly on being
11 it's the Board's decision (inaudible) to comply
12 with the statutory requirements.

13 MR. CECIL: There is one other aspect,
14 that we can ask for a re-review within 30 days, but
15 you have to have new evidence. If there is no new
16 evidence you cannot ask for a re-review of this
17 Board. And that's a 30-day process, and that's
18 that.

19 All right, Counsel, have you got your
20 notes ready?

21 MR. FOX: The question is do you want to
22 do closing arguments now or do you want to wait
23 until after the public has spoken?

24 MR. WARD: I agree, I think it makes
25 sense to have the public's comments.

1 MR. CECIL: Is there anyone else who
2 would like to testify, whether you're sworn in or
3 not?

4 (Susan Lurz comes to the microphone.)

5 MR. CECIL: Please state your name and address. And you
6 have been sworn in already, ma'am?

7 MS. LURZ: Yes.

8 MR. CECIL: And you have signed?

9 MS. LURZ: Yes.

10 MR. CECIL: Thank you.

11 MS. LURZ: My name is Susan Lurz. I live at 14412 Beatties
12 Ford Road. My property would be the property between
13 Mr. Quan and Beatties Ford Road. I have 13 acres. I
14 just wanted to speak on behalf of Mr. Quan and to his
15 character. I moved to the property just over four years
16 ago, and on the first day I looked at my property I
17 could hear gunshots. And I came from a rural community
18 anyway up in the mountains and so it didn't bother me
19 that much. I just recognized I heard gunshots. I went
20 ahead and bought the property, moved in, and then I had
21 thought in my mind I wondered who was shooting and then
22 I find out eventually, whatever.

23 Well, then I met Shane, and he was the one, come to
24 find out, that was shooting and he told me what he was
25 doing down there, and I was so relieved. I was relieved

1 because this man, now I've known him for four years, he
2 is there for anything I need at any time and without
3 hesitation. I am a foster mom as well. He told me when
4 I became a foster mom anything I needed at all he would
5 be there. He wanted to give me this horn so in case I
6 had a problem in the middle of the night I could blow it
7 and he would come. I feel like I am blessed because I
8 have this man as my neighbor that is training people in
9 how to properly use a firearm.

10 I don't have an opinion about guns one way or
11 another, I just know that when I hear gunfire I know
12 what's going on, and that people are being properly
13 trained. That makes me feel safe.

14 I fully understand the folks that have bought new
15 properties and hearing their concerns. I fully do. I'm
16 a foster mom. I get it. I just know what's going on
17 there and the man that's conducting, you know, these
18 folks coming on his property and that it is very safe.
19 And I just wanted to say that as his neighbor who's a
20 few hundred feet away I feel very comfortable with
21 what's been going on there for over four years now.
22 Thank you very much. Is there questions?

23 (No questions.)

24 (Gregory Vandetta comes forward.)

25 MR. CECIL: Have you been sworn in?

1 MR. VANDETTA: No, sir.

2 MR. CECIL: Well, come forward and I'll swear you in.

3 (An oath is administered by the Board Chairman.)

4 MR. CECIL: Will you please give your name and address,
5 please?

6 MR. VANDETTA: My name is Gregory Vandetta, II. I live at
7 8033 Barnette Crest Drive. That puts me, if I'm looking
8 at the phone, directly next to Tyler Steczynski. So we
9 currently reside 330-350 feet from the range. I don't
10 think any of this here is an attack on Mr. Quan. I
11 think he has established that he has an excellent
12 character. Just by speaking to him tonight I truly
13 believe that myself. But I stand here as a supporter of
14 the Second Amendment. I have a concealed carry permit
15 in my pocket. As, you know, right now I have multiple
16 firearms. I own AR-15s, I have a couple other weapons
17 that have magazine capacities, you know, of 30 bullets.

18 What we see here and what I see as an issue is
19 there's more noise for a reason. I work for a company
20 who requires me to give safety briefings for conference
21 calls. I have to identify first-aid kits, someone to
22 dial 911, where first aid is, make sure you drink enough
23 water. I have to back into parking spots and then I
24 come home and we're placed within, you know, 350 feet of
25 a shooting range.

1 You know, I'm an avid deer hunter. I attend and
2 frequent ranges myself. I understand what a weapon is
3 capable of going or a gun, a firearm. You know, the
4 last several deer that I've gotten, there's been two or
5 three times further away than what Mr. Quan's range is.
6 So he says he primarily uses 9 millimeter pistols. He
7 just spoke on the record as saying that. A 9 millimeter
8 pistol -- and I'm not a marksman. I will never be
9 anywhere nearly as close as to what Mr. Quan is, but I
10 can hit a notebook paper from 100 yards with a 9
11 millimeter. That's how far away my back yard is -- my
12 back porch is from where these guys are discharging
13 firearms. So anybody there with their primary weapons
14 can turn easily.

15 And I have no doubt that Mr. Quan is an excellent
16 instructor. I have no doubt that Mr. Austin is an
17 excellent instructor, but guns jam and there are people
18 who will use weapons that they're not used to using, and
19 when it jams and they'll turn, and the bullets can go
20 flying through the woods. I mean that's a fact. And we
21 are in the middle of it. I have two young girls, I have
22 a pregnant wife who's bringing our third young girl
23 home. It is just an absolute hazard to have people
24 there.

25 In 1980 when the range was in existence and

1 Mr. Farrell was there shooting recreationally on the
2 weekends that's fine. But when you have businesses
3 coming to an establishment to instruct their training
4 courses because they aren't experienced as to what the
5 instructors are, and they're asking them to follow all
6 the safety protocol, you know, to me that's just kind of
7 -- that puts me beside myself.

8 And this range falls under two separate ordinances
9 regardless of zoning and how it was zoned and how many
10 years, but there's two safety ordinances that this range
11 falls under, and we're not close. I mean, I'm a third
12 of the distance away and Tyler's even closer for a
13 reason.

14 So culpability of the awareness of what we know and
15 what's going on inside Mr. Quan's property in relation
16 to us, that's a park, the little cul-de-sac, that is a
17 park that will soon be developed in the next couple
18 months with park benches, I believe a gazebo. I don't
19 think they're putting playground equipment in, but the
20 builder hasn't confirmed that. Our neighborhood is
21 frequently walked by insiders and outsiders, so it's
22 just the principle of the matter of what's going on and
23 the people that are using a range, experienced many,
24 inexperienced several, and their abilities to handle a
25 firearms and not discharge it in the wrong direction.

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1 Questions?

2 MR. CECIL: Yes.

3 EXAMINATION BY THE BOARD

4 BY MR. CECIL:

5 Q. Has any stray bullets come in your direction?

6 A. You know, I don't know that.

7 Q. Well, you should and would know it if was stray.

8 A. Well, if it hit my window I would know. Mr. Quan
9 testified that he can assure you that no bullet has ever
10 left his range, and I mean, that's speculation.

11 Q. But my understanding is that your property is at the
12 total opposite end of where they're shooting.

13 A. Sure.

14 Q. Let me just say, they're shooting to the right, your
15 property is to the left. All the safety precautions are
16 on the right. All the bunkers, all the berms,
17 everything is on the right. Based on what you're
18 saying, you're assuming that somebody is going to be
19 turning this way (indicating).

20 A. It can happen. Are you familiar with "American Sniper"
21 and the tragic story of Chris Kyle was in a fight at a
22 range by someone he was there with. That can happen. I
23 also know that at any range that I go to, when you're
24 loading your weapons or you're -- you can turn your back
25 to the firing range, you can turn easily just to put in

1 the magazine and turn back around. At any time when
2 they're reloading their weapon, that firearm could be
3 discharged in any direction.

4 Q. Isn't that what range masters and the instructor are
5 for, why they have the second party there to observe and
6 make sure --

7 A. They are there to assist, yes.

8 Q. To make sure that what you're asserting would never
9 happen?

10 A. It's not an actual --

11 Q. I'm not his advocate, I'm just trying to --

12 A. You can't guarantee that they can --

13 Q. You can't guarantee anything.

14 A. Absolutely.

15 Q. Even if it was 900 feet away you can come up with the
16 same argument.

17 A. You could. You could. But I know the capabilities of
18 weapons. You're right, it could be I mean 1200 feet
19 away to me is AR range because that's only 400 yards. I
20 mean 1200 feet is 400 yards. I can extinguish 200 and
21 300 yards.

22 MR. CECIL: Any other questions?

23 MR. JUSTUS: Just for the record, with
24 all due respect, I've got to object to the
25 testimony. It's more of a policy as issue --

1 (crosstalk).

2 MR. CECIL: We'd be extending the
3 courtesy to people in here to be able to express
4 their views. The Board would like to hear -- none
5 of this is actually admitted into evidence because
6 it isn't relevant or material.

7 MR. FOX: With all due respect, to the
8 extent the witness testified about confidential
9 material, the Board will take note of that.

10 BY MR. CECIL:

11 Q. But you don't label yourself as an expert in firearms
12 and marksmanship and weapons?

13 A. Well, I would be -- no, I can't be a marksman. I'm not
14 a military --

15 Q. But not an expert --

16 A. -- designation or anything.

17 Q. But had general --

18 A. No. No, I'm not a military guy. I am a trained user of
19 firearms, yes. I've taken safety courses, and like I
20 say, concealed carry courses, absolutely.

21 Q. We will respect your opinion then.

22 A. Thank you.

23 Q. Thank you, sir. Anyone else?

24 (Anna Winter comes to the microphone.)

25 MR. CECIL: Have you been sworn in?

1 MS. WINTER: Yes.

2 MR. CECIL: And you've signed?

3 MS. WINTER: Yes.

4 MR. CECIL: Please give your name and address.

5 MS. WINTER: My name is Anna Winter. I live at 3925 Austin
6 Valley Drive, Lenoir, North Carolina. I would like to
7 talk today about how I know Mr. Quan. I've been knowing
8 Shane at his range for seven years. I feel like I'm the
9 oldest shooter at his range. Just to give a little
10 background, because I feel like it kind of talks to what
11 kind of gain Mr. Quan is getting out of this, is I was
12 invited to his range when I moved to the area in 2013
13 after being a victim of abuse and violence.

14 I was learning how to defend myself someplace else
15 and then somebody, a friend of Mister Shane -- friend of
16 Mr. Quan's that told me that he had a private range that
17 I can use free of charge in a little bit of a more
18 secluded area. I wouldn't be around a lot of other
19 people shooting like at an indoor range. So I met

20 Mr. Quan in 2013. Before even going down to his
21 range, which it's a significant walk with natural berms.
22 I think we spent about an hour going through basic
23 handgun, basic safety. And yes, after that I shot on
24 his range and I've returned many times over the last
25 seven years. I can say that over the past seven years I

1 have seen no changes to the range. The direction of
2 shooting has always been to the berms, the natural berms
3 and the new berms.

4 I was always away from the subdivision, and I have
5 never seen him charge anybody. I've never been charged,
6 and I've just never seen any changes that he made to the
7 range. I do understand the concerns of the community;
8 however, in very rural North Carolina I hear gunshots
9 all the time, and I'd rather know that Mr. Quan is
10 (inaudible) rather than somebody else. I know how very
11 serious he is.

12 MR. CECIL: The only comment I'll make,
13 and this would be direct testimony in regards to
14 Mr. Quan not receiving any fees from this young
15 lady here and that she has not seen any changes in
16 the seven years, so I would consider that to be
17 direct testimony and admissible. Would you agree,
18 Counselor?

19 I think it's for the Board to decide the
20 weight of the evidence.

21 Thank you, ma'am. Any other people who
22 would like to testify?

23 (Jesse Leonard comes to the microphone.)

24 MR. CECIL: Have you been sworn in?

25 MR. LEONARD: Yes, sir.

1 MR. CECIL: And you signed?

2 MR. LEONARD: Not yet.

3 MR. CECIL: You will, okay.

4 MR. LEONARD: My name is Jesse Leonard. I'm an Arrington
5 community member. I live at 11123 Greenfelt Avenue. I
6 wanted to reach out because I live in the community, and
7 when I heard about the gun range I was a little
8 concerned not knowing exactly what was going on there in
9 relation to guns.

10 I received Shane's information, I can't remember
11 how, I think it was one of the neighbors, but I gave him
12 a call and asked if I could come up to his range to see
13 what he had set up. And I shoot with my friends. I do
14 own firearms. And when I went out there I immediately
15 was relieved. After we went down this hill, what the
16 young lady was just describing, I drove my truck down
17 there. I was concerned about getting it back up.
18 That's how you got down to where shooting in the berms.
19 But everything about that to me, that situation when I
20 was out there made me feel a lot safer, and I do live in
21 this community. I felt like there should be some
22 representation from our community that does have a
23 different opinion, not that I don't understand the
24 concerns of my neighbors and not that I believe that
25 they are wrong. I just believe it's different than what

1 I believe.

2 And for me, I wanted to come because I know this
3 gentleman has been living here for ten years or more,
4 and I've only been living there for a year, so I wanted
5 to see some justification for him that we're going to
6 encroach on his way of living after being there for so
7 long, when I believe the biggest person at fault here is
8 the homebuilder Lennar, which they have made a lot of
9 money off of all of us and done a very poor job in -- I
10 don't know what the plan is, but just the drainage in my
11 yard I can assure you that's a bigger grievance that I
12 have. But they're at fault for a lot of this stuff, and
13 there's a lot of people here today that are being
14 punished from my community and the gentleman that's been
15 living here for a long time. I feel the real culprit is
16 not the one being questioned, and I thought a little bit
17 of perspective from the inside of the community would
18 have been nice and different.

19 MR. CECIL: Any questions?

20 MALE SPEAKER: Can you state your distance from the range?

21 MR. CECIL: I'm sorry, with all due respect you cannot ask
22 any questions.

23 MALE SPEAKER: That should be relevant.

24 MR. CECIL: Your counsel can if he wishes to.

25 FEMALE SPEAKER: What's the address?

1 MR. LEONARD: Well, if you want to talk -- I understand the
2 safety concerns.

3 FEMALE SPEAKER: You don't.

4 MR. CECIL: Ma'am -- (crosstalk) -- ma'am, you have counsel.
5 Ma'am, the attorney can ask the question if you wish. I
6 think he understands what question you'd like to ask and
7 he can ask it.

8 FEMALE SPEAKER: Thank you.

9 EXAMINATION BY MR. WARD

10 Q. Mr. Leonard, you are not within 900 feet of the range,
11 is that correct?

12 A. That's correct.

13 Q. And so you would not have been subject to the disclosure
14 regarding the proximity to the range, is that correct?

15 A. Of the ordinance, correct.

16 Q. I didn't ask about the ordinance, I asked about the
17 condition of approval regarding proximity that Lennar
18 had a specific obligation to disclose.

19 A. I did not receive the specific disclosure of 900 feet,
20 but to elaborate to that, that was a Lennar concern.

21 Q. To be clear, you would not have had standing under the
22 Town Ordinance (inaudible)?

23 A. Well, I'm not sure what the ordinance read, but to my
24 understanding from being here the last five hours was it
25 was up to Lennar to disclose to us about the ordinance.

1 And I understand your safety concerns, but if I could
2 have just a second to address it, I do understand that
3 you guys have small children and I feel for all of you.
4 And there's other concerns I have in the neighborhood
5 that are equally as dangerous. One of neighbors ran
6 over one of our trees with a 3000 pound vehicle. I
7 mean, that did happen, and that have killed a child too.
8 So I understand that things can happen, it's just
9 different.

10 MALE VOICE: (Inaudible)

11 MR. CECIL: I did not want to use this
12 gavel, please. The audience cannot ask questions
13 and make comments, please. That's what counsels
14 are here for and what we're here for. And have
15 some respect for this gentleman because he did not
16 interrupt you when you spoke.

17 Do you have any other questions?

18 MR. WARD: I don't have any other
19 questions.

20 MR. CECIL: And just to let you know,
21 there's a number of on this Board who know about
22 Lennar. Have any of you discussed the possibility
23 of -- I know, I'm not going to say -- I think you
24 know what I'm --

25 A. You're alluding to calling Lennar?

1 MR. CECIL: That's correct, I'm alluding
2 to it, and there's probably a number of us here who
3 wouldn't mind seeing that happen, with all due
4 respect. Thank you, sir.

5 (Susan Johnson comes to the microphone.)

6 MS. JOHNSON: I have been sworn in. My name is Susan
7 Johnson and I just wanted to -- one thing to your point
8 about nobody's being paid. I also am very similar to
9 Anna in regards to how I know Shane, and I've known
10 Shane since 2014 when I almost lost my life and my kids
11 because some guy decided to stop and was arrested eight
12 times and the cops did not do anything. So a police
13 officer actually introduced me to Shane because he's the
14 only one who could actually help me help myself to
15 protect myself and my kids. I have never one time ever
16 seen him since 2014 take payment; I've never one time
17 seen him do anything other than be respectful to all of
18 his neighbors.

19 So yes, guns are scary absolutely. At the end of
20 the day all kind of things in life can be scary, but you
21 have to protect yourself, you have to protect your kids,
22 and that's all you can do for yourself.

23 MR. CECIL: Any questions?

24 (No questions.)

25 MR. CECIL: Thank you, ma'am. Any other?

1 (Mr. Austin stands.)

2 MR. CECIL: Do you want to come up to rebut something? Come
3 on up, because you've been referred to.

4 (Mr. Austin comes to the microphone.)

5 MR. AUSTIN: Yes. I want to say as a law enforcement
6 officer and public servant for this county for 20 years
7 that I really, as a parent of children, I grimace at
8 what you guys are going through. It is very unfair and
9 it's very scary as a husband and a father. And I know
10 what gunfire can do. I know what a stray round can do
11 to a person. And I've been entrusted by this County,
12 I've been entrusted by the State of North Carolina to
13 train individuals in the safe use of firearms.

14 I've been entrusted to police the county, and if
15 the County trusts me with that great responsibility,
16 then take it to heart and know that I will do everything
17 possible as a firearms instructor to make sure, as your
18 husband alluded to, he's absolutely right. A stray
19 round could leave that range and it can cause incredible
20 damage. And we know that, and Shane knows that. In
21 every opportunity we take to exercise safe firearms
22 handling is what we do, which is why on some days we had
23 so many more instructors to absolutely certify.

24 And I do that now and not on Shane's range. I do
25 it on the sheriff's range, I do it for the state of

1 North Carolina. So I just want to say my heart goes out
2 to you. I really feel for the residents in that
3 community. And whatever the decision is, just know that
4 as a firearms instructor I'm always going to do what's
5 in the best interest of my community. Thank you.

6 MR. CECIL: Anyone else?

7 (No response.)

8 MR. CECIL: I think you're on at this point.

9 MR. WARD: Members of the Board, I would like to thank you
10 for your time tonight. It's been a very, very long
11 proceeding and I'm sure you're all eager to wrap this up
12 and go home. I just want to note some inconsistencies
13 in the testimony.

14 Everyone who spoke about Mr. Quan's range all began
15 shooting there from 2013 to 2012 onward, which is
16 consistent with the date that Mr. Quan commenced
17 construction of the berm in 2012 when he erected the
18 first berm, came back and erected a wooden structure
19 over that berm, and then in 2013 got rid of a tree he
20 says fell down, and encroached on (inaudible) another
21 berm. But the Zoning Ordinance is very clear, and
22 that's really all that we should be focusing on tonight.

23 The safety issues are ancillary, but the Town has
24 the ability and discretion to rule on your focus is did
25 Mr. Quan's actions violate the Zoning Ordinance. And

1 the nonconforming use provisions are very clear that you
2 cannot erect structures, not that you can't erect safety
3 improvements, you simply cannot erect structures and
4 it's clearly in the record that he did that.

5 You also saw that prior that in 2009, Mr. Quan
6 voluntarily and irrevocably dedicated the very portion
7 of his property where the range now sits to be preserved
8 in perpetuity as Open Space for the communal benefit to
9 all the residents. And you can see from the Zoning
10 Ordinance what the conditions of that berm access and
11 preservation.

12 So regardless of what the Town or Mr. Quan might
13 like you to believe, the recorded plats, historical
14 surveys, and historical aerial images all prove that
15 there was no berm, no structure of any kind arranged in
16 that area prior to 2009. Thank you.

17 MR. CECIL: Counselor?

18 MR. JUSTUS: Thank you, members of Board. It has been a
19 long night and you've been very patient. The Town of
20 Huntersville made a policy decision when they enacted
21 this ordinance, and they created a nonconforming section
22 in the ordinance. It happens to adopt what North
23 Carolina law generally requires, is that if you are
24 someone using your property and you are using it in a
25 way -- when you're using the land before a regulation

1 comes in place, generally the law recognized that as a
2 grandfathered use and case law protects that. It's a
3 constitutional right.

4 And you will find that most local governments
5 embrace that principle and will have nonconforming
6 principles that are consistent with case law. And here
7 the Town of Huntersville has created in their ordinance
8 a nonconforming section that says lawfully existing
9 nonconforming uses are allowed to continue. And so what
10 has happened here is your zoning administrator made a
11 determination based on what your zoning administrator
12 believed to be credible information, which he received a
13 notarized statement from Mr. Farrow indicating that a
14 gun range was on the property as of 1980 that --

15 MR. WARD: 1979.

16 MR. JUSTUS: I'm sorry, this is my closing statement.

17 MR. CECIL: It's his closing argument.

18 MR. JUSTUS: And that that gun range was transferred to
19 Mr. Quan. Not only did the zoning administrator rely on
20 that, he also relied on the interviews with Mr. Quan,
21 his review of aerial photos of the property. So the
22 zoning administrator made a determination that the
23 nonconforming section of the ordinance protected that
24 property.

25 Now, the neighbors have asked that the shooting

1 range stop and cease. The Town enforced it so it has to
2 stop. Well, having determined that it's a nonconforming
3 use, the determination is it's lawfully there. So when
4 you look at that section there's nothing that then
5 prevents someone from improving the safety of that, so
6 constructing a wooden structure to keep bullets from
7 flying off, to erect berms doesn't change the use of the
8 property as a firing range had just made it safe. And
9 actually, the testimony was those safety improvements
10 actually confined the area where the shooting
11 historically took place, so it narrowed the area where
12 the shooting took place.

13 And to the statement that well, these berms were
14 constructed 2012 and therefore it was something new, you
15 heard the testimony, there was a large natural berm on
16 that property prior to these improvements being done
17 that people were shooting into. So there was always a
18 berm there. Because of the natural topography these
19 improvements didn't change the use, they just made
20 things safe.

21 So at the end of the day, in Exhibit 9 there is a
22 section of your ordinance that protects nonconforming
23 uses. The zoning administrator says that they should be
24 protected. There's nothing that was presented to your
25 zoning administrator that indicated that the use had

1 expanded in any way, and you've heard nothing here
2 tonight that would indicate otherwise.

3 And so at the end of the day, once someone is
4 grandfathered there does come a burden of those who want
5 to object to it to present evidence of well, it may have
6 been this way but now it's something else. And quite
7 frankly, the appellant's presentation of the case did
8 not show you that. It didn't show you that there has
9 been some expansion of use for this piece of property.

10 The last thing I will say is as it's indicated in
11 the staff report when one of the Board members asked
12 Jack this particular question is, there's a state
13 statute that says, and this is 1-49, that says if you
14 are aware of the facts of a use of land as a Town and
15 you do nothing for five years, you're precluded from
16 going after that use and stopping it. That's what
17 General Statute 1-49 says.

18 And so if you had January of 2015 a grand
19 discussion of this gun range where Mr. Quan is present,
20 and what happens at the end of the day the Town's
21 decision is I hear all this, I know there's a gun range.
22 The relief is we're going to make that developer post
23 notice to buyers so they know it. And so five years ago
24 1-49 precludes the Town from enforcing even if we
25 thought there was a zoning violation. The facts are

1 known as of January 2015, and the Town has consistently
2 made the call that we believe this is a grandfathered
3 use. That's why at the end of the day the burden was
4 placed on the developer to notify.

5 So there's nothing that today, in terms of the
6 evidence presented by the appellant, we believe would
7 change the zoning administrator's determination, and we
8 ask that you affirm his determination tonight. Thank
9 you again for your patience.

10 MR. CECIL: Okay, Mr. Quan, do you wish to say something in
11 conclusion?

12 MR. QUAN: No, sir. Thank you, though, appreciate it.

13 MR. CECIL: Anything else?

14 MR. FOX: One final thing I did see, looking through this
15 book and there were these exhibits that you referred to
16 earlier. These were the aerials that were made at
17 different times, I believe from March of 1998 through
18 March of 2010. I think you referenced to them as part
19 of the administrative record but they were not, and you
20 were going to present them in your case in chief. I
21 didn't know, for purposes of the record, whether or not
22 with your standing objection you wanted these added to
23 the record.

24 MR. CECIL: I think that had to do with a tree or something
25 in that respect.

- 1 MR. WARD: It did, and evidence also was (inaudible) the
2 Town's (inaudible).
- 3 MR. FOX: I would suggest you add them as Exhibit A with
4 your continuing objection.
- 5 MR. CECIL: Well, we're supposed to try to summarize this,
6 with all due respect. We have -- the applicant's got
7 the burden of proof, in my opinion. He's trying to show
8 that there's been a substantial change in the use of the
9 property. He's presented it by photos of other people
10 being on the property, the position that the berm has
11 changed and many things were changed to substantiate the
12 granting of appeal. I think, was that the simple way of
13 stating it, Counsel?
- 14 MR. WARD: Sure.
- 15 MR. CECIL: The Town, on the other hand, says their hands
16 are tied, they have been grandfathered in, it's
17 nonconforming section, they can't do anything about it,
18 they have to follow the rules and the law. So now we
19 have to make a determination where it's going to be.
20 Does that basically summarize it?
- 21 MR. JUSTUS: Yes, sir.
- 22 MR. CECIL: If you want to extend it we may be here for an
23 hour more.
- 24 MR. JUSTUS: I'm not inclined to do that.
- 25 MR. CECIL: Okay. On that I'm going to close the public

1 discussion. There will be no more from the audience.
2 We are now going to take over to discuss this. We have
3 a right to ask questions of anyone out there that's had
4 testimony. Who would like to start? Would you like to
5 start down there? You have no questions? Do you have
6 anything more?

7 MR. KLUTTZ: Is this just discussion amongst us?

8 MR. CECIL: This is discussion amongst us and you can ask
9 anyone out there that you want any questions you have.

10 MR. KLUTTZ: I don't have any questions, but I think one of
11 the things that everybody needs to know, something I've
12 struggled with 16 years since I participated in similar
13 Board of Adjustment hearings, is one of the things I
14 want everybody to hear that we have to see is the
15 standards for granting an appeal, the Board of
16 Adjustments shall reverse or modify the Board's decision
17 determination and permutations under appeal only if they
18 find an error in the application of these regulations on
19 the part of the officer entering an order or decision of
20 termination to interpret this.

21 So we've spent four or five hours with the
22 applicant telling us why they think there was an error,
23 and I've looked at Exhibit 9, Nonconforming Uses, a
24 hundred times over this hour period trying to find --
25 trying to -- I forgot about that. I wasn't paying any

1 attention to whether Mr. Quan was getting paid, was he
2 (inaudible) or just different organizations. I don't
3 have to talent (inaudible) used for a commercial use so
4 that wasn't there. And then I started trying to find --
5 if I wanted to try to be -- if I wanted to say a
6 nonconforming uses has been expanded did I really see
7 constricting the space and maybe moving dirt around, and
8 I thought about this. What if he had been building a
9 dirt project? That's the way I would think.

10 So I lived in Harrisburg in Cabarrus County. We
11 built a dirt bike track on two acres and people didn't
12 like it. But it wasn't continued considered a change of
13 use or expansion or anything. So I tried to look at
14 this not as the place where -- not as a shooting range
15 but is any change in use, you know, and I didn't see
16 where what I consider to be restriction of space, not a
17 modification to the facility. I think the language here
18 is not intended or built into or something, you know,
19 whatever you want to describe it. These pictures of the
20 berms -- and every time I looked at that -- and you made
21 me really think about it.

22 You did a pretty good job, but you know, I always
23 went back to could I find an error in the application of
24 these regulations, and I've worked with the staff a long
25 time and I hold them accountable and they'll tell you.

1 And Jack will be the first one to tell you. And I can't
2 find the error in the application. And that's how I
3 made my decision. All the other stuff was great
4 information, but when you get right down to it I just
5 didn't see where -- I could not find the error in the
6 application. So I'll share that with the rest of the
7 Board members and, you know, that's kind of where I'm at
8 with this.

9 MR. CECIL: Thank you, Joe.

10 MR. JACOBSON: It's been an interesting conversation. I
11 have deep sympathies for the residents, and I also was
12 touched by Mr. Quan and the depth he has gone to try to
13 do what he can to minimize the impact. I was frankly
14 disappointed by the due diligence the planning
15 department did to clarify the startup of the range.

16 The reason I asked about revenue was I wanted to
17 know if there were tax returns that could prove that the
18 range was in business for X amount of time, and then I
19 wanted to look at insurance to see, you know, again how
20 long was it there, and we weren't able to get to that.
21 But then when you looked at the appellant and you looked
22 at some of the documentation, there were some holes in
23 that.

24 So I especially focused on one of the documents in
25 here that looked like the range was shooting at the

1 neighborhood, and I was like, okay, but that's not true
2 at all. It's shooting away from the neighborhood. And
3 then I came back to the North Carolina General Statutes
4 which overrides all local laws. And so the reality is,
5 the State has taken the decision out of our hands unless
6 you were able to say that there was a meaningful change
7 or that the range was not in operation until after '94,
8 and none of those things seemed to be proved out.

9 MR. CECIL: Any comments?

10 (No further comments from the Board.)

11 MR. CECIL: This has been long, and it is sympathetic for
12 the neighbors, especially concerning this lack of
13 notice. And if I read this correctly, there was some
14 type of notice given. It may not have been the full
15 notice that was required by the planning board, but I
16 think, if I recall correctly, the developer said
17 something. Would that mean that a new buyer would be
18 alerted to the fact that there is a gun range nearby,
19 whether somebody said it's within 900 feet or not. I
20 think I would have been alert and say where is it, what
21 is it, and what's going on. I do admonish Lennar for
22 not doing the full proper notice.

23 So whatever decision we make, it isn't going to
24 make everyone happy. So the only thing I'm going to do
25 right now is entertain a motion. Joe, you'll have to

1 give the motion.

2 MR. KLUTTZ: I will make a motion that based on the
3 standards for granting an appeal and all the information
4 that's been relayed before this Board tonight that this
5 Board was unable to find an error in the application
6 regulations, therefore, we deny the appeal.

7 MR. CECIL: Is there a second?

8 MR. LOUCKS: I second.

9 MR. CECIL: Is there discussion?

10 (No comments.)

11 MR. CECIL: Is there any further discussion at all in
12 regards to the motion?

13 (No comments.)

14 MR. CECIL: Is there any other motion to be made?

15 (No comments.)

16 MR. CECIL: Well, the motion has been made, and I'm going to
17 call for the vote.

18 (Motion to deny the appeal carried unanimously.)

19 MR. CECIL: The appeal has been denied. With all due
20 respect to the neighbors, and it's based on the law and
21 North Carolina law in this nonconformity. We're stuck
22 by it, folks. We are stuck. But I thank you for all
23 your indulgence and I appreciate you putting up with us.

24 Now, the only other comment I'm going to make is
25 that Mr. Quan has indicated he would like to work with

1 you neighbors, is that correct, you'd like to figure
2 something out? This is off the record here.

3 (WHEREUPON, the hearing on Appeal No. A20-01 was
4 concluded and the record was closed at 12:19 a.m.)

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STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

CERTIFICATE OF REPORTER

I, SALLY W. LOWRANCE, CVR-M, Notary Public, do hereby certify that the foregoing hearing was taken and transcribed under my supervision and direction, that the parties were present as stated, and that I am not of counsel for, or in the employment of any of the parties to this action, nor am I interested in the outcome of this action.

I do further certify that the foregoing 168 pages constitute a true and accurate transcript of the testimony.

This the 13th day of September 2020.

SALLY W. LOWRANCE, CVR-M

Notary #19971610098

Lowrance Reporting Service, Inc.
(704)543-7995 or (888)292-4528



**Board of Adjustment
Regular Board of Adjustment Meeting Minutes
Sept 15, 2020 - 6:30 PM
Recreation Center**

A. Roll Call, Determination of Quorum

Quorum was determined, and Chairman Cecil called the meeting to order.

Regular Members in attendance: E. Cecil, Chairman, B. Welch, J. Kluttz, T. Primiano, D. Brewer and S. Genenbacher

Alternate Members present: J. Bradshaw, J. Loucks, and P. Jacobson who was called upon to serve as a Regular Member.

Regular Members absent: W. Smith

B. Approval of Minutes

C. Hearing of Cases

Prior to testimony, a group attestation was completed for all parties' involved or giving testimony to the case. This included the applicant, Hana Cayton, 10415 Donahue Drive; Brian Richards, Assistant Planning Director; and Lauren Speight, Planner 1.

The Chairman read the disclosure statement to the members: The parties to this case are entitled to an impartial board. A board member may not participate in this hearing if she/he has a fixed opinion about the matter, a financial interest in the outcome of the matter, an undisclosed *ex parte* communication with a party, or a close relationship with an affected person. Does any board member have any partialities, *ex parte* communication, financial interest, or a close relationship with affected persons to disclose and recusal to offer? There were none.

C.1. V20:04: 10415 Donahue Drive, request for a variance from Article 4, Detached House, Section 8: Setback for mechanical equipment encroaching in required setback.

Lauren Speight, Planner I (also referred to herein as "staff") presented, and entered the Staff Report into the record through verbal testimony as indicated below, and written documentation, which is attached hereto as Exhibit A, and incorporated herein by reference.

Findings of Fact with Staff's Position (ordinance standards are in italics):

Please see Exhibit 1 for the applicant's responses to the required criteria for granting a variance.

In considering any variance request, the following *Standards for Granting a Variance* (Article 11.3.2.e) must be addressed with findings of fact:

Standards for Granting a Variance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- 1) *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.*

It is Staff's position that:

- a. The strict application of the Ordinance (Article 4, Detached House, Typical A) requires the subject property does not include any mechanical equipment in any required setback, which would require the mechanical equipment be relocated. Relocating the mechanical equipment would incur an additional cost to the property owners.
- b. The survey dated July 21, 2020 included with the application demonstrates the HVAC units encroach 2.2' into the required side yard setback.
- c. The applicants state that without variance the property owners, "will be forced to relocate 2 HVAC units once replacement is necessary. That action requires permit. Inspector will catch encroachment." In correspondence with Staff, the applicants stated they received an estimate for the relocation of the HVAC units. While the applicants indicate HVAC technicians recommend the HVAC units not be relocated until replacements are required, evidence has not been provided that the HVAC units cannot be relocated to the rear of the home. Staff confirmed with Mecklenburg County Code Enforcement a mechanical permit would be required when the units are replaced and relocating the units may require plan review for the mechanical permit. However, Staff confirmed replacing the HVAC units would require a permit regardless of relocation of the units.

