

BOARD OF ADJUSTMENT MEETING
THURSDAY, JANUARY 23, 2025
6:00 P.M.
Council Chambers, 300 W. Crowell Street
Monroe NC

AGENDA

- Item 1.** **Call to Order – Roll Call**
- Item 2.** **Pledge of Allegiance and Moment of Silence**
- Item 3.** **Conflicts of Interest**
- Item 4.** **Approval of Minutes– November 21, 2024**
- Item 5.** **Approval of the Closed Session Minutes to be handled by Attorney Al Benschhoff – November 21, 2024**
- Item 6.** **Quasi-Judicial Statement:**
- Item 7.** **PLZNA 2025-00111 Variance** - The Board of Adjustment is requested to consider a variance to deviate from the minimum lot size for car, boat, other vehicle sales and rental establishments located in the City of Monroe Unified Development Ordinance in order for the applicant to operate a vehicle sales lot at 707 N. Sutherland Avenue, PID # 09-188-080A .
- Item 8.** **PLSUP 2025-00122 Special Use Permit** - The Board of Adjustment is requested to consider a Special Use Permit request as required by the City of Monroe Unified Development Ordinance in order to operate a car, boat, other vehicle sales and rental establishment in the General Industrial zoning district for a property located at 707 N. Sutherland Avenue, PID # 09-188-080A.
- Item 9.** **PLZONA-2025-00057 Appeal** - The Board of Adjustment is requested to consider an Appeal of Planning staff's decision regarding a zoning determination of an accessory dwelling unit located at 1003 Oak Hill Drive, PID # 09-279-073.
- Item 10.** **Next Meeting:** Thursday, February 27, 2025
- Item 11.** **Adjournment**

ATTENTION BOARD MEMBERS:

Please call Kimberly Davis at 704.282.4527 to confirm your attendance. Thank you.

cc: ***Albert Benschhoff, Attorney***
 Jeff Wells, Assistant City Manager
 Planning Staff

MINUTES OF THE BOARD OF ADJUSTMENT MEETING

November 21, 2024, at 6:00 P.M.

Council Chambers

300 W. Crowell St., Monroe, NC

To HR: 11/22/24

Item 1. Call to Order – Roll Call

Corey Noland, Acting Chair, called the November 21, 2024, meeting to order at 6:00 p.m. and noted that there was a quorum present with 3 members. Kimberly Davis, Administrative Assistant, called the roll.

Members Present: Corey Noland, Thomas Loria and Ryan Haywood

Members Absent: None

Staff Present: Al Benshoff, BOA Attorney; Doug Britt, Asst. Planning and Development Director; Patrick Blaszyk, Planner 1; Megan Brightharp, Planner 1; Kimberly Davis, Admin. Asst. II

Guests: Richard Long, City Attorney; Terry Sholar, Senior Staff Attorney; Jeff Wells, Asst. City Manager; David and Kathleen Thrun; David Murray, Attorney; Helen Harp, Real Estate Agent and Interpreter; Tatsiana Karzhova; Jennifer Loria; Maria Mora; Brittany Avalos; Aaron Parr;

Under legal recommendation from Attorney Al Benshoff:

Motion: **Thomas Loria made a motion to have Corey Noland as Acting Chair/Presiding Official for this Board of Adjustment Meeting on November 21, 2024.**

Second: **Ryan Haywood**

Action: **The motion to approve passed with the following votes:**

AYES: **Corey Noland, Thomas Loria and Ryan Haywood**

NAYS: **None**

Item 2. Pledge of Allegiance and Moment of Silence

Item 3. Conflicts of Interest – None noted.

Item 4. Approval of Minutes – Minutes of July 25, 2024

Motion: **Thomas Loria made a motion to approve the minutes of the July 25, 2024, meeting.**

Second: **Ryan Haywood**

Action: **The motion to approve the minutes passed with the following votes:**

AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

Item 5. Quasi-Judicial Statement:

Al Benshoff, Attorney, said this is for the audience and it is a brief explanation of what the Board of Adjustment does. This is a quasi-judicial hearing, which means it is like a court hearing. North Carolina law sets specific procedures and rules concerning how this board of adjustment must make its decisions. These rules are different from other types of land use decisions, such as a rezoning. This board's discretion is limited. This board must base its decisions on competent, relevant and substantial evidence in the record. A quasi-judicial process is not a popularity contest. It is a decision limited by the standards in the zoning ordinance and based on the facts presented. If you will speak as a witness, please focus on the facts and ordinance standards, not personal preference or opinion. Participation is limited by state law and this meeting is open to the public. Everyone is welcome to watch and parties with standing have rights to participate fully. Parties may present evidence, call witnesses and make legal arguments. Parties are limited to the town, applicant and individuals who can show that they will suffer special damages. Other individuals may serve as witnesses when called by the chair. General witness testimony is limited to facts, not opinions. For certain topics, this board needs to hear opinion testimony from expert witnesses. These topics include impacts on property values and increased traffic. Persons providing expert opinion must be qualified as experts and provide the factual evidence on which their opinions are based. Witnesses may be cross-examined by parties with standing and witnesses must swear or affirm their testimony.

Corey Noland, Acting Chair, confirmed there is a quorum present with three members.

Item 6. PLZNA-2025-00055 Variance - The Board of Adjustment is requested to consider a variance request from David Thrun to deviate from the minimum side yard setback for an accessory structure in a residential district in order to construct a garage at 2521 Foxworth Avenue (Parcel ID 09-345-135).

Doug Britt, Senior Planner, Megan Brightharp, Planner 1, and David Thrun approached the podium and were sworn in by Corey Noland.

Megan Brightharp, Planner 1, presented the proposed findings:

1. The property located at 2521 Foxworth Drive is owned by David and Kathleen Thrun and is zoned RLD (Residential Low Density). (Exhibit 1-3) Exhibit 1 is the Ortho Map, an aerial map of the subject property which is highlighted in blue. The property is located south of Foxworth Drive. Exhibit 2 is a copy of the Zoning Map with the subject property highlighted in blue. The subject property, as are the surrounding parcels, is zoned RLD (Residential Low Density). Exhibit 3 is a copy of the Deed of the property showing the applicant as the owner.
2. A variance application was submitted on August 19, 2024 by David Thrun requesting a 6-foot variance from the minimum side yard setback of 10' in order to construct a garage. (Exhibit 4 and 5) Exhibit 4 is a copy of the application. Exhibit 5 is a copy of the Site Plan proposing the location of the garage and showing where the variance will be needed.

3. Unified Development Ordinance (UDO) section 157.7.5 entitled “Accessory Uses and Accessory Structures” states in relevant parts:

A. General Accessory Use Standards.

9. Setbacks:

- a. Within a residential district, shall not be located closer than ten (10) feet to a property line,

(Exhibit 6) Exhibit 6 is a copy of Section 7.5 from the UDO, “Accessory Uses and Accessory Structures,” showing highlighted the minimum setback for an accessory structure being 10-feet from the property line.

4. All adjacent property owners have been notified of the proposed variance. (Exhibit 7 and 8) Exhibit 7 is a copy of the APO List and Exhibit 8 is a copy of the APO Map.

There were no adjacent lot owners present at the meeting. Planning has not heard from or had any contact with any adjacent owners after sending out the APOs. This would be a detached garage (accessory structure) which has a setback of 10-feet. Attached garages have to meet building setback, but those are two different types of setbacks for the two different types of garages. There is not currently a structure where the garage is being proposed, but there are two existing sheds on the property. This case was brought to the Board once the applicant submitted the application.

There were no additional questions for staff. David Thrun approached the podium to answer any questions. He said this would be a 24x24 garage for vehicles. There is no HOA and he has spoken with most of his neighbors. He is unable to put it at another location since he wants to build it at the end of his driveway which has nothing else but a fence line. If he has to go 10-foot then it would have to go back farther and over so in order to pull in the garage, you would have to angle into it. He has a little shed for his mower. He has tried to build this for fourteen years and can finally do it financially. There is nowhere else to put this on the property without being costly. He will have to “drop the project” if he cannot do it this way. There is no living space in this garage. This uses all city sewer.

Motion: Ryan Haywood made a motion to accept the proposed Findings of Fact 1-4.

Second: Thomas Loria

Action: The motion to adopt the proposed Findings of Fact 1-4 passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

Motion: Corey Noland made a motion to amend the Finding of Fact and add a Finding of Fact (5) that there is no other place on this property that the applicant would be able to place this structure and use it essentially as a garage for vehicles from his driveway. An additional Finding of Fact (6) that if there would be substantial increased costs, if this structure were to be placed anywhere else on the property. An additional Finding of Fact (7) that without this covered garage, the applicant’s property would not be covered in this area.

Second: Thomas Loria

Action: The motion to adopt the additional proposed Findings of Fact 5-7 passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

1. It is the Board's CONCLUSION that unnecessary hardship **would/would not** result from the strict application of the ordinance.

Motion: Corey Noland made a motion that an unnecessary hardship would result from the strict application of the ordinance because there would be substantial increase in cost to this project and would not happen if the variance in this area of the yard were not able to be used.

Second: Ryan Haywood

Action: The motion passed unanimously with the following votes.

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

2. It is the Board's CONCLUSION, that the hardship **is/is not** peculiar to the applicant's property.

Motion: Corey Noland made a motion that the hardship is peculiar to the applicant's property because of the location of the driveway and the shape of the lot.

Second: Ryan Haywood

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

3. It is the Board's CONCLUSION, that the hardship **is/is not** the result of the applicant's own actions.

Motion: Corey Noland made a motion that the hardship is not the result of the applicants own actions because of the location of the driveway and the shape of the yard and where this project would be necessary is not something that is the fault of the applicant.

Second: Ryan Haywood

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

4. (a) It is the Board's CONCLUSION, that the variance **is/is not** consistent with the spirit, purpose, and intent of the ordinance.

Motion: Thomas Loria made a motion that the variance is consistent with the spirit, purpose, and intent of the ordinance based on the Findings of Fact and based on the testimony submitted today.

Second: Corey Noland

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

- (b) It is the Board's CONCLUSION that in granting the variance, the public safety **will/will not** be secured and substantial justice **will/will not** be achieved.

Motion: Corey Noland made a motion that in granting the variance, public safety will be secured and substantial justice will be achieved because there is no one objecting on the grounds of safety from the neighbors of the applicant. By allowing this project, the applicant has been hoping to accomplish for fourteen years is in the spirit of what we are doing and will help achieve substantial justice in this matter.

Second: Ryan Haywood

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

Motion: Corey Noland, based on the foregoing, made a motion to approve the variance request.

Second: Thomas Loria

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

Attorney Al Benshoff explained how it is customary for the Board to direct him to prepare an order to be recorded in the Union County Register of Deeds so the Variance will be on record. In the past, the Board adopted a standing motion that allowed the Chair and the Secretary to sign the order out of session with the Board of Adjustment. He requested that the motion be made now for all of these cases.

Motion: Corey Noland made a motion that, for all cases tonight, we allow that signature to be out of session.

Second: Ryan Haywood

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

Item 7. **PLZNA 2025-00056 Variance** – The Board of Adjustment is requested to consider a variance request from the minimum side yard setback for the RLD (Residential Low Density) district in order to bring an addition to a house currently under construction at 509 Creekridge Drive into compliance with the District Development Standards as outlined in the City of Monroe's Unified Development Ordinance (Parcel ID 09-147-067).

Doug Britt, Patrick Blaszyk and Brittany Alvalos approached the podium and were sworn in by Corey Noland.

Patrick Blaszyk, Planner 1, presented the proposed findings:

1. The property located at 509 Creekridge Drive is owned by Maria Mora and is zoned RLD, Residential Low Density. (Exhibits 1, 2, and 3) Exhibit 1 is the Ortho Map for the area where the subject property is highlighted in blue. Exhibit 2 is the Zoning Map with the subject property highlighted in blue and zoned RLD (Residential Low Density). Surrounding parcels are also zoned RLD, but then parcels to the north are zoned CD (Conditional District Scotch Meadows). Exhibit 3 is the deed to the property.
2. In November 2023, a building permit application and site plan were submitted for the construction of a 320 square foot addition to 509 Creekridge Drive that listed, Maria Mora as the contractor. (Exhibits 4, 5, and 6) Exhibit 4 is the Building Permit Application. Exhibit 5 is the Owner Exemption Affidavit. Exhibit 6 is the original Site Plan that was submitted with the Permit indicating that the addition was going to be 17-feet from the property line.
3. The City of Monroe Permit Center issued the Building Permit for the addition in April 2024. In this permit, all building setback information were listed under a miscellaneous condition. Planning Staff also listed they recommend the applicant obtain a professional survey for the addition under a miscellaneous condition due to the close proximity of the addition to the right side yard property line. (Exhibit 7) Exhibit 7 is where the Building Permit was issued. The next page displays the miscellaneous conditions under the Permits. The top one highlighted in yellow indicates the front side and rear setbacks which is the side at 15-feet. Other miscellaneous condition indicates staff's recommendation that the applicant obtain a professionally-obtained surveyor due to the close proximity to that side yard setback.
4. In June 2024, the required foundation survey was conducted and submitted to the Permit Center. It displayed that the right side yard setback was only 14.5' and not the required 15' required by the RLD Residential Low Density. (Exhibit 8) Exhibit 8 is the Foundation Survey showing the 14.5' encroachment highlighted in yellow.
5. Planning Staff sent the property owner a Notice of Violation regarding the .5 foot encroachment of the addition into the side yard setback in August 2024. (Exhibit 9) Exhibit 9 is the signed Notice of Violation.
6. A variance application was submitted in August 2024 by Maria Mora, requesting a variance amount of 1' from the minimum side yard setback of the RLD, Residential Low Density district, in order for the addition of the house under construction to meet the district's development standards. The applicant also submitted a historical plat map of the property. (Exhibits 10 and 11) Exhibit 10 is the Variance Application. Exhibit 11 is the Historic Plat Map where the subject parcel is highlighted in yellow.
7. Table 4.2.2. RLD District Development Standards Table of the Unified Development Ordinance (UDO) states in relative parts: Setbacks: Side: 15' (Exhibit 12) Exhibit 12 is showing the side yard setback for the district is 15' and is highlighted in yellow.
8. Planning Staff has obtained a photo of the current conditions of the site. (Exhibit 13) Exhibit 13 is the photo displaying the addition in the rear of the home.

9. All adjacent property owners have been notified of the proposed variance. (Exhibits 14 and 15) Exhibit 14 is the APO Map displaying the properties that have been notified and highlighted in blue. The subject parcel has the red star on it. The red oval is the 150-foot buffer. Exhibit 15 is the APO Mailing List for the property owners.

Al Benshoff asked for Exhibit 11 to be explained. It was submitted by Maria Mora and it is the Plat Map that was utilized in the construction of the addition. Brittany Alvalos wanted it submitted as part of the record.

The Board began by asking Patrick Blaszyk questions. The application was turned in complete. The City has not taken any actions against the applicants. The applicants were kept informed and updated until the Board could hear the case and make a decision. A survey was recommended under miscellaneous conditions, but was not done until after the fact. It was not required. The building permit application was allowed based on the 17-foot setback. Staff became aware of the violation in June of 2024 when the Foundation Survey was submitted to the City Permit Center. When it was reviewed, the encroachment of .7-feet into that setback was noted. Planning does not know when the foundation was established. Once the violation was noticed, a courtesy letter, which is not required, went out. Then there was no response so a Notice of Violation was sent in August. After that, the applicant applied for the variance. The inspections were not done on the rough ends until the Foundation Survey was provided to Planning. The permit process stopped until the Foundation Survey was submitted and vertical framing was already started by that time. There were no other questions for staff.

Brittany Avalos, at 509 Creek Ridge Drive, Monroe, NC 28110, approached the podium. They started building once the permit was approved. She doesn't think they were contacted prior to that. They did not get a survey because they based their measurements on the survey provided earlier (Exhibit 11). Those were given to them a few years prior to the addition so they based it on those measurements. They provided Exhibit 11 to the people performing the work on the property. The survey (Exhibit 6) was not taken until after the work began. The purpose of the structure is a bedroom addition. If the variance were denied, it would impact them financially since most of it is already built. The builders would have to start again. A family friend who works in construction did the addition. The 15-foot setback was based off the marks on Exhibit 11 and when the second survey was done, the measurements were in a different place. The family questioned it. The corner of the building is the issue with the setback. This is on City water. There were no additional questions.

In addition to the nine current Findings of Fact, Corey Noland would make a motion to add a Finding of Fact (10) that the applicant, Maria Mora, based on Brittany Alvalos testimony, would suffer significant financial burden in the removal of the portion of the addition. Another Finding of Fact (11) would be that the slanted positioning of the house in reference to the lot itself has the addition, on the right side of the house, coming close to the property boundary. Another Finding of Fact (12) would be the applicant, Maria Mora, submitted Exhibit 11 to the party performing the work on the property who was aware that the addition needed to be in compliance with the 15-foot setback.

Motion: Corey Noland made a motion to accept the Findings of Fact 1-12.
Second: Ryan Haywood

Action: The motion to approve Findings of Fact 1-12 passed with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

1. It is the Board's CONCLUSION that unnecessary hardship **would/would not** result from the strict application of the ordinance.

Motion: Ryan Haywood made a motion that an unnecessary hardship would result from the strict application of the ordinance due to the financial difficulties that it would bring upon the owner in having to demolish and redo addition.

Second: Corey Noland

Action: The motion passed unanimously with the following votes.

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

2. It is the Board's CONCLUSION, that the hardship **is/is not** peculiar to the applicant's property.

Motion: Corey Noland made a motion that the hardship is peculiar to the applicant's property because of the angle in which the existing structure is slanted towards the property line, causing the addition on the right side of the property to come within that 15-foot setback in the right corner.

Second: Ryan Haywood

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

3. It is the Board's CONCLUSION, that the hardship **is/is not** the result of the applicant's own actions.

Motion: Corey Noland made a motion that the hardship is not the result of the applicants own actions because the applicant, who was aware of the need for the 15-foot setback, presented the person who did the work with the appropriate documentation and that person is the one at fault and not insuring compliance with the 15-foot setback.

Second: Ryan Haywood

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

4. (a) It is the Board's CONCLUSION, that the variance **is/is not** consistent with the spirit, purpose, and intent of the ordinance.

Motion: Thomas Loria made a motion that the variance is consistent with the spirit, purpose, and intent of the ordinance due to increasing property value in making an addition to the house for the family.

Second: Corey Noland
Action: The motion passed unanimously with the following votes:
AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

(b) It is the Board's CONCLUSION that in denying of the variance, the public safety **will/will not** be secured and substantial justice **will/will not** be achieved.

Motion: Corey Noland made a motion that in granting the variance, public safety will be secured because the surrounding properties were notified of the proceedings today and no one is present to express any kind of safety concerns. While it is not in compliance with the setback, which is an issue of safety, it is only a half a foot out of compliance and I believe that is not an issue that would cause a concern as it relates to safety of this property owner, the applicant, or any adjacent property owners. Substantial justice will be achieved because the applicant will be able to use the addition for more living space.

Second: Ryan Haywood
Action: The motion passed unanimously with the following votes:
AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

Motion: Ryan Haywood made a motion to approve the variance request.
Second: Corey Noland
Action: The motion passed unanimously with the following votes:
AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

Item 8. PLZNA 2025-00095 Variance - The Board of Adjustment is requested to consider a variance from Coastal CLT Investments, LLC, requesting a variance from the required speaker box setback defined in the Permissible Use Definition and Standards section of the Unified Development Ordinance (UDO) in order to construct a drive-through speaker box at 847 East Roosevelt Boulevard (Parcel ID 09-156-002F).

Patrick Blaszyk, David Murray and Aaron Parr approached the podium and were sworn in by Corey Noland.

Patrick Blaszyk, Planner 1, presented the proposed findings:

1. The property located at 847 East Roosevelt Boulevard is owned by Krug Investments, LLC, is leased by Coastal CLT Investments, LLC and is zoned MD-MX, Medical District Mixed-Use. (Exhibits 1, 2, and 3) Exhibit 1 is the Ortho Map for the area with the subject property highlighted in blue and is .82 acres in size. Exhibit 2 is the Zoning Map for the area with the subject property highlighted in blue and is zoned MD-MX (Medical District Mixed-Use). The other parcels in the surrounding area share that same zoning designation. Exhibit 3 is the Deed to the property.

2. In October 2024, attorney David Murray on behalf of Coastal CLT Investments, LLC submitted a variance application in order to request a variance from Section 7.2.6.M.b. titled Permissible Use Definition and Standards of the Unified Development Ordinance (UDO) to reduce the required 50-foot drive-through speaker box setback by 33.5 feet. This in turn will position the drive-through speaker box to be constructed 16.5 feet from the property line. (Exhibits 4 and 5) Exhibit 4 is the Variance Application Form. Exhibit 5 is the letter from Murray Law indicating that David Murray was going to represent Coastal CLT Investments in this case.
3. Section 7.2.6.M.4.b. of the Unified Development Ordinance (UDO) entitled “Permissible Use Definition and Standards” states in relative parts: (Exhibit 6)
 - b. Outdoor speakers associated with a drive-through shall be at least fifty (50) feet from any property line.Exhibit 6 is the Section 7.2.6.M.4.b. of the UDO.
4. The applicant has submitted site plans indicating the layout of the parcel, the proposed location of the speaker box and the required 50-foot setback. (Exhibits 7, 8 and 9) Exhibit 7 is a Site Plan indicating the layout of the parcel and the development with the location of the speaker box on the western side of the site highlighted in yellow. Exhibit 8 is a more in-depth and detailed Site Plan indicating the location of the drive-through speaker box in the western side of the site indicating they will be 16 ½ feet from the property line. Exhibit 9 is this Site Plan indicating the current Ordinance requirements for the 50-foot drive-through speaker box setback requirements. These red hashed areas is the 50-foot speaker box setback requirements so if the applicant were to have to construct the speaker box under the strict interpretation of the Ordinance, it would have to be built out in this white triangle area. The site would have to be redeveloped or reconfigured.
5. All adjacent property owners have been notified of the proposed variance. (Exhibit 10 and 11) Exhibit 10 is the APO Map where the subject property has a red star on it. The red polygon is the 150-foot buffer. All parcels notified of the variance request is highlighted in blue. Exhibit 11 is the APO List.

The Board began discussing the variance request. The application was complete. Planning Department has received no phone calls or emails from surrounding property owners. The property was constructed into the parking area alongside the gym. There were no other questions for staff.

David Murray, Attorney in Charlotte, approached the podium and spoke. He prepared a handout of proposed findings which he handed to each of the staff and Board Members (See attached). He also prepared a PowerPoint Presentation. This issue came up in the middle of Plan Review for a new Dunk’n Donuts location at this site. This site was vacant and possibly had never had anything built on it. It is uniquely shaped and the access is through the Food Lion development. It is to the rear and does not have an entrance, but has a ton of great visibility on Roosevelt and 74. This is a restaurant with a drive-through with a by-right use in the MD-MX district. Since the entrance is at the north and you drive on the left side of your car, the only way to circulate this site is to come in and immediately take a right. This site doesn’t work to flip it backwards or to put a drive-through in that small triangle of space available for where the speaker would be (without the variance). Most of this site is eaten up from the buffer perspective due to the small space and odd shape. The

only place to put a speaker according to the Ordinance is to put a speaker dead center in the site and it would be difficult to circulate cars through the site. Dunk'n Donut locations are drive-through dependent and the speaker would need to have enough space so cars do not stack up out into the street waiting to order. There is unnecessary hardship because the 50-foot buffer covers basically every practical location where the speaker could be located. It is peculiar to the property since it is a really unique-shaped property. This is in addition to the one Dunk'n Donuts in Monroe already.

Motion: Corey Noland made a motion to adopt the Proposed Findings of Fact and Conclusions of Law presented by the applicant's Counsel and also adopt the Proposed Findings of Fact submitted in staff presentation.

Second: Ryan Haywood

Action: The motion to adopt passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

Motion: Corey Noland made a motion to approve the variance request.

Second: Thomas Loria

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood

NAYS: None

Item 9. **PLZNA-2025-00093 Variance** – The Board of Adjustment is requested to consider a variance from Tatsiana Karzhova, requesting a variance from the maximum lot quantity allowed to utilize a private driveway defined in the Subdivision Standards section of the Unified Development Ordinance (UDO) in order for three lots to utilize a private drive at 1027 Legacy Lake Drive (Parcel ID 09-105-169).

Terry Sholar, Patrick Blaszyk, Tatsiana Karzhova and Helen Harp approached the podium and were sworn in by Corey Noland.

Patrick Blaszyk, Planner 1, presented the proposed findings:

1. The property located at 1027 Legacy Lake Drive is owned by Premium Rent LLC, and is zoned RR, Residential Rural. Premium Rent LLC is a North Carolina limited liability company whose principal place of business is 13506 Reunion Street, Charlotte NC 28278-7879. The Registered Agent, President and Member of Premium Rent is Tatsiana M. Karzhova. (Exhibits 1, 2 and 4) Exhibit 1 is the Ortho map where the subject parcel is highlighted in blue. The orange dash line is the City of Monroe Municipal Boundary and Limits so all parcels to the west are inside City of Monroe and parcels to the east are in Union County. The lot is 2.52 acres in size. Exhibit 2 is the Zoning map with the subject property highlighted in blue and is zoned RR for Residential Rural. All parcels to the west are in Monroe and zoned RR (Residential Rural) and parcels to the east are Union County and are R-20 and R-40. Exhibit 3 is the deed to the property. Exhibit 4 is Premium Rent LLC Articles of Organization.
2. In October 2024, Tatsiana Karzhova submitted a variance application in order to request

a variance from Section 8.1.7.D.5.a. titled Subdivision Standards of the Unified Development Ordinance (UDO) to increase the maximum number of lots allowed to utilize a private drive/ access easement from two lots to three lots. A letter of support was also submitted by a neighboring property owner. (Exhibits 5 and 6) Exhibit 5 is a Variance Application Form. Exhibit 6 is the letter of support.

3. Section 8.1.7.D.5.a. of the Unified Development Ordinance (UDO) entitled “Subdivision Standards of the Unified Development Ordinance” states in relevant parts: that “A private access easement shall not serve more than two (2) residential lots” and that is highlighted in yellow on Exhibit 7.
4. The applicant has submitted a plat map of the neighborhood and survey of the property. These documents display the private drive in relation to the applicants’ property. (Exhibits 8 and 9) Exhibit 8 is the Plat Map for the neighborhood. The subject property is Lot 29 which is currently utilizing the private drive and Lot 30 is the other lot using the private drive. If Lot 29 were to be subdivided, that is where the three lots would access the private drive. Exhibit 9 is the Survey of the Property again indicating that Lot 29 is the private drive with Lot 30 is the other lot utilizing this access easement.
5. All adjacent property owners have been notified of the proposed variance. (Exhibits 10 and 11) Exhibit 10 is the APO Map with the subject property shown with a red star and the red polygon is the 150-foot buffer. All parcels notified by the Variance request are highlighted in blue. Exhibit 11 is the APO List of all of the properties notified.

Mr. Noland: The variance request for us relates to the number of lots that can use the driveway, right? It’s not whether or not the lot can, in fact, be subdivided. That’s something that’s outside of the realm of this Board’s jurisdiction, right?

Mr. Blaszyk: Yes, that’s correct.

Mr. Noland: If the variance is denied, and they move forward with subdividing the lot, what’s the impact on the site?

Mr. Blaszyk: So we will not allow for them to be able to subdivide the lot if there’s not proper access to it. If the variance were approved, we would be require the private drive and easement to extend all the way into Lot 29 and the new lot that is created.

Mr. Noland: Do you know which of the adjacent lot owners submitted the letter of support?

Mr. Blaszyk: That was lot 30. That’s the one that’s currently accessing the easement.

Mr. Noland: The application was complete whenever it was submitted?

Mr. Blaszyk: Yes.

Mr. Loria: The applicant owns and lives on this property?

Mr. Blaszyk: The applicant owns the property, but the property is currently undeveloped. The applicant does not live on Lot 30. That is the neighbor.

Attorney Benshoff: Where in the process of developing this is access by public safety vehicles considered? You didn't testify that that had been considered. Is that at the subdivision stage?

Mr. Blaszyk: Yes, that is something that would be decided by staff administratively.

Attorney Benshoff: Ok, so that is not before us tonight? Can 29 be divided into a lot 29 and a lot 31 if I'm reading the plat right. One additional lot made on lot 29?

Mr. Blaszyk: So you all are here to consider if three lots can utilize this private drive or access easement as opposed to what is allowed, which is two. Essentially having one more lot being able to use this private drive then what is permitted by the Ordinance.

Mr. Noland: How many lots can use this private road? As we sit here today, there are just two lots.

Mr. Blaszyk: Two lots, lot 29 and 30. These are the two lots that have not been subdivided yet. This needs to be taken care off before we can move on at a staff level of potentially subdividing lot 29 into two.

Mr. Noland: Can we make findings that three lots can use this road, if, as we sit here today, there is only two that exist. For lack of a better way, is there a "right" question for us to answer? You can't subdivide the lots until you have an answer on the drive issue?

Mr. Blaszyk: Yes. We couldn't allow for more lots to be able to utilize it so we would get this done first. Otherwise, it would be like cart before the horse where we would need to make sure all lots have proper access set up beforehand as opposed to after the fact. Now you have to go ahead and get a variance after subdividing the lots. This is preemptively done beforehand.

Mr. Noland: My question is, as a quasi-judicial board, can we deal with a speculative request?"

Mr. Blaszyk: That's what you just did with the Dunk'n speaker box. The speaker box has not been installed yet, but they requested the variance for the speaker box.

Terry Sholar, Staff Attorney for the City of Monroe: There are some relevant questions that the Board may want to consider concerning the private drive. As it is currently being used as a private drive and what would happen to it if additional use of this drive comes into play which is really what you are considering tonight? I'll ask Patrick (Blaszyk) and Doug (Britt) to weigh in on this.

Mr. Loria: Is it paved? Is it gravel? What is it currently?

Mr. Britt: It is gravel.

Attorney Sholar: The private drive, as it is shown on the plat in Exhibit A, is shown as a private drive. Is that correct?

Mr. Britt: Yes, that is correct.

Attorney Sholar: Is the plat dedicated for any specific lots or any number of lots or is it just shown as a drive?

Mr. Britt: It is just shown as a drive. There appears to be no dedication with it.

Attorney Sholar: So the plat itself is not, as far as you know, the deeds out there and the plat itself is not restricted to a certain number of lots that can use the drive, but as a practical matter, it only would provide access to Lot 29 and Lot 30?

Mr. Britt: Correct.

Attorney Sholar: Ok, I want to make sure that is clarified. Another question that I would submit is, for private drives in general, what does the UDO require in terms of private drives? Right now you can only have two lots on a private drive. The UDO require that certain things be done to have a private drive. What do they include?

Mr. Britt: That the private drive or access easement is required to be 18-feet wide and, out of that 18-feet, 12-feet are required to be paved with either asphalt or concrete. It is from the length of the easement back to Legacy Lake Drive, in this case. This drive is recorded off Legacy Lake Drive at 20-feet wide which satisfies the Ordinance. It is currently gravel.

Mr. Noland: If an additional lot were allowed, obviously there would have to be some additional easement or right-of-way provided for access across Lot 29? Lot 29 would have to provide additional access to the other lot that is created.

Mr. Britt affirmed.

Mr. Noland: They would have to comply with those same requirements?

Mr. Britt affirmed.

Mr. Loria: The current 20-foot wide drive can accommodate two lanes of traffic, one entering the home and one exiting?

Mr. Britt: Well, it's not really set up like that. The access easement is 20-feet wide and the paved portion is 18-feet wide which will accommodate two vehicles. It's not a street, but it will allow two vehicles to pass back and forth.