It is Staff's position that:

The apparent oversight of the side yard setback encroachment was not the fault of the original property owner. The strict application of the Ordinance may include adjustment of side yard property lines and removal or relocation of the mechanical equipment.

Staff's position is that while the strict application of the Ordinance requires the relocation of the mechanical equipment either immediately or at the time of replacement, unnecessary hardships would not result from carrying out the strict letter of a zoning ordinance. Staff's position is that this criterion has not been satisfied.

- 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.*

It is Staff's position that:

- A. All detached homes located in the Town of Huntersville's Neighborhood Residential Zoning District must comply with Article 4 regarding mechanical equipment.
- B. The applicants state the builder installed two HVAC units within the side yard setback and Mecklenburg County issued the Certificate of Compliance with the existing encroachment and the applicant purchased the home as new.
- C. Based on the subdivision plat map, the shape and size of the property are similar to adjoining properties. No easements or right-of-ways were recorded on the subdivision map or survey by the applicant that would prevent the HVAC units from

being located in the rear yard. According to Polaris 3G, the topography of the rear yard does not prevent the location of HVAC units. Based on the subdivision plat map, the application, and data from Polaris, evidence does not demonstrate physical characteristics of the rear yard prevent the location of HVAC units.

It is Staff's position that:

Staff's position is that this criterion has not been satisfied.

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.*

It is Staff's position that:

- A. The original property owner purchased the home from the builder as new in 2009.
- B. Mecklenburg County building permit records with the Zoning Plot Plan are no longer available as the home was built in 2009.
- C. As the property was built in 2009, Mecklenburg County completed the zoning inspection on behalf of the Town for the Certificate of Occupancy.
- D. The Co-applicants Jonathan Ian Cayton and Hana Cayton purchased the property August 18, 2020.

It is Staff's position that:

As the encroachment appears to have existed since the original construction of the home and the home received a Certificate of Occupancy, Staff finds the hardship did not result from actions taken by the current property owner.

Staff's position is that this criterion has been satisfied.

4)*The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.*

It is Staff's position that:

- A. Article 8.10 of the Zoning Ordinance indicates all detached principal structures in all districts shall preserve a minimum building separation of 10 ft.
- B. The condition is existing. And, to date, Staff has not received any complaints from adjacent property owners.
- C. Staff can administratively waive a deviation of no more than 3% (1.8 inches). The setback minimum is 5 ft for the side yard and the HVAC units encroach 2.2' into the required side yard setback.

It is Staff's position that:

While the home encroaches into the side yard setback and does not preserve the 5 ft. side yard setback to allow for the required 10 ft. building separation between principal structures, it is not a safety concern nor is it encroaching into the neighboring property. Staff has not received nuisance complaints regarding the HVAC units.

Staff's position is that this criterion has been satisfied.

STAFF POSITION:

The applicant is seeking a variance of 2.2' from the Article 4 minimum side yard setback requirement to allow an existing encroachment of mechanical equipment to remain. Staff finds that unless a variance is granted the property owner would be required to relocate the HVAC units. While the encroachment into the side yard setback was not the fault of the original property owner, Staff determines evidence does not demonstrate unnecessary hardships would result from carrying out the strict letter of a zoning ordinance. And, the current property owners were aware of the encroachment before the purchase of the home.

Though it appears the neighboring properties have approximately the minimum 5ft side yard setback required and modifications to the side yard property lines may not be an option, the HVAC units could be relocated.

Staff recommends denial of the variance request; while the application satisfies the 3rd and 4th criteria for recommendation for approval of the variance request, the 1st and 2nd criteria have not been satisfied. However, at the time of the zoning inspection for the Certificate of Occupancy for the home, Mecklenburg County LUESA completed inspection on behalf of the Town of Huntersville. The encroachment has existed since the construction of the home and is not self-created by the current property owners. The encroachment does not pose a safety threat and Staff has not received any complaints regarding the encroachment. As the 2.2' deviation is greater than 3%, Staff is not able to administratively waive the encroachment.

E. Cecil asked the applicant if they would like to make a statement. H. Cayton responded that they had completed a HVAC inspection and were told that there would be risk of damaging the mechanics moving them and it was recommended that they keep them where they are. E. Cecil asked if a copy of that recommendation was available, it was not.

T. Primiano asked if there was any additional information regarding what would be involved for the homeowner in pulling a mechanical permit to move the equipment either immediately or when it needed to be replaced. Staff stated that there was no evidence provided that the equipment could not be moved. H. Cayton responded that there had not been an inspection completed to determine this.

J. Klutz commented that the original permitting was likely done correctly and the error lied somewhere else, he then asked if this was a known issues through this neighborhood. Staff confirmed that was correct and the County inspection failed to note the error and to the best of our knowledge through aerial photography this is not an issue through the neighborhood.

S. Genenbacher noted that per the September 2009 survey the original owner was aware of the issue and asked if the applicant had been given an estimate as to the cost of relocating the equipment. H. Cayton responded that verbally she was told it would exceed \$1000.

E. Cecil asked if they were in knowledge of the issue when they purchased the home and if any consideration for the expense of moving the equipment had been negotiated with the previous owner. H. Cayton stated that they had not negotiated this expense as the previous owner was not open to negotiation and the realtor had advised them that they could apply for a variance. E. Cecil responded that unfortunately something should have been done to come into compliance instead of simply applying for a variance and the

wording of Article 8 that the equipment 'shall not encroach' does not leave room for interpretation.

The question was put to Staff if there have been any complaints by neighbors related to the noise from the equipment. Staff responded that there have not been any complaints filed.

J. Klutz made a Motion to Deny; In considering Staff's position for V20-04, a request by Hana Cayton and Krista Rinehart (property owner) for a variance from Article 4, the Planning Department requests denial of the variance request based on a finding that while the request satisfies the 3rd and 4th criteria for recommendation for approval of the variance request, the 1st and 2nd criteria have not been satisfied. The Planning Department believes that the request meets two of the four criteria for granting a variance.

1. The property is located at 10415 DONAHUE DRIVE HUNTERSVILLE NC 28078.
2. Krista L Rinehart purchased the subject property October 8, 2009.
3. The property is zoned Neighborhood Residential, Traditional Neighborhood Development Overlay.
4. The property has a 5' side yard setback
5. This property is subject to Article 4, Detached House, Typical A of the Huntersville Zoning Ordinance.
6. The house is located in Vermillion Phase 4 which was subdivided September 11, 2007 under Town of Huntersville Zoning regulations.
7. The approved subdivision plat Map 48, Page 902 lists the minimum side yard setback as 5 ft.
8. The house was built in 2008 and at the time Mecklenburg County LUESA conducted zoning inspections for Certificates of Occupancy on behalf of the Town of Huntersville.
9. The original owner obtained a survey September 21, 2009 of the subject property, herein included, demonstrating HVAC units encroaching into the required right side yard setback.
10. Another survey was obtained in the process of the sale of the subject property July 21, 2020 demonstrating the HVAC units encroach 2.2' into the required side yard setback.
11. Jonathan Ian Cayton and Hana Cayton purchased the property located at 10415 DONAHUE DRIVE HUNTERSVILLE NC 28078 on August 18, 2020.
12. On August 11, 2020, Staff received a variance application for a variation from Article 4, Detached House, Typical A.

E. Cecil made a recommendation that this order not be enforced until the natural fail of the equipment, at which time the new equipment should be installed in the correct location.

S. Genenbacher seconded the Motion. The Motion carried (6-1) with T. Primiano opposed.

D. Other Business

E. Adjourn

Approved this ____ day of _____ 2020.

Chairman or Vice Chairman

Board Secretary

**Town of Huntersville
Board of Adjustment
October 13, 2020**

To: Town Board

From: Lauren Speight, Planner 1

Date: October 13, 2020

Subject: V20-05 - Consider an impervious request for 8201 Sandowne Lane

EXPLAIN REQUEST:

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. V20-05 Staff Report_Final Combined

Variance #20-05, 8201 SANDOWNE LN HUNTERSVILLE NC 28078

Case #: V 20-05
Address: 8201 SANDOWNE LN HUNTERSVILLE NC 28078
Parcel #: 009-156-01
Acreage: +/- .327
Property Owners/Applicants: GREGORY S EVATT, KRISTINA J EVATT
Staff: Lauren Speight – Planner I

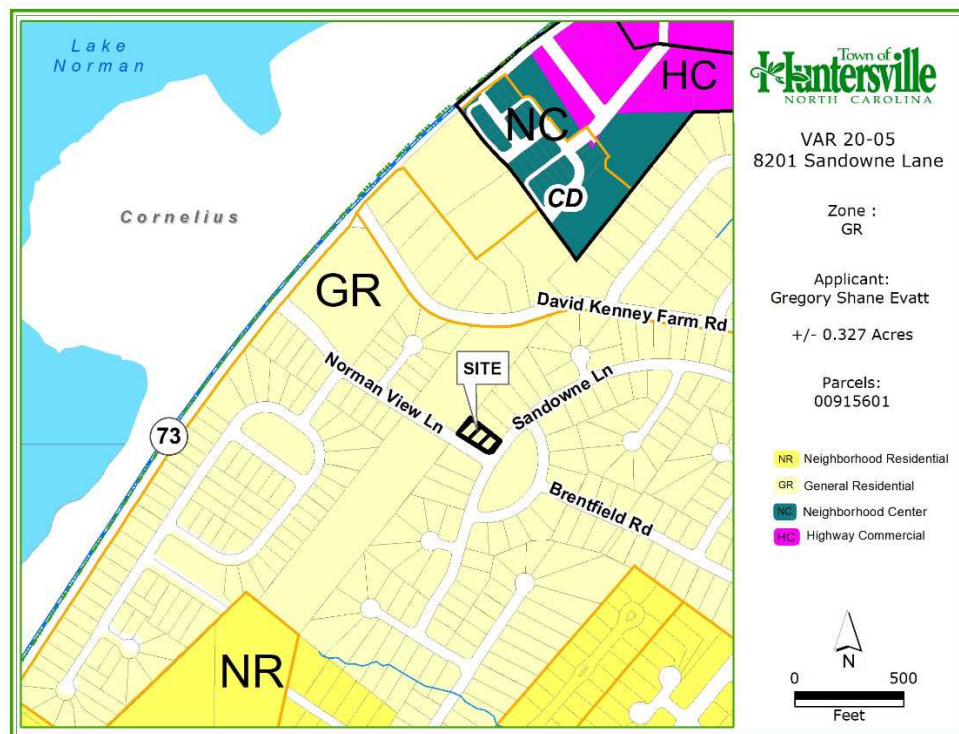
The applicants GREGORY S EVATT and KRISTINA J EVATT, are requesting a variance from Article 3.3.2-B, Section E of the Town of Huntersville Zoning Ordinance. The subject property is located within the Mountain Island Lake Protected Area. This request is for a major variance to increase the impervious built upon area for the property by 533 square feet. See Exhibit A for the variance application.

e) Built-Upon Area Development Standards

For individual buildings or for development projects within Protected Areas 1 and 2, the following impervious area limitations are established on a building or project basis.

PA1 and PA2, low density option	24% B.U. with curb and gutter streets ¹ 36% B.U. without curb and gutter streets ¹
PA1 and PA2, high density option, where permitted	70% B.U. with BMP ¹

¹ Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant



Staff Findings of Fact on Variance #20-05, 8201 SANDOWNE LN HUNTERSVILLE NC 28078

Findings of Fact with Staff's Position (Ordinance Standards are in Italics):

Please see Exhibit A for the applicant's responses to the required criteria for granting a variance.

In considering any variance request, the following *Standards for Granting a Variance* (Article 11.3.2.e) must be addressed with findings of fact:

1. The subject property is located at 8201 SANDOWNE LN HUNTERSVILLE NC 28078.
2. The subject property, Lot 350, was created May 7 1997 as a part of Birkdale Phase 2, Map 2 (Map Book 28, Page 316).
3. The subject property is zoned General Residential (GR).
4. The subject property is located within the Mountain Island Lake Protected Area 2 Watershed, which has a maximum of 24% allowable built area.
5. Mountain Island Lake Watershed regulations were effective October 1, 1993 and all new subdivisions of land within the Watershed boundary area were thereafter subject to the applicable subdivision regulations unless prior approval was granted.
6. The subject property was developed per the applicable Watershed regulations and per the recorded plat map the property has a maximum built upon area of 3,800 square feet.
7. The subject property was built in 2000.
8. Mecklenburg County LUESA completed zoning reviews and zoning inspections for residential single family building permits at the time a building permit would have been issued for the subject property.
9. GREGORY S EVATT and KRISTINA J EVATT purchased the subject property April 28, 2011 per Deed Book 26447, Page 533.
10. Morris & Moffit, Inc submitted a building permit for the subject property for a remodel December 26, 2019.
11. Town Staff approved zoning as noted, "POST CONSTRUCTION INSPECTION REQUIRED." The issued permit, B3675430, includes the scope of work is a room addition. And, the permit notes indicate "remodel per plans existing back porch into heated square footage to include a bedroom, bathroom, and screen porch. Also adding deck with ramp." The plot plan for the issued permit did not include a paver walkway, patio addition, or any other impervious beyond the structures included in the plot plan.
12. The zoning review was routed to Town Staff January 24, 2020 and Town Staff completed the first zoning review January 31, 2020 with a disapproval. Town Staff reviewed zoning again February 6, 2020 and approved zoning as noted, "POST CONSTRUCTION INSPECTION REQUIRED."
13. Upon receipt of the zoning inspection request Town Staff reviewed the permit details and requested the applicant provide a survey with impervious detail to ensure the maximum built upon area was not exceeded.
14. Town Staff use the Mecklenburg County GeoPortal impervious area estimate of current use to evaluate if properties can accommodate additional impervious area. The Mecklenburg County GeoPortal estimates the subject property is currently using 3,029 square feet of impervious area.
15. Alan Moffit submitted a zoning inspection requested for permit B3675430 June 22, 2020.
16. Staff replied to Alan Moffit June 23, 2020 indicating a survey with impervious calculations was required for the completion of the zoning inspection.

17. GREGORY S EVATT emailed Staff June 30, 2020 indicating the survey by Coore Land Surveying showed the property exceeds its impervious area and the property owners were interested in applying for a variance.
18. Staff spoke with the property owners during a conference call July 6, 2020 to discuss options to bring the property in compliance. The property owners described the history of the non-conformity and Staff offered options for the property to come into compliance (removal of excess impervious, replacement of impervious with pervious material, impervious area transfer, or Density Averaging Certificate). See also Exhibit I.
19. The Certificate of Occupancy for B3675430 was revoked July 9, 2020.
20. On September 7, 2020 Staff received a variance application from the property owners for a variance from Zoning Ordinance Article 3.3.2-B, Section E for an increase in impervious area of 533 square feet.
21. The maximum built upon area for the subject property is 3,800 square feet per the recorded map (MB 28, P 316). The survey included in the application, performed by Andrew Coore June 30, 2020, documents the property is 4,333 square and thus 533 square feet over its impervious maximum. As the variance request is for 533 square feet, which is greater than 10% of the maximum built upon area for the property, this variance application is a major variance request.
22. Per Article 3.3.2-C, major variances mean variance from the minimum statewide water supply watershed protection criteria that result in any one or more of the following: **1) Petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of more than 10%;** 2) petitions for variation in the design, maintenance or operation requirements of a wet detention pond or other approved storm water system; and 3) petitions for the reduction of any management requirement that applies to a development proposal intended to qualify under the high-density option.
23. Per Article 3.3.2-C, the Board of Adjustment, acting as the Watershed Review Board, may advise approval of a major variance petition upon satisfying the findings of Section 11.3.2 f, or upon finding that significant community economic or social benefit would be derived from the granting of the variance.
24. Per Article 3.3.2-C, A decision by the Watershed Review Board to approve a major variance shall be advisory only. The Watershed Administrator shall within 30 days forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission for final decision.

Standards for Granting a Variance

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all the following:

1) 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.

It is Staff's position that:

- A. For compliance of the existing excess of impervious area, the strict application of the Ordinance (Article 3.3.2-B – Section E) requires: 1) removal of the impervious overage; 2) the subject property obtain an impervious transfer from an eligible lot within the subdivision of the subject

property; 3) the subject property obtain a Density Averaging Certificate and plat revision with an eligible property within the Town.

- B. The subdivision plat map that includes the subject property recorded the maximum built upon area correctly.
- C. The issued permit, B3675430, does not include the property is located within the Mountain Island Lake Protected Area Watershed. However, the issued permit includes the project required a post construction inspection.
- D. As a department policy, Staff does not require a survey with impervious detail for the zoning review if a project is not proposing to leave 250 square feet or less of impervious area. Per Mecklenburg County GeoPortal data and the proposed additional impervious area for building permit B3675430, this project proposed a compliant addition and thus received zoning approval for the building permit.
- E. During the course of the zoning inspection, after the completion of the project, Staff learned the property is over its impervious maximum.
- F. The applicants state, “after the addition [of a handicapped accessible bedroom, bathroom, and screened porch], a stone sidewalk and patio of approx. 560 sq ft were added to the side and back of the property. The changes were made in order to accommodate and allow conveyance of an electric chair for a handicapped person on to and around the property.” Additionally, the applicants state the builder nor landscaper were aware of the impervious area limitations. However, the applicants also state, “there was an estimate that the impervious area would not be exceeded by building the addition and that additional impervious area would still be available for the installation [of] the side walk and patio.”
- G. At-grade patios do not require Town approval and thus would not require Town review before installation.

It is Staff’s position that:

Town Staff use the Mecklenburg County GeoPortal impervious area estimate of current use to evaluate if properties can accommodate additional impervious area. The Mecklenburg County GeoPortal estimates the subject property is currently using 3,029 square feet of impervious area. In addition, building permit B3675430 requested an additional 465 square feet of impervious area. The plot plan for the issued permit does not include the walkway and patio. As this building permit did not propose to leave 250 square feet or less of impervious area, Staff would not have required a survey before issuing zoning approval.

As evidence is not included demonstrating efforts to achieve compliance through removal of excess impervious area, impervious transfer, or Density Averaging certificate, Staff determines this standard has not been met.

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.

It is Staff’s position that:

- A. The size and shape of the subject property are comparable with all other lots within Phase 2, Map 2 of the Birkdale neighborhood.
- B. All 42 residential single-family lots recorded within Phase 2, Map 2 of the Birkdale neighborhood have the same maximum built upon area.
- C. Paver stones are considered an impervious surface by the Mecklenburg County Storm Water Administrator as well as the Town Land Development Engineer.
- D. The applicant states, “the [electric wheel] chair cannot be used on mulch, straw, sand, or other soft loose surfaces.”

It is Staff’s position that:

Evidence is not included that physical characteristics of the lot prevent compliance with Watershed regulations. The property shape and size are comparable with all other single family lots within Phase 2, Map 2 of the Birkdale neighborhood. And, all 42 residential single-family lots recorded within Phase 2, Map 2 of the Birkdale neighborhood have the same maximum built upon area. Staff does not find evidence included in the application demonstrating this standard has been met.

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.

It is Staff’s position that:

- A. While at-grade patios do not require Town approval and thus would not require Town review before installation, the plot plan for the issued permit does not include the walkway and patio.
- B. The applicants state they, “were not made aware of the impact of impervious area limitations prior to the installation of the back patio and sidewalk that resulted in the impervious area overage.”
- C. The applicants also state, “there was an estimate that the impervious area would not be exceeded by building the addition and that additional impervious area would still be available for installation the side walk and patio.”
- D. The subject property was created May 7 1997 as a part of Birkdale Phase 2, Map 2 (Map Book 28, Page 316) and per the recorded plat map the property has a maximum built upon area of 3,800 square feet.

It is Staff’s position that:

Evidence is not included demonstrating efforts to achieve compliance through removal of excess impervious area, impervious transfer or Density Averaging certificate, Staff determines this standard has not been met.

As evidence is not included demonstrating the hardship did not result from actions taken by the property owner or contractor on behalf of the property owner, Staff determines this standard has not been met.

4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

It is Staff's position that:

- E. Per Article 3.3.2 of the Town of Huntersville Zoning Ordinance, "The intent of the Mountain Island Lake Watershed Overlay District is to provide for the protection of public water supplies as required by the NC. Water Supply Watershed Classification and Protection Act (G.S 143-214.5) and regulations promulgated there under. The Mountain Island Lake Watershed Overlay may be applied in any zoning district. The Mountain Island Lake Watershed Overlay District supplements the regulations of the underlying zoning district within the Mountain Island Lake Watershed Protection Area to ensure protection of public drinking water supplies."
- F. Per Article 3.3.2-B of the Zoning Ordinance, "The intent of these regulations is to allow development with fewer restrictions in protected areas 1 and 2 than in the critical areas because the risk of water quality degradation from pollution is less in the protected areas than in the critical areas."
- G. Mountain Island Lake Watershed regulations were effective October 1, 1993 and all new subdivisions of land within the Watershed boundary area were thereafter subject to the applicable subdivision regulations unless prior approval was granted.
- H. The subdivision plat map established the maximum built upon area for the subject property is 3,800 square feet.
- I. A building permit was issued February 7, 2020 for the addition of 200 square feet of heated area, conversion of 265 square feet, and the addition of 200 square feet of deck.
- J. Though a permit is not required for at-grade patios, the plot plan for the issued permit does not include the walkway and patio.
- K. The 533 square feet increase of impervious area is greater than 10% of the maximum built upon area for the lot, thus this request qualifies as a major variance request.
- L. Per Staff correspondence with Rusty Rozzelle, Mecklenburg County Water Quality Program Manager and Storm Water Administrator, any increase beyond the maximum built upon area limit for the property necessitates mitigation to ensure water quality standards are met (Exhibit E).

It is Staff's position that:

Staff recognizes the diversity of needs residents of the Town of Huntersville experience. Variances requests are used when unnecessary hardship would result from the strict application of the ordinance. And, Staff's determination is based solely upon the finding of facts and the standards for granting a variance as set by North Carolina General Statutes.

Staff determines the requested variance is not consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. The intent of the Mountain Island Lake Watershed Overlay District is to provide for the protection of public water supplies for multiple municipalities. While this variance request is for only one individual property, any property that exceeds its maximum built upon area limit contributes to degradation of water quality.

If the property engaged in a Density Averaging Certificate or demonstrates water quality standards are met, Staff determines this standard could be met. However, as evidence is not included demonstrating efforts to achieve compliance through an impervious transfer or Density Averaging certificate, Staff determines this standard has not been met.

Staff Position:

The applicants are seeking a variance from Section E of Article 3.3.2-B of the Huntersville Zoning Ordinance for the excess of 533 square feet of impervious area. Staff determines that if the Board of Adjustment does not advise approval for the requests the property owner would be required to: 1) remove the excess impervious area; 2) obtain an impervious transfer from an eligible lot within the subdivision; or, 3) obtain a Density Averaging Certificate from an eligible lot in the Town.

The application with regard to the variance request for the existing impervious area does not meet any of the standards of Article 11.3.2, Section E.

Therefore, based on the application and evidence submitted Staff recommends the Board of Adjustment recommend denial of the variance request.

Attachments:

Exhibit A – Variance Application

Exhibit B – Vicinity Map with Zoning

Exhibit C – Topographical map

Exhibit D – Aerial Map

Exhibit E – Map Book 28, Page 316

Exhibit F – 2020 Building Permit

Exhibit G – Plot Plan submitted February 6, 2020

Exhibit H – County Town Correspondence

Exhibit I – Town Property Owner Correspondence

Exhibit J – Article 3.3.2-B, Section E – Zoning Ordinance

EXAMPLE MOTION: V20-04, 10415 DONAHUE DRIVE

Planning Department	Board of Adjustment
DENIAL: In considering Staff's position for V20-05, a request by GREGORY S EVATT and KRISTINA J EVATT for a variance from Article 3.3.2-B, Section E of the Town of Huntersville Zoning Ordinance, the Planning Department recommends denial of the major variance request based on a finding that none of the standards for granting a variance have been met. Findings of fact to support denial are listed on pages 2-7 of this staff report.	APPROVAL: In considering Staff's position for V20-05, a request by GREGORY S EVATT and KRISTINA J EVATT for a variance from Article 3.3.2-B, Section E of the Town of Huntersville Zoning Ordinance, the Board of Adjustment advises approval of the major variance request based on a finding that the request meets _____ of the four criteria, outlined in the Zoning Ordinance, for granting a variance. The Board of Adjustment finds the request meets _____ of the four criteria for granting a variance based on the following findings of fact: <i>(explain findings of fact)</i>
	DENIAL: In considering Staff's position for V20-05, a request by GREGORY S EVATT and KRISTINA J EVATT for a variance from Article 3.3.2-B, Section E of the Town of Huntersville Zoning Ordinance, the Board of Adjustment denies the major variance request based on a finding that the request meets _____ of the four criteria, outlined in the Zoning Ordinance, for granting a variance. The Board of Adjustment finds the request meets _____ of the four criteria for granting a variance based on the following

Exhibit A – Application



Variance Application

Date of Application: September 8, 2020

Property/Building Address: 8201 Sandowne Lane Huntersville NC **Parcel Size (ac):** 0.327

Tax Parcel ID (PIN) Number(s): 00915601

Text of Ordinance to be varied

Ordinance: Zoning Article: 3.3.2-B Section: Section E

Overlay District of Protected Area PA2 Build Upon Area, Impervious Area

This request is to allow a variance of 533 square feet of impervious area. The amount is only 14% higher than

the allotted 3,800 square feet due to the addition of a stone walkway and patio. This area was

added to facilitate access to the backyard for a handicapped person in a motorized wheel chair.

Submittal Requirements and Procedure

The following must be submitted with the completed application (signed and dated by the property owner and/or applicant):

- One (1) hard copy and one (1) electronic copy of any applicable map(s), site plans, exhibits, and applications showing exact location of property with respect to existing streets, adjoining lots and other important features on or contiguous to the property. Also, include any maps and/or illustrations (to scale), which are necessary to show the location, number and size of buildings, signs, etc., on the property.
- A list of names, addresses and tax parcel identification numbers of properties that abut the site, are across the street from the site or are otherwise within one hundred feet (100') of the site. (Electronic format preferred)
- Review Fee (Please check most recent version of Fee Schedule for applicable Variance Review Fee)
- See the current Board of Adjustment Submittal Deadlines and Meeting Schedule for filing deadlines and meeting dates
- Please submit your complete application and fee by **noon the day filing deadline**

Notifications Requirements

Planning Staff will be required to notify in writing each adjoining property owner.

Planning Staff will also be required, if you are seeking a variance from the requirements of the Mountain Island Lake or Lake Norman Watershed Overlay Districts, to notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption as follows:

- * Mountain Island Lake Watershed Overlay. Local governments having jurisdiction in the watershed: Charlotte Mecklenburg, Cornelius and Huntersville. Entities using the water supply for consumption: Mecklenburg County, Gastonia and Mount Holly.
- * Lake Norman Watershed Overlay. Local governments having jurisdiction in the watershed: Davidson, Cornelius and Huntersville. Entities using the water supply for consumption: Mooresville, Mecklenburg County and Lincoln County.

Variance Requirements

STANDARDS FOR GRANTING A VARIANCE (Article 11.3.2.e.):

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all the following:

1. 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.
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.
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.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed by the Board (Article 11.3.1.e.).

In the following spaces, indicate **FACTS** that demonstrate to the Board of Adjustment you meet all the standards for granting a variance:

1. 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. The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property.

In July of 2020 there was an addition to the property consisting of a handicapped accessible bedroom and bathroom and a screened porch totalling 540 sq ft. After the addition, a stone sidewalk and patio of approx. 560 sq ft were added to the side and back of the property. The changes were made in order to accomodate and allow conveyance of an electric wheel chair for a handicapped person on to and around the property. (continued below)

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 difficulty or hardship is peculiar to the property and is not generally shared by other properties classified in the same zoning district and/or use for the same purpose.

The paver stones for the back patio and additional side walks were recommended by the landscaper versus impervious sufraces such as mulch or wood as being superior in stability, traction and durability for use by an electric wheel chair. The chair cannot be used on mulch, straw, sand or other soft loose surfaces.

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.

As noted in the response to section 1, the homeowners were not made aware of the impact of impervious area limitations prior to the installation of the back patio and sidewalk that resulted in the impervious area overage.

4. The public safety and general welfare have been protected and substantial justice done.

As this year marks the 30th anniversary of the Americans with Disabilities act, it seems apparent that all people, especially local governments can see the value and justice in facilitating as much access as possible to handicapped individuals to allow them to enjoy the same quality and enjoyment of life as their able bodied families and neighbors. It would seem fair and reasonable for city's zoning ordinance, or at the very least the variances, to account for those with handicaps and disabilities. Without this requested variance, our father / father-in-law Alva will not have access to the yard area with the rest of the family and would be relegated to the deck, unable to participate in normal backyard family activities. In addition, 450 sq ft of the patio pavers are bordered by at least 10 feet of permeable surfaces which facilitates the capture of stormwater runoff. which is in line with the intent of the ordinance.

1 (Continued from above) Neither the builder nor the landscaper were aware of the impervious area limitations so were unable to advise us of the impact. In reviewing all our documentation for the projects, the subject of impervious area was noted by the architect though not the impact or limitations it might present to the project completion. There was an estimate that the impervious area would not be exceeded by building the addition and that additional impervious area would still be available for the installation the side walk and patio.

Applicant

Printed Name Gregory Shane Evatt / Kristina J Evatt Phone 704-965-4978

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: Individual homeowner

☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable if box is checked)

Signature Gregory Shane Evatt Kristina J Evatt Date September 8, 2020

Title Home owner Applicant Phone 704-965-4978

Applicant Email gsevatt@live.com

Address of Applicant 8201 Sandowne Lane Huntersville NC 28078

Property Owner (if different than applicant)

* Printed Name Same as applicant Phone _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the owner my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable if box is checked)

Signature _____ Date _____

Title _____ Applicant Phone _____

Applicant Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

Town of Huntersville	Phone: 704-875-7000
Planning Department	Fax: 704-875-6546
PO Box 664	Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Huntersville, NC 28070	Website: https://www.huntersville.org/228/Planning-Department

Received By Planning Department Staff: _____

Staff Initials: _____

LEGEND:

R/W	RIGHT OF WAY	M BK	MAP BK & PG
NIR	NEW IRON REBAR	D BK	DEED BK & PG
N/F	NOW OR FORMERLY	P.D.E.	PUBLIC DRAIN E'SM.'T
E.I.R.	EXIS'T. IRON REBAR	ESM'T.	EASEMENT
E.I.P.	EXIS'T. IRON PIPE	O.P.L.	OVERHEAD POWER LINE
C.P.	CALCULATED POINT (NO POINT FOUND/SET)	P.	PORCH
		C.	CHIMNEY
		S.	STOOP
P.P.	POWER POLE	CONC.	CONCRETE
	PROPERTY LINE		UTILITY MARKER
	FENCE		EASEMENT LINE
	H.V.A.C. UNIT	EXIS'T.	EXISTING

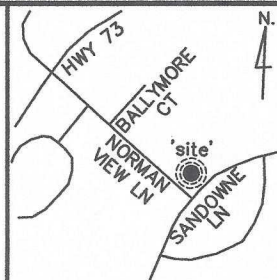
CURRENT HUNTERSVILLE ZONING

CLASSIFICATION: GR
(from GIS report)

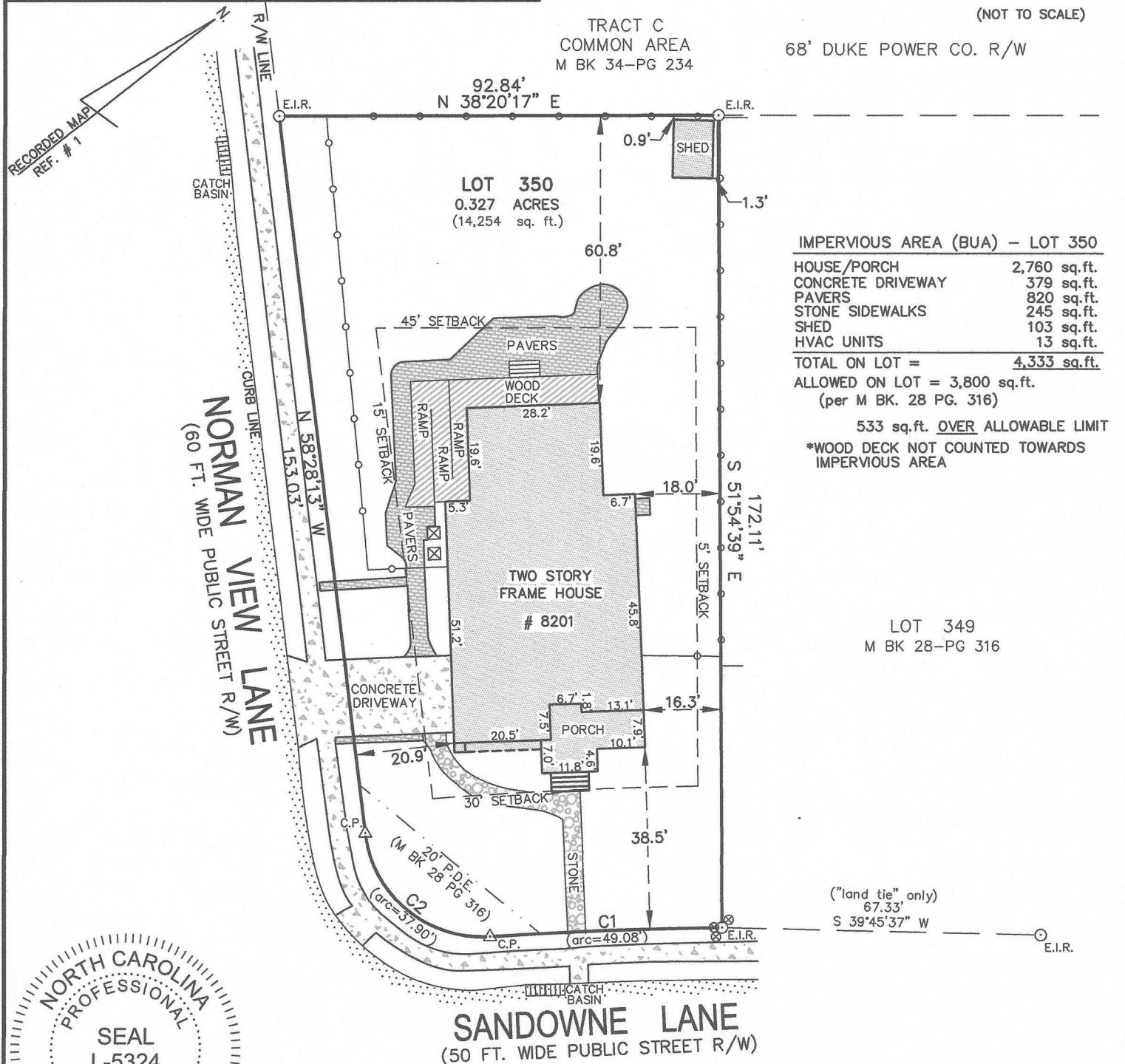
ZONING NOTED ON RECORDED PLAT: R-3 Cluster

BUILDING SETBACK LINES SHOWN ON LOT ARE FROM THE RECORDED PLAT AS FOLLOWS:

FRONT=30 FT. SIDES=5/15 FT. REAR=45 FT.
(from Plat)



VICINITY MAP
(NOT TO SCALE)



LEGAL REFERENCES USED FOR SURVEY:

- 1.- RECORDED MAP (PLAT) IN MAP BK 28, PG 316, on 5-27-1997.
- 2.- DEED-RECORDED IN D BK 26447, PG 533. (into EVATT)

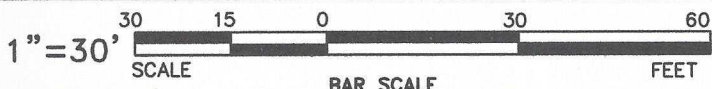
GENERAL NOTES:

1. F.E.M.A. F.I.R.M. PANEL # 37104 63200 K, DATED: 2-19-14 - ZONE X. PARCEL IS NOT LOCATED IN ANY SPECIAL FLOOD HAZARD AREA
2. DIMENSIONS SHOWN ARE IN FEET (FT.) & DECIMAL PARTS OF A FT. (').
(ex: 0.5' = 6 inches / 0.75' = 9 inches / 1.0' = 12 inches).
3. A LAND TITLE POLICY, IF ANY, WAS NOT FURNISHED TO THIS SURVEYOR, THEREFORE THERE MAY BE ITEMS OF RECORD NOT SHOWN HERE.