Attorney Benschhoff: So Doug, does the pavement have to be 18-feet wide or 12-feet wide?

Mr. Britt: I'm sorry. The easement is 18-feet wide and the road is 12-feet wide and that is the standard in the code.

Attorney Sholar: So, if the variance were granted and the additional lot was allowed, with 29 through a subdivision, would the City, Planning Department and/or UDO require any additional items to be done to this private drive if it were subdivided?

Mr. Britt: Yes. If Lot 29 were subdivided, which Al said Lot 31, we will require the access to begin at Lot 31, traverse through Lot 29 and then follow the existing private drive or easement back to Legacy Lake Drive. The easement going across Lot 29 would be 18-feet wide and, whoever is building this, would have to pave it from the beginning of Lot 31 all the way back to Legacy Lake Drive with at least 12-feet of either asphalt or concrete.

Mr. Noland: Would you require that prior to the subdivision?

Mr. Britt: No. We would require that if Lot 31 gets built first, whoever is doing Lot 31 and prior to them getting a CO to occupy that house, we would require that access easement to be paved all the way back to Legacy Lake Drive.

Mr. Noland: Has this been communicated to the applicant?

Mr. Britt: We were just getting to say we are not going to subdivide the property because right now the easement serves two properties and the Ordinance doesn't allow three so we haven't really gotten beyond that.

Mr. Blaszyk: Yes, I echo what Doug said.

Attorney Sholar: That is all the questions.

Attorney Benshoff: Mr. Chairman, I've been asked twice about "rightness" which is a legal concept and question. It's been the practice of the City of Monroe to allow most variances to dimensional standards, as we've seen setbacks and heights, the General Statutes say that Use Variances are not permissible. This is not a change in use for the property. It is zoned for single-family residential. The Board can hear this matter tonight.

There were no additional questions for the staff. The applicant, Tatsiana Karzhova, and her representative / translator, Helen Harp, approached the podium. Helen Harp introduced herself as the applicant's real estate agent and is there to assist her client due to the language barrier. She submitted the application with the client.

Attorney Benshoff: So the applicant is a LLC- Limited Liability Company Premium Rent LLC. There is a rule in North Carolina that corporations, like LLC's, need to be represented by attorneys. In this case, I think the Chair will allow the officer of Premium Rent, which is Tatsiana Karzhova, to testify on her behalf.

Ms. Harp: I can be translator to help you and communicate.

Attorney Benshoff: I understand that, but she'll have to testify. Are you qualified to interpret for her?

Ms. Harp: Yes, sure. I can.

Attorney Benshoff: You are a native speaker of Russian?

Ms. Hart: I am. In my previous career, I was working as an interpreter as well.

Under legal recommendation, Mr. Noland said he will have Helen Harp swear in a second time as an interpreter. Ms. Harp approached the dais and was sworn in that the interpretation that she gives will be, to the best of her ability, a fair and accurate representation of what the applicant is attempting to convey.

Mr. Noland explained the process of the translator and the applicant.

Ms. Harp relayed the process to Tatsiana Karzhova who answered in Russian.

Translator: "Ok."

Mr. Noland: Is there anything she wants to say before we may have specific questions?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Ms. Harp: So she said, you were mentioning the LLC and that the owner of this lot is an LLC, but actually this lot was purchased for their personal use. And, this with the intention to find a lot in Union County to put two homes: one for them and another one for their parents. So that is only why they put it in the LLC for the purpose of the liability as of right now.

Mr. Noland: Anything else before we may have specific questions?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Translator: No, you can start with questions.

Mr. Noland: What would be the impact on their plans for this lot if this variance were denied?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Translator: So they will be very disappointed because they have been looking for a long time to find a lot where they could put two homes for their family. It was always their dream to have their parents next to them and, of course, they spent money to purchase such lot which will be forthright and she is also saying she thinks it will be beneficial for the Monroe and County as well to have two properties on the lot instead of one, for the tax purposes and everything. So it's a win-win situation for both.

Mr. Noland: I just want to be as clear as we can be for the record. One of the things that we have to consider tonight is the hardship that may come from them not having this variance. Is there anything else that she wants to say about the hardship that a strict application of the Ordinance would lead to?

Ms. Harp relayed the question to Tatsiana Karzhova, who answered in Russian.

Translator: So they will be very disappointed because and it will be a financial hardship because it was a pricey lot and usually prior to purchasing it, they called the City of Monroe and asked if the property can be subdivided because their major intention to build the property where both homes where their parents because they are getting older. They can be close to them so they can be helping them. So because they will lose this privilege of building two homes, they would have to sell the property and lose money because on the sale of the property, you have to pay realtor's fee, all the taxes and everything, and so they would have to start looking for another property which already took them a long time to find the one. They really like this lot. They finally found what they are looking for and now they would have to start the search all over again.

Mr. Loria: Is this considered a neighborhood and is there an HOA?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Translator: No.

Tatsiana Karzhova spoke in Russian.

Translator: She also wants to add about the neighbor. I guess they went and talked to the neighbor and she wants to add some information regarding this.

Tatsiana Karzhova spoke in Russian.

Translator: So they were talking to the neighbor at Lot 30, right? And he also expressed he was happy if they will be able to purchase the Lot and also subdivide because what he is struggling (with) is right now is to take care of this private driveway. So he is the one who has to service it and everything and he said like if he will have the owners and, especially if they own two homes, so they will take the majority of cost to taking care of the road and they will also discuss the need to join together and pave it with asphalt.

Mr. Noland: So if this were granted, the entirety of the drive would be paved?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Translator: That was intention.

Mr. Loria: Maybe this is the wrong question for this Board, why two homes versus a multi-generational home?

Ms. Harp questioned the meaning of multi-generational home and then relayed the question to Tatsiana Karzhova who answered in Russian, laughing.

Translator: She said that it's cultural. Number one, it's a cultural thing because, in their land, parents and children do not live together. It tends to ruin their relationship. So they always prefer to have two separate home and just go and visit each other. And also, she would like to have a certain design in mind and so the parents would like something separate so it is like 'two housewives in one kitchen.' I guess something like that.

Attorney Benshoff asked Mr. Blaszyk to put up the Variance application (Exhibit 5). Mr. Blaszyk put the first page up on the screen, but Attorney Benshoff had three pages to his form. He referred to the typed page with "Request for Variance to Subdivide Lot." He asked Mr. Blaszyk to show this page to the applicant. Mr. Blaszyk showed the page to the applicant.

Attorney Benshoff: Is this the applicant's writing? Did the applicant write this?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Translator: We were writing it together, with my help.

Attorney Benshoff: Ok, so this is the applicant's statement?

Ms. Harp: Yes.

Attorney Benshoff: Read number six for me please...road registration. What does "registration" mean?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Translator: I mean, like, recorded, probably. Since I know the situation, right, so we were discussing it with the closing attorney and he said, that, originally when the subdivision was developed, this is how the builder developed it and submitted it to the City of Monroe. The Plat map was accepted and recorded the way it is. The issue that we are dealing with right now is that this private driveway does not really belong to anyone. There is no HOA. The builder is long gone, we don't know, right. So it is just a driveway. It is not recorded like a private driveway. It is just a driveway. Like the guy was mentioning in the beginning, so right now just a driveway. So if we want to change anything, there is no one to go and record it the way it should be. So it was

developed a long time ago, but if they will allow us to grant a variance to subdivide the property and then we will obviously record the new deed for the property. So what they would need to be done according to today's standards so we will ask the attorney to record, grant an easement or whatever needed to be done from a legal perspective to make sure that this road is now servicing three lots, with easement or whatever other permission needed to be granted so we will do it legally so we will have no problem in the future.

Attorney Benshoff: You answered the question. Thanks.

Mr. Noland: I want to give the City an opportunity to be heard on anything else based on the testimony that's been given. Anything else from the applicant?

Ms. Harp relayed the question relayed to Tatsiana Karzhova who answered in Russian.

Translator: She just wants to add that she personally doesn't see any issues with granting the variance because it will benefit their family, it will benefit the City of Monroe from the perspective of taxation, so more money for the City, and the neighbor is happy because they will be taking care of the driveway together. So other than benefitting all parties around, there are no issues. She doesn't see why there would be a problem to grant them the variance.

Attorney Sholar: Mr. Chairman, I do have a couple of questions. At the time you purchased the lot, were you aware that it could not be subdivided, that only two lots were allowed to use the access drive?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Translator: So she said, at first, when we started doing the closing for the County and we asked if the property can be subdivided, like size-wise, and they were granted the access that yes it can be subdivided into two lots. For after the title search and everything, the closing attorney mentioned that it was not really, that the driveway was not recorded the right way somehow, but he said that these things be fixed if it would be recorded correctly. That is when we start talking about the variance.

Attorney Sholar: If the variance is granted and the City determined, that for use of the second lot, the additional lot, you had to upgrade the drive, in other words pave it, and the other lot owner was not willing to do that, are you willing to bear the cost of paving alone?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Translator: She said they already met with him and they already talked about it and he was very excited. So they said they will divide it at, like, they will take two-thirds and he will take the other part. So far he is in agreement and excited about it, but in the case he will deny then they will pave this long side to Legacy Drive and leave his part, whatever goes to his house, unpaved.

Attorney Sholar: So have you discussed with the other landowner (about) entering into a Drive Maintenance Agreement?

Ms. Harp relayed the question to Tatsiana Karzhova who answered in Russian.

Translator: No, just with the (unintelligible).

Mr. Noland: Terry or staff, who holds the easement? Who is the grantor of the easement?

Attorney Sholar: If I may render an opinion and this is purely my opinion. I think the fact that the developer of the property, many years ago, actually in 1994, recorded this plat and put it on the record and dedicated that strip as private drive, to me, that's a dedication by the owner of that strip as a private drive for the use of the two lots that would need to have access. That is the City's position.

Mr. Noland: So if there have to be changes in the grant of the easement, who would the applicant go to for that?

Attorney Sholar: It would have to be the original owner of the property. The developer of the property would be the person that would have to grant the easement.

Mr. Noland: So the City's position is that the person who developed the property still holds the rights to that private road?

Attorney Sholar: Well, yes and no. They do in the sense that they have dedicated that by recording this plat, in my opinion, as a dedication of an easement of that land for access for these two lots. The recording of that plat may have some merit in the fact that it was put on the record thirty years ago and it's been used that way ever since. I'm of the opinion that is really not the City's responsibility to try to clear the title of the property. That's between the landowners. I understand there is an issue here, but at least there is, in my mind, a scintilla of evidence that there is some intent to dedicate this property for use for access by the developer, many years ago, and it's been used that way ever since.

Mr. Noland: What's the alternative though, if, let's say, it's not an easement? What is the road?

Attorney Sholar: So who would enforce that? I contend that it is an easement.

Mr. Noland: But what is it if it is not (an easement), what is it?

Attorney Sholar: I contend that it is.

Mr. Noland: But if it is not, as a general principle of law in the City's opinion, what is it?

Attorney Sholar: So an easement is the right to use somebody else's property. So the underlying simple ownership of that strip of land remains with the developer. It has not been bought, it's not been deeded, it's not been sold, (and) no HOA, so it still belongs to the original developer, the original owner of the property, although it has been intentionally dedicated for access use for these two lots.

Mr. Loria: With that being said, would they need to request the variance for this specific lot?

Attorney Sholar: Typically, with private drives, the City, before they will allow development of properties that need those private drives for access, they will require a recorded easement, an easement on the record for access to that private drive. That was not done in this case. The developer did not put a specific easement on the record, but he did put this plat on the record showing his intent that that strip of land be used as a private drive.

Attorney Richard Long: I come along with Terry. The question would be...

Per legal counsel, Corey Noland asked if Richard Long, City Attorney, would be sworn in and he approached the bench and was sworn in.

Attorney Long: The issue is it is not the City's responsibility to clear title. The issue would be, is if you look in the back title, whether or not the deed in and of itself included that 20-foot road right-of-way inside the deed, that would be an absolute conveyance. I don't know whether or not it was done. I haven't checked the back title. That is not the City's responsibility. I think the argument can be made that, it is exactly as Terry laid it out, dedicating that plat and being on there. Certainly, we have at least one landowner that's used that property for years and had access over that and clearly had prescriptive rights to it by now. The question you've got to look at is whether or not the City can now expand the burden upon that easement because the easement was intended to be burdened by two households and now the City is going to expand that to three. That would be where I would be. This is a purely law school question.

Attorney Sholar: But, again, as I pointed out earlier in the record, there's no restriction on the plat, or any other place that we have seen, as to the number of lots. It just says a "private drive." Obviously the use of these two lots, in their current condition, does that indicate it can only be used with two households or is there the potential that one of those or both of those lots can be subdivided? That is really the question that you have to answer here tonight based on the standards.

Mr. Loria: Is there any recourse, against this Board or the City, if this is granted and subdivided and the current, recorded owner of the subdivision...?

Attorney Sholar: The only recourse would be is if some other person or other entity or landowner objected to this then they would have the right to appeal that if they could show standing and put their time in it so when that can be done.

Attorney Long: If your question was, what would the other options be? They could actually pursue a text amendment to the UDO to change it to allowing three rather than two. That would be their last recourse other than taking it to Superior Court.

Attorney Sholar: That would apply to all private properties, not just this one. You would change the entire UDO to everybody.

Mr. Loria: Which you may not want to do, understood.

Mr. Noland called for a five minute break at 8:01pm.

At 8:07pm:

Motion: Corey Noland made a motion that the Board go into a closed session for a few minutes to consult the Board of Adjustment Attorney in order to preserve the attorney-client privilege per G.S. section 143-318.11 (a)(3).
Second: Thomas Loria
Action: The motion passed unanimously with the following votes:
AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

At 8:13pm, Corey Noland called the open session to order.

Corey Noland: A question for staff. If a variance request is denied, what are the grounds and process for reapplying for a variance or is there?

Doug Britt: From a variance standpoint, I think it is twelve months, but I will need to research it further.

Corey Noland: I want to give one last opportunity to anyone, if there is any follow up based on the additional testimony that has been heard. If anyone else has any final testimony before we shift to the Findings of Fact and Conclusions of Law. (No response).

Motion: Corey Noland made a motion to adopt the proposed Findings of Fact 1-5.
Second: Thomas Loria
Action: The motion passed unanimously with the following votes:
AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

1. It is the Board's CONCLUSION that unnecessary hardship **would/would not** result from the strict application of the ordinance.

Motion: Thomas Loria made a motion that an unnecessary hardship would result from the strict application of the ordinance because they wouldn't be able to do what they would like to do, put mom and dad beside them on this specific property.
Second: Corey Noland
Action: The motion passed unanimously with the following votes.
AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

2. It is the Board's CONCLUSION, that the hardship **is/is not** peculiar to the applicant's property.

Motion: Corey Noland made a motion that the hardship is not peculiar to the applicant's property because there is nothing in the record that shows or evidences why the hardship is peculiar to this applicant's property.
Second: Thomas Loria
Action: The motion passed unanimously with the following votes:
AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

3. It is the Board's CONCLUSION, that the hardship **is/is not** the result of the applicant's own actions.

Motion: Thomas Loria made a motion that the hardship is the result of the applicant's own actions because the information is out there that Lot 29 may not be subdivided and that access to a newly created lot is uncertain. The applicant could have found the information. If the applicant found the information, she ignored it.
Second: Ryan Haywood
Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

4. (a) It is the Board's CONCLUSION, that the variance **is/is not** consistent with the spirit, purpose, and intent of the ordinance.

Motion: Corey Noland made a motion that the variance is not consistent with the spirit, purpose, and intent of the ordinance since there is no certainty that a third lot would be able to use the access road. The best way to request the variance in this instance would be to determine who has authority to grant access to the existing road and, then with certainty, be able to come with what steps need to be taken and what needs to be done to make sure that this can happen if the variance is granted .

Second: Thomas Loria

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

- (b) It is the Board's CONCLUSION that in denying of the variance, the public safety **will/will not** be secured and substantial justice **will/will not** be achieved.