"I HEREBY CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY MADE UNDER MY DIRECT SUPERVISION ON THE DATE SHOWN BELOW; AND THAT THIS SURVEY AND MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA, BOARD RULE 21 NCAC 56.1600."

Andrew C. Coore **6-30-2020**
ANDREW C. COORE NC PLS L-5324 (signature) DATE

DATE OF FIELD SURVEY: JUNE 29, 2020



FOR

KRISTINA J. EVATT & GREGORY S. EVATT (Owners)

LEGAL LOCATION

LOT No. 350
" **BIRKDALE, Phase 2 Map 2** "
TOWN OF HUNTERSVILLE MAP BK 28-PG 316
MECKLENBURG Co., No. CAROLINA

STREET ADDRESS **8201 SANDOWNE LN., CHARLOTTE**

RECORD OWNER **KRISTINA J. EVATT & GREGORY S. EVATT**



MAP DATE: JUNE 30, 2020
FILE # 2020-0209
TAX i.d.# 009 156 01
DISK # Flash # 1

drawn by: andrew c.
field crew andrew c.

Exhibit B –Zoning Map

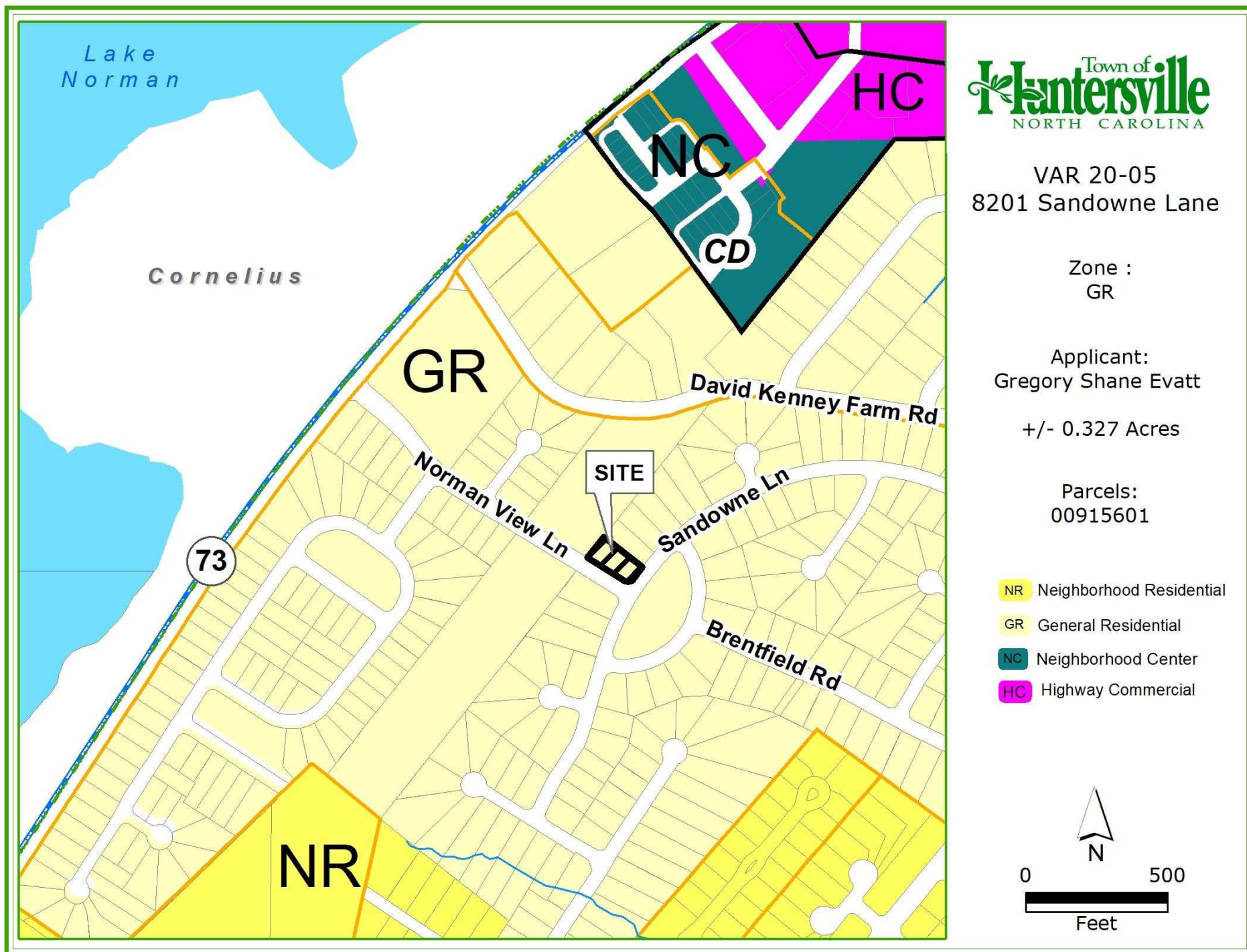


Exhibit C – Topographical Map

Polaris 3G Map – Mecklenburg County, North Carolina

8201 SANDOWNE LN HUNTERSVILLE NC 28078

Date Printed: 10/4/2020 10:01:27 PM



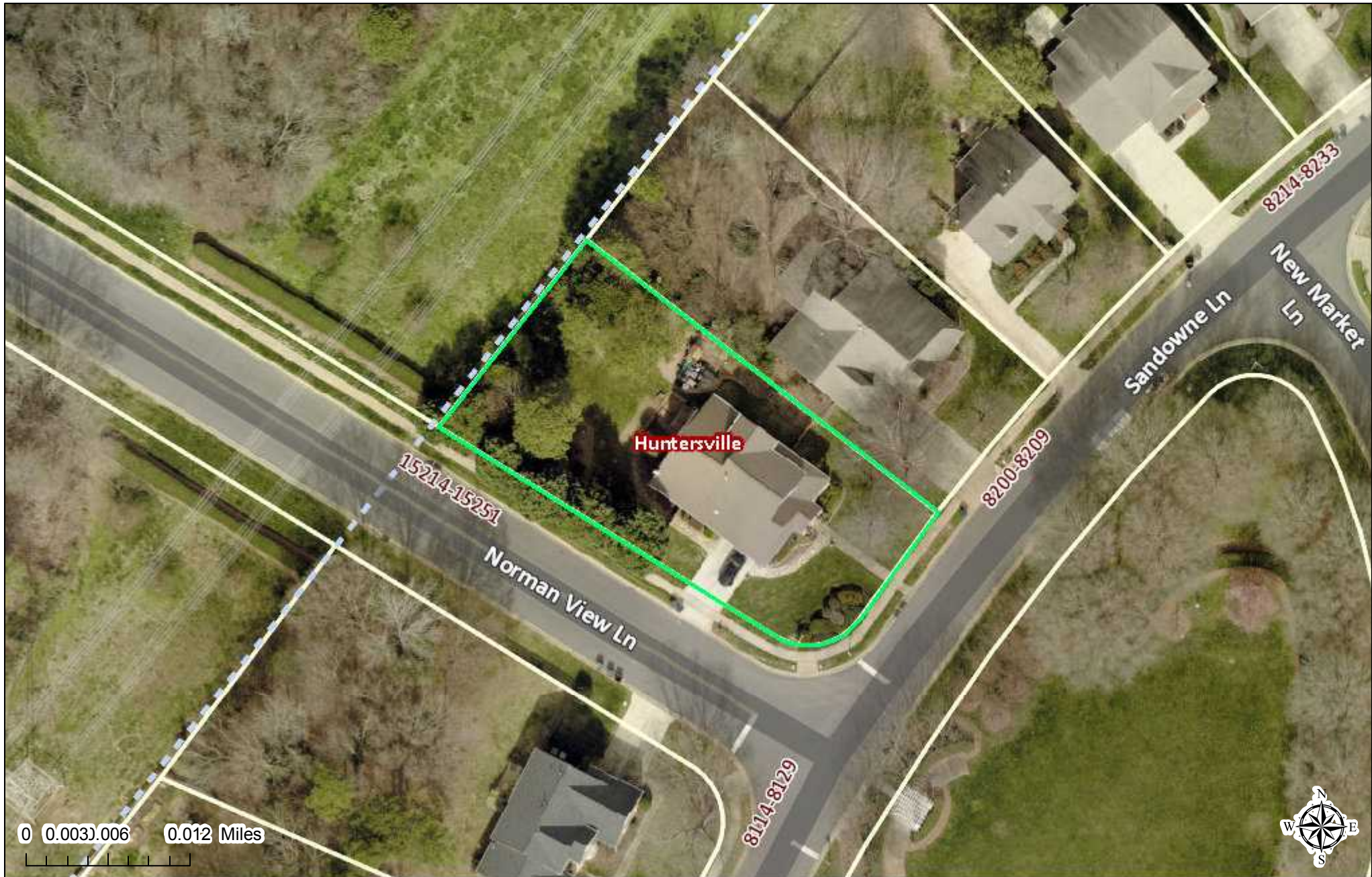
This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information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

Exhibit D – Aerial Map

Polaris 3G Map – Mecklenburg County, North Carolina

8201 SANDOWNE LN HUNTERSVILLE NC 28078

Date Printed: 10/4/2020 10:02:24 PM



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

Exhibit E – Map Book 28, Page 316

#97056597

#35

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	25.00'	37.89'	23.66'	34.37'	N 78°08'16" E	86°50'40"
C2	950.00'	119.86'	60.01'	119.78'	S 61°28'38" W	07°13'45"
C3	950.00'	66.16'	33.09'	66.14'	S 55°52'03" W	03°59'24"
C4	950.00'	66.73'	33.38'	66.72'	S 51°51'36" W	04°01'29"
C5	950.00'	67.13'	33.58'	67.11'	S 47°49'24" W	04°02'54"
C6	950.00'	67.33'	33.68'	67.32'	S 43°46'07" W	04°03'39"
C7	950.00'	67.36'	33.69'	67.35'	S 39°42'25" W	04°03'45"
C8	950.00'	49.08'	24.55'	49.08'	S 36°11'44" W	02°57'37"
C9	25.00'	39.22'	24.95'	35.32'	N 20°09'11" E	89°52'39"
C10	25.00'	11.28'	5.74'	11.18'	N 37°42'25" W	25°50'31"
C11	45.00'	45.07'	24.63'	43.21'	N 13°50'05" E	57°22'57"
C12	45.00'	28.79'	14.91'	28.30'	N 33°11'04" W	36°39'20"
C13	45.00'	31.47'	16.41'	30.84'	N 71°32'54" W	40°04'20"
C14	45.00'	35.17'	18.54'	34.28'	S 66°01'32" W	44°46'48"
C15	45.00'	27.12'	13.98'	26.71'	S 26°22'20" W	34°31'36"
C16	45.00'	31.27'	16.29'	30.64'	S 10°47'44" E	39°48'33"
C17	45.00'	15.65'	7.91'	15.57'	S 40°39'50" E	19°55'40"
C18	25.00'	29.37'	16.65'	27.71'	S 08°52'12" W	67°18'43"
C19	25.00'	37.98'	23.75'	34.43'	N 68°18'43" W	87°03'07"
C20	850.00'	72.96'	36.50'	72.94'	N 71°38'35" W	04°55'05"
C21	850.00'	69.81'	34.92'	69.79'	N 76°27'17" W	04°42'20"
C22	850.00'	70.05'	35.05'	70.03'	N 81°10'07" W	04°43'19"
C23	850.00'	70.05'	35.05'	70.03'	N 85°53'26" W	04°43'19"
C24	850.00'	69.81'	34.92'	69.79'	S 89°23'44" W	04°42'20"
C25	850.00'	68.46'	34.25'	68.26'	S 84°42'29" W	04°40'11"
C26	850.00'	68.46'	34.25'	68.44'	S 80°03'58" W	04°36'52"
C27	850.00'	142.37'	71.35'	142.20'	S 72°57'37" W	09°35'48"
C28	355.50'	60.36'	30.25'	60.29'	N 84°50'49" W	09°43'43"
C29	355.50'	114.01'	57.50'	113.53'	S 81°06'03" W	18°22'32"
C30	4324.17'	1.03'	0.52'	1.03'	S 79°59'22" E	00°00'49"
C31	4324.17'	84.40'	42.20'	84.40'	S 80°33'20" E	01°07'06"
C32	4324.17'	82.51'	41.25'	82.51'	S 81°39'41" E	01°05'36"
C33	4324.17'	33.42'	16.71'	33.42'	S 82°25'46" E	00°26'34"
C34	800.00'	91.03'	45.57'	90.99'	N 73°21'42" W	06°31'12"
C35	800.00'	73.53'	36.79'	73.51'	N 79°15'17" W	05°15'59"
C36	25.00'	35.07'	21.12'	32.26'	N 57°55'34" E	80°22'18"
C37	560.00'	85.68'	42.92'	85.60'	N 22°07'25" E	08°45'59"
C38	560.00'	75.32'	37.72'	75.26'	N 30°28'36" E	07°42'23"
C39	560.00'	9.27'	4.64'	9.27'	N 34°41'15" E	00°56'55"
C40	25.00'	11.28'	5.74'	11.18'	N 22°14'27" E	25°50'31"
C41	45.00'	16.01'	8.09'	15.93'	N 19°30'52" E	20°23'22"
C42	45.00'	41.28'	22.22'	39.85'	N 55°59'31" E	52°33'55"
C43	45.00'	28.03'	14.48'	27.57'	S 79°53'02" E	35°41'00"
C44	45.00'	31.43'	16.39'	30.80'	S 42°01'49" E	40°01'25"
C45	45.00'	43.42'	23.57'	41.76'	S 05°37'32" W	55°17'18"
C46	45.00'	54.35'	31.05'	51.11'	S 67°52'18" W	69°12'14"
C47	25.00'	28.81'	16.24'	27.24'	N 69°27'51" E	66°01'08"
C48	520.00'	136.06'	68.42'	135.67'	S 27°39'57" W	14°59'30"
C49	25.00'	47.53'	23.76'	40.69'	S 34°17'35" E	108°55'35"
C50	800.00'	88.96'	44.53'	88.92'	S 88°03'29" W	06°22'17"
C51	800.00'	87.88'	43.98'	87.83'	S 81°43'32" W	06°17'37"
C52	800.00'	103.21'	51.68'	103.14'	S 74°52'58" W	07°23'30"
C53	800.00'	75.11'	37.58'	75.09'	S 68°29'50" W	05°22'47"
C54	800.00'	8.28'	4.14'	8.28'	S 65°30'39" W	00°35'35"
C55	900.00'	23.81'	11.91'	23.81'	S 64°27'22" W	01°30'57"
C56	900.00'	75.25'	37.65'	75.23'	S 61°18'11" W	04°47'26"
C57	900.00'	126.96'	63.59'	126.85'	S 54°52'00" W	08°04'57"
C58	25.00'	36.77'	22.62'	33.54'	S 08°41'23" W	84°16'17"
C59	295.00'	58.25'	29.22'	58.16'	N 11°02'46" E	11°18'49"
C60	295.00'	58.01'	29.10'	57.91'	N 00°14'38" W	11°15'59"
C61	295.00'	74.31'	37.35'	74.11'	N 13°05'37" W	14°25'57"
C62	295.00'	67.63'	33.97'	67.49'	N 26°52'40" W	13°08'10"
C63	25.00'	35.35'	21.36'	32.48'	S 23°48'09" E	81°00'39"
C64	245.00'	209.95'	111.91'	203.58'	N 04°42'48" W	49°05'52"
C65	25.00'	46.51'	23.53'	40.09'	S 82°33'19" E	106°35'09"
C66	900.00'	169.12'	84.81'	168.82'	S 74°52'58" W	10°45'59"
C67	25.00'	0.56'	0.28'	0.56'	N 35°48'07" E	01°17'35"
C68	370.09'	89.25'	44.84'	89.04'	S 75°44'30" E	13°49'04"
C69	355.50'	174.38'	88.98'	172.63'	N 85°57'55" E	28°06'15"
C70	4324.17'	201.37'	100.70'	201.35'	S 81°19'00" E	02°40'05"

NOTES

THIS PROPERTY MAY BE SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY.

IRON PINS SET AT ALL CORNERS UNLESS OTHERWISE NOTED.

TOTAL NUMBER OF LOTS - 42

AREAS COMPUTED BY COORDINATE METHOD.

TOTAL ACREAGE FOR THE AREA ENCOMPASSED BY THIS MAP IS 16.0629 ACRES.

TOTAL AREA MINUS RIGHT-OF-WAY FOR THIS MAP IS 13.6692 ACRES.

NO DEVELOPMENTAL STUMP HOLES REPORTED TO THIS FIRM WITHIN THE LOTS WHICH MAKE UP THIS MAP.

NO NGS OR NCGS HORIZONTAL TRAVERSE WITHIN 2000 FEET.

THIS PROPERTY DEVELOPED AS R-3 CLUSTER WITH PA2 MOUNTAIN ISLAND LAKE WATERSHED OVERLAY DISTRICT (MECKLENBURG COUNTY SUBDIVISION REGULATION SECTION 7.200

TAX PARCEL #009-351-12

SUBJECT TRACT DEED REFERENCE:
DB 8259 PG 476

DIRECT VEHICULAR ACCESS TO DAVID KENNEY FARM ROAD FROM LOTS 331-337 & 339-341 IS PROHIBITED.

IMPERVIOUS AREA= 3800 SF/LOT

Only North Carolina Department
Of Transportation approved
structures are to be constructed
on public right of way.

State of North Carolina, County of Mecklenburg
The foregoing certificate(s) of
a Notary Public (is) (are) certified
to be correct.
This 9th day of May, 1997
Judith A. Gibson, Register of Deeds
Deputy

THIS DRAWING AND/OR THE DESIGN SHOWN ARE THE
PROPERTY OF ESP ASSOCIATES, P.A. THE REPRODUCTION,
ALTERATION, COPYING OR OTHER USE OF THIS DRAWING
WITHOUT THEIR WRITTEN CONSENT IS PROHIBITED AND ANY
INFRINGEMENT WILL BE SUBJECT TO LEGAL ACTION.

ESP ASSOCIATES, P.A.

ESP ASSOCIATES, P.A.
engineering•surveying•planning

10100 Park Cedar Drive, Suite 154
Charlotte, NC 28210 (704) 542-7377

LINE	DIRECTION	DISTANCE
L1	S 24°47'09" E	38.30'
L2	N 24°47'09" W	5.39'
L3	N 71°54'47" E	11.22'
L4	N 65°12'51" E	42.92'
L5	S 54°50'18" E	55.00'

DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

PROPOSED SUBDIVISION ROAD
CONSTRUCTION STANDARD CERTIFICATION

APPROVED: *[Signature]*
DISTRICT ENGINEER

DATE: 5-6-97

I, Joseph W. Hendrick, RLS CERTIFY TO ONE OR MORE
OF THE FOLLOWING AS INDICATED

- X a. THAT THIS PLAT IS A SURVEY THAT CREATES A SUBDIVISION OF LAND
WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN
ORDINANCE THAT REGULATES PARCELS OF LAND;
- b. THAT THIS PLAT IS OF A SURVEY THAT IS LOCATED IN SUCH PORTION
OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN
ORDINANCE THAT REGULATES PARCELS OF LAND;
- c. THAT THIS PLAT IS OF A SURVEY OF AN EXISTING PARCEL OR PARCELS
OF LAND;
- d. THAT THIS PLAT IS OF A SURVEY OF ANOTHER CATEGORY, SUCH AS
THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY
OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION;
- e. THAT THE INFORMATION AVAILABLE TO THIS SURVEYOR IS SUCH THAT
I AM UNABLE TO MAKE A DETERMINATION TO THE BEST OF MY
PROFESSIONAL ABILITY AS TO PROVISIONS IN (a) THROUGH (d) ABOVE.

Map Book 28 Page 316

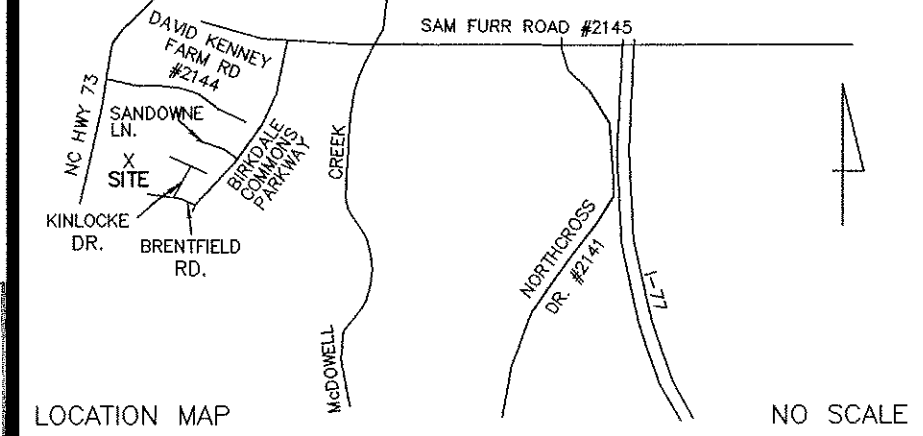
Joseph W. Hendrick, RLS Registration No. L-3046

APPROVED IN ACCORDANCE WITH THE
ENGINEERING REQUIREMENTS OF THE
SUBDIVISION ORDINANCE OF MECKLENBURG
COUNTY, NORTH CAROLINA.

[Signature] 5/2/97
(ENGINEERING) STAFF DATE

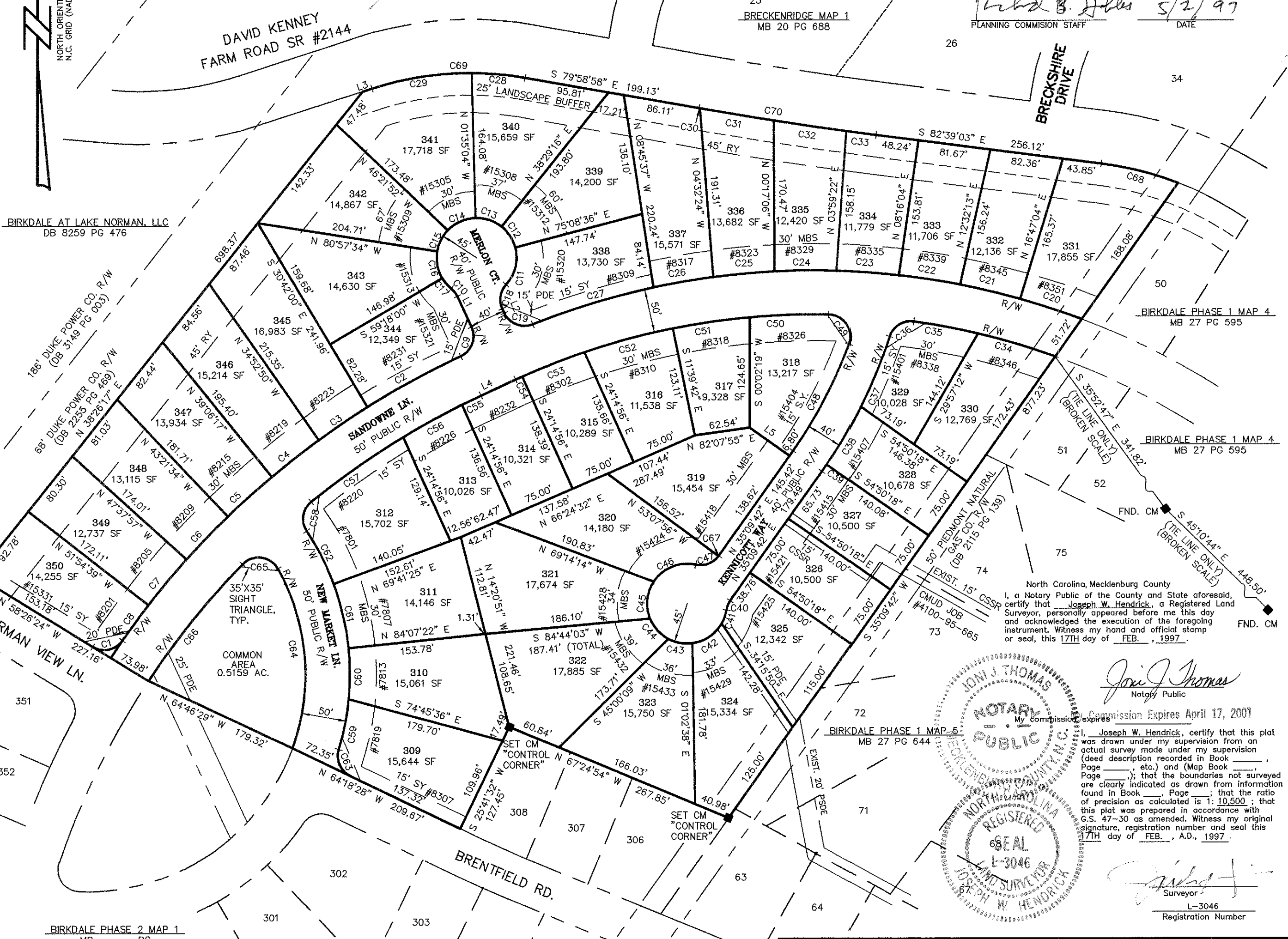
FILED FOR
REGISTRATION
MAY 7 1997
AT 9:29
JUDITH A. GIBSON
MECKLENBURG COUNTY, N.C.
REGISTER OF DEEDS

25
BRECKENRIDGE MAP 1
MB 20 PG 688



APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THE
SUBDIVISION ORDINANCE OF MECKLENBURG COUNTY, NORTH CAROLINA.
CHARLOTTE-MECKLENBURG PLANNING COMMISSION

[Signature] 5/2/97
PLANNING COMMISSION STAFF DATE



North Carolina, Mecklenburg County
I, a Notary Public of the County and State aforesaid,
certify that Joseph W. Hendrick, a Registered Land
Surveyor, personally appeared before me this day
and acknowledged the execution of the foregoing
instrument. Witness my hand and official stamp
or seal, this 17th day of FEB., A.D., 1997.

JOHN J. THOMAS
NOTARY PUBLIC
My commission expires April 17, 2001

Joseph W. Hendrick, certify that this plat
was drawn under my supervision from an
actual survey made under my supervision
(deed description recorded in Book _____,
Page _____, etc.) and (Map Book _____,
Page _____); that the boundaries not surveyed
are clearly indicated as drawn from information
found in Book _____, Page _____; that the ratio
of precision as calculated is 1:10,500; that
this plat was prepared in accordance with
G.S. 47-30 as amended. Witness my original
signature, registration number and seal this
17th day of FEB., A.D., 1997.

[Signature]
Surveyor
L-3046
Registration Number

FINAL PLAT OF BIRKDALE PHASE 2 MAP 2 OWNER: BIRKDALE AT LAKE NORMAN, LLC LOCATED IN LEMLEY TOWNSHIP MECKLENBURG COUNTY NORTH CAROLINA	PROJECT NO. KJ17 SCALE 1"=100' DATE 2/17/97 DRAWN BY JWH CHECKED BY JWH DRAWING NO. KJ17R2.DWG
BIRKDALE AT LAKE NORMAN, LLC 4201 CONGRESS ST. SUITE 175 CHARLOTTE, N.C. 28209 (704) 553-6166	

Exhibit F – 2020 Building Permit

Mecklenburg County
Land Use and Environmental Services
2145 Suttle Avenue
Charlotte, NC 28208
(980) 314 - CODE (2633)



Permit: B3675430
Issue Date: 02/07/2020
Issued By: Edwards, Masika T

Building Permit

One/Two Family

Property Details:

Address:	8201 SANDOWNE LN	Tax Jurisdiction:	HUNTERSVILLE
Subdivision:		Parcel Id:	00915601
Owner:	Evatt	Owner Phone No:	
Owner Address:	8201 Sandowne Lane Huntersville, NC 28078		

Block:	Lot: 350	Land Area:	Corner Lot: N	Irregular Lot: N	Through Lot: N
Minimum Setbacks (ft.)	Front: 0.0	Rear: 50.0	Right Side: 15.0	Left Side: 20.0	

Project Details:

Project Number:	404963	Res Master Plan #:	
Project Name:	MORRIS & MOFFITT / BED & BTH ADD. & RENOV / PLN REV		
USDC Code:	434 - Res Dwelling - CO required (Add, Alteration, Repair)		
Occupancy:	R3 * RESIDENTIAL - SINGLE FAMILY		
Lien Agent:	Agent: Stewart Title Guaranty Company Phone: (888) 690-7384 Fax: (919) 489-5231 Email: support@liensnc.com Mailing Address: 19 W Hargett ST Unit: 507, Raleigh, North Carolina 27601 Physical Address: 19 W Hargett ST Unit: 507, Raleigh, North Carolina 27601	Lien Agent No:	1163483

Trade Details:

Building

Details:	Addition (expand footprint). Room Addition.	SI Required:	N	Bedroom Addition:	Yes
Type of Work:	Addition (expand footprint)				

Square Footage:	Heated: 200	Renovated:	Deck: 200
	Unheated:	Converted: 265	

Does the weight of the PV system exceed 3lbs per square foot?

Does the roof possess more than one layer of asphalt shingles?

Does the roofing material consist of a type other than asphalt or metal?

Solar PV Option:

Electrical

Service:	Existing	Power Company:	DUKE ENERGY
Total Amps:	# of Circuits:	Circuits at 120V:	Circuits Over 120V:

Mechanical

Heating Details:	Central A/C, Gas/Oil Furnace
Gas Company:	PIEDMONT NATURAL GAS
# of Gas Connections:	# of Appliances

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

Page 1 of 4

Plumbing

# of Fixtures:	1		<u>Public Meter/Connection</u>		<u>Private Service</u>	
			<u>Individual</u>	<u>Master</u>	<u>Individual</u>	<u>Community</u>
Type of Service:	Existing	<u>Water/Well:</u>	Yes	No	No	No
# of Appliances	1	<u>Sewer/Septic:</u>	Yes	No	No	No

Fees

Permit Fee Type:	Construction	Homeowner Recovery Fund:	\$0.00	Fast Track Fee:	\$0.00
*Permit Fee:	\$930.84	NESHAP Fee:	\$0.00	Fee Adjustment:	
Zoning Fee:	\$40.00	Paper Application Fee:	\$0.00	Total Fee:	\$970.84
Triple Fee:	\$0.00	HFR Fee:	\$0.00	NESHAP OK:	
Fire Damage Fee:	\$0.00	Paper Plans Fee:	\$0.00	Vector OK:	
Comm Surcharge:	\$0.00			Charge To Acct:	Y
IsSchool Bond: N	School Bond ID:	School Bond Name:			

* Permit Fee Calculation is based upon the following costs:

Equipment Summary

Bldg Cost less Equipment over \$500K:	\$75854.00	Total Equipment Costs:	
SubPermit Costs:	\$27987.00	Equipment Cost at 100%	\$0.00
Total Equipment Fee:		Equipment Cost at 20%	
Total Cost Calculation:	\$103841.00		

Contractors

Building Contractor	MORRIS & MOFFITT INC	Contr ID:	X43893
Phone:	9804395557	License #:	54678
Address:	41 ODELL SCHOOL RD. UNIT BCONCORD, NC 28027	Homeowner:	No
		Permit #:	B3675430
		Contract Cost:	\$75,854.00

Electrical Contractor	DEGRACE ELECTRIC LLC	Contr ID:	X54601
Phone:	7042132916	License #:	27090
Address:	6419 HARBURN FOREST DRCHARLOTTE, NC 28269	Homeowner:	No
		Permit #:	E3698118
		Contract Cost:	\$9,156.00

Mechanical Contractor	REIGEL SEAN PARICK	Contr ID:	X40179
Phone:	7047913273	License #:	28511
Address:	10900 BOWMAN BARRIER RD MT PLEASANT, NC 28124	Homeowner:	No
		Permit #:	M3698119
		Contract Cost:	\$13,791.00

Plumbing Contractor	RECOMMENDED PLUMBING	Contr ID:	X40622
Phone:	9803090883	License #:	28890
Address:	5815 OLD MT HOLLY RDCHARLOTTE, NC 28008	Homeowner:	No
		Permit #:	P3698120
		Contract Cost:	\$5,040.00

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

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

Additional Information:

NOTE:

Permit Notes

remodel per plans existing back porch into heated square footage to include a bedroom, bathroom, and screen porch. Also adding deck with ramp

POST CONSTRUCTION INSPECTION REQUIRED

R308.4 PROVIDE TEMPERED GLAZING IN THE WINDOW LESS THAN 60 INCHES FROM THE TUB OR SHOWER AND LESS THAN 60 INCHES ABOVE THE FLOOR //

R308.4 PROVIDE TEMPERED GLAZING WHERE THE WINDOW IS WITHIN 24 INCHES OF A DOOR AND LESS THAN 60 INCHES FROM THE FLOOR //

R905.2.2 PROVIDE 2 LAYERS UNDERLAYMENT ON ROOF WITH LESS THAN 4:12 PITCH WHERE ASPHALT SHINGLES ARE USED //

R408.1.2 PROVIDE FOUNDATION VENTS WITHIN 3 FEET OF EACH CORNER //

McDOWELL

POST CONSTRUCTION INSPECTION REQUIRED

Disclaimer: Mechanical equipment shall be placed in side and rear yards only and shall not encroach into any required setbacks.