Motion: Thomas Loria made a motion that in denying the variance, public safety will not be secured and substantial justice will not be achieved because while the road is wide enough, I believe there will be additional variances needed for emergency response vehicles.

Second: Corey Noland

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

Al Benshoff asked for the Board to consider an additional Finding of Fact: Access to the property has not been clearly established by the evidence presented including the plat and including the applicant's application where, at number six, they admit that there is an access issue.

Motion: Corey Noland made a motion to adopt this additional Finding of Fact and that, as a baseline determination in addressing this request, we would implicitly need to find that it is in fact an easement and the inconsistencies in the record, I think, prevent a true determination of that issue at this time.

Second: Thomas Loria

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

Motion: Thomas Loria made a motion to deny the variance request.

Second: Ryan Haywood

Action: The motion passed unanimously with the following votes:

AYES: Corey Noland, Thomas Loria and Ryan Haywood
NAYS: None

Corey Noland: Again, as we stated at the beginning of the hearing tonight, we have to apply very specific standards in what is eligible for a variance. It is not a popularity contest. We are not guided by just what we think will be good or what we want. And so, based on that, is why we have to deny the variance. Thank you.

Item 7. **Next Meeting:** December 19, 2024

Item 8. **Adjournment**

Motion: **Ryan Haywood made a motion to adjourn the meeting.**
Second: **Thomas Loria**
Action: **The motion to adjourn passed unanimously with the following votes:**
 AYES: Corey Noland, Thomas Loria and Ryan Haywood
 NAYS: None

The meeting was adjourned at 8:28 p.m.

Respectfully submitted,

Corey Noland
Acting Chair

Kimberly Davis
Clerk of the Board



STAFF REPORT

Case # PLZNA-2025-00111

TO: Board of Adjustment Members

DATE: January 23, 2025

FROM: Doug Britt, Assistant Director of Planning and Development

PREPARED BY: Patrick Blaszyk, Planner

SUBJECT: Variance Request by Tapas Baidya for a property located at 707 North Sutherland Avenue.

SUMMARY STATEMENT

Tapas Baidya is requesting a variance to deviate from the minimum lot size for car, boat, other vehicle sales and rental establishments in order to operate a vehicle sales lot at 707 N Sutherland Avenue.

SITE DATA

Type of Action:	Variance
Date of Petition:	November 13, 2024
Name of Petitioner:	Tapas Baidya
Location:	707 N. Sutherland Ave.
Tax ID #:	09-188-080A
Lot Size:	1.1 Acres
Current Zoning Classification:	GI (General Industrial) Zoning District

REVIEW

Proposed Findings:

1. The property located at 707 North Sutherland Avenue, is owned by Carlos Alvarez, is proposed to be leased by Tapas Baidya and is zoned GI (General Industrial). (Exhibit 1, 2 & 3)
2. The Unified Development Ordinance (UDO) Section 7.2.6 entitled “Commercial Uses” states in relevant parts (Exhibit 4):

P. Car, Boat, Other Vehicle Sales & Rentals

4. Use Standards.

- a. Minimum lot size for car, boat, other vehicle sales and rental establishments shall be **two (2) acres**.

3. On November 13, 2024, the applicant submitted a variance application in order to request a variance of the minimum lot size requirement for an automotive sales lot. (Exhibit 5)
4. The applicant submitted a site plan of the proposed layout of the car sales lot at 707 North Sutherland Avenue. (Exhibit 6)
5. The applicant submitted photos of the existing conditions of the site. (Exhibit 7)
6. All adjacent property owners have been notified of the proposed variance. (Exhibit 8 & 9)

Conclusions:

1. It is the Board's CONCLUSION, that unnecessary hardship (would/would not) result from the strict application of the ordinance.
2. It is the Board's CONCLUSION, that the hardship (is/is not) peculiar to the applicant's property.
3. It is the Board's CONCLUSION, that the hardship (is/is not) the result of the applicant's own actions.
4. (a) It is the Board's CONCLUSION, that the variance (is/is not) consistent with the spirit, purpose, and intent of the ordinance.
- (b) It is the Board's CONCLUSION, that in granting of the variance, the public safety (will/will not) be secured and substantial justice (will/will not) be achieved.

THEREFORE, on the basis of all foregoing, IT IS ORDERED that the application Variance PLZNA-2025-00111 be (**approved/denied**).

Exhibits:

Exhibit 1: Ortho Map
Exhibit 2: Zoning Map
Exhibit 3: Deed to Property
Exhibit 4: Ordinance Excerpt 7.2.6 P
Exhibit 5: Variance Application
Exhibit 6: Site Plan
Exhibit 7: Photos of Site
Exhibit 8: APO Map
Exhibit 9: APO List

Prepared by: PB 12-23-2024



Ortho Map

Case #: PLZNA-2025-00111

707 North Sutherland Avenue

Legend

-  Parcels
-  Subject Property
-  Centerlines

Owner: Carlos Alvarez

Acres: 1.1

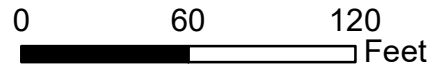
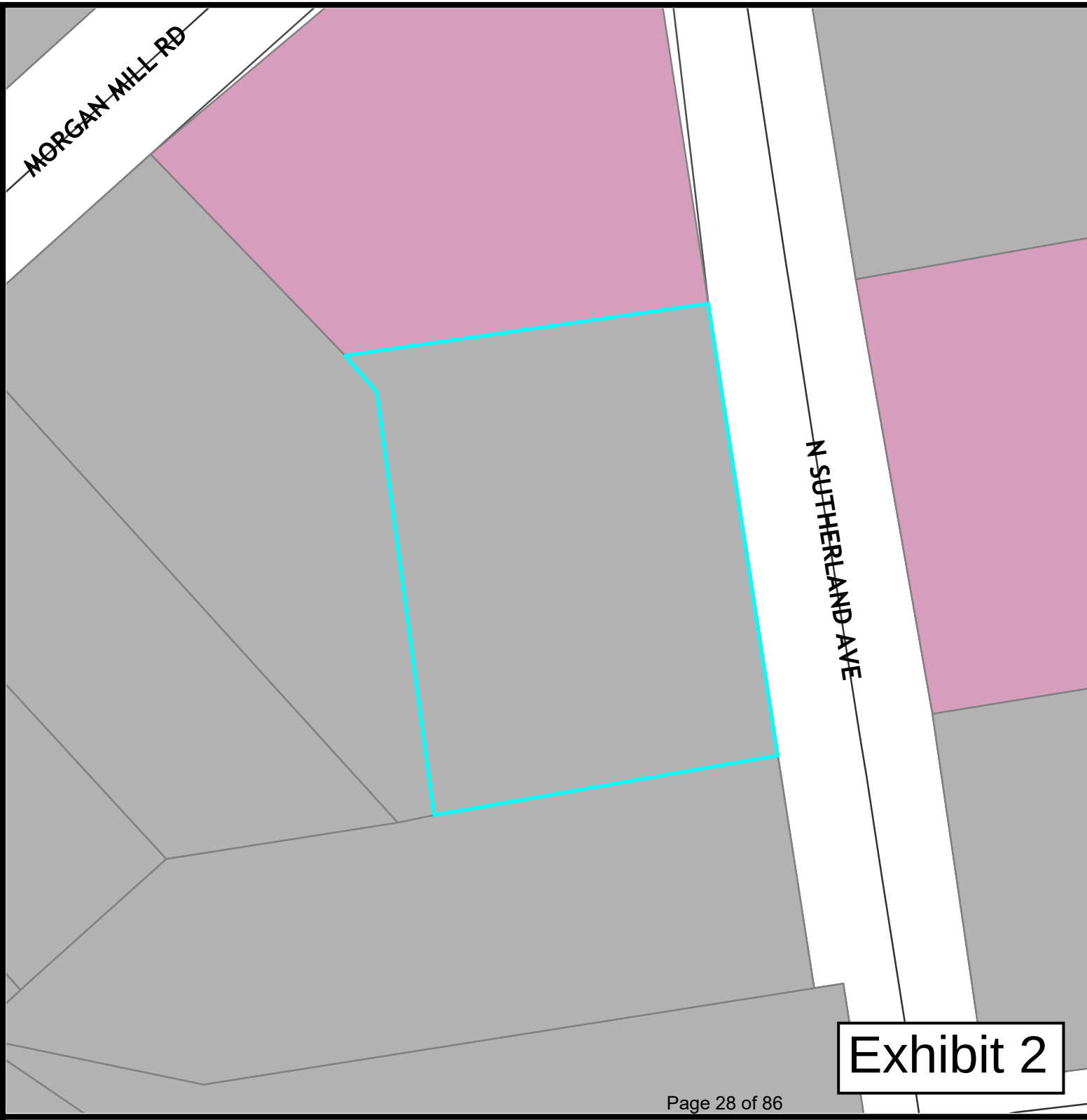


Exhibit 1



Zoning Map

Case #: PLZNA-2025-00111

707 North Sutherland Avenue

Legend

-  CD
-  GI
-  Parcels
-  Subject Property
-  Centerlines

Owner: Carlos Alvarez

Acres: 1.1

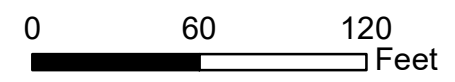


Exhibit 2

6296
0171

FILED
UNION COUNTY, NC
CRYSTAL CRUMP
REGISTER OF DEEDS

FILED Sep 08, 2014
AT 02:50 pm
BOOK 06296
START PAGE 0171
END PAGE 0172
INSTRUMENT # 23580
EXCISE TAX \$1,108.00
JT

GENERAL WARRANTY DEED

Excise Tax: **\$1,108.00**

Tax Parcel ID No. **09188080 and 09188080A**

Verified by _____ County

on the ____ day of _____, 20____ By: _____

Mail/Box to: **CLARK, GRIFFIN & McCOLLUM, L.L.P., P. O. Box 308, Monroe, NC 28111**

This instrument was prepared by: **CLARK, GRIFFIN & McCOLLUM, L.L.P., P. O. Box 308, Monroe, NC 28111**

Brief description for the Index: **Lots 1 and 2, Stack Construction Minor Subdivision**

THIS DEED, made this the 8th day of September, 2014, by and between

GRANTOR: CAROLYN S. SMITH AND HUSBAND, MICHAEL H. SMITH
whose mailing address is **P. O. Box 566, Mineral Springs, NC 28108**
(herein referred to collectively as Grantor) and

GRANTEE: CARLOS A. ALVAREZ AND WIFE, LUZ M. ALVAREZ
whose mailing address is **3327 Edwards Road, Wingate, NC 21874**
herein referred to collectively as Grantee)

Property Address: 707 N. Sutherland Avenue, Monroe, NC 28110 (Lot 2)
1730 Morgan Mill Road, Monroe, NC 28110 (Lot 1)

WITNESSETH:

For valuable consideration from Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby gives, grants, bargains, sells and conveys unto Grantee in fee simple, subject to the Exceptions and Reservations hereinafter provided, if any, the following described property located in City of Monroe, Monroe Township, Union County, North Carolina, more particularly described as follows:

BEING all of Lots 1 and 2 of the Stack Construction Minor Subdivision as shown on Plat Book J, Page 920 of the Union County Register of Deeds Office.

Floyd W. Stack died testate July 5, 2011. See Estate File No. 11 E 0530, Union County Clerk of Superior Court.

Said property having been previously conveyed to Grantor by instrument(s) recorded in Book _____ Page _____, Union County Register of Deeds, and being reflected on plat(s) recorded in Plat Book J Page 920.

All or a portion of the property herein conveyed _____ includes or X does not include the primary residence of a Grantor.

Exhibit 2

6296
0172

TO HAVE AND TO HOLD unto Grantee, together with all privileges and appurtenances thereunto belonging, in fee simple, subject to the Exceptions and Reservations hereinafter and hereinabove provided, if any.

And Grantor hereby warrants that Grantor is seized of the premises in fee and has the right to convey same in fee simple, that title is marketable and is free and clear of encumbrances other than as set forth herein, and that Grantor will forever warrant and defend the title against the lawful claims of all persons or entities whomsoever.

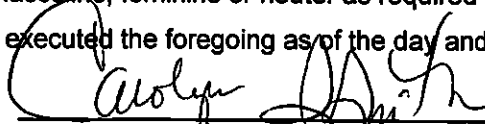
This conveyance is made subject to the following Exceptions and Reservations:

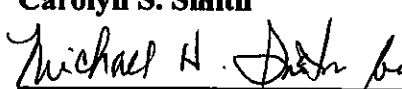
Rights of way for public roads and utilities which border or cross the subject property.

Easements and restrictions of record.

All references to Grantor and Grantee as used herein shall include the parties as well as their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by context.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

 (SEAL)
Carolyn S. Smith

 by:  (SEAL) Just
Michael H. Smith, by Carolyn S. Smith, Attorney in Fact

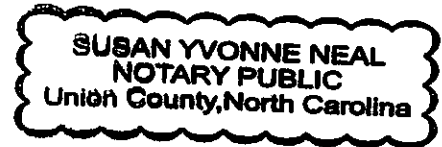
State of North Carolina,
County of Union.

(Official/Notarial Seal)

I certify that the following person(s) personally appeared before me this day,
each acknowledging to me that he or she signed the foregoing document:
Carolyn S. Smith.

Date: 9-8-2014


Susan Yvonne Neal, Notary Public



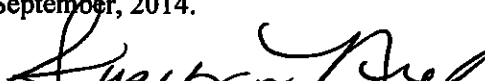
My Commission Expires: 3-24-02016

**NORTH CAROLINA
UNION COUNTY**

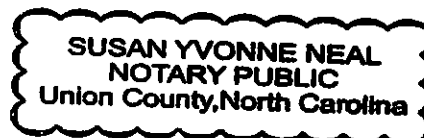
I, Susan Yvonne Neal, a Notary Public of Union County, North Carolina, do hereby certify that **CAROLYN S. SMITH**, Attorney-in-Fact for **MICHAEL H. SMITH**, personally appeared before me this day and being by me duly sworn, says that she executed the foregoing and annexed instrument for and in behalf of the said **MICHAEL H. SMITH**, and that her authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the office of the Register of Deeds for Union County, N. C., on the 23rd day of June, 2010, in Book 5350 Page 732, and that this instrument was executed under and by virtue of the authority given by said instrument granting her power of attorney.

I do further certify that the said **CAROLYN S. SMITH** acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said **MICHAEL H. SMITH**.

WITNESS my hand and notarial seal this the 8th day of September, 2014.


Susan Yvonne Neal, Notary Public

My commission expires: 3-24-2016



On-site Water and/or Sewer Note

Note: (ALL the LOTS) or (LOTS #1-3 as shown on this Plat are to be served with on-site water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Union County Health Department for such system(s). However, the recording of this Plat does not guarantee that any such lots will meet the requirements for the approval by the Health Department for such on-site system(s).

Special Flood Hazard Area Note

Note: (None) this property (does) (does not) lie in a Special Flood Hazard Area
Reference: Floodway Panel #37179C0092C
Date: 11/14/07 (of Panel) 15, 1994

Register of Deeds Certificate

State of North Carolina, _____ County

The foregoing certificate of _____, Notary Public, is certified to be correct. This instrument was presented for registration and recorded in Map Book _____, Page _____, this _____ day of _____, 20 _____ at _____ a.m.

Register of Deeds: _____

All zoning information on this plat is shown for illustrative purposes only. Dimensional requirements for all lots in this subdivision should be obtained from the City of Monroe Zoning Administrator.

Public Storm Drainage

All Public Storm Drainage Easements are centered on the ditch lines. Should any ditch line be relocated, the Public Storm Drainage Easement will follow the center line of the relocated ditch line and/or structures. Property owners are responsible for maintenance of public drainage across individual parcels. Assistance may be provided in accordance with current City policy.

No fences, trees, or permanent structures shall be placed within the City of Monroe's General Public Utility Easements.

Note: GPUE=General Public Utility Easement
PSDE=Public Storm Drainage Easement

FILED Apr 05, 2007 11:23 am
PLAT SLIDE J0000 0920
INSTRUMENT 14887
By: Grace Latta - case
FILED UNION COUNTY, NC
CRYSTAL CRUMP
REGISTER OF DEEDS

State of North Carolina, County of Union

I, Gus Nichols, Review officer of Union county, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Gus Nichols 4/5/07
Review Officer

Certificate of Survey and Accuracy

I, Gordon J. Svendsen, certify that this map as (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (a deed description recorded in Book 110, Page 205, of the Union County Registry) (other); that the error of closure as calculated by latitudes and departures is 1.11530; that the boundaries not surveyed are shown as broken lines plotted from information found in Book N/A, Page _____, and that this map was prepared in accordance with G.S. 47-30. Witness by original signature registration number and seal this 26 day of FEB 2007

Gordon J. Svendsen
Surveyor
L-2725
License or Registration Number

Certificate of Subdivision Administrator Approval

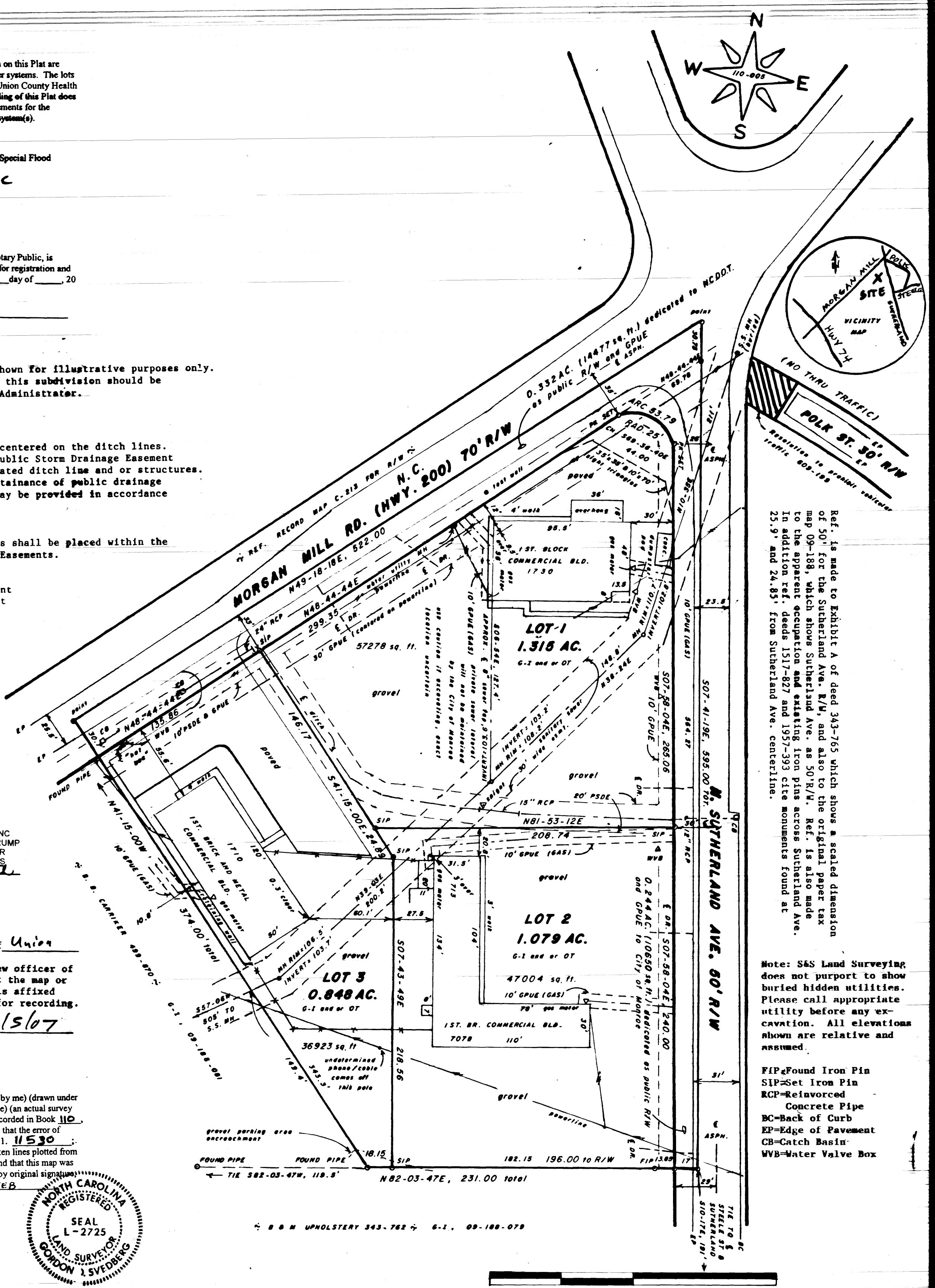
Approved for recording by the City of Monroe, N.C. Subdivision Administrator pursuant to Chapter 156 of the City of Monroe Code of Ordinances. This plat shall be recorded within thirty days of this date

4-4-07
Subdivision Administrator
Date

Certificate of Ownership and Dedication

I (We) herby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the Subdivision Jurisdiction of the City of Monroe and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate to the public all streets, alleys, easements, walks, parks and other open spaces as shown hereon unless otherwise noted as private.

Owner: F.W. Stack (S&S)
Date: 4/4/07



Ref. is made to Exhibit A of deed 343-765 which shows a scaled dimension of 50' for the Sutherland Ave. R/W, and also to the original paper tax map 09-188, which shows Sutherland Ave. as 50' R/W. Ref. is also made to the apparent occupation and existing iron pins across Sutherland Ave. In addition ref. deeds 1517-827 and 1957-393 cite monuments found at 25.9' and 24.85' from Sutherland Ave. centerline.

Note: S&S Land Surveying does not purport to show buried hidden utilities. Please call appropriate utility before any excavation. All elevations shown are relative and assumed.

FIP=Found Iron Pin
SIP=Set Iron Pin
RCP=Reinforced Concrete Pipe
BC=Back of Curb
EP=Edge of Pavement
CB=Catch Basin
WVB=Water Valve Box

A FINAL MAP OF THE
STACK CONSTRUCTION MINOR SUBDIVISION
A 3 LOT DIVISION OF THE F.W. STACK JR. AND
WIFE KATHLEEN W. STACK PROPERTY
REF. DEED 110-005, TAX PARCEL 09-188-080
3.818 AC. TOTAL

DEVELOPER: STACK CONST., 1800 MORGAN MILL RD. 704-291-9446

707 N. SUTHERLAND AVE., CITY OF MONROE, MONROE TWP., UNION CO., N.C.
SCALE: 1"=50' DATE: FEB 26, 2007

S&S LAND SURVEYING 8809 OLD RIDGE RD. WAXHAW N.C. 704-843-5287

P. Car, Boat, Other Vehicle Sales & Rentals

1. Characteristics. Establishments that are involved with the sale or lease of motor vehicles (including but not limited to cars and boats), renting of motor vehicles, and display of these motor vehicles.
2. Accessory Uses. Accessory uses may include ancillary indoor storage, associated office, showroom, vehicle fueling (for vehicles for sale or lease, not open to the general public), car wash (for vehicles for sale or lease, not open to the general public), and limited retail sales of items associated with motor vehicles.
3. Examples. Examples include but are not limited to car dealerships, boat dealerships, motor vehicle dealerships dealing in recreational vehicles, car rental establishments, moving vehicle rental establishments.
4. Use Standards.
 - a. Minimum lot size for car, boat, other vehicle sales and rental establishments shall be two (2) acres.

Exhibit 4



City of Monroe Variance Application Form

Applicant's Name: Tapas Kumar Baidya

Applicant's Address: 8713 Anklin Forrest Dr, Waxhaw, NC 28173

Property Owner's Name: Carlos A Alvarez, Luz M Alvarez

Property Owner's Address: 3327 Edwards Rd, Wingate, NC 28104

Legal Relationship of Applicant to Property Owner: Tenant

Contact Person Name and Phone Number: Tapas Kumar Baidya, 704-942-8516

Existing Use of Property: Major Auto Repair shop

Property Location: 707 N Sutherland Avenue, Monroe, NC 28110

Tax Map Number: - - - Lot Size: 1.079 acre Zoning District:

Ordinance section number to which a variance is being sought. 7.2.6.P.4.a

Proposed variance description: Zoning approval for used car dealership with limit of 20 or less cars for sale.

For Staff Use Only	
Application #:	<u></u>
Date Submitted:	<u>11/13/24</u>
Approved:	<u></u>
Denied:	<u></u>

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under NC State law, the Board must reach the conclusions listed below before it can issue 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 the conclusions below.

Please provide facts and arguments on how the request for a variance meets each of the conclusions listed below. Please be as specific as possible in your statements. Should you need more room to complete the information, please attach a separate sheet.

- 1. There are unnecessary hardships in the way of carrying out the strict letter 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, and it is not sufficient that failure to grant the variance will simply make the property less valuable.]

I plan to start a small used car lot for 10 to 20 cars. The 1.079 acre lot should be sufficient for the purpose.

Exhibit 5

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]

All the lots here are less than 2 acre. There are no options to convert this lot into a 2 acre lot. There are many vehicles in this lot and adjoining lots already.

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]

Currently this lot has many broken down and junk cars. Please refer to the attached pictures. My business will have fewer cars which will be lot nicer and ready to sale. This lot will be more esthetic and prettier.

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.**

The site plan is prepared to fulfill all other ordinance. "Perimeter Type-1 buffer" will be maintained along N. Sutherland Avenue. The parking lot area that will be used for car sale, will be paved. A lighted sign box will be placed on the wall. I'm applying for the permit for a backlit sign box. The site will be safer for public, more organized, more attractive and become a much improved area. Please refer to the attached site plan.

Request for variances may need to be accompanied by a sketch plan or survey from a Registered Land Surveyor. Said plan shall show, in a scaled form, the location and size of:

1. The boundaries of the lot(s) in question,
2. The size, shape and location of all existing buildings, parking facilities and accessory buildings,
3. The size, shape and location of all proposed buildings, parking facilities and accessory uses,
4. The location of all setbacks and front lot widths as measured at the front setback,
5. The location and type of screening and buffering proposed; and
6. Other information deemed by the Zoning Officer necessary to consider the application complete.

Tapas Kumar Baidya

Printed name of Applicant

Tapas Kumar Baidya

Signature of Applicant

11/11/2024

Date

Carlos A Alvarez

Printed name of Owner

Signature of Owner

Date

11/12/2024

****If you are signing on behalf of a company, please include your title within the company****

FOR STAFF USE ONLY

(PLEASE DO NOT WRITE BELOW THIS LINE)

Scaled plan attached: Yes _____ No _____ Fee Attached: Yes _____ No _____

Adjoining property owner's information attached: Yes _____ No _____

Public hearing date: _____

Notice to applicant and adjoining property owners mailed on: _____ INT. _____

Action taken by the Board of Adjustment: _____

Notification of Action Mailed to applicant on: _____

To whom it may concern:

Please find the attached commercial lease agreement between Carlos Alvarez, the landlord and myself. I have not begun leasing this lot yet. If the Zoning and Special use permits are approved, I will start leasing this facility thereafter to use this site for the proposed used car dealership.

With thanks and regards,

Tapas Kumar Baidya

12/8/2024

Tapas Kumar Baidya

704-942-8516

SITE PLAN

Address:
707 N SUTHERLAND AVE
MONROE, NC 28110

Assessor's Parcel Number:
09-188-080A

Parcel Area:
1.08 Acres

Land Use:
General Industrial

Zoning: /

Legal Description:
/

Subdivision:
/

Owner: ALVAREZ, CARLOS
A

Paper size & scale:
11" x 17"; 1"=40'

Date: November, 2024



Scale:
1"=40'
Paper size:
11" x 17"

Legend

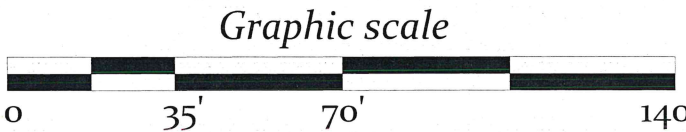
- Property line
- Topography line
- Wall line
- Roof line
- Retaining wall
- Fence
- Proposed addition

Disclaimer

This is not a Legal Survey, nor is it intended to be or replace one.
These measurements are approximate and are for illustrative purposes only.
This work product represents only generalized location of features, objects or boundaries and should not be relied upon as being legally authoritative for the precise location of any feature, objects or boundary.



Exhibit 6



N. Sutherland Ave. - picture #1



Exhibit 7

N. Sutherland Ave., - picture #2





N. Sutherland Ave. - picture # 4



APO Map

PLZNA-2025-00111

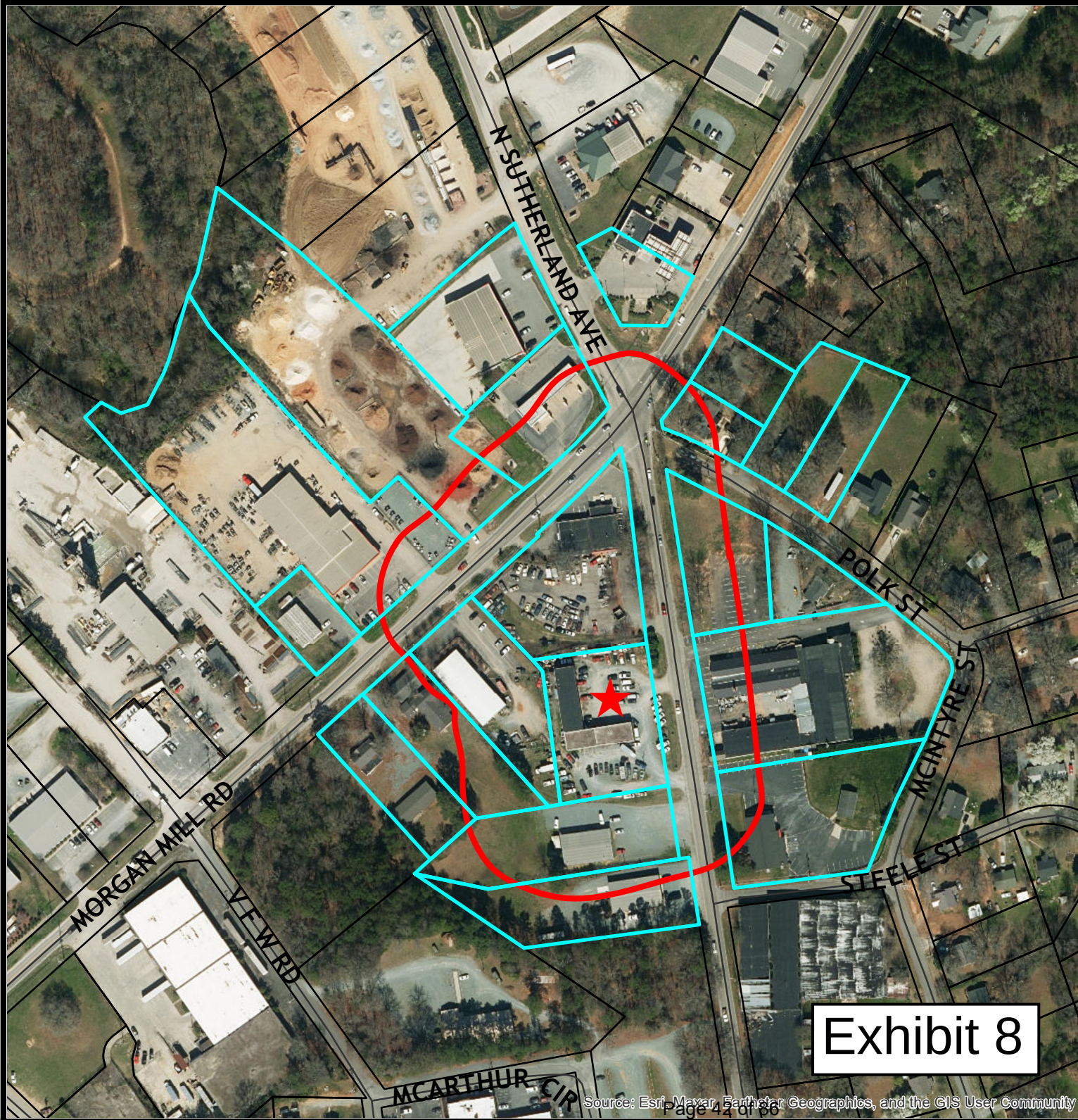
Legend

- Centerlines
- Parcels
- Notified Properties
- Subject Property
- 150-Foot Buffer