Inspection Team

Your project has been assigned to the Residential Inspection Team. For further assistance you can contact the Residential Inspection Team:

Manager:	Griffin, Jeff
Supervisor:	Burgin, Brandon
Supervisor:	Kale, Michael
Supervisor:	Barrett, Dave
Supervisor:	Barrett, Dave

To contact your project manager, inspection supervisor, or obtain inspection assistance with your project, call 980-314-3134.

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

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

Exhibit G – Plot Plan Submitted Feb. 6, 2019

**Residential Plot Plan
For Internet Permit Application**

For Department Use

Permit #

ENTER SUBMITTAL NUMBER HERE:

264046229

Master Plan #

LOCATION/SITE DATA

8201 SANDOWNE LN Unit:
Street # (N,S,E,W) Street Name (Av,Rd,St)
Project / Subdivision Name: Phase Section
Lot # 350 Block # Land Area (sq. ft.)

OWNER INFORMATION

Owner: Evatt Address: 8201 Sandowne Lane
City: Huntersville State: NC Zip: 28078 Phone #

FOR DEPARTMENT USE

Tax Parcel # 00915601 Tax Jurisdiction: HUNTERSVILLE HUNT
Zoning: Juris HUNT Map # R/W
Special (Circle) C D N P S Floodplain Yes Flood Elev Fire Dist. Yes
Lot: Corner Through Front Street (if different)
Minimum setbacks: Front Left Side Right Side Rear
Remarks:

PROJECT DATA

Type Work:
New Addition Accessory

Project Description:

Evatt Remodel

Area (sq.ft.):

Heated 200 Unheated

Deck(s) 200

Utilities: New X Existing

Public:

1-Indiv Meter/Conn. X Water X Sewer
2-Master Meter/Conn. Water Sewer

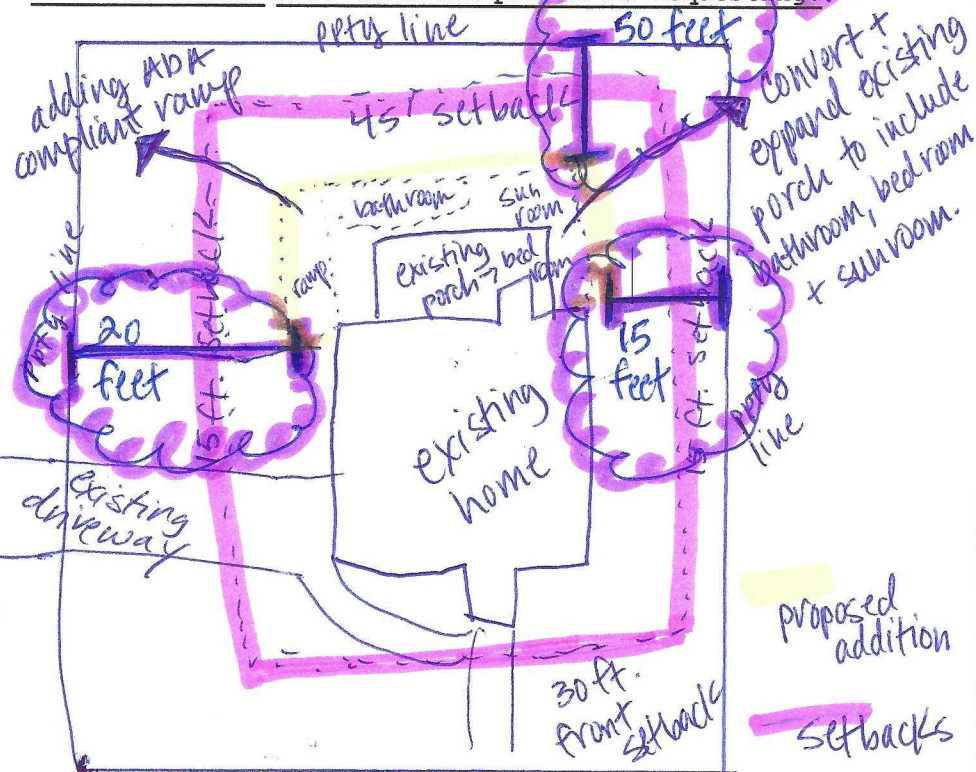
Private:

3-Individual Well Septic
4-Community Well Septic

Note: This plot plan must be uploaded before
your Internet permit will be processed.

Central office: 980-314-CODE

DRAW PLOT PLAN- Show what the permit is requesting.



ALL EXISTING AND PROPOSED BUILDING(S) ON LOT ARE SHOWN WITH MEASUREMENTS INDICATED.

Applicant's Signature: Alan Moffitt Date: 12/26/201 Print Applicant's Name: ALAN MOFFITT Contact # (704) 674-4013 ext:

Contractor Name: MORRIS & MOFFITT INC

Contractor Acct #: X43893

Email:

For Department Use: Zoning Approved by:
Initial Date:

Mecklenburg County Code Enforcement Dept.
PO Box 31097 Charlotte, NC 28231-1097
(980) 314-CODE, fax (866) 851-3553

Exhibit H – County Town Correspondence

Lauren Speight

From: Rozzelle, Rusty <Rusty.Rozzelle@mecklenburgcountync.gov>
Sent: Friday, September 18, 2020 5:02 PM
To: Lauren Speight
Cc: Mike MacIntyre
Subject: RE: [External]Impervious Area Variance Requests

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I agree with your conclusion that because both these variances result in an increase in impervious area, they would result in negative impacts to water quality unless those impacts were mitigated. Have they pursued Density Averaging as an option? Also, there are a lot of BMPs in Birkdale. With regard to the Watershed Administrator, for the Town of Huntersville that is the Zoning Administrator or Jack. He is responsible for the watershed ordinances. It is a little confusing, but I am the Storm Water Administrator and responsible for the post-construction ordinance.

From: Lauren Speight <lspeight@huntersville.org>
Sent: Friday, September 18, 2020 1:59 PM
To: Rozzelle, Rusty <Rusty.Rozzelle@mecklenburgcountync.gov>
Cc: Mike MacIntyre <mmacintyre@huntersville.org>
Subject: [External]Impervious Area Variance Requests

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Town of Huntersville Staff has received two major variance application requests; one for a property in the LN Watershed and another for a property in the MIL PA-2.

[15710 PINE ST HUNTERSVILLE NC 28078](#) (LN CA) – As far as Staff can tell from the application and public data, the home was originally built over its impervious max. It was created as a new lot of record in 2000, thus subject to the Watershed regulation for the LN-O. The property is about 1000 sf over its max and based on a rather blurry survey from 2007 it appears the home and driveway were built as permitted. The plat map that created this new lot does not note the LN-O, but the issued permit does not the LN-O 24% MBUA. But, they property received the permit and the CO.

[8201 SANDOWNE LN HUNTERSVILLE NC 28078](#) (MIL PA-2) – This variance stems from a building permit received this years for the conversion of about 265 sf of the home and an additional 200 sf. As far as staff can tell from the application and public data the property was approximately 800 sf under its MBUA, which is how they got zoning approval for the building permit. However, according a currently property survey the property is over by about 1000 mostly as the result of pavers that were added to the property. The permit has not received a CO because of the impervious issue.

I am seeking guidance, though I believe I know the answer this time, about these requests with regard to the 4th variance standard be the General Statutes (The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.) The intent of the Watershed Overlays is to protect the drinking water supply for various municipalities. I believe that Staff must assert that without mitigation to ensure water quality, administrative approval of a variance effectively increasing the impervious maximum for these properties is not in the interest of public safety. Am I incorrect?

- The Pine Street property was not developed with storm water infrastructure.
- The Sandowne Lane property is in Birkdale and was subdivided in 1997. I believe there is planned SW infrastructure here, correct?

I am also seeking guidance about the process for a major variance – Are you or Mike MacIntyre the Watershed Administrator that would forward an advisory approval to the NCDEQ Environmental Management Commission for final decision? Is there any other role the Watershed Administrator plays in the processing of a major variance for properties in Watershed Overlays? Is there any way for me to learn of major variances for the MIL or LN overlays that have been previously forwarded?

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org



Pursuant to North Carolina General Statutes, Chapter 132, email correspondence to and from this address may be considered public record under the North Carolina Public Records Law and may be disclosed to third parties.

Exhibit I – Town Property Owner Correspondence

Lauren Speight

From: Shane <gsevatt@live.com>
Sent: Monday, July 20, 2020 6:07 PM
To: Lauren Speight
Subject: Re: Online Form Submittal: Zoning Inspection Request

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you Lauren! You are always so helpful and responsive. We really appreciate that.

Shane

On Jul 20, 2020, at 5:56 PM, Lauren Speight <lspeight@huntersville.org> wrote:

Good afternoon,

If you are receiving a transfer from properties in your neighborhood, you would engage a licensed land surveyor to submit a plat revision with an impervious transfer.

The surveyor would need to submit a plat revision for all three lots showing the revised impervious maximums. Yes, there is a checklist. Please see attached. I can chat with your surveyor when the time comes as well if you like.

As far as I can tell, per the [zoning regulations](#) 8423 Sandowne Lane and 8129 Sandowne Lane may be eligible to give impervious to 8201 SANDOWNE LN. I have sent the parcels to the Land Development engineer for his feedback and will follow up when I know more from him.

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org

<image001.png>

Pursuant to North Carolina General Statutes, Chapter 132, email correspondence to and from this address may be considered public record under the North Carolina Public Records Law and may be disclosed to third parties.

From: Shane <gsevatt@live.com>
Sent: Monday, July 20, 2020 1:55 PM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Kristi Evatt <kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

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Thank you Lauren. Thank you for the clarification.

So if our neighbors' properties are eligible and are in the same neighborhood, what is the process to make the impervious area transfer? Is there documentation/checklists on the Huntersville planning website like there is for the density averaging certificate?

Shane

On Jul 20, 2020, at 1:25 PM, Lauren Speight <lspeight@huntersville.org> wrote:

Good afternoon,

I will follow up about the question regarding noting where impervious is transferred from when I chat with the Planning Director.

Quick clarification: Impervious transfers are transfers of impervious area from eligible lots within your neighborhood. A Density Averaging Certificate is an impervious transfer from eligible lots that are not within your neighborhood.

- how do I get an approval stormwater mitigation plan from Mecklenburg County? **If you were to proceed with the Density Averaging Certificate Process, an engineer would need to submit plans and/or calculations for review by the Town Land Development engineer to show compliance with Storm Water regulations.**

- what is a BPM? **I think you may be referring to a BMP, Best Management Practice. A BMP is method of reducing water pollution (sand filter, rain garden, etc.).**

- how do I determine the parcel unification number, zoning district, watershed overlay, and watershed variance? **You can find everything except a watershed variance for properties in Polaris3G. I can only think of one subdivision that received a variance with regard to the Watershed, Plum Creek. Here is the link to [8201 SANDOWNE LN HUNTERSVILLE NC 28078](#).**

Parcel Identification Number

<image002.jpg>

Zoning District: Select the Layers/Label Tab, Then select Zoning under the Boundaries section

<image003.jpg>

Watershed Name and Class

<image004.jpg>

- what type of company do I use to get a revised plat for the properties? Is it a title company, surveyor, etc.? **For a plat revision, you would need a licensed land surveyor. But, the Land Development engineer may need data provided by an engineer. So, when you find properties that are potential pairs, you are welcome to email me and I will check if the LD engineer needs more information.**

Let me know if you have any other questions!

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org

<image001.png>

Pursuant to North Carolina General Statutes, Chapter 132, email correspondence to and from this address may be considered public record under the North Carolina Public Records Law and may be disclosed to third parties.

From: Shane <gsevatt@live.com>
Sent: Thursday, July 16, 2020 3:44 PM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Alan MOFFITT <alan_mamoffitt@hotmail.com>; Kristi Evatt <kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks!

When I reviewed the Density Average Certificate checklist, there were A number of things that I was not familiar with and I'm hoping you can provide some clarity.

- how do I get an approval stormwater mitigation plan from Mecklenburg County?
- what is a BPM?
- how do I determine the parcel unification number, zoning district, watershed overlay, and watershed variance?
- what type of company do I use to get a revised plat for the properties? Is it a title company, surveyor, etc.?

Thanks,

Shane

On Jul 16, 2020, at 3:22 PM, Lauren Speight
<lspeight@huntersville.org> wrote:

Good afternoon,

Yes, you can receive an impervious transfer from more than one lot as long as the lots are eligible to transfer impervious to you.

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org

<image001.png>

From: Shane <gsevatt@live.com>
Sent: Thursday, July 16, 2020 2:32 PM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Alan MOFFITT <alan_mamoffitt@hotmail.com>; Kristi Evatt <kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Lauren - I hope you are having a great week.

I have a question. Can we get impervious area rights from multiple landowners in order to offset our overage? Example - 300 sq ft from one and 300 from another?

Thanks,
Shane

On Jul 13, 2020, at 12:51 PM, Shane
<gsevatt@live.com> wrote:

From: [Shane](#)
To: [Lauren Speight](#)
Cc: [Brian Richards](#); [Alan MOFFITT](#); [Kristi Evatt](#)
Subject: Re: Online Form Submittal: Zoning Inspection Request
Date: Monday, July 13, 2020 12:51:27 PM

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Thank you Lauren!

Shane

On Jul 13, 2020, at 12:45 PM, Lauren Speight <lspeight@huntersville.org> wrote:

Good afternoon,

Yes, gravel areas not in the driveway would count toward the impervious use for a property.

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org

<image001.png>

From: Shane <gsevatt@live.com>
Sent: Monday, July 13, 2020 12:38 PM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Brian Richards <brichards@huntersville.org>; Alan MOFFITT <alan_mamoffitt@hotmail.com>; Kristi Evatt <kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you Lauren for the information and quick reply. Can you tell me if gravel areas that are not drive ways are considered impervious?

Thanks
Shane

On Jul 13, 2020, at 12:26 PM, Lauren Speight <lspeight@huntersville.org> wrote:

Good afternoon,

Please see attached for a list of pervious and impervious structures and materials for the Town of Huntersville.

This list is not exhaustive. If you have questions about a material or structure that is not listed you are welcome to contact us about that specific material/structure.

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org

<image001.png>

From: Shane <gsevatt@live.com>
Sent: Monday, July 13, 2020 11:33 AM
To: Brian Richards <brichards@huntersville.org>
Cc: Alan MOFFITT <alan_mamoffitt@hotmail.com>; Lauren Speight <lspeight@huntersville.org>; Kristi Evatt <kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

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Hi Brian

Can you provide us with a list of all the surfaces Huntersville deems as Impervious Area?

Thanks,
Shane

On Jul 6, 2020, at 2:34 PM, Brian Richards <brichards@huntersville.org> wrote:

Hi Alan,

It is just a transfer of impervious allocation. No "Real" property is transferred. Staff in NOT aware of any tax implications. You would want to speak to the County Tax office about that.

Thanks

Brian Richards
Assistant Planning Director
Huntersville Planning Dept.
105 Gilead Rd 3rd Floor
Huntersville, NC 28078

Mailing address
PO BOX 664
Huntersville, NC 28070
Ph 704 766 2218
Fx 704 992 5528
brichards@huntersville.org

From: Alan MOFFITT <alan_mamoffitt@hotmail.com>

Sent: Monday, July 6, 2020 2:28 PM

To: Shane <gsevatt@live.com>

Cc: Lauren Speight <lspeight@huntersville.org>; Brian Richards <brichards@huntersville.org>; Kristi Evatt <kristi_evatt@yahoo.com>

Subject: Re: Online Form Submittal: Zoning Inspection Request

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Also if the property remains the existing owners it's just a transfer of use of the land for previous use or does it have an impact on property taxes being paid?



[41 Odell School Rd.](#)
[Unit B](#)
[Concord, NC 28027](#)

Alan Moffitt
7046744013



On Jul 6, 2020, at 2:25 PM, Shane <gsevatt@live.com> wrote:

Thank you Lauren.

Just to make sure I understand, would we become the full owners of the transferred property? Also, does it have to be a specific piece of the giving property or is this just a reduction in the overall amount of impervious square footage of the giving property?

Regarding the second question, your understanding is correct.

Thanks,
Shane

On Jul 6, 2020, at 1:55 PM, Lauren Speight <lspeight@huntersville.org> wrote:

Good afternoon,

A Density Averaging Certificate would transfer impervious area only from another property to your property. Technically the plat revision would show where the impervious area is being transferred from on the map of the giving property.

Let me make sure I understand your second question – are you asking if you were to received impervious area from another property could the impervious area of the giving property come from a pond or other standing body of water?

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org

Web: www.huntersville.org

<image001.png>

From: Shane <gsevatt@live.com>
Sent: Monday, July 6, 2020 1:37 PM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Brian Richards <brichards@huntersville.org>; Kristi Evatt <kristi_evatt@yahoo.com>; Alan MOFFITT <alan_mamoffitt@hotmail.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

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Lauren / Brian,

Thank you for your time today.

One follow up question. If we pursue the Density Average Certificate, does that mean we own the piece of property or are we only buying the impervious rights? Also, does it include ponds or other standing bodies of water as eligible for impervious surface?

Thanks,
Shane

On Jul 6, 2020, at 12:06 PM, Lauren Speight <lspeight@huntersville.org> wrote:

Good afternoon,

You are welcome to forward the invitation.

You are welcome to call in for audio only or you can use the link to also see video.

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org

<image001.png>

From: Shane <gsevatt@live.com>
Sent: Friday, July 3, 2020 3:39 PM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Brian Richards <brichards@huntersville.org>; Kristi Evatt <kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

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Hi Lauren. Thank you for setting up the meeting invite. We will attend. Just to confirm, will this be a video call or audio only? Also, if it is alright, I'd like to forward this to my builder as he may be able to provide a more experienced view and details on our project. I'm also including several pictures of our property for perspective on its elevation and proximity to common areas, streets and our one neighbor uphill from us. We look forward to speaking with you.

Thanks,
Shane
<image002.png>

<image003.jpg>

<image004.jpg>

<image005.jpg>

<image006.jpg>

<image007.jpg>

On Jul 2, 2020, at 10:28 AM, Lauren Speight <lspeight@huntersville.org> wrote:

Good morning,

We are available Monday 7/6 1-1:30pm.

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org

<image001.png>

From: Shane <gseyatt@live.com>
Sent: Wednesday, July 1, 2020 7:46 PM
To: Lauren Speight <lspeight@huntersville.org>
Cc: Brian Richards <brichards@huntersville.org>; Kristi Evatt <kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

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Thank you Lauren. Please let us know if any of the following times work for you all.

Mon 7/6.
1:00-1:30, 4:00-4:30

Wed 7/8
10:30 - 11:00, 12:30-1:00, 3:00-4:00

Thur 7/9
12:30-1:00, 3:30-4:00

Shane

On Jun 30, 2020, at 4:52 PM, Lauren Speight <lspeight@huntersville.org> wrote:

Good afternoon,

We are not available this week, but if you have some times next week we can check for availability.

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528

Email: lspeight@huntersville.org
Web: www.huntersville.org

<image001.png>

From: Shane <gsevatt@live.com>
Sent: Tuesday, June 30, 2020 3:58 PM
To: Brian Richards <brichards@huntersville.org>
Cc: Lauren Speight <lspeight@huntersville.org>; Kristi Evatt <kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

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Thank you Brian.

Would you all be available at either of the following times?

Thursday 7/2
9:00-9:30 am
1:00-1:30 pm

Shane
704-965-4978

On Jun 30, 2020, at 1:53 PM, Brian Richards <brichards@huntersville.org> wrote:

Hi Shane,

What is a good number to reach you at? Lauren Speight and I would like to schedule a time to discuss your request for a variance.

Thank You,

Brian Richards
Assistant Planning Director
Huntersville Planning Dept.
105 Gilead Rd 3rd Floor
Huntersville, NC 28078

Mailing address
PO BOX 664
Huntersville, NC 28070
Ph 704 766 2218
Fx 704 992 5528
brichards@huntersville.org

From: Shane Evatt <gsevatt@live.com>
Sent: Tuesday, June 30, 2020 11:32 AM
To: Brian Richards <brichards@huntersville.org>
Cc: Alan Moffitt <amoffitt@morrisandmoffitt.com>; Kristi Evatt <kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal: Zoning Inspection Request

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Hi Brian - hope you are having a good day.

Below is the latest survey completed yesterday for our property at 8201 Sandowne Lane. The survey indicates our lot exceeds the impervious limit. As a result we would like to request a variance for our lot based on the

following factors:

- the overage is due to pavers

- we are on a corner lot and water sheds to the street from our house and common space, not affecting our neighbor's home for drainage
- we have the pavers and the additional rooms we built to allow access for my father in law who is handicapped and confined to a wheel chair. The new rooms are handicap accessible and the pavers allow him to access the back yard. If a note is required from his doctor confirming his handicap status we can secure one for you.

Please let me know if you have any further questions.

Thank you for your assistance and we look forward to hearing from you soon.

Shane

Begin forwarded message:

From: Andrew Coore
<coorelandsurveying@gmail.com>
Date: June 30, 2020 at 8:01:16 AM EDT
To: Shane Evatt <Gsevatt@live.com>, Kristi Evatt <kristi_evatt@yahoo.com>, Alan MOFFITT <alan_mamoffitt@hotmail.com>
Subject: 8201 Sandowne Ln.- Survey map & Invoice

Good Morning Shane,

Please see the attached survey map & invoice for your property at 8201 Sandowne Ln.

Based on the survey, your lot is exceeding the allowable impervious area of 3,800 sq.ft. by 533 sq.ft. Currently, there is 4,333 sq.ft. of impervious area on your lot. I have all of this shown on the survey map. The allowable limit of 3,800 sq.ft. comes from the Recorded plat for Birkdale subdivision.

Everything else on the lot looks ok, and I did not see any other concerns or issues.

Please let me know if you have any questions about anything.

--
Andrew Coore
Professional Land Surveyor
Coore Land Surveying, PC

Shane

On Jun 26, 2020, at 8:24 AM, Brian Richards
<brichards@huntersville.org> wrote:

Hello!

Yes in order to release the CO for the addition Staff will need a survey showing the setbacks of the structures and the impervious calculation of the home and structures, pavers, gravel, etc. Unfortunately we are not allowed to make any recommendations for professional services.

Once the final survey is uploaded to the system please let us know as we are NOT notified when documents are added.

Thank You,

Brian Richards
Assistant Planning Director
Huntersville Planning Dept.
105 Gilead Rd 3rd Floor
Huntersville, NC 28078

Mailing address
PO BOX 664
Huntersville, NC 28070
Ph 704 766 2218
Fx 704 992 5528
brichards@huntersville.org

From: Shane <gsevatt@live.com>
Sent: Thursday, June 25, 2020 8:31 AM
To: Alan Moffitt
<amoffitt@morrisandmoffitt.com>
Cc: Brian Richards
<brichards@huntersville.org>; Kristi Evatt
<kristi_evatt@yahoo.com>
Subject: Re: Online Form Submittal:
Zoning Inspection Request

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Good morning Brian,

My name is Shane and I'm the homeowner who Alan is assisting. I just wanted to follow up to make sure the timing was acceptable per Alan's email or, if not, could you provide guidance o. A surveyor.

Thanks!

Shane

On Jun 24, 2020, at 10:24 AM, Alan Moffitt
<amoffitt@morrisandmoffitt.com>
wrote:

Good morning Richard.
We spoke on the phone yesterday afternoon. I forward the email to the customer who is also on this reply.

I am assisting the customer to setup a surveyor. The earliest we can get a surveyor out to the property right now is July 13. As soon as that is done the customer will provide you the information. If it needs to be provided to you sooner, we would then need your assistance on a surveyor that could come out

earlier. Every surveyor we have spoken to is four weeks out and more. Please reply to all on this email so the customer is kept in the loop on what they need to do. Thank you again have a great day.



[41 Odell](#)
[School Rd.](#)
[Unit B](#)
[Concord,](#)
[NC 28027](#)
Alan Moffitt
7046744013

On Jun 23,
2020, at 2:10
PM, Brian
Richards
<brichards@huntersville.org>
wrote:

Hi Alan,

We will need a
survey with
impervious
calculations
and setbacks
in order to
complete the
Zoning
Inspection.
You may reply
to this email
with a copy of
the final
survey.

Thank You

Brian Richards
Assistant
Planning Director
Huntersville
Planning Dept.
105 Gilead Rd 3rd
Floor
Huntersville, NC
28078

Mailing address
PO BOX 664
Huntersville, NC
28070
Ph 704 766 2218
Fx 704 992 5528
brichards@huntersville.org

From:
noreply@civicplus.com
<noreply@civicplus.com>

Sent: Monday,
June 22, 2020
2:40 PM
To: Au'Darius
Blackwood
<ablackwood@huntersville.org>;
Lauren Speight
<lspeight@huntersville.org>;
Tracy Barron

<tbarron@huntersville.org>;
Brian Richards
<brichards@huntersville.org>

Subject:

Online Form
Submittal:
Zoning
Inspection
Request

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Zoning Inspection Request

Please complete the below form to request a zoning inspection from the Town of Huntersville Planning Department.

Residential zoning inspections are normally completed within 2-3 business days following the request. Commercial zoning inspections are normally completed within 5 business days following the request.

Contact Person

First Name	Alan
Last Name	Moffitt
Phone Number	704-674-4013
Email Address	amoffitt@morrisandmoffitt.com
Project Information	Residential
# of Properties	1
Has survey been uploaded?	Not Required for Zoning Hold
Project Type	Other (Please Indicate)
If Other, indicate Project Type	Bed and Bathroom Addition
Subdivision/Project Name	Field not completed.
Street # 1	8201
Street Name 1	Sadowne Lane
Permit Number	B3675430
Suite/Unit 1	Field not completed.
Street #2	Field not completed.
Street Name 2	Field not completed.
Permit Number	Field not completed.
Suite/Unit 2	Field not completed.
Street #3	Field not completed.
Street Name 3	Field not completed.
Permit Number	Field not completed.
Suite/Unit 3	Field not completed.
Street #4	Field not completed.
Street Name 4	Field not completed.

Permit Number	Field not completed.
Suite/Unit 4	Field not completed.
Street #5	Field not completed.
Street Name 5	Field not completed.
Permit Number	Field not completed.
Suite/Unit 5	Field not completed.
Street #6	Field not completed.
Street Name 6	Field not completed.
Permit Number	Field not completed.
Suite/Unit 6	Field not completed.
Notes	Field not completed.
Pursuant to North Carolina General Statutes, Chapter 132, this may be considered public record under the North Carolina Public Records Law and may be disclosed to third parties.	

Email not displaying correctly? [View it in your browser.](#)

<Interpretation of Pervious-Impervious Structures and Materials.pdf>

Exhibit J – Article 3.3.2-B, Section E – Zoning Ordinance

e) Built-Upon Area Development Standards

For individual buildings or for development projects within Protected Areas 1 and 2, the following impervious area limitations are established on a building or project basis.

PA1 and PA2, low density option	24% B.U. with curb and gutter streets ¹
	36% B.U. without curb and gutter streets ¹
PA1 and PA2, high density option, where permitted	70% B.U. with BMP ¹

¹ Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

**Town of Huntersville
Board of Adjustment
October 13, 2020**

To: Town Board

From: Tracy Barron, Exec Asst

Date: October 13, 2020

Subject: V20-06 - Consider an impervious request for 15710 Pine Street

EXPLAIN REQUEST:

ACTION RECOMMENDED:

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. V 20-06 Staff Report

Variance 20-06, 15710 PINE ST HUNTERSVILLE NC 28078

Case #: V 20-06
Address: 15710 PINE ST HUNTERSVILLE NC 28078
Parcel #: 001-452-67
Acreage: +/- .459
Property Owners/Applicants: LAURIE R MARTIN
Staff: Lauren Speight – Planner I

The applicant, **LAURIE R MARTIN**, requests a variance Article 3.3.3-A, Section E of the Town of Huntersville Zoning Ordinance. The subject property is located within the Lake Norman Watershed Critical Area. This request is for a major variance to increase the impervious built upon area for the property by 1,279 square feet. See Exhibit A for the variance application.

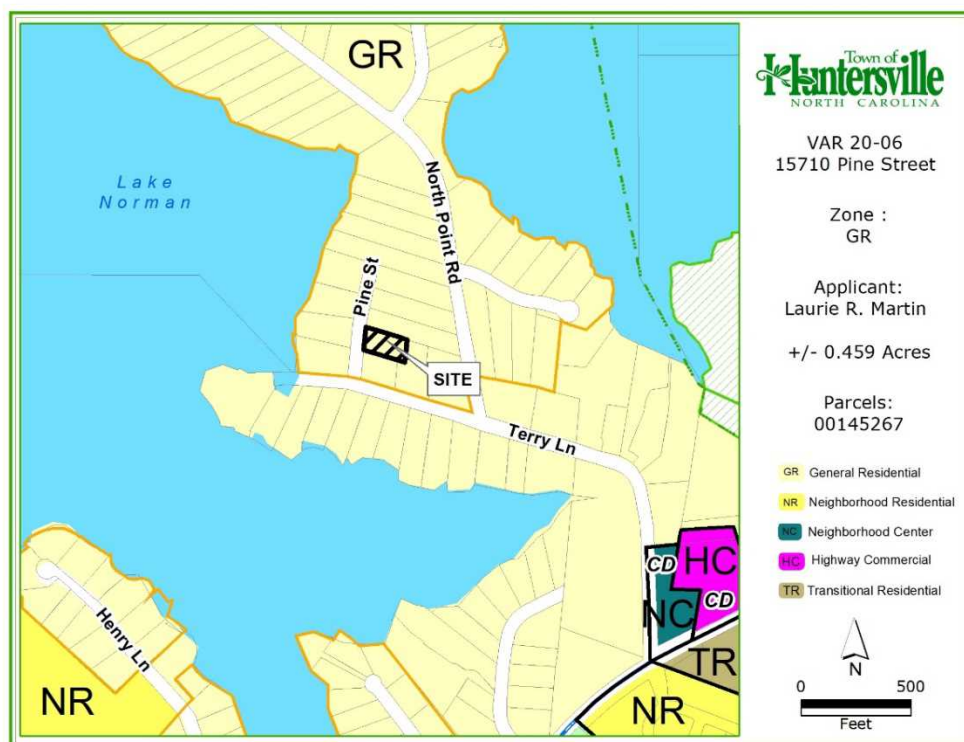
e) Built-Upon Area Development Standards

For individual buildings or for development projects within the Lake Norman Critical Area, the following impervious area limitations are established on a building or project basis.

CA, low density option 24% B.U.¹

CA, high density option 50% B.U. with Structural BMP¹

¹ Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant



Staff Findings of Fact on Variance 20-06, 15710 PINE ST HUNTERSVILLE NC 28078

Findings of Fact with Staff's Position (Ordinance Standards are in Italics):

Please see Exhibit A for the applicant's responses to the required criteria for granting a variance.

In considering any variance request, the following *Standards for Granting a Variance* (Article 11.3.2.e) must be addressed with findings of fact:

1. The subject property is located at 15710 PINE ST HUNTERSVILLE NC 28078.
2. The subject property, Lot 3B was created June 1, 2000 as a part of the minor subdivision of Brown's Addition Lots 2 & 3 per Map Book 33, Page 287.
3. The subject property is zoned General Residential (GR).
4. The subject property is located within the Lake Norman Critical Area (LN CA).
5. Lake Norman Watershed regulations were effective June 6, 1994. Thus, when Lot 3B was created on June 1, 2000 as a new lot of record, it was immediately subject to Watershed regulations with impervious restrictions.
6. Low Density Development in the Lake Norman Critical Area is subject to a 24% maximum built upon (impervious) area restriction.
7. Map Book 33, Page 287 records Lot 3B has an area of 20,001 square feet and thus a maximum built upon area limit of 4,800.24 square feet.
8. The plat map "Brown's Addition Lots 2 & 3, Revised" that created Lot 3B does not note the subject property is located within the LN CA and also does not record the maximum impervious area for the lot.
9. Laurie R Martin purchased the subject property June 28, 2005 per Deed Book 18947, Page 160.
10. A building permit was issued to Laurie R Martin (property owner and building contractor) January 20, 2006 for the existing home and driveway.
11. The building permit nor plot plan included the total proposed impervious area for the original home and driveway.
12. The permit notes, "BROWNS COVE LOT #3-B-WATERSHED HOLD: LN-CA 24% MBUA," which indicates the property received a hold on the Certificate of Occupancy for the Lake Norman Critical Area Watershed and the property has a 24% maximum built upon (impervious) area restriction.
13. Mecklenburg County LUESA completed zoning reviews for the issuance of building permits and completed zoning inspections for the issuance of Certificates of Occupancy for properties within the Town of Huntersville at the time this permit was issued.
14. An as-built survey was conducted after the construction of the home of the subject property April 2, 2007. The survey notes the 24% maximum allowable impervious requirement, but does not include the actual maximum square footage of impervious area allowed. The survey includes a breakdown of the built impervious area for the property.
15. The as-built survey is not clearly legible. Thus, Staff compared the data from the 2007 survey with the Mecklenburg County GeoPortal. Impervious details of the April 2007 are similar to the Mecklenburg County GeoPortal estimate that the property is using approximately 5,990 square feet of impervious area. The existing impervious area appears to be between 5,800 and 5,990 square feet.
16. No additional impervious area has been added to the property since the April 2007 survey per Mecklenburg County aerial photography.