21 Parcels Notified



Exhibit 8



ACCTNO	OWNERNAME1	OWNERNAME2	OWNERADDRE	OWNERCITY	OWNERSTATE	OWNERZIP
09185009	ALLEN JASON SCOTT	MCCULLOUGH KARLA NICOLE	112 ARBOR RIDGE RD	MT HOLLY	NC	28120
09185017	SPIRIT MASTER FUNDING X LLC		PO BOX 130206	DALLAS	TX	75313
09188119	SRT PROPERTTIES LLC		7299 THREE SISTERS LN	CONCORD	NC	28027
09188001	STACK IVY H		1701 POLK ST	MONROE	NC	28110
09188056	NUNEZ ARTURO ET AL	NUNEZ-PLASCENCIA OMAR	706 N SUTHERLAND AVE	MONROE	NC	28110
09188057	NUNEZ ARTURO ET AL	PLASCENCIA MARISOL	706 N SUTHERLAND AVE	MONROE	NC	28110
09188079	TARLTON JEFFREY WAYNE	TARLTON AMANDA COURTNEY	703 SUTHERLAND AVE	MONROE	NC	281103662
09188079A	CARTER SUPPLY LLC		701 A&B SUTHERLAND AVE	MONROE	NC	28110
09188080B	BLAISE ROUGE PROPERTIES LLC		5408 KUYKENDALL RD	CHARLOTTE	NC	28270
09188081	GARCIA-GARCIA PROPERTIES LLC		511 NASH ST TRLR 4	MONROE	NC	28110
09188082	GARCIA-GARCIA PROPERTIES LLC		511 NASH ST TRLR 4	MONROE	NC	28110
09188080	ALVAREZ CARLOS A	ALVAREZ LUZ M	3327 EDWARDS RD	WINGATE	NC	28104
09185014	WASH ONE LLC		231 POST OFFICE DR SUITE B8	INDIAN TRAIL	NC	28079
09188001C	STACK IVY H		1701 POLK ST	MONROE	NC	28110
09188054	AMERICAN LEGION POST #27		PO BOX 442	MONROE	NC	281110442
09188121	MCCOLLUM RONALD D		17040 LAKEVIEW CT	NORWOOD	NC	28128
09185010	STACK LANNY	STACK BERITA	1800 MORGAN MILL RD	MONROE	NC	28110
09185034	NATIONAL RETAIL PROPERTIES LP		PO BOX 52085	PHOENIX	AZ	85072
09188055	NUNEZ RENE	NUNEZ ARTURA	1706 POLK ST	MONROE	NC	28110
09188080A	ALVAREZ CARLOS A	ALVAREZ LUZ M	3327 EDWARDS RD	WINGATE	NC	28104
09188118	MCINNIS DONALD A	MCINNIS SHARON H	PO BOX 422	INDIAN TRAIL	NC	28079

Exhibit 9

STAFF REPORT

Case # PLSUP-2025-00122

TO: Board of Adjustment Members

DATE: January 23, 2025

FROM: Doug Britt, Assistant Director of Planning and Development

PREPARED BY: Patrick Blaszyk, Planner

SUBJECT: Tapas Baidya is requesting a Special Use Permit for a property located at 707 North Sutherland Avenue.

SUMMARY STATEMENT

Tapas Baidya is requesting a Special Use Permit in order to conduct the use of a vehicle sales lot at 707 North Sutherland Avenue in the General Industrial (GI) Zoning District.

SITE DATA

Type of Action: Special Use Permit

Date of Petition: December 7, 2024

Name of Petitioner: Tapas Baidya

Location: 707 N. Sutherland Ave.

Tax ID #: 09-188-080A

Lot Size: 1.1 Acres

Zoning Classification: GI (General Industrial)

PROPOSED FINDINGS

Proposed Findings:

1. The property located at 707 North Sutherland Avenue, is owned by Carlos Alvarez, is proposed to be leased by Tapas Baidya and is zoned GI (General Industrial). (Exhibit 1, 2 & 3).
2. A Special Use Permit application was submitted on December 7, 2024 by Tapas Baidya requesting to conduct the use of car, boat, other vehicle sales and rental establishments at 707 North Sutherland Avenue in the General Industrial (GI) Zoning District. (Exhibit 4)

3. Table 7.1. – Table of Permissible Uses from Section 7.1 of the City of Monroe Unified Development Ordinance (UDO) displays how a Special Use Permit is required in order to conduct the use of car, boat, other vehicle sales and rental establishments in the General Industrial (GI) zoning district: (Exhibit 5)

TABLE 7.1. - TABLE OF PERMISSIBLE USES																	
"P" = Permitted, "S" = Special Use Permit Required, "X" = Prohibited																	
Use Type	Traditional Districts											Mixed-Use Districts					REFERENCE
	RR	RLD	RMD	RHD	OM	NB	GB	GI	HI	PUD	PCD	DC-MX	DG-MX	CC-MX1	CC-MX2	RC-MX	MD-MX
Car, Boat, Other Vehicle Sales and Rental	X	X	X	X	X	X	P	S	X	X	P	X	X	X	X	X	7.2.6.P

4. The applicant submitted a site plan of the proposed layout of the car sales lot at 707 North Sutherland Avenue. (Exhibits 6)
5. The applicant submitted photos of the existing conditions of the site. (Exhibit 7)
6. All adjoining property owners have been notified of the Special Use Permit request. (Exhibit 8 & 9).

CONCLUSIONS

Staff is bringing this request before you tonight for your consideration.

Exhibits:

Exhibit 1: Ortho Map
Exhibit 2: Zoning Map
Exhibit 3: Deed to Property
Exhibit 4: Special Use Permit Application
Exhibit 5: Table 7.1 of UDO
Exhibit 6: Site Plan
Exhibit 7: Photos of Site
Exhibit 8: APO Map
Exhibit 9: APO List

Prepared by: PB 12/27/2024

SPECIAL USE PERMIT WORKSHEET
**TO ESTABLISH A VEHICLE SALES LOT WITHIN THE GI, GENERAL
INDUSTRIAL DISTRICT AT 707 NORTH SUTHERLAND AVENUE
(PARCEL # 09-188-080A)**

Before the Board of Adjustment makes a decision concerning the proposed Special Use Permit, they shall consider the following:

I. Completeness of Application:

Staff finds the application to be complete and the jurisdiction proper.

II. Special Use General Standards:

- A. The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to plan.*

Petitioner's Response: This will be a small used car dealership. It will not cause any adverse impact to public health. Safety features like, "Perimeter Type-1 Buffer" along the N Sutherland Avenue will be implemented. We will adhere to all health, safety, and security requirements. Public Safety, customer's safety and employee safety will be my top priority.

☐ Motion standard is met; or

☐ Motion standard is NOT met based on the following findings of fact:

-
-
- B. The use or development complies with all regulations and standards of the City of Monroe Zoning Ordinance, as well as any other state or local rule or regulation governing the development of land.*

Petitioner's Response: The proposal doesn't include any development. I will follow all the regulations, standards and zoning rules and regulations. Please refer to the attached site plan.

☐ Motion standard is met; or

☐ Motion standard is NOT met based on the following findings of fact:

- C. *The use or development will not adversely impact surrounding property and will not substantially injure the value of adjoining property.*

Petitioner's Response: The proposed site plan will greatly improve the current condition of the site. Please refer to the attached pictures of this site and the proposed site plan. The proposed use of this lot will make it safer for the public, be more organized, be more attractive and become much improved area. The proposed plan should have a positive impact to the surrounding properties.

☐ Motion standard is met; or

☐ Motion standard is NOT met based on the following findings of fact:

- D. *The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Monroe Land Development Plan.*

Petitioner's Response: There are several auto-related businesses that are adjacent to the site. There are other used car dealerships and auto repair shops on N Sutherland Avenue. This used car dealership will fit well with the businesses around it.

☐ Motion standard is met; or

☐ Motion standard is NOT met based on the following findings of fact:

III. *Permit Action*

- A. **Motion** to GRANT the special use permit. (*Board of Adjustment may add conditions as deemed necessary*).

OR;

- B. **Motion** to DENY the special use permit based on the finding that general standard(s)
_____ above is/are not met.



Ortho Map

Case #: PLZNA-2025-00111

707 North Sutherland Avenue

Legend

-  Parcels
-  Subject Property
-  Centerlines

Owner: Carlos Alvarez

Acres: 1.1

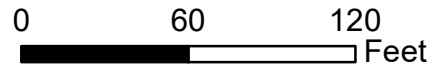
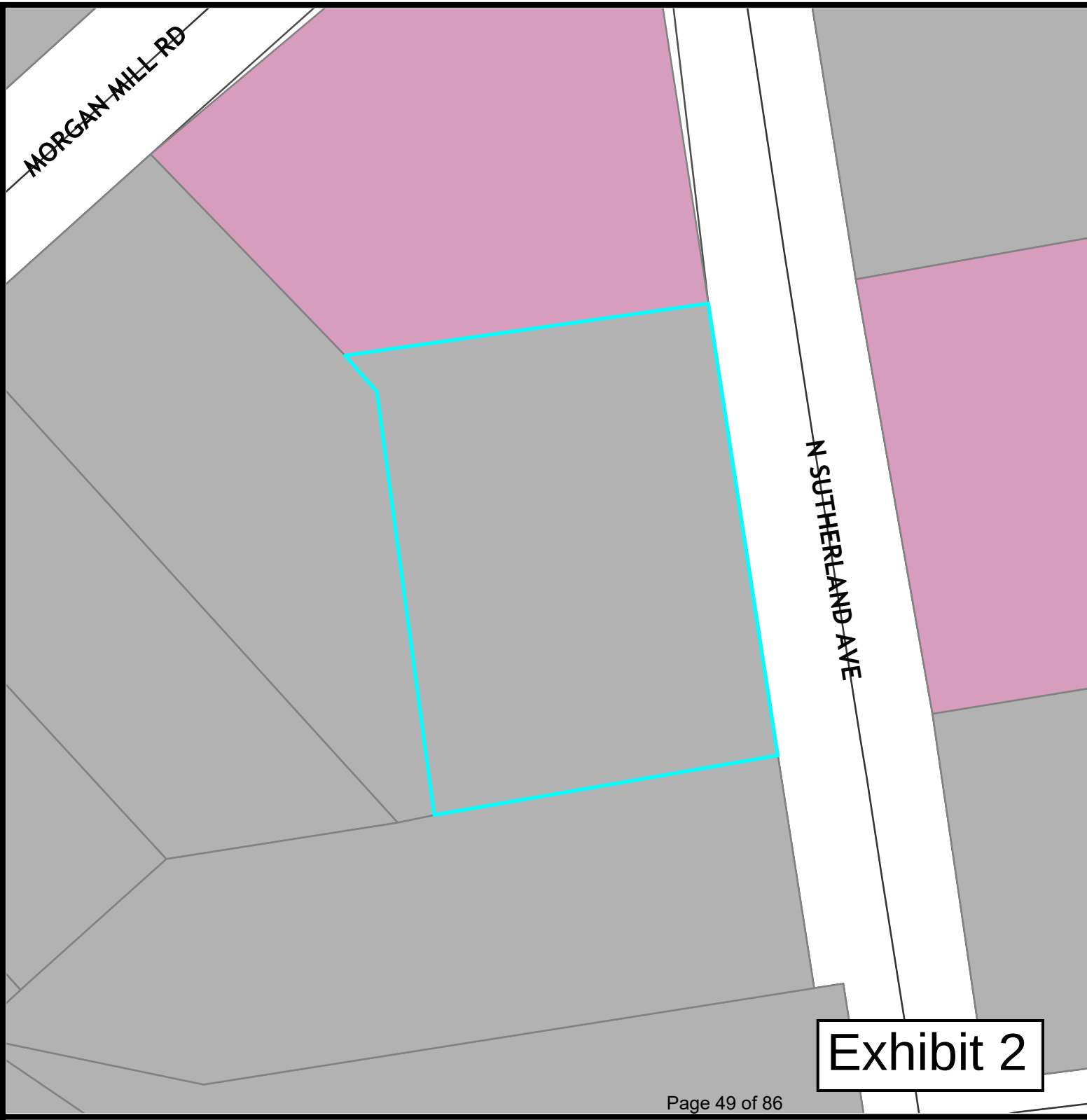


Exhibit 1



Zoning Map

Case #: PLZNA-2025-00111

707 North Sutherland Avenue

Legend

-  CD
-  GI
-  Parcels
-  Subject Property
-  Centerlines

Owner: Carlos Alvarez

Acres: 1.1

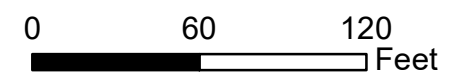


Exhibit 2

6296
0171

FILED
UNION COUNTY, NC
CRYSTAL CRUMP
REGISTER OF DEEDS

FILED Sep 08, 2014
AT 02:50 pm
BOOK 06296
START PAGE 0171
END PAGE 0172
INSTRUMENT # 23580
EXCISE TAX \$1,108.00
JT

GENERAL WARRANTY DEED

Excise Tax: **\$1,108.00**

Tax Parcel ID No. **09188080 and 09188080A**

Verified by _____ County

on the ____ day of _____, 20____ By: _____

Mail/Box to: **CLARK, GRIFFIN & McCOLLUM, L.L.P., P. O. Box 308, Monroe, NC 28111**

This instrument was prepared by: **CLARK, GRIFFIN & McCOLLUM, L.L.P., P. O. Box 308, Monroe, NC 28111**

Brief description for the Index: **Lots 1 and 2, Stack Construction Minor Subdivision**

THIS DEED, made this the 8th day of September, 2014, by and between

GRANTOR: CAROLYN S. SMITH AND HUSBAND, MICHAEL H. SMITH
whose mailing address is **P. O. Box 566, Mineral Springs, NC 28108**
(herein referred to collectively as Grantor) and

GRANTEE: CARLOS A. ALVAREZ AND WIFE, LUZ M. ALVAREZ
whose mailing address is **3327 Edwards Road, Wingate, NC 21874**
herein referred to collectively as Grantee)

Property Address: 707 N. Sutherland Avenue, Monroe, NC 28110 (Lot 2)
1730 Morgan Mill Road, Monroe, NC 28110 (Lot 1)

WITNESSETH:

For valuable consideration from Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby gives, grants, bargains, sells and conveys unto Grantee in fee simple, subject to the Exceptions and Reservations hereinafter provided, if any, the following described property located in City of Monroe, Monroe Township, Union County, North Carolina, more particularly described as follows:

BEING all of Lots 1 and 2 of the Stack Construction Minor Subdivision as shown on Plat Book J, Page 920 of the Union County Register of Deeds Office.

Floyd W. Stack died testate July 5, 2011. See Estate File No. 11 E 0530, Union County Clerk of Superior Court.

Said property having been previously conveyed to Grantor by instrument(s) recorded in Book _____ Page _____, Union County Register of Deeds, and being reflected on plat(s) recorded in Plat Book J Page 920.

All or a portion of the property herein conveyed _____ includes or X does not include the primary residence of a Grantor.

Exhibit 3

6296
0172

TO HAVE AND TO HOLD unto Grantee, together with all privileges and appurtenances thereunto belonging, in fee simple, subject to the Exceptions and Reservations hereinafter and hereinabove provided, if any.

And Grantor hereby warrants that Grantor is seized of the premises in fee and has the right to convey same in fee simple, that title is marketable and is free and clear of encumbrances other than as set forth herein, and that Grantor will forever warrant and defend the title against the lawful claims of all persons or entities whomsoever.

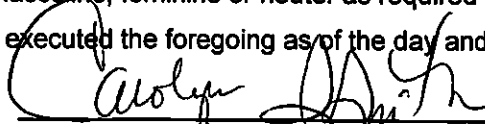
This conveyance is made subject to the following Exceptions and Reservations:

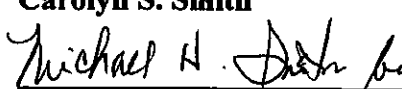
Rights of way for public roads and utilities which border or cross the subject property.

Easements and restrictions of record.

All references to Grantor and Grantee as used herein shall include the parties as well as their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by context.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

 (SEAL)
Carolyn S. Smith

 by:  (SEAL) Just
Michael H. Smith, by Carolyn S. Smith, Attorney in Fact

State of North Carolina,
County of Union.

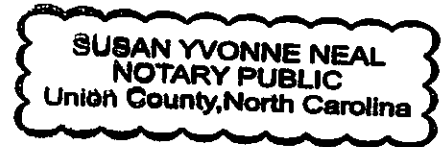
(Official/Notarial Seal)

I certify that the following person(s) personally appeared before me this day,
each acknowledging to me that he or she signed the foregoing document:

Carolyn S. Smith.

Date: 9-8-2014


Susan Yvonne Neal, Notary Public



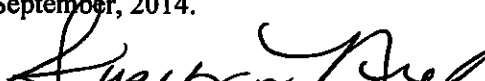
My Commission Expires: 3-24-02016

NORTH CAROLINA
UNION COUNTY

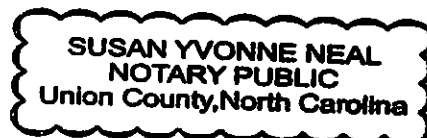
I, Susan Yvonne Neal, a Notary Public of Union County, North Carolina, do hereby certify that **CAROLYN S. SMITH**, Attorney-in-Fact for **MICHAEL H. SMITH**, personally appeared before me this day and being by me duly sworn, says that she executed the foregoing and annexed instrument for and in behalf of the said **MICHAEL H. SMITH**, and that her authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the office of the Register of Deeds for Union County, N. C., on the 23rd day of June, 2010, in Book 5350 Page 732, and that this instrument was executed under and by virtue of the authority given by said instrument granting her power of attorney.

I do further certify that the said **CAROLYN S. SMITH** acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said **MICHAEL H. SMITH**.

WITNESS my hand and notarial seal this the 8th day of September, 2014.


Susan Yvonne Neal, Notary Public

My commission expires: 3-24-2016



On-site Water and/or Sewer Note

Note: (ALL the LOTS) or (LOTS #1-3 as shown on this Plat are to be served with on-site water and/or sewer systems. The lots as shown meet the minimum size prescribed by the Union County Health Department for such system(s). However, the recording of this Plat does not guarantee that any such lots will meet the requirements for the approval by the Health Department for such on-site system(s).

Special Flood Hazard Area Note

Note: (None) this property (does) (does not) lie in a Special Flood Hazard Area
Reference: Floodway Panel #37179C0092C
Date: 11/14/07 (of Panel) 15, 1994

Register of Deeds Certificate

State of North Carolina, _____ County

The foregoing certificate of _____, Notary Public, is certified to be correct. This instrument was presented for registration and recorded in Map Book _____, Page _____, this _____ day of _____, 20 _____ at _____ a.m.

Register of Deeds: _____

All zoning information on this plat is shown for illustrative purposes only. Dimensional requirements for all lots in this subdivision should be obtained from the City of Monroe Zoning Administrator.

Public Storm Drainage

All Public Storm Drainage Easements are centered on the ditch lines. Should any ditch line be relocated, the Public Storm Drainage Easement will follow the center line of the relocated ditch line and or structures. Property owners are responsible for maintenance of public drainage across individual parcels. Assistance may be provided in accordance with current City policy.

No fences, trees, or permanent structures shall be placed within the City of Monroe's General Public Utility Easements.

Note: GPUE=General Public Utility Easement
PSDE=Public Storm Drainage Easement

FILED Apr 05, 2007 11:23 am
PLAT SLIDE J0000 0920
INSTRUMENT 14887
By: Grace Latta - base
FILED UNION COUNTY, NC
CRYSTAL CRUMP
REGISTER OF DEEDS

State of North Carolina, County of Union

I, Gus Nichols, Review officer of Union county, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Gus Nichols 4/5/07
Review Officer

Certificate of Survey and Accuracy

I, Gordon J. Svendsen, certify that this map as (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (a deed description recorded in Book 110, Page 205, of the Union County Registry) (other); that the error of closure as calculated by latitudes and departures is 1.11530; that the boundaries not surveyed are shown as broken lines plotted from information found in Book N/A, Page _____, and that this map was prepared in accordance with G.S. 47-30. Witness by original signature registration number and seal this 26 day of FEB 2007

Gordon J. Svendsen
Surveyor
L-2725
License or Registration Number

Certificate of Subdivision Administrator Approval

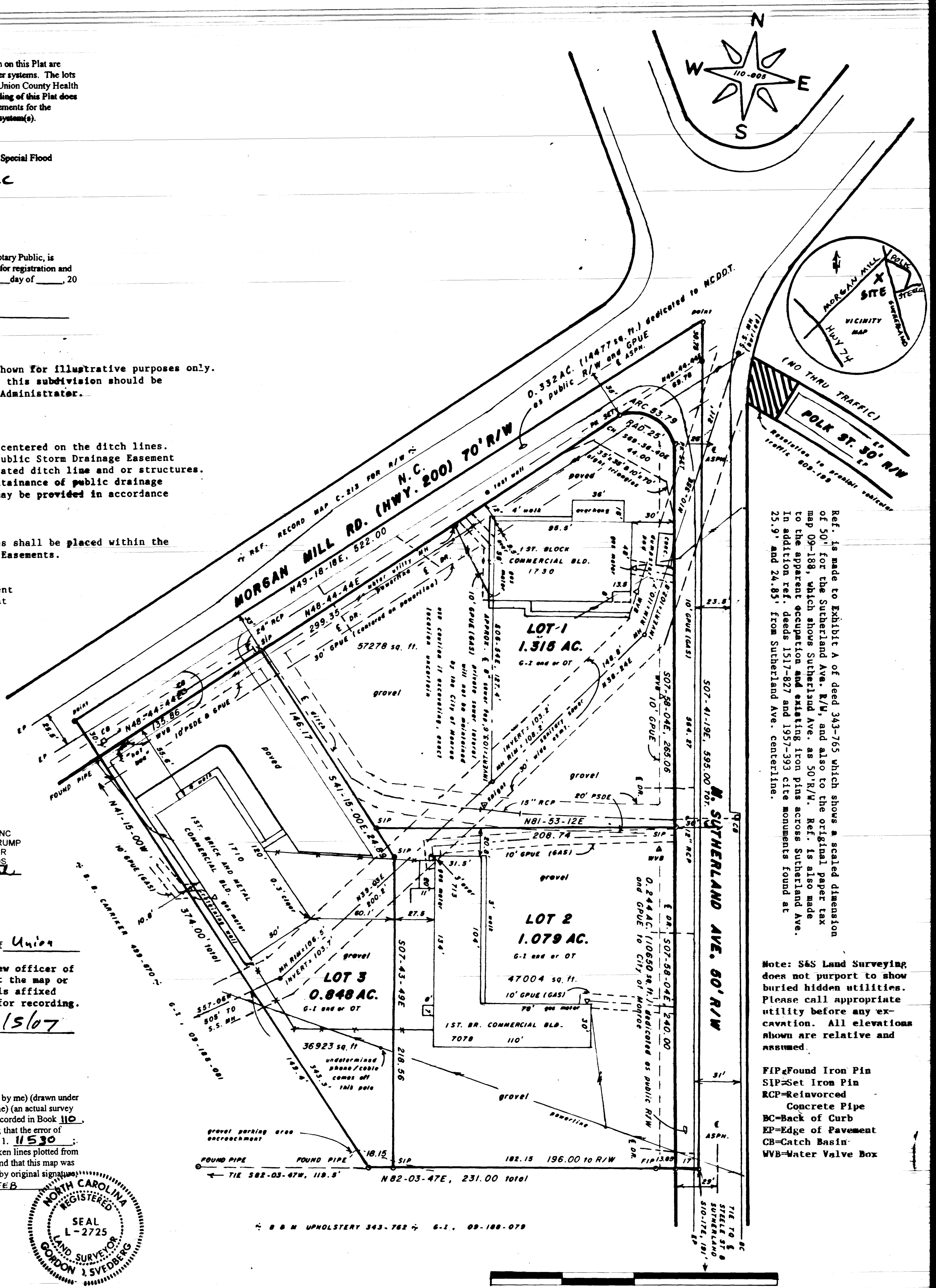
Approved for recording by the City of Monroe, N.C. Subdivision Administrator pursuant to Chapter 156 of the City of Monroe Code of Ordinances. This plat shall be recorded within thirty days of this date

4-4-07
Subdivision Administrator
Date

Certificate of Ownership and Dedication

I (We) herby certify that I am (we are) owner(s) of the property shown and described herein, that the property is within the Subdivision Jurisdiction of the City of Monroe and that I (we) hereby adopt this plan of subdivision with my (our) free consent and hereby establish all lots and dedicate to the public all streets, alleys, easements, walks, parks and other open spaces as shown hereon unless otherwise noted as private.

Owner: F.W. Stack (S&S)
Date: 4/4/07



Ref. is made to Exhibit A of deed 343-765 which shows a scaled dimension of 50' for the Sutherland Ave. R/W, and also to the original paper tax map 09-188, which shows Sutherland Ave. as 50' R/W. Ref. is also made to the apparent occupation and existing iron pins across Sutherland Ave. In addition ref. deeds 1517-827 and 1957-393 cite monuments found at 25.9' and 24.85' from Sutherland Ave. centerline.

Note: S&S Land Surveying does not purport to show buried hidden utilities. Please call appropriate utility before any excavation. All elevations shown are relative and assumed.

FIP=Found Iron Pin
SIP=Set Iron Pin
RCP=Reinforced Concrete Pipe
BC=Back of Curb
EP=Edge of Pavement
CB=Catch Basin
WVB=Water Valve Box

**A FINAL MAP OF THE
STACK CONSTRUCTION MINOR SUBDIVISION
A 3 LOT DIVISION OF THE F.W. STACK JR. AND
WIFE KATHLEEN W. STACK PROPERTY
REF. DEED 110-005, TAX PARCEL 09-188-080
3.818 AC. TOTAL**

DEVELOPER: STACK CONST., 1800 MORGAN MILL RD. 704-291-9446

707 N. SUTHERLAND AVE., CITY OF MONROE, MONROE TOWNSHIP, UNION CO., N.C.
SCALE: 1"=50' DATE: FEB 26, 2007

S&S LAND SURVEYING 8809 OLD RIDGE RD. WAXHAW N.C. 704-843-5287



SPECIAL USE PERMIT APPLICATION

Applicant's Name: Tapas Kumar Baidya

Applicant's Mailing Address: 8713 Anklin Forrest Dr.
Waxhaw, NC 28173

Applicant's Phone Number: 704-942-8516

Applicant's Email Address: tapasb21@gmail.com

Property Owner: Carlos Alvarez, Luz Alvarez

Property Location: 707 N Sutherland Avenue, Monroe, NC 28110

Tax ID Number: _____ **Deed Reference Number:** BOOK 6296 PAGE 171

Existing Zoning: General Industrial

Proposed Special Use:

We propose to use this lot for a used car dealership with a limit of 20 or less cars for sale.

Proposed Conditions:

We don't plan to develop the land further. The area that will be used for car sale, will be paved. A "perimeter Type-1 buffer" will be maintained along N Sutherland Avenue for public safety and customer safety.

Every petition for a reclassification of property shall be accompanied by a site plan drawn to scale and sealed by a registered engineer, surveyor, architect, or landscape architect licensed to practice in the State of North Carolina. Site plans for subdivision applications shall be in the form of a preliminary plat with all information that is required per Chapter 156 of the Monroe Code of Ordinances – Zoning Code, and specifically listed in the Appendix *Standards*. In addition, all applications for a Special Use Permit shall be accompanied by a written consulting report from a North Carolina State Certified Real Estate Appraisal that conforms to Standard 5 of the Uniform Standards of Professional Appraisal Practice (single family homes on single family lots are exempt from this requirement). The site plan shall include the following information; however, the Zoning Administrator may require additional information whenever necessary and may waive one or more of the requirements if such is found to be irrelevant to the proposed project.

General Information Required

5-12-21

SUP Application.doc REVISED 2-99, 7-99, 2/00, 12/03, 7/04, 9/13, 1/14, 12/15, 5/21

For Staff Use Only

Project Number: _____

Date Submitted: _____

Approved _____

Denied _____

Exhibit 4

- A location map that shows the project in relation to surrounding parcels, zones, streets, right of ways, and utility services and easements, total acreage, north arrow, legend, and a vicinity map.
- Name of the applicant(s) and the name of the proposed development including a copy of the current deed.
- Scale, at one (1) inch equals 100 feet, unless otherwise approved by the Zoning Administrator.

Information on Natural, Historic, and Recreational Features Required

- Contour lines at no greater than five (5) foot intervals.
- Location and dimensions of all recreational areas, equipment, features, historic sites and open space.
- Natural screening (woods, thickets, etc.), streams, ponds, rivers and similar natural or man-made features.

Zoning and Lot Information Required

- Existing and proposed zoning district lines, flood plain delineation, property lines, existing and proposed parking, trash collection systems and screening (include a copy of the planting schedule) and building footprints for any structure or walls to be placed on the property. Residential uses shall include the number of units per building and the total project.
- Proposed lot dimensions and setbacks, with diagrams of proposed signs showing location on the lot, size, height, and attachment (if indicated).
- Watershed data to demonstrate compliance with sections 156.101 of the Monroe Code of Ordinances.
- Boundary of any phase lines, for phased development plans. (Include a statement for future building time line)
- Detailed landscape plan in compliance with section Chapter 156, Article XVII of the Monroe Code of Ordinances issued by a certified landscape architect, or other certified professional preparer

Transportation and Utilities Information Required

- Existing and proposed streets, sidewalks, easements, parking and loading areas, drainage facilities, storm water control devices, and public utilities.
- A driveway permit from NCDOT for developments on state maintained roads, and a city driveway permit for development on city maintained streets.
- A letter from the Director of Water Resources stating that adequate water and sewer is available, or can be made available, to the site in adequate capacities.

Special use permit approval requires several standard findings of fact (see below). It shall be the responsibility of the applicant to address all findings related to the development proposal. The burden of submitting competent evidence that the findings have been met is the applicant's responsibility. Every application shall include an appraisal report from a certified appraiser that the proposed use will not substantially injure the value of the adjoining property, as specified in the findings below. Additional information supporting the special use permit application shall be the responsibility of the petitioner and not the responsibility of the city.

At the Board of Adjustment hearing, petitioners should be prepared to testify to the following standard findings of fact for all special uses:

1. Will not endanger the public health or safety,
2. Will not injure the value of adjoining or abutting property,
3. Will be in harmony with the area in which it is located, and
4. Will be in conformity with the land-use plan, thoroughfare plan, or other plan officially adopted by the Council.

Note: Due to the amount of detailed information needing to be submitted to the city, it is *requested* that early contact with the city planning department be accomplished to avoid unnecessary delays. All applications for a special use permit shall be reviewed by the Zoning Administrator prior to Board of Adjustment review. The applicant shall submit a completed application no later than 30 days prior to the Board of Adjustment meeting at which the petition is to be heard. If the application is found to be incomplete or the development is found to be in conflict with the requirements of this application, the developer shall be notified and the petition rejected.

Upon acceptance of the site plan by planning staff, the petitioner shall provide a digital copy of the site plan. Depending on site details, the applicant may be required to provide ten (10) copies of the site plan for review by the Board of Adjustment.

It is understood and acknowledged that if the Special Use Permit is authorized, the property involved in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in Chapter 156.42 of the Zoning Ordinance of the City of Monroe Code of Ordinances.