17. Staff communicated with Laurie R Martin in August 2020 regarding the sale of the property and proposed addition of a pool to the property. Staff initially found the property could accommodate additional impervious due to a misunderstanding about the applicability of Watershed regulations. However, after further review Staff found Lot 3B was a new lot of record in 2000 subject to impervious restrictions and determined, based on the estimate by the Mecklenburg County GeoPortal, the property exceeds its maximum built upon area limitation.
18. Staff offered options for the property to come into compliance with Watershed regulations regarding the excess and proposed impervious area September 10, 2020. (See Exhibit K)
19. On September 15, 2020, Staff received a variance application for a variation from Zoning Ordinance Article 3.3.3-A, Section E for: 1) the impervious area originally permitted for the house and driveway in excess of the impervious limit and 2) an additional 200 square feet of impervious area for a pool.
20. The maximum built upon area for the subject property is 4,800.24 square feet. The Mecklenburg County GeoPortal estimates the property is using 5,990 square feet of impervious area, which is comparable to the April 2007 survey. Thus, this variance application is requesting a total of more than 10% of the maximum built upon area for the property.
21. Per Article 3.3.3-B, major variances mean variance from the minimum statewide water supply watershed protection criteria that result in any one or more of the following: **petitions for the reduction of any numerical standard of the low density option in the overlay district by a factor of more than 10%**; and petitions for variation in the design, maintenance or operation requirements of a wet detention pond or other approved storm water system; and petitions for the reduction of any management requirement that applies to a development proposal intended to qualify under the high-density option.
22. Per Article 3.3.3-B, The Board of Adjustment, acting as the Watershed Review Board, may advise approval of a major variance petition upon satisfying the findings of Section 11.3.2f, or upon the finding that significant community economic or social benefit would be derived from the granting of the variance.
23. Per Article 3.3.3-B, A decision by the Watershed Review Board to approve a major variance shall be advisory only. The Watershed Administrator shall within 30 days forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission for final decision.

Standards for Granting a Variance

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all the following:

1) 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.

It is Staff's position that:

- A. For the compliance of the existing excess of impervious area and the additionally requested impervious area for the pool the strict application of the Ordinance (Article 3.3.3-A, Section E) requires: 1) removal of impervious overage 2) the subject property obtain an impervious transfer from a lot within the subdivision 3) the subject property obtain a density averaging certificate from an eligible lot in the Town 4) the subdivision or subject property install a Best Management Practice (BMP) for water quality.

- B. The applicant states removal of the driveway would require a significant reduction of the driveway area. The applicant states an impervious transfer from a lot within the subdivision is unlikely. The applicant states they are actively exploring the option of seeking a density averaging certificate. The applicant states they are not able to add a BMP.
- C. The subdivision plat map does not note the property is located within the Lake Norman Critical Area Watershed and also does not record a maximum impervious limit for the property.
- D. The subject property received zoning approval for a building permit and did not include the proposed amount of impervious area for the home and driveway. However, the permit notes “BROWNS COVE LOT #3-B-WATERSHED HOLD: LN-CA 24% MBUA,” which indicates the property received a hold on the Certificate of Occupancy for the Lake Norman Critical Area Watershed and the property has a 24% maximum built upon (impervious) area restriction.

It is Staff's position that:

- Existing Impervious - Though impervious area transfers and Density Averaging Certificates are standard options to mitigate excess impervious, Staff finds that because the existing excess impervious area was included in the original building permit and evidently not reviewed, an unnecessary hardship would be created by the strict application of the Ordinance. In addition, the subdivision plat map that creates Lot 3B does not properly record the subject property is located within the Lake Norman Critical Area Watershed and does not include the maximum built upon area for the properties created. Though the originally issued permit notes the property is located within the Lake Norman Critical Area and subject to a 24% maximum built upon area restriction, the permit does not note the then proposed impervious area. However, the property received zoning approval for the building permit and subsequently received a Certificate of Occupancy. The property has included non-conforming structures for approximately 13 years.

Staff determines the documentation of Watershed requirements on the original plat, permit, and zoning inspection were beyond the control of the applicant. However, as evidence is not included demonstrating efforts to achieve compliance through an impervious transfer, Density Averaging certificate, or installation of a BMP, Staff determines this standard has not been met.

Additional Impervious – The circumstances of the building permit and the Certificate of Occupancy contributed to the current excess of impervious area that impedes the addition of a pool. However, evidence has not been provided that the lack of an accessory structure, such as a pool, would create an unnecessary hardship for the property. The property includes a single-family home, therefore there is reasonable use of the property.

With regard to the variance request for the pool, the applicant is requesting more than 10% of the MBUA and qualifies as a major variance request. While a variance is a quasi-judicial decision granted when unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, Watershed regulations were enacted to protect the drinking water quality for the region.

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.

It is Staff's position that:

- A. The applicant does not demonstrate the physical conditions of the lot prevent adherence with Watershed regulations for impervious area.
- B. The subdivision plat map does not note the property is located within the Lake Norman Critical Area Watershed and also does not record a maximum impervious limit for the property.
- C. The subject property received zoning approval for a building permit and received a Certificate of Occupancy.
- D. Based on Mecklenburg County GeoPortal estimates of impervious use, among the currently developed lots within Brown's Addition, Lot 3B appears to be the only property that is over its impervious maximum built upon area.

It is Staff's position that:

- Existing Impervious - Staff finds the excess of impervious area permitted for this lot within the Brown's Addition subdivision is unique. And, Staff finds this standard has been met with regard to the variance request for existing excess of impervious area.
- Additional Impervious - Staff find the missing information on the subdivision map, missing information from the zoning review for the building permit, and an apparently incomplete zoning inspection to be unique with regard to the existing impervious area. However, many properties use the totality of their impervious area. And, in such cases the property must legally increase its impervious area before zoning approval is granted for additions. Staff finds this standard has not been met with regard to the variance request for the additional impervious area.

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.

- A. The plat map "Brown's Addition Lots 2 & 3, Revised" that created Lot 3B does not note the subject property is located within the LN CA and also does not record the maximum impervious area for the lot.
- B. A building permit was issued to Laurie R Martin (property owner and building contractor) January 20, 2006 for the existing home and driveway.
- C. The building permit nor plot plan include the total proposed impervious area for the original home and driveway.
- D. The permit notes, "BROWNS COVE LOT #3-B-WATERSHED HOLD: LN-CA 24% MBUA," which indicates the property received a hold on the Certificate of Occupancy for the Lake Norman Critical Area Watershed and the property has a 24% maximum built upon (impervious) area restriction.
- E. While the applicant is the property owner and was the building contractor and therefore responsible for the home build, the applicant states they deliberately constructed the home based on information received by zoning authorities at the time.

It is Staff's position that:

- Existing Impervious - Staff determines the hardship created by the existing excess of impervious area is the result of the combination of: missing information on the subdivision map, missing information from the zoning review for the building permit, and an apparently incomplete zoning

inspection. The applicant ultimately constructed the home and driveway, but the existing excess impervious should not have received zoning approval for a building permit nor an approved zoning inspection for the Certificate of Occupancy. As evidence does not include additional impervious area was added in excess of the originally permitted site plan, Staff determines this standard has been met for the variance request for the existing impervious area of the home.

- Additional Impervious – Lake Norman Watershed requirements apply to all properties within the prescribed boundary. Properties shall not exceed their impervious maximum. If any property with impervious restrictions seeks to exceed its maximum built upon area limit, it must obtain additional impervious area before zoning approval. Adding impervious area in excess of an impervious limit would be a self-created hardship and thereby disqualify meeting this standard.

4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

It is Staff's position that:

- A. Per Article 3.3.3 of the Town of Huntersville Zoning Ordinance, "The intent of the Lake Norman Watershed Overlay District is to provide for the protection of public water supplies as required by the NC. Water Supply Watershed Classification and Protection Act (G.S 143-214.5) and regulations promulgated there under."
- B. Per Article 3.3.3-A, "The intent of these regulations is to require higher standards in the Critical Area of the Lake Norman Watershed because of the greater risk of water quality degradation from pollution."
- C. Lake Norman Watershed regulations were effective June 6, 1994. Thus, when Lot 3B was created June 1, 2000 as a new lot of record, it was immediately subject to Watershed regulations with impervious restrictions.
- D. The plat map "Brown's Addition Lots 2 & 3, Revised" that created Lot 3B does not note the subject property is located within the LN CA and does not record the maximum impervious area for the lot.
- E. A building permit was issued to Laurie R Martin (property owner and building contractor) January 20, 2006 for the existing home and driveway.
- F. The building permit nor plot plan include the total proposed impervious area for the original home and driveway.
- G. The permit notes, "BROWNS COVE LOT #3-B-WATERSHED HOLD: LN-CA 24% MBUA," which indicates the property received a hold on the Certificate of Occupancy for the Lake Norman Critical Area Watershed and the property has a 24% maximum built upon (impervious) area restriction.
- H. The existing excess of impervious area and the requested additional 200 square feet of impervious area for a swimming pool qualify this variance application as a major variance request.
- I. The applicant states the requested impervious area of the pool may be mitigated by the removal of some impervious area.
- J. Per Staff correspondence with Rusty Rozzelle, Mecklenburg County Water Quality Program Manager and Storm Water Administrator, any increase beyond the maximum built upon area limit for the property necessitates mitigation to ensure water quality standards are met (Exhibit E).

It is Staff's position that:

Existing and Additional Impervious Area - Staff determines the requested variance is not consistent with the spirit, purpose, and intent of the **ordinance**, such that public safety is secured, and substantial justice is achieved. The intent of the Lake Norman Watershed Overlay District is to provide for the protection of public water supplies for multiple municipalities. While this variance request is for only one individual property, any property that exceeds its maximum built upon area limit contributes to **degradation of water quality**. As the Critical Area experiences a greater risk of water quality degradation from pollution, Staff determines that mitigation of water quality is paramount.

If the property engaged in a Density Averaging Certificate or demonstrates water quality standards are met, Staff determines this standard could be met. However, as evidence is not included demonstrating efforts to achieve compliance through an impervious transfer, Density Averaging certificate, or installation of a BMP, Staff determines this standard has not been met.

Staff Position:

The applicant is seeking a variance from Section E of Article 3.3.3-A of the Huntersville Zoning Ordinance for the existing excess of impervious area permitted in 2006 as well as an additional 200 square feet for a pool. Staff determines that if the Board of Adjustment does not advise approval for the requests the property owner would be required to: 1) remove the excess impervious area 2) obtain an impervious transfer from a lot within the subdivision 3) obtain a density averaging certificate from an eligible lot in the Town or 4) the subdivision or subject property would be required to install a Best Management Practice (BMP) for water quality.

The application with regard to the variance request for the existing impervious area does not meet standards 1 and 4 of Article 11.3.2, Section E. The application with regard to the variance request for the additional impervious area does not meet any of the standards of Article 11.3.2, Section E.

Therefore, based on the application and evidence submitted Staff recommends the Board of Adjustment recommend denial of the variance request for the excess impervious area originally permitted and the additional impervious area requested for the pool.

Attachments:

Exhibit A – Variance Application

Exhibit B – Article 3.3.3-A, Section E

Exhibit C – Aerial Map of Subject Property

Exhibit D – Correspondence between Staff and Mecklenburg County

Exhibit E – Zoning Map

Exhibit F - Browns Cove M12 P31 (1964)

Exhibit G - Brown's Addition Pre Map 24 P674 (1991)

Exhibit H - Brown's Addition Lots 2&3, Revised M33 P287 (2000)

Exhibit I - Brown's Addition Lots 1&2 Revised MAP R 37 P315 (2002)

Exhibit J – Topographical Map

Exhibit K – Town Property Owner Correspondence

EXAMPLE MOTION: V20-06, 15710 PINE ST HUNTERSVILLE NC 28078

Planning Department	Board of Adjustment
DENIAL: In considering Staff's position for V20-06, a request by LAURIE R MARTIN for a variance from Article 3.3.3-A, Section E of the Zoning Ordinance, the Planning Department recommends denial of the variance request based on a finding that the application with regard to the major variance request for the existing impervious area does not meet standards 1 and 4 of Article 11.3.2, Section E. The application with regard to the variance request for the additional impervious area does not meet any of the standards of Article 11.3.2, Section E. Findings of fact to support denial are listed on pages 2-7 of this staff report.	APPROVAL: In considering Staff's position for V20-06, a request by LAURIE R MARTIN for a variance from Article 3.3.3-A, Section E of the Zoning Ordinance, the Board of Adjustment approves the major variance request based on a finding that the request meets ____ of the four criteria, outlined in the Zoning Ordinance, for granting a variance. The Board of Adjustment finds the request meets ____ of the four criteria for granting a variance based on the following findings of fact: (<i>explain findings of fact</i>)
	DENIAL: In considering Staff's position for V20-06, a request by LAURIE R MARTIN for a variance Article 3.3.3-A, Section E of the Zoning Ordinance, the Board of Adjustment approves the major variance request based on a finding that the request meets ____ of the four criteria, outlined in the Zoning Ordinance, for granting a variance. The Board of Adjustment finds the request does not met the criteria for granting a variance based on the following findings of fact: (<i>explain findings of fact</i>)

Exhibit A – Variance Application

Date of Application: 9-14-20

Pin-00145267
Property/Building Address: 15710 Pine St. Huntersville, NC Parcel Size (ac): 0.0459

Tax Parcel ID (PIN) Number(s): Back 6722 p. 197 Browns

Text of Ordinance to be varied Variance requested to increase impervious buildable area
Ordinance: Zoning Article: 3.3.3-A Section: E

I'm requesting a variance for 1.) my house + lot, which has 5,880 square feet of impervious surface area that was approved by Meck County in 2007. And 2.) to add 200 square feet of impervious surface area for coping around a swimming pool to be installed.

Submittal Requirements and Procedure Please see all Notes.

The following must be submitted with the completed application (signed and dated by the property owner and/or applicant):

- One (1) hard copy and one (1) electronic copy of any applicable map(s), site plans, exhibits, and applications showing exact location of property with respect to existing streets, adjoining lots and other important features on or contiguous to the property. Also, include any maps and/or illustrations (to scale), which are necessary to show the location, number and size of buildings, signs, etc., on the property.
- A list of names, addresses and tax parcel identification numbers of properties that abut the site, are across the street from the site or are otherwise within one hundred feet (100') of the site. (Electronic format preferred)
- Review Fee (Please check most recent version of Fee Schedule for applicable Variance Review Fee)
- See the current Board of Adjustment Submittal Deadlines and Meeting Schedule for filing deadlines and meeting dates
- Please submit your complete application and fee by **noon the day filing deadline**

Answers to questions 1-4 on page 3 of the Variance Application

Please note that all information in response to questions 1-4, and which appears in a section or subsection of one answer, is incorporated by reference into each and every section and subsection of all answers.

Answers to Question 1

1-A. My request for a variance due to the construction of my house and the overage of 1,080 square feet of impervious surface

The first unnecessary hardship is that I was issued a building permit and certificate of occupancy for the construction of my house even though I have now been informed that it exceeded the 24% impervious surface restriction for houses in the Lake Norman watershed. My house exceeds the maximum by 1,080 square feet. Because of this overage, a strict application of the ordinance to my property would include:

- 1) removing impervious surfaces on my property that exceed the maximum;
- 2) obtaining an impervious surface transfer from another property in my subdivision;
- 3) obtaining a density averaging certificate from an eligible lot in Huntersville; and
- 4) installing a BMP.

All of these are hardships for me or are not options. As discussed below in more detail, I have 1,080 square feet of impervious surface area on my property that is over the allowed maximum. I could remove some concrete area (e.g. a parking pad near the garage behind the house) but even if I did that I would fall far short of removing 1,080 square feet of concrete. I have a very long driveway, and removing 1,080 square feet of concrete would require me to tear up a large part of my driveway. Obtaining an impervious surface transfer from another property in my subdivision is very unlikely to occur. I have lived in this neighborhood since 2007 and am quite familiar with my neighbors and their attitudes and behaviors, and I do not see this as an option. Obtaining a density averaging certificate from an eligible lot in Huntersville is something that I'm actively exploring as an alternative to a variance, but this is doubtful. Installing a BMP (e.g. a pond) as an offset is not an option for me, either because my lot wouldn't accommodate it or I don't believe it could be placed on another lot owned by someone else.

I built my house in 2006-2007. I was recently divorced and was looking at this new house as a fresh start for me. I acted as my own general contractor and was responsible for building the home. To do that, however, I hired the architect to design it and the subcontractors to build it, and spoke with zoning authorities regarding permits that would be needed. This was the first home where I had done something like this, and I relied on the expertise of others to help build my house, both contractors and employees of Mecklenburg County and the Town of Huntersville.

According to the attached survey that was prepared in 2007, my lot is 20,002 square feet in size. I have very recently come to understand that, with the 24% restriction, the maximum impervious surface area allowed on my lot is 4,800 square feet. Using rounded figures, this survey states that the impervious surface areas are 2,453 square feet for the house; 3,063 square feet for the driveway and sidewalk; 15 square feet for the mechanical area; and 349 square feet for the

patio.

This totals 5,880 square feet of impervious surface area, which means that my house exceeds the maximum by 1,080 square feet. Therefore I am requesting a variance for my house because of this overage.

1-B. My request for a variance to allow a swimming pool to be installed on my property.

It is because of this overage on my house's impervious surface area that I am also requesting a second variance, which would allow me to build a swimming pool in my backyard. Because of the impervious surface overage dating back to when I originally built my house I have another unnecessary hardship in that I can't install a swimming pool without a variance. And because of this overage, a strict application of the ordinance to my property would include:

- 1) removing impervious surfaces on my property that exceed the maximum;
- 2) obtaining an impervious surface transfer from another property in my subdivision;
- 3) obtaining a density averaging certificate from an eligible lot in Huntersville; and
- 4) installing a BMP.

For the same reasons discussed above, all of these are hardships for me or are not options.

Also as discussed above, because my house was permitted, and a certificate of occupancy was issued, I built my house, moved in it, and lived there since 2007. At the time, and in the many years since then, I didn't know that my property exceeded the impervious surface restrictions. I also didn't know that I wouldn't be able to install a swimming pool. In fact, I had always understood that a swimming pool could be installed on my lot, and this ability to install a swimming pool was recently confirmed for me (for a short time) when I spoke with the Town of Huntersville.

In August 2020, I contacted Brian Richards, the Assistant Planning Director for the Town of Huntersville about being able to install a swimming pool on my property. He looked into this and told me over the phone that I would be able to install a swimming pool. He did not tell me that impervious surface restrictions would prevent a swimming pool. I was trying to sell my house, and a real estate agent for a prospective buyer also called Mr. Richards, and he also confirmed for her that a swimming pool could be installed on my property. Because the Town's planning department had confirmed for both me and a real estate agent that a swimming pool could be installed on my property, I went forward with a planned sale of the property to a buyer who made the contract contingent on being able to install a swimming pool. I made repairs to the house requested by this buyer, and I moved furniture and personal belongings out of my house in anticipation of the sale.

Later, someone else in the Planning Department said that a swimming pool would not be allowed. Mr. Richards then sent his email dated September 10, 2020 to me in which he indicated that the building permit for my house was issued in error, and that a swimming pool would not be allowed due to impervious surface restrictions. I'm including this September 10, 2020 email from him as part of my application. After the Town's Planning Department notified me and the prospective buyer of my house that a swimming pool could not be installed, the buyers backed out

of the purchase. This happened just days prior to the scheduled closing. In our contract, the purchase price was \$660,000. Because of the strict application of the watershed regulations, I lost this sale of my house.

If I am allowed to install a swimming pool, the amount of additional impervious surface area that would be involved is minimal. The water portion of the swimming pool itself will not count towards the impervious surface area. Only the concrete that forms the lip around the pool (also called the coping) would count. The concrete coping or lip has a standard width of 16 inches. The coping around a standard swimming pool that is 20 x 40 feet in size would result in no more than 200 square feet of impervious surface area.

Therefore, I am requesting a variance to allow me to add 200 square feet of impervious surface to my property so that a standard-size swimming pool can be installed in the backyard. A potential offset to this new impervious surface is discussed below in section 4-B.

Answers to Question 2

2-A. My request for a variance regarding my house.

I recognize that the hardship that is prompting my request for a variance regarding my house does not result from conditions that are peculiar to the property, and the conditions of my property didn't prevent the impervious surface restrictions from being met. Nevertheless, there is a hardship because of the overage for my house. This hardship results from the unusual circumstances surrounding the permitting of my house. Therefore, I am requesting a variance regarding my house and the 5,880 square feet of impervious surface on it.

Impervious surface area restrictions were never an issue that anyone – including anyone at the County or the Town – discussed with me when I bought my lot, when I obtained a building permit, when the septic tank was permitted or installed, during construction of the house, or when I obtained a certificate of occupancy.

I purchased the lot in 2005. A plat map recorded on June 1, 2000 at Map Book 33, Page 287 shows my lot as Lot 3B. This plat map is included with my application. The recorded map makes no mention of the Lake Norman watershed or any impervious surface restriction—either for Lot 3B or any other lot. This map was approved by the Town of Huntersville, and recorded in the land records of Mecklenburg County.

A plat map recorded on April 16, 2002 at Map Book 37, Page 315 also shows my lot as Lot 3B. This plat map is included with my application. The recorded map mentions the Lake Norman watershed and an impervious surface restriction. It specifically mentions the impervious surface restriction as to Lots 1A, 1B, and 2—but it does not mention that restriction as to Lot 3B. This map was also approved by the Town of Huntersville, and recorded in the land records of Mecklenburg County.

When I obtained the building permit in January 2006, it was not obvious to me that any

impervious restriction applied. On page 3 of the building permit, there is a notation that reads “Browns Cove Lot #3-B-Watershed Hold: LN-CA 24% MBUA.” If I saw that notation then I wouldn’t have known what it meant. It’s only been in connection with submitting a request for a variance that I’ve come to understand that this notation seems to indicate a 24% impervious surface restriction. This notation is very cryptic for a layman like myself, and I would never have known what this meant if it wasn’t for the fact that someone from the Town of Huntersville very recently deciphered this notation for me.

Shortly after obtaining the building permit, the survey company prepared a plot plan for the house (see attached) dated March 1, 2006. It did not indicate there were any impervious surface restrictions for my lot.

At the time, my lot had no ability to connect to city sewer, and a septic tank would be required for the house I was building. The septic tank was installed in the side yard, the lines for the primary field were laid out in the front yard, and a repair field was put into the back yard. The positioning of the septic tank, the primary field, and the repair field were done in anticipation of someday installing a swimming pool on the lot. I worked with Jeremy Michelone with Mecklenburg County. He met me on-site at my property and he helped me with the positioning of the septic system. Nothing was ever said by him about any impervious surface restrictions, that I might be at risk of exceeding them, or that I wouldn’t be able to install a swimming pool. In reliance on his expertise, I believed that once he and I had laid out the septic system and he signed off on the septic permit, that I had overcome the last hurdle for installing a swimming pool.

Mecklenburg County issued me a certificate of occupancy on May 9, 2007. A copy of the CO is attached. The CO has a space for “Restrictions/Limitations” and “Remarks.” Nothing was filled in regarding either “Restrictions/Limitations” or “Remarks.” There was no mention of any impervious surface restrictions. Instead, the CO that Mecklenburg County issued stated “In the opinion of this Department, the premises represented above *complies with applicable building and zoning regulations.*” The CO further states that the “Date of certification is the date on which all permits related to the job were finalized and *applicable holds were released.*”

On its face, the CO states that my property is in compliance with all zoning regulations. If we take the County at its word, then that means my property doesn’t violate the Lake Norman watershed rules. And if my property was subject to a hold—such as the “Browns Cove Lot #3-B-Watershed Hold: LN-CA 24% MBUA” stated on the building permit—then the CO indicates that this “applicable hold” was “released.” Therefore, Mecklenburg County has apparently taken official action to release my property from a hold related to the 24% impervious surface restriction and has determined that I am in full compliance with all building and zoning regulations.

Here is some additional factual information to understand how my property ended up with 5,880 square feet of impervious surface area. The lot I purchased was not then, and is not now, in a standard subdivision. There are no restrictive covenants, and there is no homeowner’s association. And with no HOA, there’s also no neighborhood swimming pool. Because of those facts, when I bought the lot I bought it with the intention of someday installing my own swimming pool. Many of the decisions made regarding the positioning of the house, septic system, and driveway were made in contemplation of installing a swimming pool in the back yard.

For example, I installed the septic tank in the side yard, and primary field for it in the front yard. The repair field was installed in the back yard on the north side of the lot. All of these choices were driven because of the need to accommodate a future swimming pool in the back yard, which would be located more towards the south property line. Because we had to place the septic system's primary field in the front yard, this pushed the house further away from the front property line. It also meant that the 2-car garage would not be in front of the house but behind the house. For all these reasons, I now had a much longer driveway. Consequently, much more concrete had to be poured to get the driveway from Pine Street to the back of the house and then to the garage.

Even though it's a single car driveway, it runs a great distance and involves a very large amount of concrete. The driveway is about 146 feet long before it turns to the north to reach the garage. As mentioned above, the concrete for the driveway and sidewalk creates an impervious surface area of 3,063 square feet. By comparison, the concrete for the house itself is 2,453 square feet. In other words, the impervious surface area for the driveway and sidewalk is 25% greater than for the house itself.

Together, the impervious surface areas for the house and the driveway by themselves exceed what I'm now told is the maximum allowable impervious surface area for my lot by 716 square feet, or by 15%. This does not include the other impervious surface areas for the rear patio and the mechanical area.

When I submitted my application to Mecklenburg County for a building permit, I disclosed the square footage for the planned house, and the distance for the driveway. I provided enough information at the time of application that Mecklenburg County and the Town of Huntersville should have immediately recognized that the impervious surface areas were going to be very substantial. For example, I disclosed that the house would be 3,560 square feet, that there would be a 2-car garage behind the house, that a driveway would run from Pine Street to the back of the house that would be approximately 146-feet long, and that there would be a turn in the driveway that would then run to the garage behind the house, and that this portion of the driveway could be as much as 60 feet. I also disclosed that there would be a patio behind the house. All of these would require concrete pours involving very significant square footages of impervious surface areas.

Despite having this information, neither Mecklenburg County nor the Town of Huntersville raised any red flags, notified me of possible violations of impervious surface restrictions, nor suggested a different layout. Instead, my application was granted, a building permit was issued to me, the septic system was permitted, the house was built, concrete was poured, and a certificate of occupancy was issued stating that I was in compliance with all building and zoning regulations.

2-B. My request for a variance to allow a swimming pool to be installed on my property.

I recognize that the hardship that is prompting my request for a variance regarding my house does not result from conditions that are peculiar to the property, and the conditions of my property didn't prevent the impervious surface restrictions from being met. Nevertheless, there is

a hardship because of the overage for my house. This hardship results from the unusual circumstances surrounding the permitting of my house that resulted in an overage on the impervious surface area dated back to when my home was originally built. As a result of this overage I am at present prevented from installing a swimming pool on my property. Therefore, I am requesting a variance to allow me to add additional impervious surface area associated with installing a swimming pool.

As additional factual information to what I have already said above, let me add that Mecklenburg County certainly knew that I had plans to install a swimming pool in my backyard, that the layout of the septic system was driven by this plan, and that this plan would require significant concrete pours and large impervious surface areas.

The Mecklenburg County septic inspector was Jeremy Michelone. In late 2005, Mr. Michelone met with me on site and we specifically discussed the need to have the septic system situated so as to accommodate a swimming pool in the back yard. He helped me to develop the septic system design and layout knowing of the plan for the swimming pool, and he signed the paperwork approving the septic system.

To sum things up, I built my house – and spend hundreds of thousands of dollars – in reliance on what the zoning authorities told me about the ability to build my house as planned, and with the County’s knowledge of my plan to install a swimming pool in the back yard of my lot. The zoning authorities knew the size of the lot, the size of the house’s footprint, and the size of the very significant concrete pours for it, for the driveway, and for other areas. A building permit was issued for the house, and nothing was said about an impervious surface restriction that would prevent me from building both the house, the driveway and other concrete areas, and then later on a swimming pool. A certificate of occupancy was issued indicating that I had complied with all building and zoning regulations. Throughout this entire history, I have I relied on information from the zoning authorities, their knowledge of my plans, and their repeated approvals that were granted to me.

In August 2020, I was again told by the Town of Huntersville (through its Assistant Planning Director Brian Richards) that a swimming pool could be built in my backyard. Mr. Richards also confirmed this to a real estate agent. Weeks later, however, I was told that impervious surface restrictions would prevent a swimming pool from being installed.

Because of the overage dating back to the construction of my house (which was permitted), and my reliance on what the zoning authorities knew and permitted, I am requesting that I be granted a variance to allow me to install a swimming pool that would involve no more than 200 additional square feet of impervious surface area.

Answers to Question 3

The hardships regarding the overage on my house, and the resulting inability to install a swimming pool, did not result from actions that I took, but from information communicated to me by the zoning authorities that I reasonably relied on.

As mentioned above, I built my house in 2006-2007. I was recently divorced and was looking at this new house as a fresh start for me. I acted as my own general contractor and was responsible for building the home. To do that, however, I hired the architect to design it and the subcontractors to build it, and spoke with zoning authorities regarding permits that would be needed. This was the first home where I had done something like this, and I relied on the expertise of others to help build my house, both contractors and employees of Mecklenburg County and the Town of Huntersville.

The plat maps discussed above (one recorded on June 1, 2000 at Map Book 33, Page 287 and another recorded on April 16, 2002 at Map Book 37, Page 315) were both recorded before I purchased my lot. Both plat maps show my lot as Lot 3B. The 2000 recorded map makes no mention of the Lake Norman watershed or any impervious surface restriction—either for Lot 3B or any other lot. This map was approved by the Town of Huntersville, and recorded in the land records of Mecklenburg County. The 2002 plat map mentions the Lake Norman watershed and an impervious surface restriction. It specifically mentions the impervious surface restriction as to Lots 1A, 1B, and 2—but it does not mention that restriction as to Lot 3B. This map was also approved by the Town of Huntersville, and recorded in the land records of Mecklenburg County.

The lot I purchased was not then, and is not now, in a standard subdivision. There are no restrictive covenants, and there is no homeowner's association. And with no HOA, there's also no neighborhood swimming pool. Because of those facts, when I bought the lot I bought it with the intention of someday installing my own swimming pool. Many of the decisions made regarding the positioning of the house, septic system, and driveway were made in contemplation of installing a swimming pool in the back yard.

For example, I installed the septic tank in the side yard, and primary field for it in the front yard. The repair field was installed in the back yard on the north side of the lot. All of these choices were driven because of the need to accommodate a future swimming pool in the back yard, which would be located more towards the south property line. At the time, my lot had no ability to connect to city sewer, and a septic tank would be required for the house I was building. I worked with Jeremy Michelone with Mecklenburg County. He met me on-site at my property and he helped me with the positioning of the septic system. Nothing was ever said by him about any impervious surface restrictions, that I might be at risk of exceeding them, or that I wouldn't be able to install a swimming pool. In reliance on his expertise, I believed that once he and I had laid out the septic system and he signed off on the septic permit, that I had overcome the last hurdle for installing a swimming pool.

Because we had to place the septic system's primary field in the front yard, this pushed the house further away from the front property line. It also meant that the 2-car garage would not be in front of the house but behind the house. For all these reasons, I now had a much longer driveway. Consequently, much more concrete had to be poured to get the driveway from Pine Street to the back of the house and then to the garage.

Even though it's a single car driveway, it runs a great distance and involves a very large amount of concrete. The driveway is about 146 feet long before it turns to the north to reach the

garage. As mentioned above, the concrete for the driveway and sidewalk creates an impervious surface area of 3,063 square feet. By comparison, the concrete for the house itself is 2,453 square feet. In other words, the impervious surface area for the driveway and sidewalk is 25% greater than for the house itself.

When I submitted my application to Mecklenburg County for a building permit, I disclosed the square footage for the planned house, and the distance for the driveway. I provided enough information at the time of application that Mecklenburg County and the Town of Huntersville should have immediately recognized that the impervious surface areas were going to be very substantial. For example, I disclosed that the house would be 3,560 square feet, that there would be a 2-car garage behind the house, that a driveway would run from Pine Street to the back of the house that would be approximately 146-feet long, and that there would be a turn in the driveway that would then run to the garage behind the house, and that this portion of the driveway could be as much as 60 feet. All of these would require concrete pours involving very significant square footages of impervious surface areas.

Despite having this information, neither Mecklenburg County nor the Town of Huntersville raised any red flags, notified me of possible violations of impervious surface restrictions, nor suggested a different layout. Instead, my application was granted, a building permit was issued to me, and the septic system was designed and permitted.

When I obtained the building permit in January 2006, it was not obvious to me that any impervious restriction applied. On page 3 of the building permit, there is a notation that reads “Browns Cove Lot #3-B-Watershed Hold: LN-CA 24% MBUA.” If I saw that notation then I wouldn’t have known what it meant. It’s only been in connection with submitting a request for a variance that I’ve come to understand that this notation seems to indicate a 24% impervious surface restriction. This notation is very cryptic for a layman like myself, and I would never have known what this meant if it wasn’t for the fact that someone from the Town of Huntersville very recently deciphered this notation for me.

After getting the septic permit and the building permit, the house was built, concrete was poured, and a certificate of occupancy was issued stating that I was in compliance with all building and zoning regulations.

On this last point, Mecklenburg County issued me a certificate of occupancy on May 9, 2007. A copy of the CO is attached. The CO has a space for “Restrictions/Limitations” and “Remarks.” Nothing was filled in regarding either “Restrictions/Limitations” or “Remarks.” There was no mention of any impervious surface restrictions. Instead, the CO that Mecklenburg County issued stated “In the opinion of this Department, the premises represented above *complies with applicable building and zoning regulations.*” The CO further states that the “Date of certification is the date on which all permits related to the job were finalized and *applicable holds were released.*”

On its face, the CO states that my property is in compliance with all building and zoning regulations. If we take the County at its word, then that means my property doesn’t violate the Lake Norman watershed rules. And if my property was subject to a hold—such as the “Browns

Cove Lot #3-B-Watershed Hold: LN-CA 24% MBUA” stated on the building permit—then the CO indicates that this “applicable hold” was “released.” Therefore, Mecklenburg County has apparently taken official action to release my property from a hold related to the 24% impervious surface restriction and has determined that I am in full compliance with all building and zoning regulations.

To summarize, the hardships created by the overage of impervious surface areas was not the result of actions that I took, but instead resulted from relying on the zoning authorities in Mecklenburg County and the Town of Huntersville. Before I purchased my lot, these zoning authorities signed off on not one but two recorded plat maps that showed no restrictions applicable to my lot. After I purchased my lot, the same zoning authorities granted the permits needed to build the house, and one worked with me on-site to lay out a septic system that was designed and installed specifically for the purpose of accommodating the future installation of a swimming pool. Permits were issued with knowledge of what was going to be built, the dimensions of structures, and the significant concrete pours that would result in impervious surface areas. The zoning authorities allowed these structures to be built, and the County issued a CO after they were built that confirmed that my property was in full compliance with all building and zoning regulations. Later, the Town’s Planning Department confirmed for me that I could install a swimming pool on my property, and I relied on this information as well.

Answers to Question 4

4-A. My request for a variance due to the construction of my house and the overage of 1,080 square feet of impervious surface area.

I understand that a board of adjustment’s principal function is to issue variance permits in order to prevent an injustice that would result from a strict application of an ordinance. That is certainly the situation with my property. I moved into my house in October 2007—which was 13 years ago. The same concrete impervious surfaces that were in place 13 years ago remain in place today. At no time since I have owned my property has any neighbor or any other person ever complained about the impervious surfaces on my property. At no time has anyone ever complained that my property poses a risk to public safety.

To my knowledge, there is no expert evidence that proves that the overage of impervious surfaces on my property will harm public safety. No one has ever suggested—let alone proved—that because my house was permitted with the concrete areas which it has that it somehow negatively affects the quality of drinking water drawn from Lake Norman or otherwise affects the public safety. If a variance is granted regarding the overage on my house, the public safety will not be affected.

I relied in good faith on the permits that were issued. I bought a vacant lot, built a new house at great expense, lived there for more than a decade, and at all times reasonably believed that my house complied with all building and zoning regulations. By granting a variance that allows me to continue with the residential use of my property consistent with prior determinations by the zoning authorities, the permits they issued, and on which I have relied, substantial justice will be done.

4-B. My request for a variance to allow a swimming pool to be installed on my property.

The variance that I'm asking for regarding installing a swimming pool is consistent with the residential use already allowed for my property. I have a vested right in this use. I'm not seeking to change the use, only to have a very minimally expanded use of what is already allowed.

If I am granted a variance that allows me to build a swimming pool in my backyard, the variance will not undermine the purpose behind the Lake Norman watershed rules. Under the Town's ordinances the water surface of the pool is a pervious surface, therefore the vast majority of the pool area will not be includable in the impervious surface area. The concrete coping around the swimming pool will be minimal – only 200 square feet at most. If needed, the coping's impervious surface area could be mitigated and offset by removing an approximate 300 square foot parking pad that is adjacent to the driveway in the back of the house.

The safety and general welfare of the public will not be affected by me having a swimming pool in my backyard. The drinking water drawn from Lake Norman will not be negatively affected by the minimal amount of concrete coping surrounding a standard size swimming pool, especially if the 200 square feet of coping is more than offset by removing the 300 square foot parking pad.

By granting a variance that allows me to continue with the residential use of my property consistent with prior determinations by the zoning authorities, the permits they have issued, and on which I have relied, substantial justice will be done.

Laurie R. Martin
15710 Pine Street
Huntersville, North Carolina 28078
(704) 622-6555

TYPE PERMIT ☒ Single Family ☐ Two Family ☐ Commercial ☐ Mobile Home ☐ Modular		PERMIT # B1550123	
ADDRESS	STREET # (N,S,E,W) <u>15710</u> STREET NAME <u>Pine</u> (AV, RD, ST, etc) <u>Str.</u>		
	SUITE/UNIT(S): <u>N/A</u>		
	TAX JURISDICTION: (Check One) ☒ Mecklenburg ☐ 1-Charlotte ☐ 2-Davidson ☐ 3-Cornelius ☐ 4-Pineville ☐ 5-Matthews ☒ 6-Huntersville ☐ 7-Mint Hill		
SITE DATA	PROJECT/SUBDIVISION NAME <u>Martin Project + Browns Cove</u> PHASE _____ SECTION _____		PROJECT # <u>155976</u>
	OWNER <u>Laurie R. Martin</u> ADDRESS <u>12227 Kane Alexander Dr.</u>		
	CITY <u>Huntersville</u> STATE <u>NC</u> ZIP <u>28078</u> PHONE # <u>(704) 622-6555</u>		
PROJECT	TAX PARCEL # <u>001-452-67</u> LOT # <u>3B</u> BLOCK # <u>N/A</u> LAND AREA (sq. ft.) <u>N/A</u>		
	ZONING <u>CR</u> FLOOD PLAIN ☐ Yes ☒ No FLOOD ELEV. _____ FIRE DIST. ☐ Yes ☒ No		
	SPECIAL (Circle) <u>C</u> <u>D</u> <u>F</u> <u>S</u> FRONT SHEET (if different) _____ LOT ☐ CORNER ☐ THROUGH ☐ MINIMUM SETBACKS: FRONT <u>90</u> LEFT SIDE <u>10</u> RIGHT SIDE <u>10</u> REAR <u>10</u> REO. PARK'G <u>10</u>		
SERVICES	JOB # _____ TYPE WORK: ☒ New ☐ Addition ☐ Accessory ☐ Uplift ☐ Shelf ☐ Demolish ☐ Other PROJECT DESCRIPTION (Residence, Office, etc.) <u>Residence</u> Mobile Home: Include Yr./Make & Serial # _____		
	AREA (sq. ft.): Heated <u>3560</u> Unheated <u>479</u> Deck(s) <u>none</u> # STORIES <u>2</u> BASEMENT ☐ Yes ONE/TWO FAMILY, MODULAR, OR MOBILE HOME: TOTAL # ROOMS <u>9</u> # BEDROOMS <u>3</u> # BATHS <u>3.5</u> Work includes: ☐ Attached Carport ☒ Attached Garage ☒ Masonry Fireplace(s) <u>stone (4) Gas direct vent</u>		
	SPRINKLERS ☐ Yes ☒ No # UNITS _____ MULTI-FAMILY: # HANDICAP UNITS _____		
CONTRACTORS	ELECTRICAL Power Company <u>Duke</u> Service: ☒ New ☐ Existing Total Amps <u>200</u> # Circuits <u>30</u> # Connections 120 Volts _____ # Connections over 120 Volts _____		
	MECHANICAL: Gas Company <u>Piedmont</u> # Gas Conn <u>6</u> # Appliances <u>1</u> ☐ 1-Heat Pump ☐ 2-Central A/C ☐ 3-Elect. Baseboard ☐ 4-Elect. Furnace ☒ Heat Only ☒ Central A/C Only ☐ Heat and A/C ☐ 7-Gas/Oil Steam ☐ 8-Gas Pack ☒ 9-Pre-Fab Fireplace ☐ 10-Chimney ☒ 11-Stove ☒ 6-Gas/Oil Furnace		
	PLUMBING: # of Fixtures (Sink, Water Closet, etc.) <u>12</u> # of Appliances (Dishwasher, Water Heater, etc.) <u>4</u> UTILITIES: ☒ New ☐ Existing Public ☒ 1-Individual Meter/Connection ☐ Water ☐ Sewer Private ☐ 3-Individual ☐ Well ☒ Septic ☐ 2-Master Meter/Connection ☐ Water ☐ Sewer ☐ 4-Community ☐ Well ☐ Septic		
OTHER	CONTRACTOR(S): (Name/Address as appears on license) Bldg. <u>Myself + Building Project</u> Phone <u>(704) 622-6555</u> Lic # <u>0</u> Add. <u>12227 Kane Alexander Dr.</u> City/St <u>Huntersville, NC</u> Zip <u>28078</u> Elect. <u>Watson Electric</u> Phone <u>704-393-0220</u> Lic # <u>213-U</u> Add. <u>3825 Carverton Circle</u> City/St <u>Charlotte, NC</u> Zip <u>28216</u> Mech. <u>PARKS</u> Phone <u>704-596-8200</u> Lic # <u>26985 H3-1</u> Add. <u>P.O. Box 343</u> City/St <u>Newell, NC</u> Zip <u>28126</u> Plbg. <u>Speedway Plumbing</u> Phone <u>(704) 361-2158</u> Lic # <u>2005749</u> Add. <u>P.O. Box 722</u> City/St <u>Harrisburg, NC</u> Zip <u>28075</u> Arch./Eng. <u>Drafting + Design/Jay</u> Phone <u>704-542-8658</u> Lic # _____ Add. _____ City/St <u>Charlotte, NC</u> Zip _____		CONTRACT COST Nearest \$100 Bldg. <u>30</u> \$ <u>13,000.</u> Elect. <u>2</u> \$ <u>8,000.</u> Mech. <u>1</u> \$ <u>12,000.</u> Plbg. <u>1</u> \$ <u>15,000.</u> Total Const. Cost <u>258,094</u> \$ <u>230,000</u> FT. FEES \$ _____ OTHER FEES \$ _____ TOTAL FEES \$ <u>1,701.44</u>
	TOTAL ESTIMATED PROJECT COST FOR FAST TRACK OR MODULAR \$ <u>N/A</u>		
	REMARKS: <u>Lot + Construction cost = 300K Total</u> <u>W/S LN-CA 220K building/Lot Value 80K</u>		

THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE IS EITHER THE OWNER OR THE AUTHORIZED AGENT OF THE OWNER AND HEREBY MAKES APPLICATION FOR PERMIT AND INSPECTION OF WORK DESCRIBED AND AGREES TO COMPLY WITH ALL APPLICABLE LAWS REGULATING THE WORK.

Laurie Martin
APPLICANT'S SIGNATURE

11-16-05
DATE

Laurie R. Martin
PRINT APPLICANT'S NAME

METHOD OF PAYMENT
☒ CASH/CHECK ☐ ACCOUNT

MECKLENBURG COUNTY LAND USE AND ENVIRONMENTAL SERVICES AGENCY
 700 N. TRYON STREET • CHARLOTTE, NC 28202 • 704/336-2831

HOLDS	PROCESSED BY	APPROVED BY	VALIDATED BY
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>

ORIGINAL

PLOT PLAN FOR PERMIT APPLICATION ONE/TWO FAMILY, MODULAR, MOBILE HOME OR ZONING USE

LOCATION

STREET # (N,S,E,W) 15710 STREET NAME Pine Street (AV, RD, ST, etc)

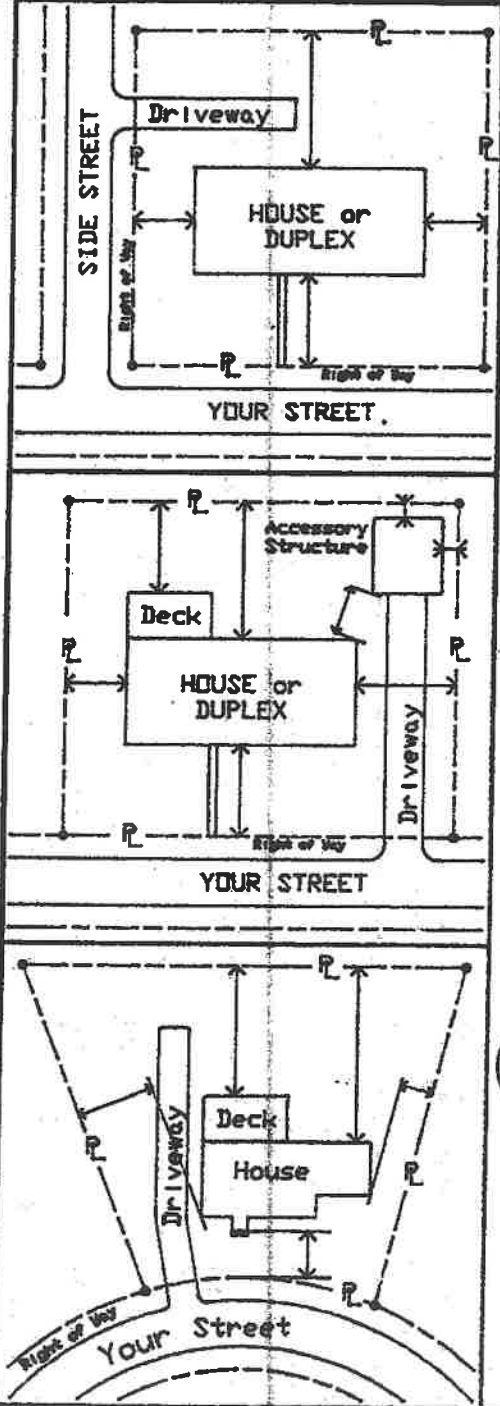
PERMIT # B1550123

SUITE/UNIT(S): n/a

TAX JURISDICTION: (Check One) ☒ 0-Mecklenburg ☐ 1-Charlotte ☐ 2-Davidson ☐ 3-Cornelius
☐ 4-Pineville ☐ 5-Matthews ☐ 6-Huntersville ☐ 7-Mint Hill

TAX PARCEL # 00145267 JOB #

EXAMPLES / PLOT PLAN

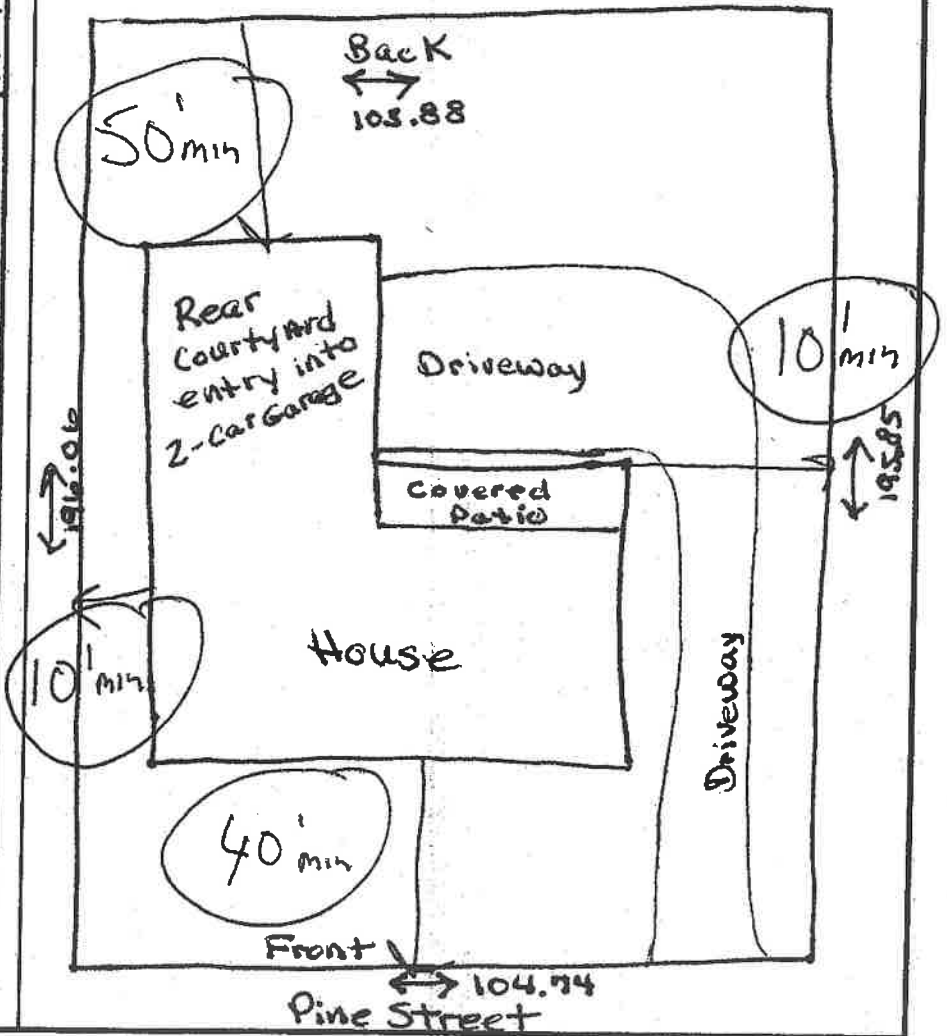


- INSTRUCTIONS -

In the space provided below, draw plot plan as neatly and accurately as possible, from survey if available.

1. Draw street(s) and right-of-way(s).
2. Draw property lines with dimensions.
3. Draw proposed and existing buildings showing any attached porch(es), deck(s), chimney(s), carport(s), or garage(s), etc...
4. Show distances of buildings from property lines or other structures.
5. Separate application and plot plan required for each building.

- PLOT PLAN -



ALL EXISTING AND PROPOSED BUILDING(S) ON LOT ARE SHOWN WITH MEASUREMENTS INDICATED

APPLICANT'S SIGNATURE Laurie R. Martin

DATE 11-16-05

PRINT APPLICANT'S NAME Laurie R. Martin

APPROVED BY

Building Permit One/Two Family

Property

Address: 15710 PINE ST
Subdivision:

Parcel: 00145267 Lot: Block:
Tax Jurisdiction: HUNTERSVILLE

Site Details

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

Lot

Corner: N Through: N Irregular: N

Minimum Setbacks (ft.)

Front: 40 Left: 10 Right: 10 Rear: 50

Project

Project Number: 155976

Occupancy Type: R3 * RESIDENTIAL - SINGLE FAM

Project Name: MARTIN/NEW RES-PLAN REV

Contract Cost: \$258,094

USDC: 101 - One Family Detached

Mobile Home: Year/Make:

Serial Number:

Heated Area: 3560 sq. ft.

Unheated Area: 479 sq. ft.

Deck Area:

Owner

Name: LAURIE R. MARTIN
Phone: (704) 622-6555

Address: 12227 KANE ALEXANDER DR
HUNTERSVILLE, NC 28078

Trade Details

Electrical

Total Amps: 200 Number of Circuits: 30 Connections at 120 Volts: 80 Connections Over 120 Volts: 3
Service Type: New Utility Company: ENERGY UNITED

Mechanical

No. of Gas Connections: 6 No. of Appliances: 1 Utility Company:
Heating/Cooling: Central A/C, Gas/Oil Furnace, Prefabricated Fireplace, Stove

Plumbing

No. of Fixtures: 12 No. of Appliances: 4

Utilities

Type of Service: New

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

Building Permit One/Two Family

Contractors

Building Contractor	MARTIN LAURIE Phone: (704) 622-6555 Address: 12227 KANE ALEXANDER ROAD HUNTERSVILLE, NC 28078	Contractor ID: X39081 License #: Contract Cost: \$ 223,094 Home Owner: Yes Permit Number: B1550123
Electrical Contractor	WATSON ELECTRICAL CONSTRUCTION Phone: (704) 393-0220 Address: P O BOX 3105 WILSON, NC 27895-3105	Contractor ID: X35747 License #: 0000000213 Contract Cost: \$ 8,000 Home Owner: No Permit Number: E1566693
Mechanical Contractor	PARKS HEATING & COOLING Phone: (704) 596-8200 Address: P.O. BOX 343 NEWELL, NC 28126	Contractor ID: M10940 License #: 26985 Contract Cost: \$ 12,000 Home Owner: No Permit Number: M1566692
Plumbing Contractor	SPEEDWAY PLUMBING INC Phone: (704) 720-9593 Address: P O BOX 722 HARRISBURG, NC 28075	Contractor ID: X33261 License #: 0000019871 Contract Cost: \$ 15,000 Home Owner: No Permit Number: P1566691

Fees

Permit Fee:	\$1,701.44	Fax Fee:	\$0.00	Fast Track Fee:	\$0.00
Double Fee:	\$0.00	Home Owner Recovery Fund:	\$0.00	Fee Adjustment:	\$0.00
Fire Damage Fee:	\$0.00	NESHAP Fee:	\$0.00	Total Fee:	\$1,701.44
Permit Fee Type: Construction		Charge To Account: Yes			

Miscellaneous

Entry Date: 11/28/2005 08:25 am	Entered By: Sweeny, Eileen
Issue Date: 01/20/2006	Issued By: Sweeny, Eileen
Special Inspections: n/a	

Mecklenburg County
Land Use and Environmental Services
P.O. Box 31097
700 N Tryon St
Charlotte, NC 28231-1097
14) 336-3830

Permit: **B1550123**
Issue Date: January 20, 2006

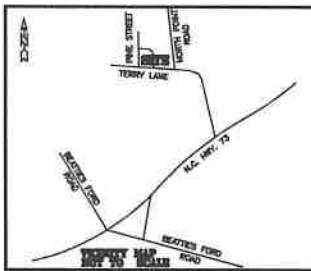
Building Permit

One/Two Family

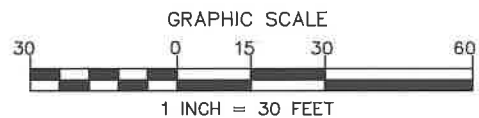
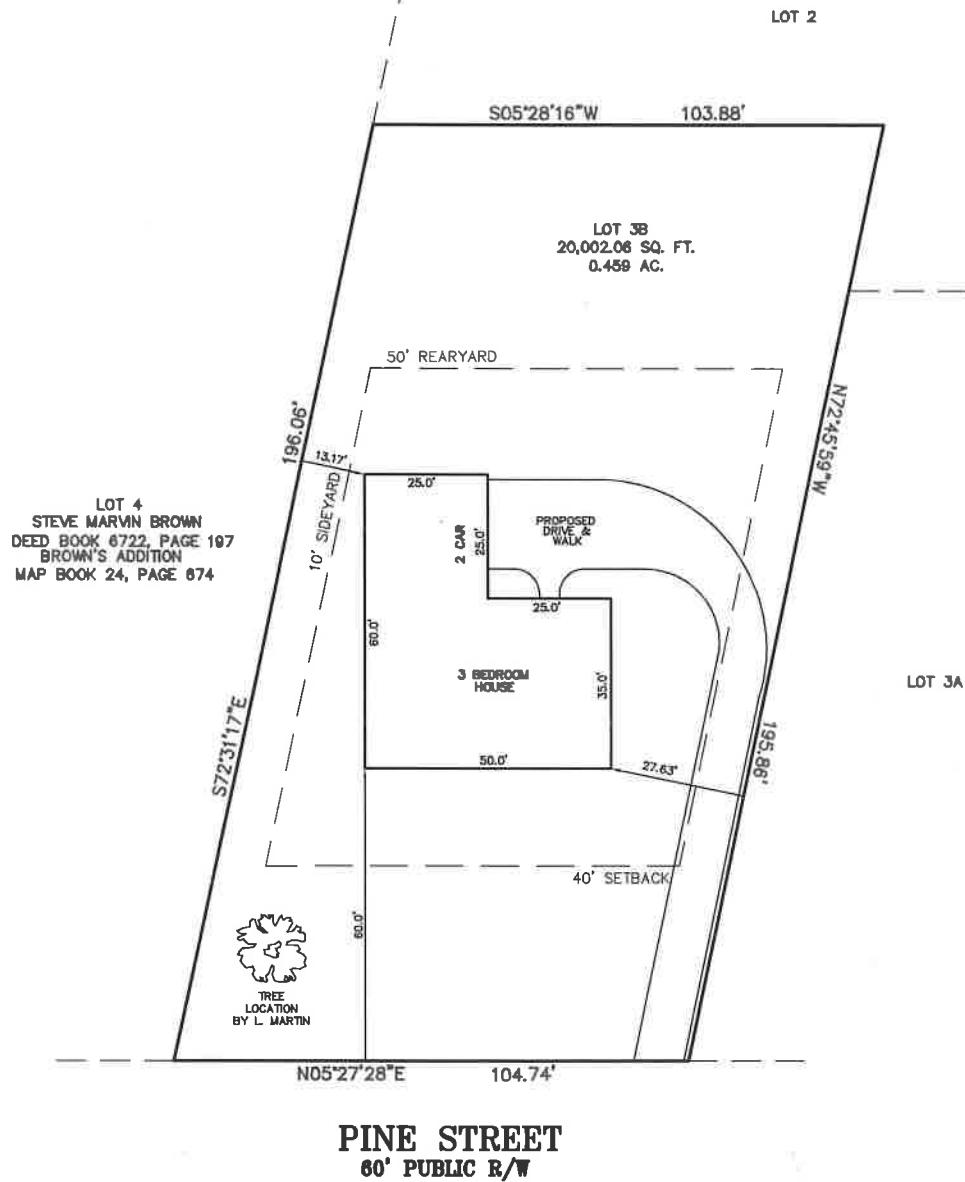
Remarks

BROWNS COVE LOT #3-B-WATERSHED HOLD: LN-CA 24% MBUA
WAITING ON E.H. AND BOND FOR HOMEOWNER

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



NOTE: CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING FIELD VERIFICATION OF FOUNDATION DIMENSIONS PRIOR TO SLAB CONSTRUCTION. THE HOME DIMENSIONS SHOWN ON THIS PLAN & USED FOR FIELD STAKING BY THE ISAACS GROUP ARE BASED UPON THE BUILDING FOUNDATION DESIGN PROVIDED BY THE BUILDER. THE ISAACS GROUP IS NOT RESPONSIBLE FOR DIMENSIONAL ERRORS ON HOME CONSTRUCTION DOCUMENTS.



THE ISAACS GROUP
CIVIL ENGINEERING DESIGN AND CONSULTING
8720 RED OAK BLVD., SUITE 420
CHARLOTTE, N.C. 28217
PH. (704) 527-3440 FAX (704) 527-8335

THIS IS TO CERTIFY THAT THE PROPERTY SHOWN ON THIS PLAT IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION COMMUNITY NUMBER 370476-045-E DATED FEBRUARY 4, 2004.

PLOT PLAN OF

15710 PINE STREET

LOT 3B, BROWN'S ADDITION LOTS 2 & 3, REVISED

TOWN OF HUNTERSVILLE, MECKLENBURG COUNTY

NORTH CAROLINA

OWNER: LAURIE MARTIN

APPROVED ☐ REVISE ☐ MB. 33 PG. 287

Date: 3/1/06

File #: LOT 3B.dwg

Project Plg: SSD

Drawn By: CEC

Surveyed By: ---

Scale: 1"=30'

CONDITIONS OF IMPROVEMENT PERMIT / CONSTRUCTION AUTHORIZATION

Permit Number: **4766B**

Tax Number: **00145267**

- The IMPROVEMENT PERMIT is subject to revocation if site plans or the intended use change. There is to be **NO** grading, filling, or disturbance of the soil in the area of the septic tank system or repair area.
- CONSTRUCTION AUTHORIZATION must be obtained prior to receiving a Building Permit. The Construction Authorization is **NOT** transferable. Do not clear, grade, fill or disturb soil prior to obtaining a Construction Authorization.
- Domestic-type wastewater only. No industrial process wastewater may be discharged into the system.

Basement: ☐ Yes ☒ No ☐ Partial Basement

Primary Wastewater System			
Type: ☐ I ☐ II ☒ III ☐ IV ☐ V ☐ VI	☐ Conventional ☐ Prefabricated, permeable block panel system ☐ Shallow Placed Conventional	☐ Low Pressure Pipe ☐ Large Diameter Pipe ☐ Fill ☐ Other	☒ Innovative or Experimental:

<u>0.3</u> Long-term acceptance rate (GPD/ft ²)	<u>360</u> Max gallons/day wastewater flow	<u>900</u> Absorption Area (ft ²)	<u>9</u> Trench spacing (min. on centers) (ft)
Serviced by private well: ☐ Yes ☒ No	<u>1500</u> Gallon septic tank	<u>300</u> Total trench length (ft)	<u>30</u> Maximum trench depth (in) (At least 12" of provisionally suitable soil must remain between trench bottom and unsuitable soil conditions.)
<u>3</u> Bedrooms in residence	<u>NA</u> Gallon pump tank	<u>NA</u> Depth of stone (in)	

Any surface water present: NO	Type:	Minimum separation distance (ft):
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Additional conditions: <i>AGREEMENT FORMS BEFORE CA RELEASE.</i>
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Repair Area System			
Type: ☐ I ☐ II ☒ III ☐ IV ☐ V ☐ VI	☐ Conventional ☐ Prefabricated, permeable block panel system ☐ Shallow Placed Conventional	☐ Low Pressure Pipe ☐ Large Diameter Pipe ☐ Fill ☐ Other	☒ Innovative or Experimental:
<u>900</u> Absorption Area (ft ²) <u>300</u> Total trench length (ft)	<u>NA</u> Depth of stone (in)	<u>9</u> Trench spacing (min. on centers) (ft)	<u>30</u> Maximum trench depth (in)

The undersigned, an authorized agent of the MECKLENBURG COUNTY HEALTH DEPARTMENT, certifies that the Department has approved the Request for the Job Location contained in this document. The approval is granted in accordance with the provisions of Laws and Rules For Sewage Treatment, and Disposal Systems in effect at the time of issuance of the permit and is subject to the following provisions:

*** No work shall be conducted on the septic tank system until an Installation, Construction, Alteration and/or Repair Approval is granted by this Department.

*** This Improvement permit is transferable.

James M. R. S. *10/18/05*

 DENR Authorized Agent Date

Laurel P. Martin *12-2-05*

 Owner/Agent Signature Date

MECKLENBURG COUNTY HEALTH DEPARTMENT
 ENVIRONMENTAL HEALTH DIVISION
 700 N. TRYON ST., SUITE 211
 CHARLOTTE, NC 28202
 PHONE: (704) 336-5103
 FAX: (704) 336-6894

NC DENR
 DIVISION OF ENVIRONMENTAL HEALTH
 ON-SITE WASTEWATER SECTION

FEE:
DATE:

309⁰⁰ ch R 1214
12/2/05
JC

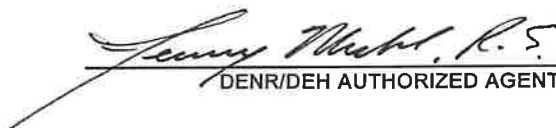
AUTHORIZATION FOR WASTEWATER SYSTEM CONSTRUCTION

ACS

PERMIT NUMBER: 4766B
PARCEL NUMBER: 00145267

JOB LOCATION ADDRESS: 15710 Pine Street
PROPERTY OWNER: Laurie Martin
BUILDING CONTRACTOR: _____
SUBDIVISION NAME: _____
AUTHORIZATION ISSUED BY: Jeremy Michelone, R.S.

DATE: 10/18/05


DENR/DEH AUTHORIZED AGENT

AUTHORIZATION CONDITIONS

1. WASTEWATER SYSTEM CONSTRUCTION AND INSTALLATION MUST MEET ALL CONDITIONS AND SPECIFICATIONS AS SET FORTH IN IMPROVEMENT PERMIT NUMBER 4766B, AND THE ATTACHED SITE PLAN WITH SYSTEM DETAILS. CONSTRUCTION AND INSTALLATION MUST ALSO MEET ALL REQUIREMENTS SET FORTH IN THE RULES GOVERNING SANITARY SEWAGE COLLECTION, TREATMENT, AND DISPOSAL AND ANY OTHER APPLICABLE RULES AND LAWS.
2. AN INSTALLATION, CONSTRUCTION, ALTERATION AND/OR REPAIR APPROVAL MUST BE SECURED PRIOR TO INSTALLATION OF THE SEPTIC TANK SYSTEM. THE INSTALLER OF THE SYSTEM SHALL BE A REGISTERED SEPTIC TANK CONTRACTOR WITH THE MECKLENBURG COUNTY HEALTH DEPARTMENT.
3. ANY ALTERATION IN SITE OR SOIL CONDITIONS (INCLUDING LOCATION OF STRUCTURES AND APPURTENANCES) OR MODIFICATION IN USE, DESIGN WASTEWATER FLOW, OR WASTEWATER CHARACTERISTICS AS SPECIFIED IN THE ASSOCIATED IMPROVEMENT PERMIT AND APPLICATION, MAY SUBJECT THIS CONSTRUCTION AUTHORIZATION AND ASSOCIATED PERMIT(S) TO REVOCATION.
4. THIS CONSTRUCTION AUTHORIZATION AS PROVIDED IN G.S. 130A-335(f) AND G.S. 130A-336(b) SHALL BE VALID FOR A PERIOD EQUAL TO THE VALIDITY OF THE IMPROVEMENT PERMIT, NOT TO EXCEED 60 MONTHS.
5. OTHER CONDITIONS: AGREEMENT FORMS

PROPOSED PLOT PLAN

HEALTH DEPARTMENT
ENVIRONMENTAL HEALTH DIVISION
700 NORTH TRYON STREET
CHARLOTTE, NC 28202
PHONE (704) 336-5102

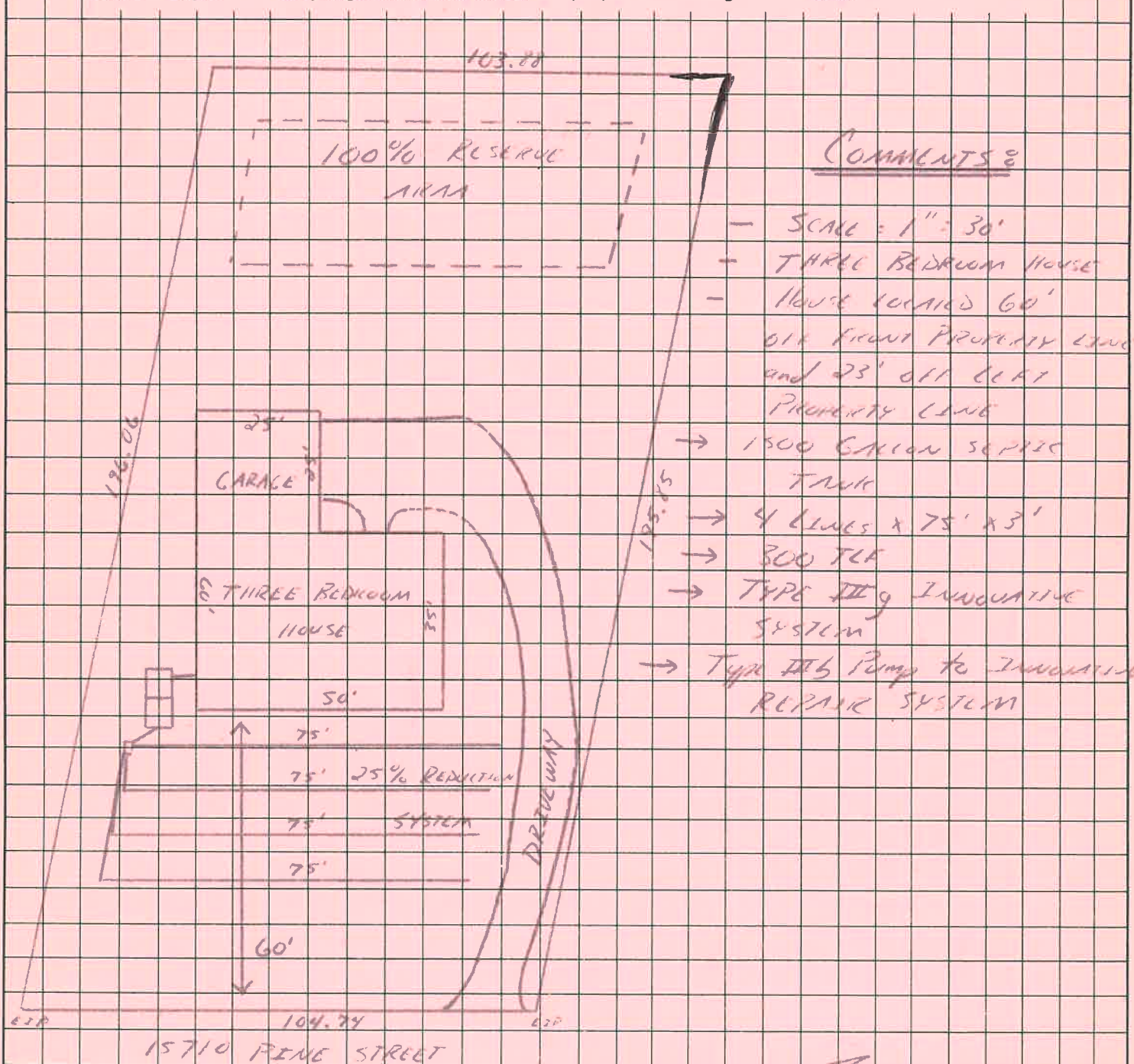
FILE:

47668

TC:

081-452-67

Draw in and name all roads adjoining the property. Draw in and accurately dimension the lot concerned. Accurately indicate property boundaries proposed and/or existing structures and driveways, underground utilities, and wells and springs within 100 feet of the proposed building or drainfield.



OWNER/AGENT SIGNATURE

DATE

12-2-05

APPROVAL DATE

cell #

10/18/05

MECKLENBURG COUNTY
LAND USE AND ENVIRONMENTAL SERVICES
Payment Receipt

Receipt Information

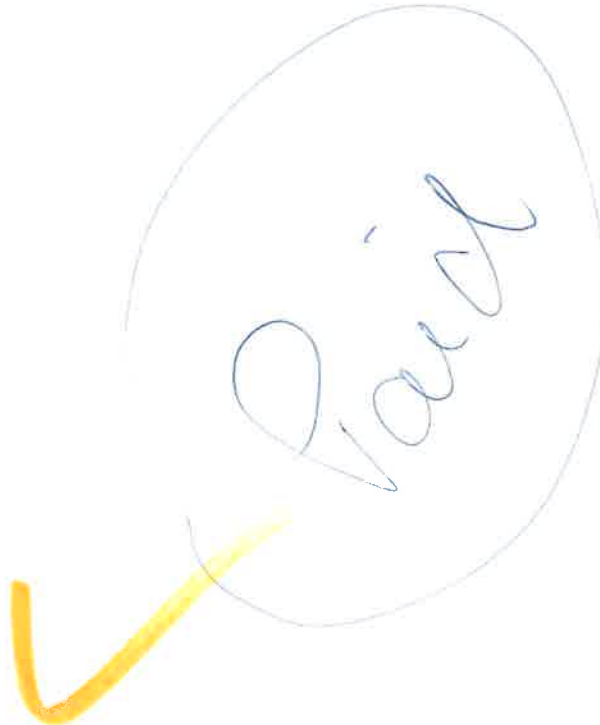
Date: 12/02/05
Receipt #: 38460
Check / Auth #: CHECK 1814
Received By: CRAIGGY

Amount: 150.00
Tendered: 150.00
Returned: 0.00

Account Information

Account #: 200000
Contractor: MARTIN LAURI R
Attn:
Address: 12227 KANE ALEXANDER DR
Address:
City/State/Zip: HUNTERSVILLE, NC 28078

<u>Item</u>	<u>Description</u>	<u>Permit#</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
0734	Auth for Waste Wtr Sys Constr 15710 PINE STREET/FILE 4786B		1	150.00	150.00



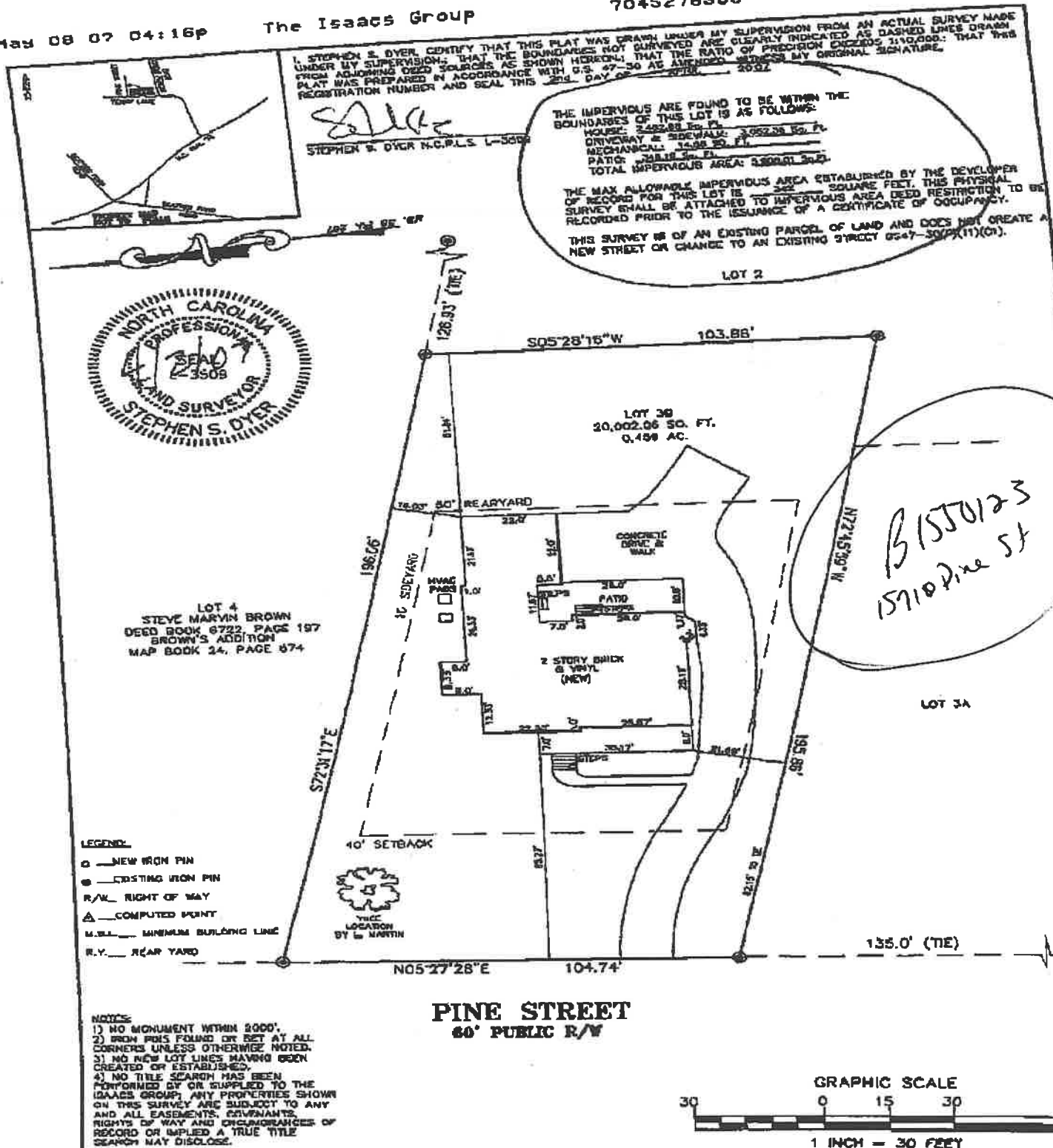
-----**Outstanding Balances**-----

<u>Month-To-Date</u>	<u>Prior Month</u>	<u>30 Days</u>	<u>60 Days</u>	<u>90 Days</u>	<u>Balance</u>
	30.00				

7045278398

May 08 07 04:16P

The Isaacs Group



ISAACS GROUP
 CIVIL ENGINEERING DESIGN AND CONSULTING
 8720 RED OAK BLVD., SUITE 420
 CHARLOTTE, N.C. 28217
 PH: (704) 827-8440 FAX: (704) 827-8335

THIS PLAT IS NOT A FINAL PLAT. THE PROPERTY SHOWN ON THIS PLAT IS NOT BEING USED AS A SPECIAL FLOOD HAZARD AREA AS SHOWN ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. FEDERAL EMERGENCY MANAGEMENT AGENCY COMPLIANCE BY LETTER 370410-040-E DATED FEBRUARY 4, 2004.

PHYSICAL SURVEY OF

15710 PINE STREET

LOT 3B, BROWN'S ADDITION LOTS 2 & 3, REVISED

TOWN OF HUNTERVILLE, MECKLENBURG COUNTY

NORTH CAROLINA

OWNER: LAURIE MARTIN

APPROVED ☐ REVISE ☒

MH, 35 PG. 287

Date: 4-2-07

File #: LOT 3B doc

Project No: 560

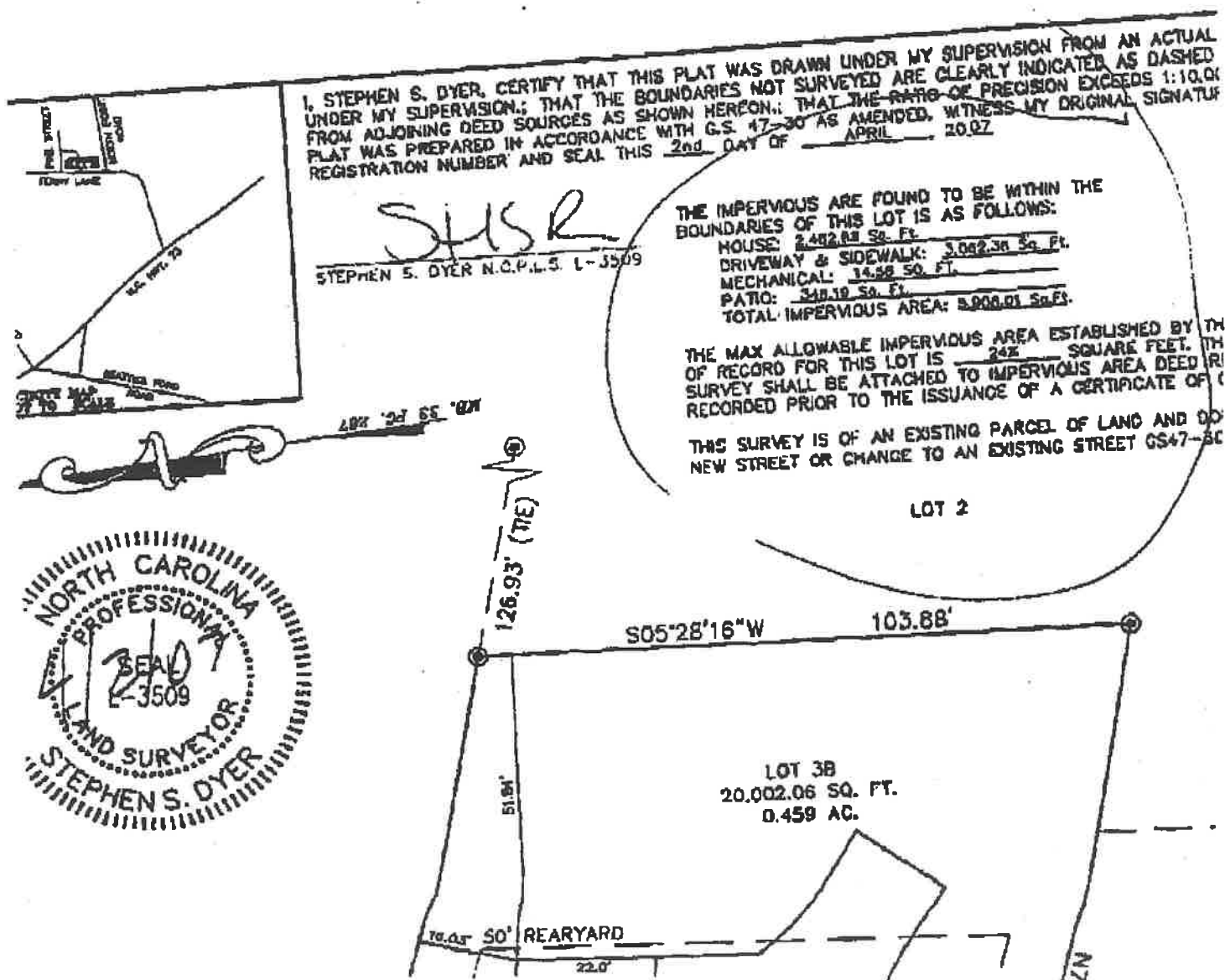
Drawn By: [Signature]

Surveyed By: [Signature]

Scale: 1"=30'

MAY 08 07 04:16P

The Isaacs Group



From

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



MARTIN LAURIE
12227 KANE ALEXANDER ROAD
HUNTERSVILLE, NC 28078

X39081 MARTIN LAURIE

CUT ALONG THIS LINE. CERTIFICATE SHOULD BE PROPERLY DISPLAYED.



Mecklenburg County
Certificate of Occupancy
Land Use and Environmental Services Agency
Code Enforcement Division

Property Address: 15710 PINE ST
Jurisdiction: HUNTERSVILLE
Subdivision/Project:
Job Description: MARTIN/NEW RES-PLAN REV

Unit:

Property Description

Parcel Number: 00145267

Zoning Code: GR

Lot Number:

Block Number:

Building Permit Information

Permit Number: B1550123

Construction Type: 5B * WOOD FRAME/UNPROTECTED

Permit Issue Date: 01/20/2006

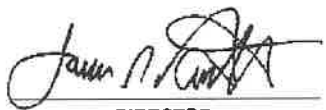
Occupancy Type: R3 * RESIDENTIAL - SINGLE FAMILY

Contractor: MARTIN LAURIE X39081 MARTIN LAURIE

Restrictions/Limitations:

Remarks:

IN THE OPINION OF THIS DEPARTMENT, THE PREMISES REPRESENTED ABOVE COMPLIES WITH APPLICABLE BUILDING AND ZONING REGULATIONS. THIS CERTIFICATE IS BASED ON THE STATED USE AND OCCUPANCY. A NEW CERTIFICATE WILL BE REQUIRED PRIOR TO CHANGE OF EITHER.
* DATE OF CERTIFICATION IS THE DATE ON WHICH ALL PERMITS RELATED TO THE JOB WERE FINALED AND APPLICABLE HOLDS WERE RELEASED.

BY 
DIRECTOR

05/09/2007

DATE OF CERTIFICATION *

Scott Miskimon

From: Laurie Martin <shlauriem1@yahoo.com>
Sent: Monday, September 21, 2020 10:04 PM
To: Scott Miskimon
Subject: Fwd: URGENT! 15710 Pine Street Huntersville, NC 28078

Laurie R. Martin

Begin forwarded message:

From: Laurie Martin <shlauriem1@yahoo.com>
Date: September 10, 2020 at 1:41:51 PM EDT
To: Scott Miskimon <smiskimon@smithlaw.com>
Subject: Fw: URGENT! 15710 Pine Street Huntersville, NC 28078

----- Forwarded Message -----

From: Laurie Martin <shlauriem1@yahoo.com>
To: Brian Richards <brichards@huntersville.org>
Sent: Thursday, September 10, 2020, 01:40:46 PM EDT
Subject: Re: URGENT! 15710 Pine Street Huntersville, NC 28078

Hi Brian, I have some questions. Are you available to talk? I have never been aware of any restriction on my homesite. My purchase of this parcel was always with the intent of a future pool. I intentionally positioned my septic tank on the side of my house which caused me to only pour my driveway 1 car wide and I also deleted a part of my porch on the side of the house to make room for the septic to accommodate the future pool. I also placed the drain field to the front for this reason. It was never conveyed there was any restriction. I even met with a member of the town to confirm the position of the septic prior to construction in which we discussed the future pool. Can the town grant a variance for enough room for a pool, not necessarily 3300 sq ft. Can this be approved through the town. The buyers due diligence period was extended and ends at 5 today and I would like to be able to try to resolve this before 5:00 so we can move to close tomorrow. I already have my house almost 100% packed up and I have spent a lot of money with the expectation of closing tomorrow.

Sincerely,

Laurie Martin

On Thursday, September 10, 2020, 01:02:34 PM EDT, Brian Richards <brichards@huntersville.org> wrote:

Hi Laurie,

I apologize for not being able to call but I am in a meeting currently. You are correct that I offered the information I provided to you on our call. At that time I was unaware that your lot had been subdivided in 2000. This is important as the one time building exemption would not be applicable. A building permit was issued in error by Mecklenburg County in 2005/2006 with home exceeding the 24% impervious allocation. Due to the age of the home we are unable to locate copies of the building permits/applications.

I have spoken to the buyers (I assume for the buyers and provided the email below with potential options):

"Hi Vicki,

Do to the lots being subdivided in 2000 (attachment 200076321.pdf) they are subject to an impervious restriction of 24% due to the properties being located in the Lake Norman Overlay District. The existing home has exceed the 24% allocation and permits for new structures that increase impervious coverage would not be able to be issued.

Options:

Impervious allocation may be redistributed between Lots 1A, 1B, 2, 3A, 3B as long as the total impervious for all combined lots does not exceed 24%

OR

You may apply for a Density Averaging Certificate:

<https://www.huntersville.org/558/Density-Averaging-Certificate>

This would involve any property in the Town of Huntersville that is also in the Lake Norman Watershed Overlay.

Lastly there is the possibility of installing a structural BMP onsite that would allow for the impervious allocation of up to 50%. This would involve the hiring of an engineer to design a BMP system. Plans would need to be reviewed and there would be annual inspections and maintenance required."

Brian Richards

Assistant Planning Director

Huntersville Planning Dept.

105 Gilead Rd 3rd Floor

Huntersville, NC 28078

Mailing address

PO BOX 664

Huntersville, NC 28070

Ph 704 766 2218

Fx 704 992 5528

brichards@huntersville.org

From: Laurie Martin <shlauriem1@yahoo.com>

Sent: Thursday, September 10, 2020 11:46 AM

To: Brian Richards <brichards@huntersville.org>

Subject: URGENT! 15710 Pine Street Huntersville, NC 28078

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Brian, good morning and I hope you are well. We spoke on Aug 17th regarding my home at 15710 Pine Street in Huntersville. We discussed the remaining impervious area on my homesite, and you gave me the following information which I shared with the buyers who then contracted to buy my house. Here is the rough math we reviewed when we talked. I'm in Huntersville now, and have the exact calculations at my new home in Raleigh, but this is very close to what you shared with me:

1. The size of the lot is approximately 20,000 square feet.

2. The home, sidewalks, driveway, and garage totals about 6,000 sf out of that 20,000 sf.
3. That leaves a remaining amount of land at approximately 14,000 square feet.
4. You said that gives me an allowed 24% of the remaining 14,000 square feet, which is about 3,300 square feet to use and which is can be used to build a pool.

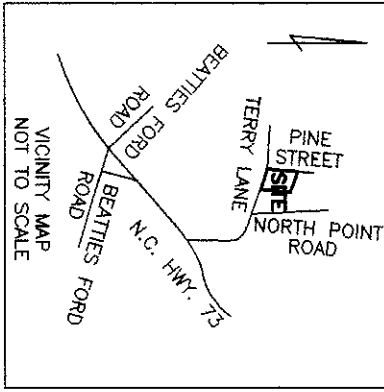
The buyers had my property surveyed and their surveyor independently confirmed the impervious figures and that a pool could be constructed on my property.

When the buyers contacted the Town about this they spoke with Lauren. She told the buyers that my home had no impervious space at all, that I was over the allowed impervious amount, and that there would be no chance of ever building a pool.

You had mentioned that if the buyer or surveyor had an issue they could call you directly, and that if the surveyor had any issues to give him your number. Can I have them contact you so you can review what we discussed with them so we can proceed to closing? I am scheduled to close and sign tomorrow at 1:00 and this has caused the buyers to pause the closing.

Laurie R. Martin

704-622-6555

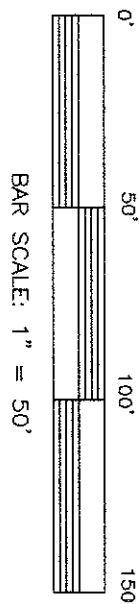


FILED FOR
REGISTRATION
JUN 1 2000
AT 8:47
JUDITH A. GIBSON
REGISTERED DEEDS
REGISTER OF DEEDS

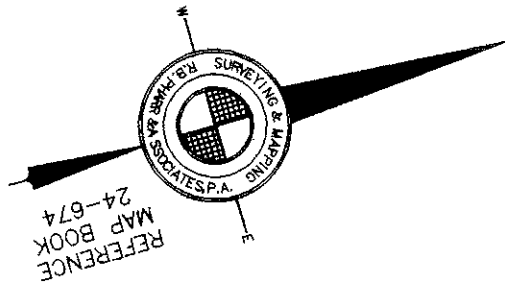
SCALE: 1" = 50'
DATE: MAY 19TH, 2000
ACAD FILE: 50871

BROWN'S ADDITION LOTS 2 & 3, REVISED
TERRY DEAN BROWN (OWNER)
#15719 PINE STREET HUNTERSVILLE, N.C. 28078-8941
THE TOWN OF HUNTERSVILLE, MECKLENBURG COUNTY, NORTH CAROLINA

R.B. PHARR & ASSOCIATES, P.A.
P.O. BOX 1234
#19801 SOUTH MAIN STREET
CORNELIUS, NORTH CAROLINA 28031
TEL: (704) 895-1730



AREA:
75,249 SQ.FT.
OR 1.7275 ACRES TOTAL



LEGEND
E.I.P. = EXISTING IRON PIN
N.I.P. = NEW IRON PIN
E.C.M. = EXISTING CONCRETE MONUMENT
R/W = RIGHT OF WAY
SQ.FT. = SQUARE FOOT

NOTE:

1. IRON PINS AT ALL PROPERTY CORNERS UNLESS OTHERWISE NOTED.

2. HUNTERSVILLE ZONING: (GENERAL RESIDENTIAL DISTRICT) GR

BUILDING SETBACK REQUIREMENTS
MINIMUM LOT SIZE 20,000 SQ.FT.
MINIMUM LOT WIDTH 90 FEET
MINIMUM FRONT SETBACK 40 FEET
MINIMUM REARWARD 50 FEET
MINIMUM SIDEYARD 10 FEET
MINIMUM CORNER 20 FEET
LOT SIDEYARD 20 FEET

REFERENCES:
DEED BOOK 6722, PAGE 199
MAP BOOK 24, PAGE 674
TAX NUMBER 001-452-67

NOTE:
THE PURPOSE OF THIS MAP IS TO CREATE (3) THREE LOTS, USING LOTS 2 & 3 BROWN'S ADDITION AS PREVIOUSLY RECORDED IN MAP BOOK 24, PAGE 674.

FLOOD CERTIFICATION
THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS NOT A FLOOD HAZARD ZONE. THIS MAP WAS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, DATED JANUARY 19, 2000.
F.I.R.M. PANEL #370158 0030 0

THIS IS TO CERTIFY THAT THIS SURVEY IS OF AN EXISTING PARCEL OF LAND

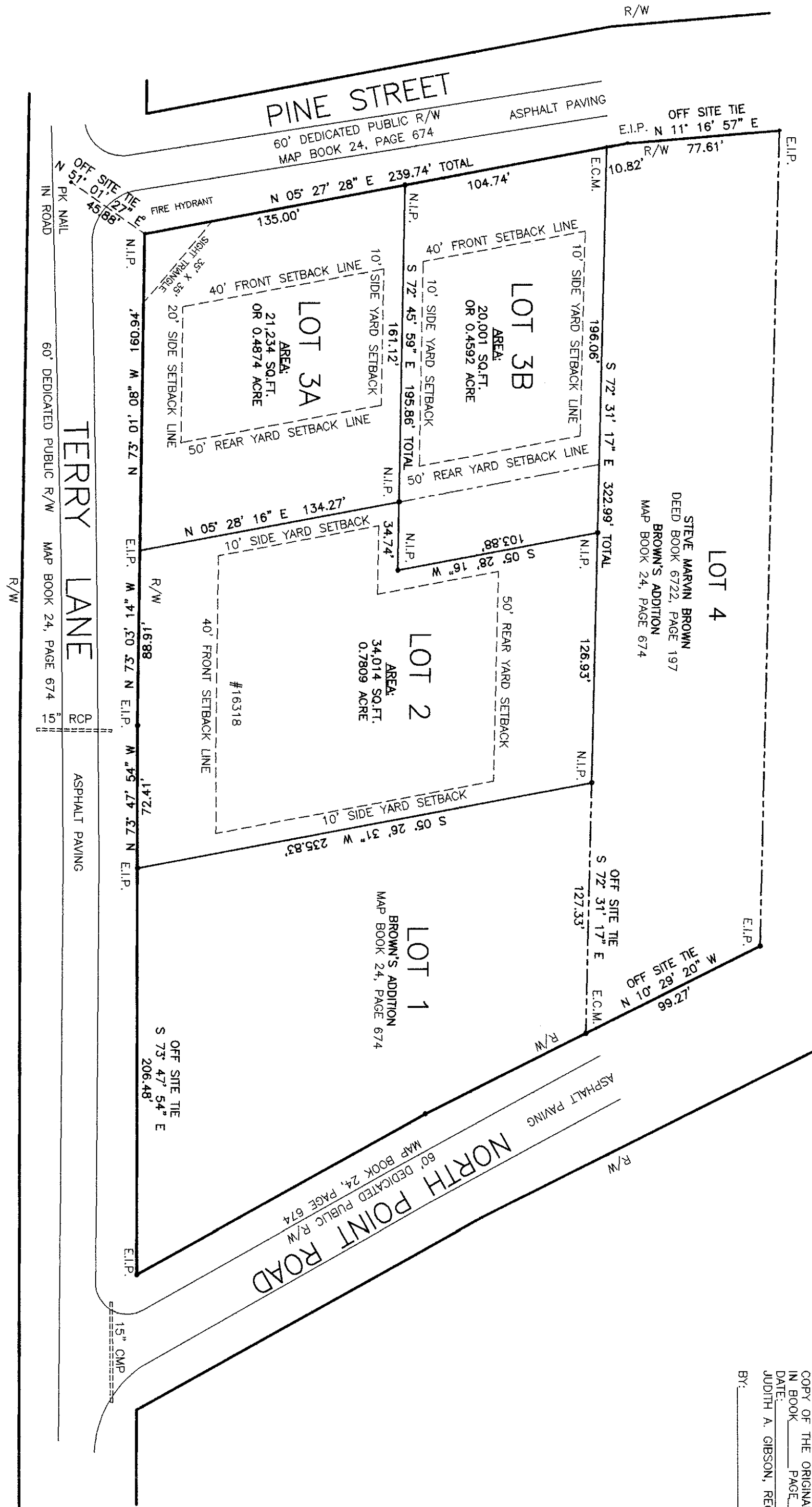
THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

APPROVED IN ACCORDANCE WITH THE MINOR SUBDIVISION PROVISIONS AS SET FORTH IN THE SUBDIVISION ORDINANCE OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA. ANY FURTHER SUBDIVISION OF THIS PROPERTY IS SUBJECT TO REVIEW AND MAY CONSTITUTE A MAJOR SUBDIVISION OF LAND.

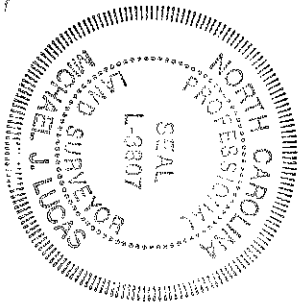
Kerry C. Case DATE MAY 31, 2000
TOWN PLANNER

I, Kerry C. Case REVIEW OFFICER OF MECKLENBURG COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

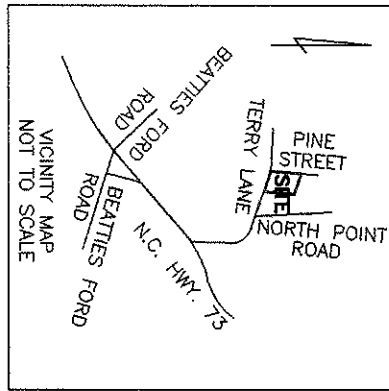
Kerry C. Case DATE MAY 31, 2000
REVIEW OFFICER



CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL MAP RECORDED IN BOOK _____ PAGE _____
DATE _____
JUDITH A. GIBSON, REGISTER OF DEEDS
BY: _____ DEPUTY



State of North Carolina
County of Mecklenburg
The undersigned surveyor, Being duly sworn, deposes and says that the plat upon which this certificate appears was prepared in accordance with G.S. 47-30 as amended, is in all respects correct, according to the best of his knowledge and belief, and was prepared from an actual survey made by him on the _____ day of _____, 2000, with a maximum linear error of closure of 1:110,000, and a maximum field error of angular closure of 1:3,300,000.
Signed Michael J. Case
N.C. Professional Land Surveyor



FILED FOR
REGISTRATION
APR 16 2002
AT 2:49
JUDITH A. GIBSON, N.C.
REGISTERED DEEDS

LEGEND
E.I.P. = EXISTING IRON PIN
N.I.P. = NEW IRON PIN
E.C.M. = EXISTING CONCRETE MONUMENT
R/W = RIGHT OF WAY
SQ.FT. = SQUARE FOOT

NOTE:
1. IRON PINS AT ALL PROPERTY CORNERS UNLESS OTHERWISE NOTED.

2. HUNTERSVILLE ZONING: (GENERAL RESIDENTIAL DISTRICT) GR

BUILDING SETBACK REQUIREMENTS
MINIMUM LOT SIZE 20,000 SQ.FT.
MINIMUM LOT WIDTH 90 FEET
MINIMUM FRONT SETBACK 40 FEET
MINIMUM REAR YARD 50 FEET
MINIMUM SIDEYARD 10 FEET
MINIMUM CORNER
LOT SIDEYARD 20 FEET

REFERENCES:
DEED BOOK 6722, PAGE 199
MAP BOOK 24, PAGE 674
TAX NUMBER 001-452-67

NOTE:
THE PURPOSE OF THIS MAP IS TO SUBDIVIDE LOTS 1 & 2 PREVIOUSLY RECORDED IN BOOK 24, PAGE 674 AND BOOK 33, PAGE 287.

NOTE:
SUBJECT PROPERTY IS LOCATED IN LAKE NORMAN CRITICAL AREA WATERSHED. MAXIMUM IMPERVIOUS AREA ALLOWED PER LOT IS 24%.

FLOOD CERTIFICATION
THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA SHOWN ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, DATED JANUARY 19, 2000.
F.I.R.M. PANEL #370158 0030 D

THIS IS TO CERTIFY THAT THIS SURVEY IS OF AN EXISTING PARCEL OF LAND

THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

APPROVED IN ACCORDANCE WITH THE MINOR SUBDIVISION PROVISIONS AS SET FORTH IN THE SUBDIVISION ORDINANCE OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA. ANY FURTHER SUBDIVISION OF THIS PROPERTY IS SUBJECT TO REVIEW AND MAY CONSTITUTE A MAJOR SUBDIVISION OF LAND.

David C. Heatterman
TOWN PLANNER
DATE 4/15/02

David C. Heatterman
REVIEW OFFICER OF MECKLENBURG COUNTY,
CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

David C. Heatterman
REVIEW OFFICER
DATE 4/15/02

A PLAT SHOWING
BROWN'S ADDITION LOTS 1 & 2 REVISED

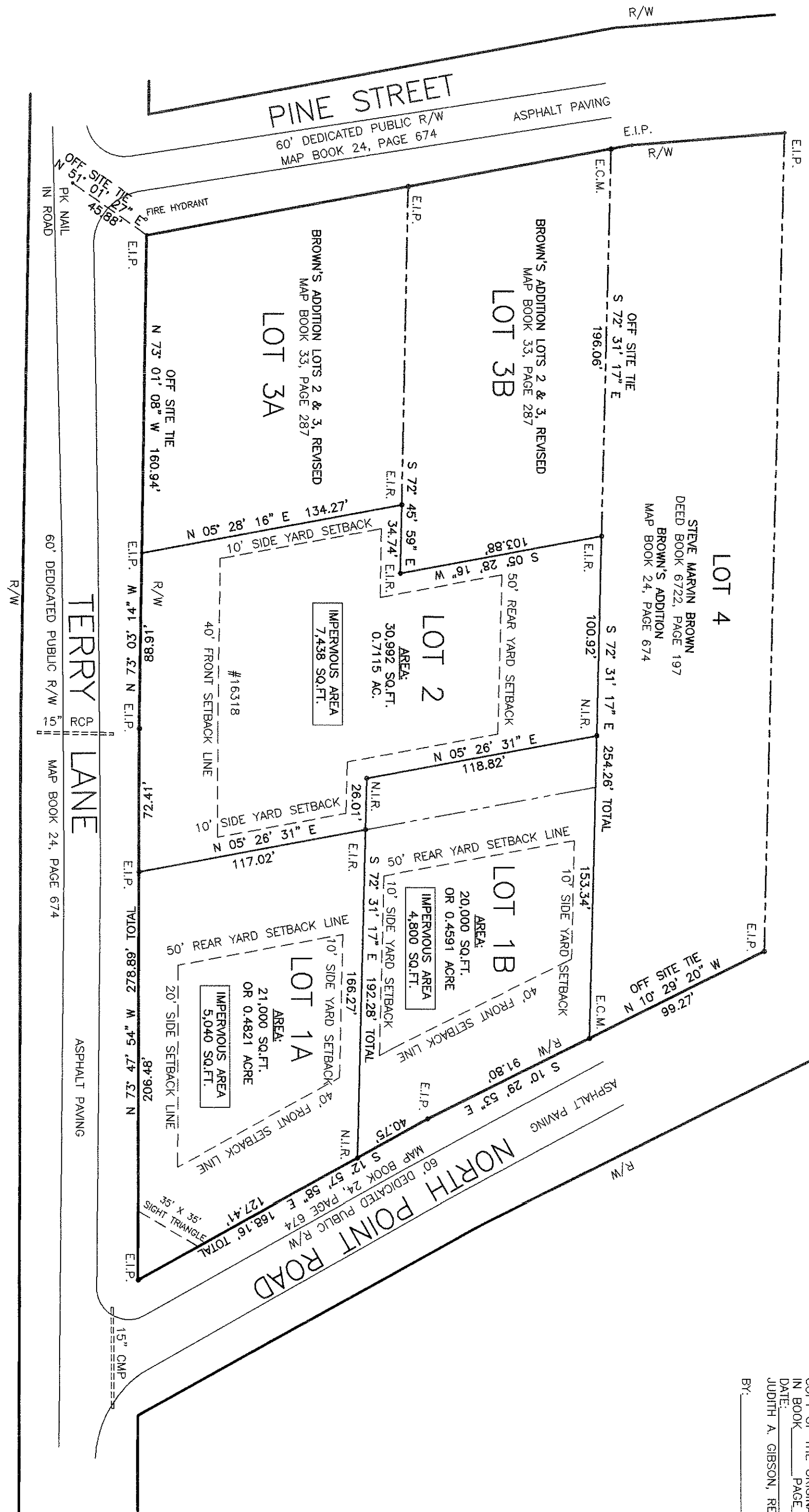
SCALE: 1" = 50'
DATE: FEBRUARY 28TH, 2002
ACAD FILE: 55584

#15719 PINE STREET HUNTERSVILLE, N.C. 28078-8941
THE TOWN OF HUNTERSVILLE, MECKLENBURG COUNTY, NORTH CAROLINA

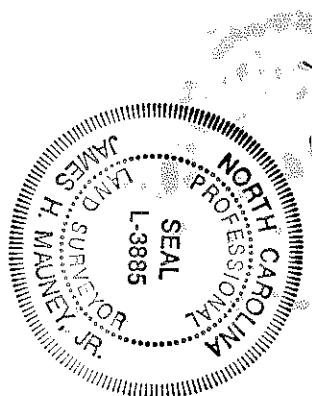
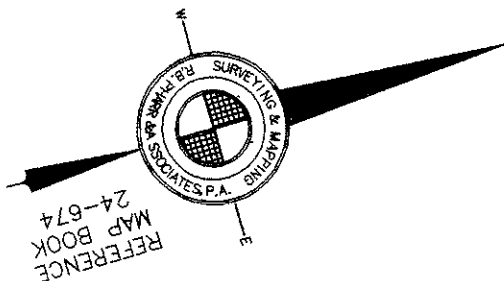
R.B. PHARR & ASSOCIATES, P.A.
P. O. BOX 1234
#19801 SOUTH MAIN STREET
CORNELIUS, NORTH CAROLINA 28031
TEL: (704) 895-1730



AREA:
71,992 SQ.FT.
OR 1.6527 ACRES TOTAL



CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL MAP RECORDED IN BOOK _____ PAGE _____
DATE: _____
JUDITH A. GIBSON, REGISTER OF DEEDS
BY: _____ DEPUTY



State of North Carolina
County of Mecklenburg.
The Undersigned surveyor, Being duly sworn deposes and says that the plat upon which this certificate appears was prepared in accordance with G.S. 47-30 as amended, is in all respects correct according to the best of his knowledge and belief, and was prepared from an actual survey made by him on the 28th day of FEBRUARY 2002, with a maximum linear error of closure of 1:10,000 and a maximum field error of angular closure of 7.5 sec. per angle.

Signed: David C. Heatterman
N.C. Professional Land Surveyor

CREW: SW
DRAWN: TK
REVISED:



Recap Report

Contractor Name: MARTIN LAURIE ID # X39081

Project Address: 15710 PINE ST

Project Description: 155976 Residence

Trade	# of Inspections	Chargeable Failures	Permit #	Contractor
Building	22	14	B1550123	MARTIN LAURIE
Electrical	13	9	E1566693	METRO ELECTRIC
Electrical	13	9	E1566693	WATSON ELECTRICAL CONSTRUCTIO
Electrical	13	9	E1566693	ELECTRIC CONNECTION INC
Mechanical	16	6	M1566692	PARKS HEATING & COOLING
Mechanical	2	0	M1624328	RESIDENTIAL CONSTR SPEC
Plumbing	7	2	P1566691	ZOCAM PLUMBING INC
SUBTOTAL:	60	31		
Cancelled permits	0	0		
TOTAL:	60	31		

Failure Rate = 53.45 %

Adj. Rate Per Permit = 53.45 %

Original Permit Fees \$ 1,739.44

Defect Rate Charge \$ 929.73

SH Task Adjustment \$ 0.00

Final Permit Fees \$ 2,669.17

Exhibit B – Article 3.3.3-A, Section E

e) Built-Upon Area Development Standards

For individual buildings or for development projects within the Lake Norman Critical Area, the following impervious area limitations are established on a building or project basis.

CA, low density option 24% B.U.¹

CA, high density option 50% B.U. with Structural BMP¹

¹ Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

Exhibit C – Aerial Map of Subject Property

Polaris 3G Map – Mecklenburg County, North Carolina

15710 PINE ST HUNTERSVILLE NC 28078

Date Printed: 10/1/2020 1:32:51 AM



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.

Exhibit D – Correspondence between Staff and Mecklenburg County

From: [Rozzelle, Rusty](#)
To: [Lauren Speight](#)
Cc: [Mike MacIntyre](#)
Subject: RE: [External] Impervious Area Variance Requests
Date: Friday, September 18, 2020 5:01:49 PM
Attachments: [image001.png](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I agree with your conclusion that because both these variances result in an increase in impervious area, they would result in negative impacts to water quality unless those impacts were mitigated. Have they pursued Density Averaging as an option? Also, there are a lot of BMPs in Birkdale. With regard to the Watershed Administrator, for the Town of Huntersville that is the Zoning Administrator or Jack. He is responsible for the watershed ordinances. It is a little confusing, but I am the Storm Water Administrator and responsible for the post-construction ordinance.

From: Lauren Speight <lspeight@huntersville.org>
Sent: Friday, September 18, 2020 1:59 PM
To: Rozzelle, Rusty <Rusty.Rozzelle@mecklenburgcountync.gov>
Cc: Mike MacIntyre <mmacintyre@huntersville.org>
Subject: [External] Impervious Area Variance Requests

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Town of Huntersville Staff has received two major variance application requests; one for a property in the LN Watershed and another for a property in the MIL PA-2.

[15710 PINE ST HUNTERSVILLE NC 28078](#) (LN CA) – As far as Staff can tell from the application and public data, the home was originally built over its impervious max. It was created as a new lot of record in 2000, thus subject to the Watershed regulation for the LN-O. The property is about 1000 sf over its max and based on a rather blurry survey from 2007 it appears the home and driveway were built as permitted. The plat map that created this new lot does not note the LN-O, but the issued permit does not the LN-O 24% MBUA. But, they property received the permit and the CO.

[8201 SANDOWNE LN HUNTERSVILLE NC 28078](#) (MIL PA-2) – This variance stems from a building permit received this years for the conversion of about 265 sf of the home and an additional 200 sf. As far as staff can tell from the application and public data the property was approximately 800 sf under its MBUA, which is how they got zoning approval for the building permit. However, according a currently property survey the property is over by about 1000 mostly as the result of pavers that were added to the property. The permit has not received a CO because of the impervious issue.

I am seeking guidance, though I believe I know the answer this time, about these requests with regard to the 4th variance standard be the General Statutes (The requested variance is consistent

with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.) The intent of the Watershed Overlays is to protect the drinking water supply for various municipalities. I believe that Staff must assert that without mitigation to ensure water quality, administrative approval of a variance effectively increasing the impervious maximum for these properties is not in the interest of public safety. Am I incorrect?

- The Pine Street property was not developed with storm water infrastructure.
- The Sandowne Lane property is in Birkdale and was subdivided in 1997. I believe there is planned SW infrastructure here, correct?

I am also seeking guidance about the process for a major variance – Are you or Mike MacIntyre the Watershed Administrator that would forward an advisory approval to the NCDEQ Environmental Management Commission for final decision? Is there any other role the Watershed Administrator plays in the processing of a major variance for properties in Watershed Overlays? Is there any way for me to learn of major variances for the MIL or LN overlays that have been previously forwarded?

Lauren Speight
Planner I | Town of Huntersville
105 Gilead Road | Third Floor
P.O. Box 664 | Huntersville, North Carolina 28070
PH: 704-766-2254 | FX: 704-992-5528
Email: lspeight@huntersville.org
Web: www.huntersville.org

h



Pursuant to North Carolina General Statutes, Chapter 132, email correspondence to and from this address may be considered public record under the North Carolina Public Records Law and may be disclosed to third parties.

Exhibit E – Zoning Map



VAR 20-06
15710 Pine Street

Zone :
GR

Applicant:
Laurie R. Martin

+/- 0.459 Acres

Parcels:
00145267

- GR General Residential
- NR Neighborhood Residential
- NC Neighborhood Center
- HC Highway Commercial
- TR Transitional Residential

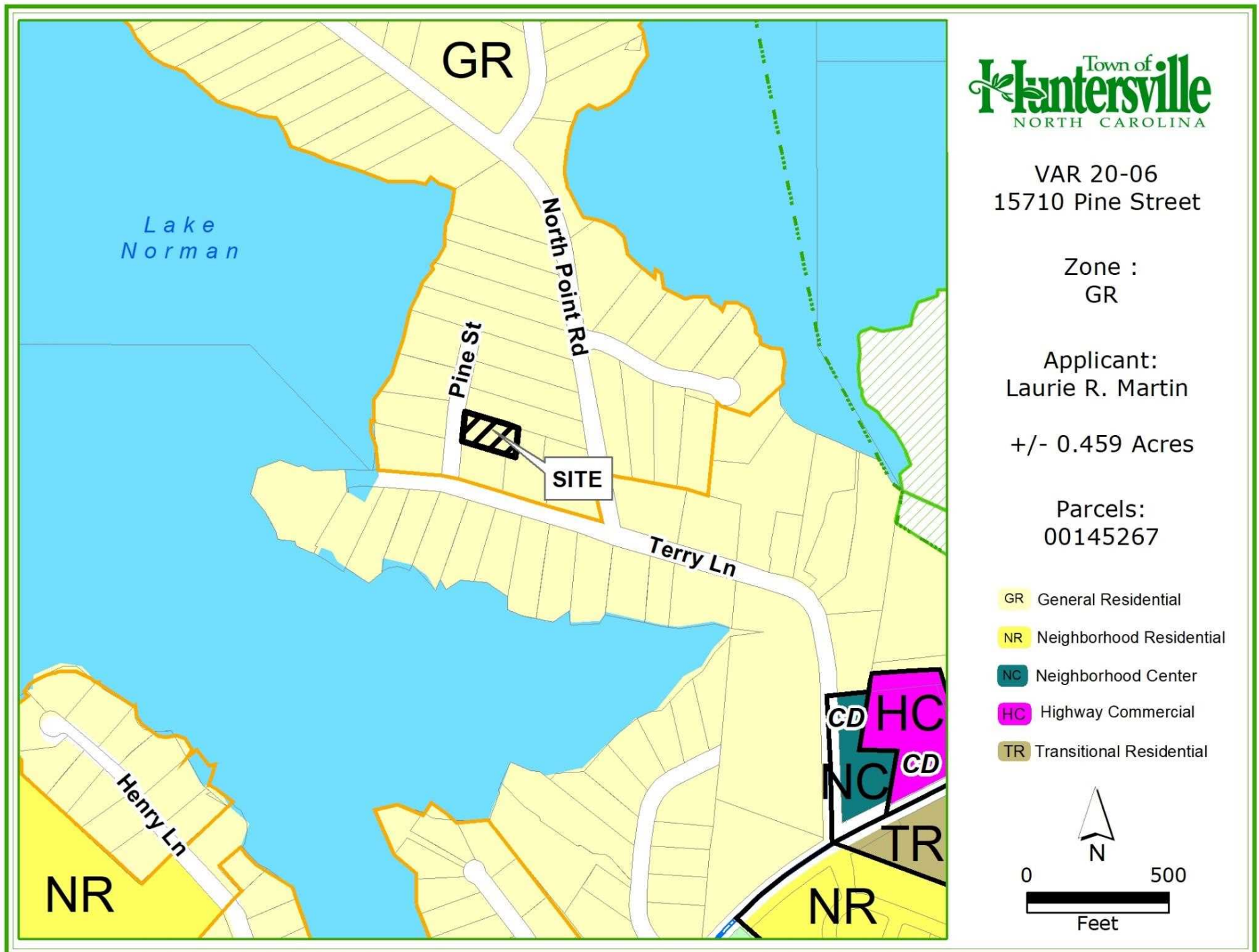
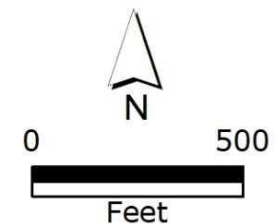


Exhibit F - Browns Cove M12 P31 (1964)

Exhibit G - Brown's Addition Pre Map 24 P674 (1991)

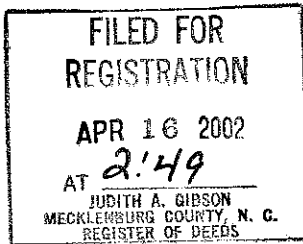
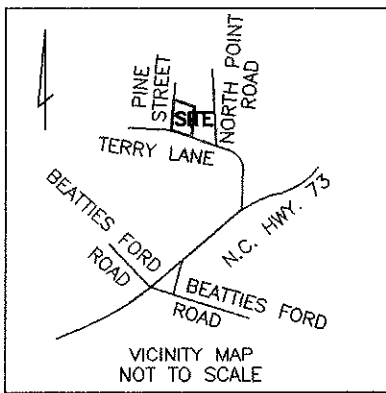
Harry D Brown, Agent

Kay H Arnette,
Notary Public

HENRY C. GILEWICZ
6116-952

Page 285 of 295

Exhibit H - Brown's Addition Lots 2&3,
Revised M33 P287 (2000)



LEGEND
E.I.P. = EXISTING IRON PIN
N.I.P. = NEW IRON PIN
E.C.M. = EXISTING CONCRETE MONUMENT
R/W = RIGHT OF WAY
SQ.FT. = SQUARE FOOT

NOTE:
1. IRON PINS AT ALL PROPERTY CORNERS UNLESS OTHERWISE NOTED.

2. HUNTERSVILLE ZONING: (GENERAL RESIDENTIAL DISTRICT) GR

BUILDING SETBACK REQUIREMENTS
MINIMUM LOT SIZE 20,000 SQ.FT.
MINIMUM LOT WIDTH 90 FEET
MINIMUM FRONT SETBACK 40 FEET
MINIMUM REARYARD 50 FEET
MINIMUM SIDEYARD 10 FEET
MINIMUM CORNER LOT SIDEYARD 20 FEET

REFERENCES:
DEED BOOK 6722, PAGE 199
MAP BOOK 24, PAGE 674
TAX NUMBER 001-452-67

NOTE:
THE PURPOSE OF THIS MAP IS TO SUBDIVIDE LOTS 1 & 2 PREVIOUSLY RECORDED IN BOOK 24, PAGE 674 AND BOOK 33, PAGE 287.

NOTE:
SUBJECT PROPERTY IS LOCATED IN LAKE NORMAN CRITICAL AREA WATERSHED. MAXIMUM IMPERVIOUS AREA ALLOWED PER LOT IS 24%.

FLOOD CERTIFICATION
THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, DATED JANUARY 19, 2000
F.I.R.M. PANEL #370158 0030 D

THIS IS TO CERTIFY THAT THIS SURVEY IS OF AN EXISTING PARCEL OF LAND

THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

APPROVED IN ACCORDANCE WITH THE MINOR SUBDIVISION PROVISIONS AS SET FORTH IN THE SUBDIVISION ORDINANCE OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA. ANY FURTHER SUBDIVISION OF THIS PROPERTY IS SUBJECT TO REVIEW AND MAY CONSTITUTE A MAJOR SUBDIVISION OF LAND.

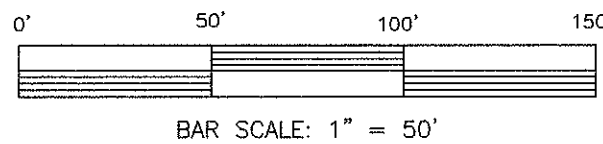
David C. Weatherman 4/15/02
TOWN PLANNER DATE

I, David Weatherman, REVIEW OFFICER OF MECKLENBURG COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

David C. Weatherman 4/15/02
REVIEW OFFICER DATE

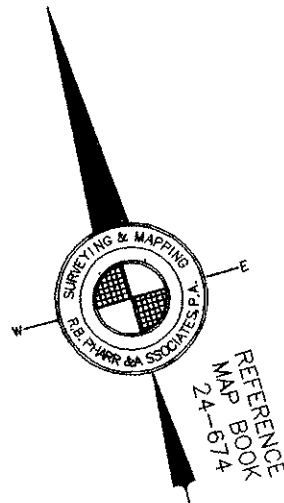
BROWN'S ADDITION LOTS 1 & 2 REVISED

SCALE: 1" = 50'
DATE: FEBRUARY 28TH, 2002
ACAD FILE: 55584
TERRY DEAN BROWN (OWNER)
#15719 PINE STREET HUNTERSVILLE, N.C. 28078-8941
THE TOWN OF HUNTERSVILLE, MECKLENBURG COUNTY, NORTH CAROLINA

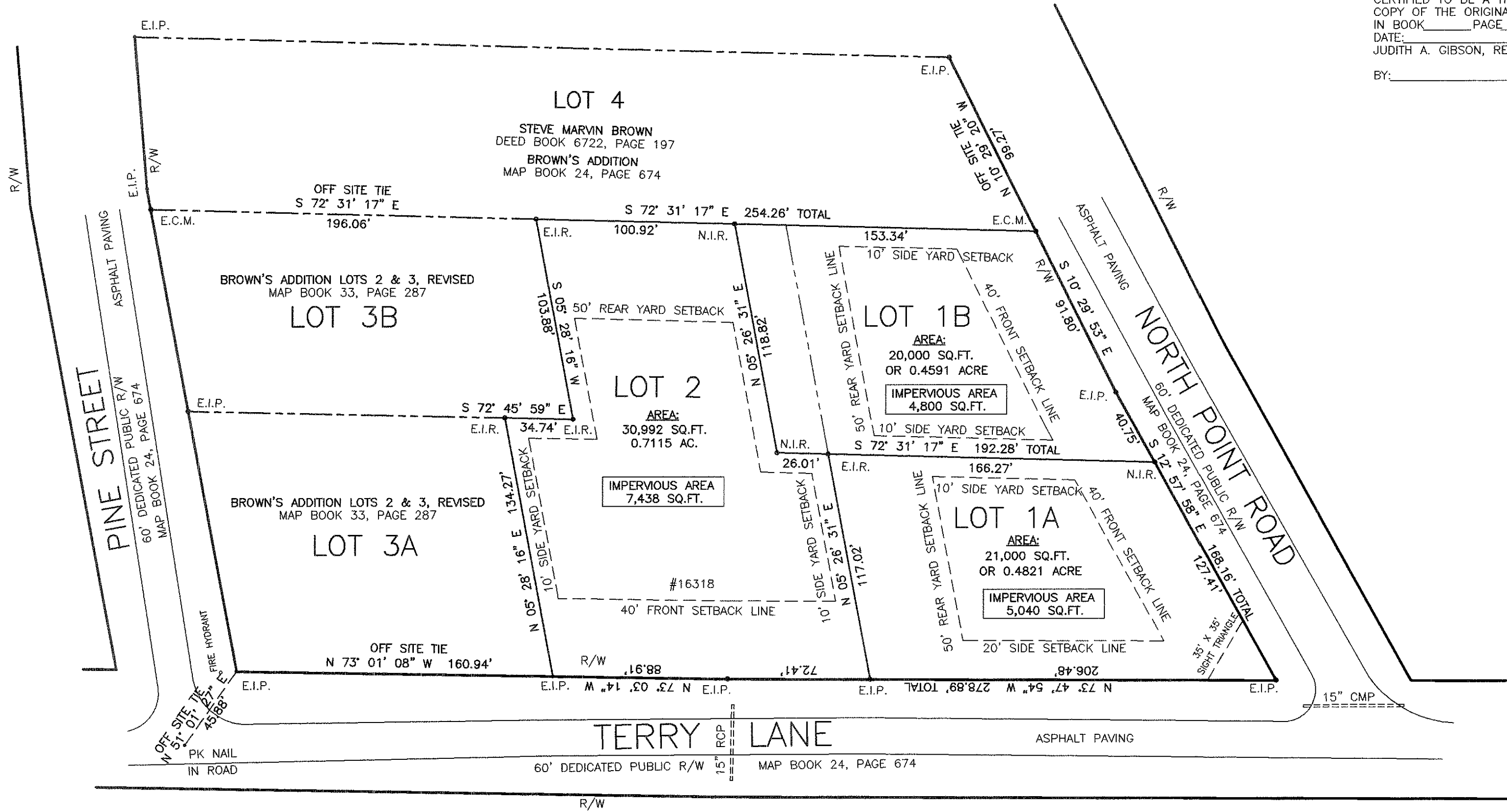


AREA:
71,992 SQ.FT.
OR 1.6527 ACRES TOTAL

R.B. PHARR & ASSOCIATES, P.A.
P. O. BOX 1234
#19801 SOUTH MAIN STREET
CORNELIUS, NORTH CAROLINA 28031
TEL: (704) 895-1730

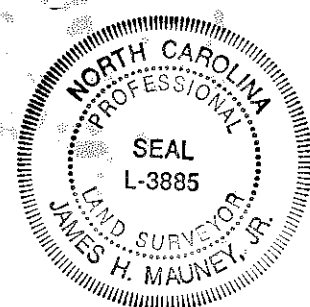


CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL MAP RECORDED IN BOOK PAGE
DATE:
JUDITH A. GIBSON, REGISTER OF DEEDS
BY: DEPUTY



State of North Carolina
County of Mecklenburg
The Undersigned surveyor, Being duly sworn deposes and says that the plat upon which this certificate appears was prepared in accordance with G.S. 47-30 as amended, is in all respects correct according to the best of his knowledge and belief, and was prepared from an actual survey made by him on the 28TH day of FEBRUARY, 2002, with a maximum linear error of closure of 1:10,000 and a maximum field error of angular closure of 7.5 sec. per angle

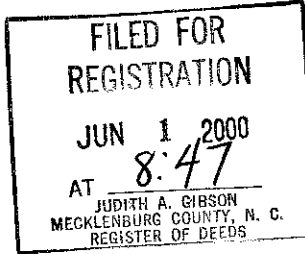
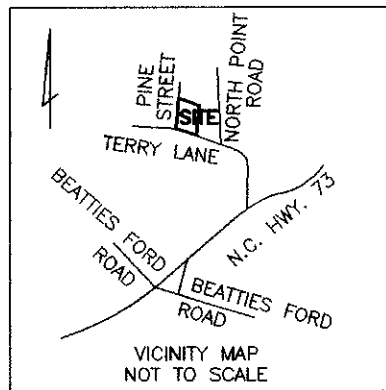
Signed: James H. Mauney, Jr.
N.C. Professional Land Surveyor



CREW:	DRAWN:	REVISED:
SW	TK	

ACAD FILE: 55584
LN - 4128

Exhibit I - Brown's Addition Lots 1&2
Revised MAP R 37 P315 (2002)



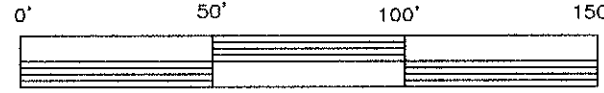
BROWN'S ADDITION LOTS 2 & 3, REVISED

SCALE: 1" = 50'
DATE: MAY 19TH, 2000
ACAD FILE: 50871

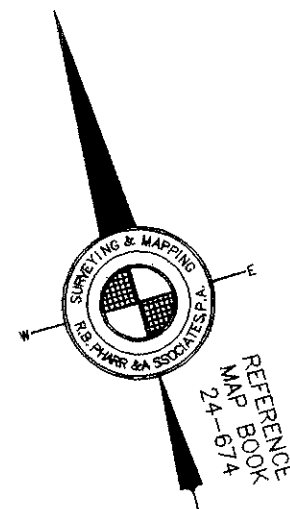
THE TOWN OF HUNTERSVILLE, MECKLENBURG COUNTY, NORTH CAROLINA

TERRY DEAN BROWN (OWNER)
#15719 PINE STREET HUNTERSVILLE, N.C. 28078-8941

R.B. PHARR & ASSOCIATES, P.A.
P. O. BOX 1234
#19801 SOUTH MAIN STREET
CORNELIUS, NORTH CAROLINA 28031
TEL: (704) 895-1730



AREA:
75,249 SQ.FT.
OR 1.7275 ACRES TOTAL



LEGEND
E.I.P. = EXISTING IRON PIN
N.I.P. = NEW IRON PIN
E.C.M. = EXISTING CONCRETE MONUMENT
R/W = RIGHT OF WAY
SQ.FT. = SQUARE FOOT

NOTE:
1. IRON PINS AT ALL PROPERTY CORNERS UNLESS OTHERWISE NOTED.

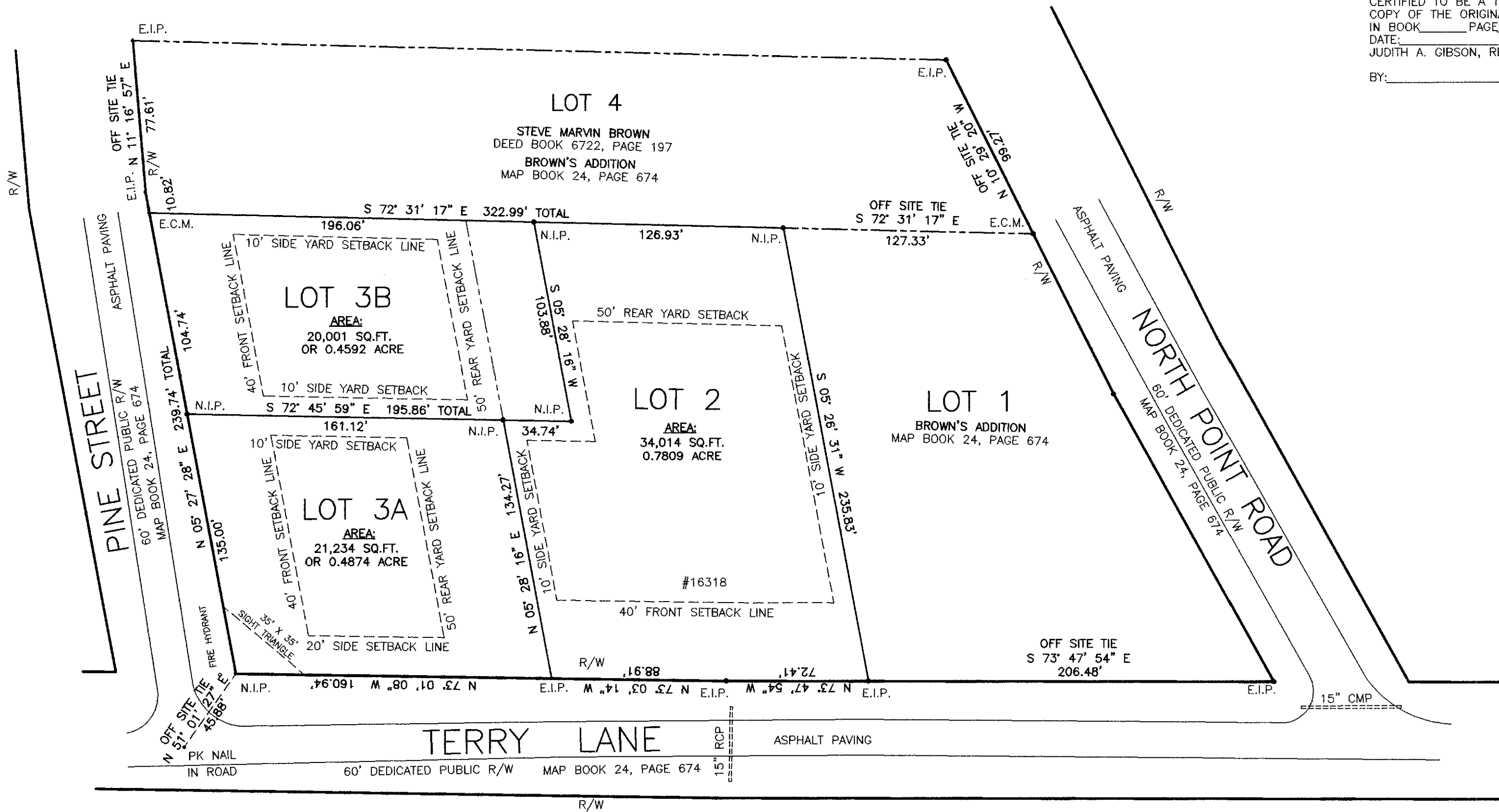
2. HUNTERSVILLE ZONING: (GENERAL RESIDENTIAL DISTRICT) GR

BUILDING SETBACK REQUIREMENTS
MINIMUM LOT SIZE 20,000 SQ.FT.
MINIMUM LOT WIDTH 90 FEET
MINIMUM FRONT SETBACK 40 FEET
MINIMUM REARYARD 50 FEET
MINIMUM SIDEYARD 10 FEET
MINIMUM CORNER LOT SIDEYARD 20 FEET

REFERENCES:
DEED BOOK 6722, PAGE 199
MAP BOOK 24, PAGE 674
TAX NUMBER 001-452-67

NOTE:
THE PURPOSE OF THIS MAP IS TO CREATE (3) THREE LOTS, USING LOTS 2 & 3 BROWN'S ADDITION AS PREVIOUSLY RECORDED IN MAP BOOK 24, PAGE 674.

FLOOD CERTIFICATION
THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, DATED JANUARY 19, 2000.
F.I.R.M. PANEL #370158 0030 D



CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL MAP RECORDED IN BOOK _____ PAGE _____
DATE: _____
JUDITH A. GIBSON, REGISTER OF DEEDS
BY: _____ DEPUTY

THIS IS TO CERTIFY THAT THIS SURVEY IS OF AN EXISTING PARCEL OF LAND

THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

APPROVED IN ACCORDANCE WITH THE MINOR SUBDIVISION PROVISIONS AS SET FORTH IN THE SUBDIVISION ORDINANCE OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA. ANY FURTHER SUBDIVISION OF THIS PROPERTY IS SUBJECT TO REVIEW AND MAY CONSTITUTE A MAJOR SUBDIVISION OF LAND.

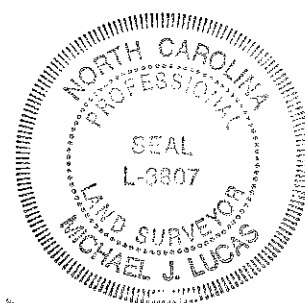
Kelly C. Case MAY 31, 2000
TOWN PLANNER DATE

I Kelly C. Case REVIEW OFFICER OF MECKLENBURG COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

Kelly C. Case MAY 31, 2000
REVIEW OFFICER DATE

State of North Carolina
County of Mecklenburg
The Undersigned surveyor, Being duly sworn deposes and says that the plat upon which this certificate appears was prepared in accordance with G.S. 47-30 as amended, is in all respects correct according to the best of his knowledge and belief, and was prepared from an actual survey made by him on the 19TH day of MAY, 2000, with a maximum linear error of closure of 1:10,000 and a maximum field error of angular closure of 7.5 sec. per angle.

Signed Michael J. Lucks
N.C. Professional Land Surveyor



CREW	DRAWN	REVISED
SW	TK	

ACAD FILE: 50871
LN - 412

Exhibit J – Topographical Map

Polaris 3G Map – Mecklenburg County, North Carolina

15710 PINE ST HUNTERSVILLE NC 28078

Date Printed: 10/4/2020 9:46:49 PM



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

Exhibit K – Town Property Owner Correspondence

From: [Brian Richards](#)
To: [Laurie Martin](#)
Cc: [Lauren Speight](#)
Subject: RE: URGENT! 15710 Pine Street Huntersville, NC 28078
Date: Thursday, September 10, 2020 1:02:34 PM
Attachments: [2000076321.pdf](#)
[2002075475.pdf](#)

Hi Laurie,

I apologize for not being able to call but I am in a meeting currently. You are correct that I offered the information I provided to you on our call. At that time I was unaware that your lot had been subdivided in 2000. This is important as the one time building exemption would not be applicable. A building permit was issued in error by Mecklenburg County in 2005/2006 with home exceeding the 24% impervious allocation. Due to the age of the home we are unable to locate copies of the building permits/applications.

I have spoken to the buyers (I assume for the buyers and provided the email below with potential options):

"Hi Vicki,

Do to the lots being subdivided in 2000 (attachment 200076321.pdf) they are subject to an impervious restriction of 24% due to the properties being located in the Lake Norman Overlay District. The existing home has exceed the 24% allocation and permits for new structures that increase impervious coverage would not be able to be issued.

Options:

Impervious allocation may be redistributed between Lots 1A, 1B, 2, 3A, 3B as long as the total impervious for all combined lots does not exceed 24%

OR

You may apply for a Density Averaging Certificate:

<https://www.huntersville.org/558/Density-Averaging-Certificate>

This would involve any property in the Town of Huntersville that is also in the Lake Norman Watershed Overlay.

Lastly there is the possibility of installing a structural BMP onsite that would allow for the impervious allocation of up to 50%. This would involve the hiring of an engineer to design a BMP system. Plans would need o be reviewed and there would be annual inspections and maintenance required."

Brian Richards
Assistant Planning Director
Huntersville Planning Dept.
105 Gilead Rd 3rd Floor
Huntersville, NC 28078

Mailing address
PO BOX 664
Huntersville, NC 28070
Ph 704 766 2218
Fx 704 992 5528
brichards@huntersville.org

From: Laurie Martin <shlauriem1@yahoo.com>
Sent: Thursday, September 10, 2020 11:46 AM
To: Brian Richards <brichards@huntersville.org>
Subject: URGENT! 15710 Pine Street Huntersville, NC 28078

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Brian, good morning and I hope you are well. We spoke on Aug 17th regarding my home at [15710 Pine Street in Huntersville](#). We discussed the remaining impervious area on my homesite, and you gave me the following information which I shared with the buyers who then contracted to buy my house. Here is the rough math we reviewed when we talked. I'm in Huntersville now, and have the exact calculations at my new home in Raleigh, but this is very close to what you shared with me:

1. The size of the lot is approximately 20,000 square feet.
2. The home, sidewalks, driveway, and garage totals about 6,000 sf out of that 20,000 sf.
3. That leaves a remaining amount of land at approximately 14,000 square feet.
4. You said that gives me an allowed 24% of the remaining 14,000 square feet, which is about 3,300 square feet to use and which is can be used to build a pool.

The buyers had my property surveyed and their surveyor independently confirmed the impervious figures and that a pool could be constructed on my property.

When the buyers contacted the Town about this they spoke with Lauren. She told the buyers that my home had no impervious space at all, that I was over the allowed impervious amount, and that there would be no chance of ever building a pool.

You had mentioned that if the buyer or surveyor had an issue they could call you directly, and that if the surveyor had any issues to give him your number. Can I have them contact you so you can

review what we discussed with them so we can proceed to closing? I am scheduled to close and sign [tomorrow at 1:00](#) and this has caused the buyers to pause the closing.

Laurie R. Martin

704-622-6555