I. Special Use General Standards:

- A. *The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to plan.*

This will be a small used car dealership. It will not cause any adverse impact to public health. Safety features like "Perimeter Type-1 Buffer" along the N Sutherland Avenue will be implemented. We will adhere to all health, safety and security requirements. Public safety, customer's safety and employee's safety will be my top priority.

- B. *The use or development complies with all regulations and standards of the City of Monroe Zoning Ordinance, as well as any other state or local rule or regulation governing the development of land.*

This proposal doesn't include any development. I will follow all the regulations, standards and zoning rules and regulations. Please refer to the attached site plan.

- C. *The use or development will not adversely impact surrounding property and will not substantially injure the value of adjoining property.*

The proposed site plan will greatly improve the current condition of the site. Please refer to the attached pictures of this site and the proposed site plan. The proposed use of this lot will make it safer for the public, be more organized, be more attractive and become a much improved area. The proposed plan should have a positive impact to the surrounding properties.

- D. *The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Monroe Land Development Plan.*

There are several auto related businesses that are adjacent to this site. There are other used car dealerships and auto repair shops on N Sutherland Avenue. This used car dealership will fit well with the businesses around it.

To the best of my knowledge, all of the information herein submitted is accurate and complete.

Applicant (printed): TAPAS KUMAR BAIDYA

Applicant's Signature: Tapas Kumar Baidya

Date: 12/07/2024

Property Owner: Carlos Alvarez

By: _____

Title: _____

Owner's Signature: [Signature]

Date: 12/7/24

****If you are signing on behalf of a business (such as an LLC), you must include your title with the company****

To whom it may concern:

Please find the attached commercial lease agreement between Carlos Alvarez, the landlord and myself. I have not begun leasing this lot yet. If the Zoning and Special use permits are approved, I will start leasing this facility thereafter to use this site for the proposed used car dealership.

With thanks and regards,

Tapas Kumar Baidya

12/8/2024

Tapas Kumar Baidya

704-942-8516

TABLE 7.1. - TABLE OF PERMISSIBLE USES																		
"P" = Permitted, "S" = Special Use Permit Required, "X" = Prohibited																		
	Traditional Districts											Mixed-Use Districts						
Use Type	RR	RLD	RMD	RHD	OM	NB	GB	GI	HI	PUD	PCD	DC-MX	DG-MX	CC-MX1	CC-MX2	RC-MX	MD-MX	REFERENCE
Car, Boat, Other Vehicle Sales and Rental	X	X	X	X	X	X	P	S	X	X	P	X	X	X	X	X	X	7.2.6.P

Exhibit 5

SITE PLAN

Address:
707 N SUTHERLAND AVE
MONROE, NC 28110

Assessor's Parcel Number:
09-188-080A

Parcel Area:
1.08 Acres

Land Use:
General Industrial

Zoning: /

Legal Description:
/

Subdivision:
/

Owner: ALVAREZ, CARLOS
A

Paper size & scale:
11" x 17"; 1"=40'

Date: November, 2024



Scale:
1"=40'
Paper size:
11" x 17"

Legend

- Property line
- Topography line
- Wall line
- Roof line
- Retaining wall
- Fence
- Proposed addition

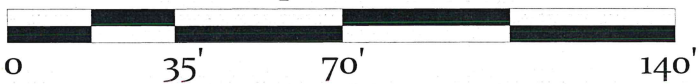
Disclaimer

This is not a Legal Survey, nor is it intended to be or replace one.
These measurements are approximate and are for illustrative purposes only.
This work product represents only generalized location of features, objects or boundaries and should not be relied upon as being legally authoritative for the precise location of any feature, objects or boundary.



Exhibit 6

Graphic scale



N. Sutherland Ave. - picture #1



Exhibit 7





N. Sutherland Ave. - picture # 4



APO Map

PLZNA-2025-00111

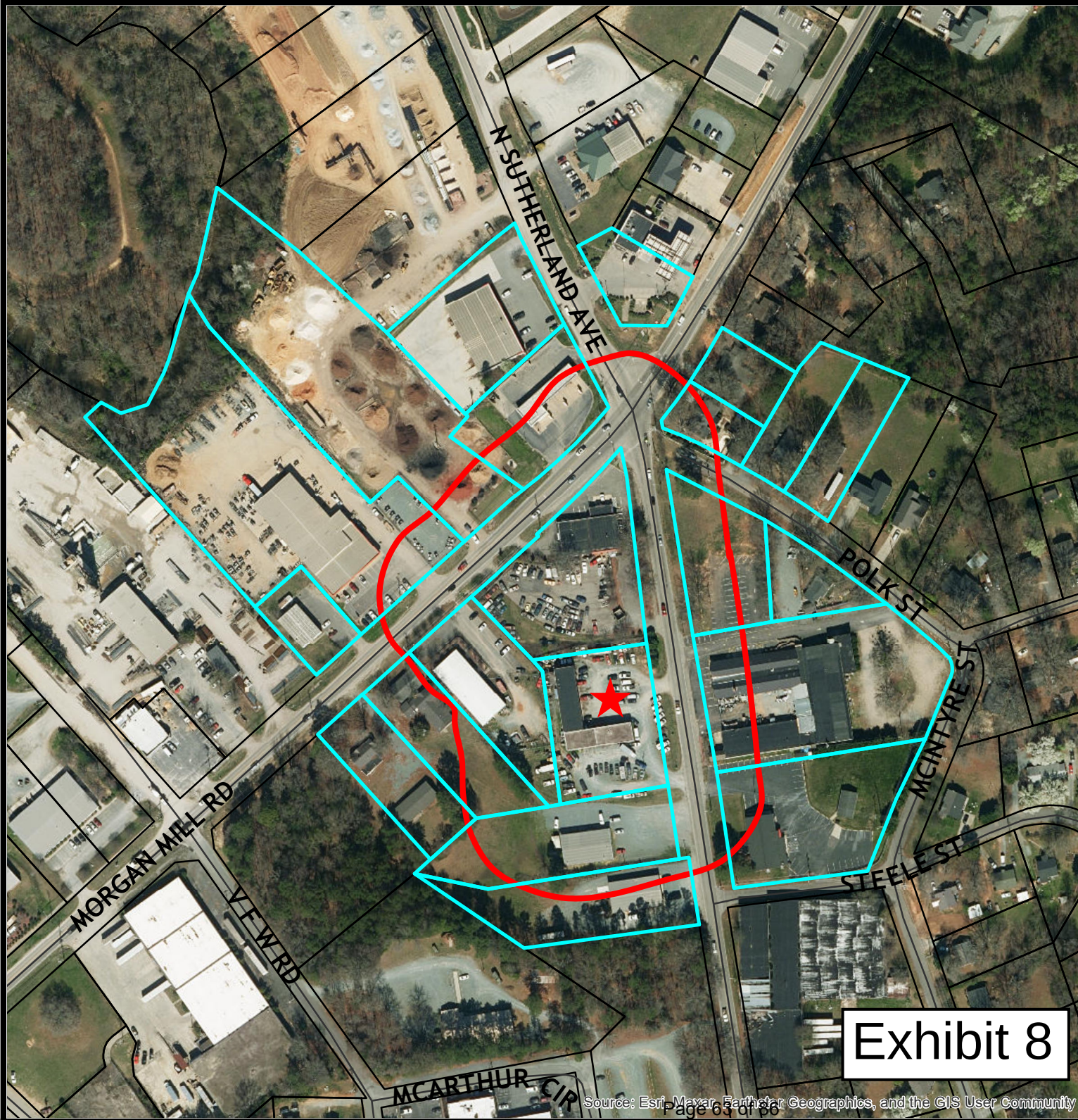
Legend

- Centerlines
- Parcels
- Notified Properties
- Subject Property
- 150-Foot Buffer

21 Parcels Notified



Exhibit 8



ACCTNO	OWNERNAME1	OWNERNAME2	OWNERADDRE	OWNERCITY	OWNERSTATE	OWNERZIP
09185009	ALLEN JASON SCOTT	MCCULLOUGH KARLA NICOLE	112 ARBOR RIDGE RD	MT HOLLY	NC	28120
09185017	SPIRIT MASTER FUNDING X LLC		PO BOX 130206	DALLAS	TX	75313
09188119	SRT PROPERTTIES LLC		7299 THREE SISTERS LN	CONCORD	NC	28027
09188001	STACK IVY H		1701 POLK ST	MONROE	NC	28110
09188056	NUNEZ ARTURO ET AL	NUNEZ-PLASCENCIA OMAR	706 N SUTHERLAND AVE	MONROE	NC	28110
09188057	NUNEZ ARTURO ET AL	PLASCENCIA MARISOL	706 N SUTHERLAND AVE	MONROE	NC	28110
09188079	TARLTON JEFFREY WAYNE	TARLTON AMANDA COURTNEY	703 SUTHERLAND AVE	MONROE	NC	281103662
09188079A	CARTER SUPPLY LLC		701 A&B SUTHERLAND AVE	MONROE	NC	28110
09188080B	BLAISE ROUGE PROPERTIES LLC		5408 KUYKENDALL RD	CHARLOTTE	NC	28270
09188081	GARCIA-GARCIA PROPERTIES LLC		511 NASH ST TRLR 4	MONROE	NC	28110
09188082	GARCIA-GARCIA PROPERTIES LLC		511 NASH ST TRLR 4	MONROE	NC	28110
09188080	ALVAREZ CARLOS A	ALVAREZ LUZ M	3327 EDWARDS RD	WINGATE	NC	28104
09185014	WASH ONE LLC		231 POST OFFICE DR SUITE B8	INDIAN TRAIL	NC	28079
09188001C	STACK IVY H		1701 POLK ST	MONROE	NC	28110
09188054	AMERICAN LEGION POST #27		PO BOX 442	MONROE	NC	281110442
09188121	MCCOLLUM RONALD D		17040 LAKEVIEW CT	NORWOOD	NC	28128
09185010	STACK LANNY	STACK BERITA	1800 MORGAN MILL RD	MONROE	NC	28110
09185034	NATIONAL RETAIL PROPERTIES LP		PO BOX 52085	PHOENIX	AZ	85072
09188055	NUNEZ RENE	NUNEZ ARTURA	1706 POLK ST	MONROE	NC	28110
09188080A	ALVAREZ CARLOS A	ALVAREZ LUZ M	3327 EDWARDS RD	WINGATE	NC	28104
09188118	MCINNIS DONALD A	MCINNIS SHARON H	PO BOX 422	INDIAN TRAIL	NC	28079

Exhibit 9



STAFF REPORT

Case # PLZONA-2025-00057

TO: Board of Adjustment Members

DATE: January 23, 2025

FROM: Doug Britt, Assistant Director of Planning & Development

PREPARED BY: Patrick Blaszyk, Planner

SUBJECT: Appeal Request by Ann Walters for a property located at 1003 Oak Hill Drive.

SUMMARY STATEMENT

Staff has received an appeal application from Ann Walters regarding Planning Staff's zoning determination of an accessory dwelling unit at 1003 Oak Hill Drive.

SITE DATA

Type of Action: Appeal

Date of Petition: September 23, 2024

Name of Petitioner: Ann Walters

Location: 1003 Oak Hill Drive

Tax ID #: 09-279-073

Lot Size: .45 Acres

Current Zoning Classification: RLD (Residential Low Density)

REVIEW

1. The property located at 1003 Oak Hill Drive is owned by Ann Walters and is zoned RLD (Residential Low Density). (Exhibit 1-3)
2. On July 24, 2024, staff received notification regarding a Zillow Advertisement that was posted for 1003 Oak Hill Drive. In this advertisement, it was displayed that secondary living quarters were available in a separate building in the rear yard of the property. (Exhibit 4)

3. On July 26, 2024 Planning staff sent a courtesy letter to Ms. Walters regarding the violation of an accessory dwelling unit on the property. The letter discussed that per section 4.2.2. of the UDO, accessory dwelling units are not permitted within the RLD, Residential Low Density zoning district as only one dwelling unit is allowed per lot in this district and the accessory dwelling unit must cease. (Exhibit 5-7)
 4. On August 8, 2024 Planning staff sent a Notice of Violation to Ms. Walters regarding the accessory dwelling unit. Planning Staff received the first Notice of Violation back from the post office with a return to sender notification. On August 27, 2024 Planning Staff physically posted a second Notice of Violation at 1003 Oak Hill Drive regarding the accessory dwelling unit. (Exhibit 8-10)
 5. On September 23, 2024, Ms. Walters submitted an appeal application to appeal the Notice of Violation that was issued referencing section 4.2.2. of the UDO, regarding the accessory dwelling unit in the rear yard of the property. (Exhibit 11)
 6. All adjacent property owners and those within 150-feet of the subject property have been notified of this appeal application via first class mail and a sign has also been on the property for 10 days. (Exhibit 12-13)
-

RECOMMENDATION

Based on the evidence submitted, the Board of Adjustment shall make the determination to affirm, reverse, or modify Planning Staff's determination.

Exhibit:

1. Ortho Map
2. Zoning Map
3. Property Deed
4. Zillow Advertisement
5. Section 4.2.2. of UDO
6. Table 4.2.2. of UDO
7. Courtesy Letter sent to Ms. Walters
8. Notice of Violation Sent to Ms. Walters
9. Second Notice of Violation Sent to Ms. Walters
10. Photo of Physically Posted Second Notice of Violation
11. Application
12. APO Map
13. APO List

Prepared By: PB 12-31-24

Ortho Map

Case #: PLZONA-2025-00057

1003 Oak Hill Drive

Legend

-  Parcels
-  Subject Property
-  Centerlines

Owner: Ann Walters

Acres: .45



0 60 120 Feet



Exhibit 1

Zoning Map

Case #: PLZONA-2025-00057

1003 Oak Hill Drive

Legend

-  Parcels
-  Subject Property
-  RLD
-  RMD
-  Centerlines

Owner: Ann Walters

Acres: .45



0 60 120 Feet



Exhibit 2

FILED	Apr 20, 2022
AT	09:40:00 AM
BOOK	08458
START PAGE	0250
END PAGE	0251
INSTRUMENT #	14626
EXCISE TAX	\$0.00

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax \$ 0.00

Parcel Identifier No. 09-279-073 Verified by Union County on the ____ day of _____, 20____.

By: _____

Mail/Box to: HINSON FAULK, P.A., 309 POST OFFICE DRIVE, INDIAN TRAIL NC 28079

This instrument was prepared by: HINSON FAULK, P.A. / NO TITLE SEARCH PERFORMED

Brief description for the index: Lot 24 Southwood Estates

THIS DEED made this the 19th day of April, 2022, by and between

GRANTORS

Jill H. Austin
(Unmarried)Mailing Address:Ann Griffin Walters
(Unmarried)Mailing Address:1003 Oak Hill Drive
Monroe, North Carolina 28110

GRANTEE

Ann Griffin Walters
(Unmarried)Mailing Address:1003 Oak Hill Drive
Monroe, North Carolina 28110

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantors, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Monroe, Union County, North Carolina and more particularly described as follows:

BEING all of Lot 24 of REVISED PLAT OF SOUTHWOOD ESTATES, a copy of said plat being recorded in Plat Cabinet A, File 67-B, Union County Registry.

The property hereinabove described was acquired by Grantors by instrument recorded in Book 6708, Page 888.

A map showing the above-described property is recorded in Plat Cabinet A, File 67-B, Union County Registry.

Submitted electronically by "Hinson Faulk, P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Union County Register of Deeds.

Exhibit 3

All or a portion of the property herein conveyed does not include the primary residence of a Grantor.

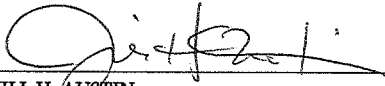
TO HAVE AND TO HOLD unto Grantee, together with all privileges and appurtenances thereunto belonging in fee simple, subject to the Exceptions and Reservations hereinafter and hereinabove provided, if any.

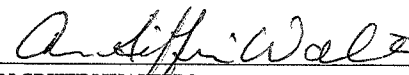
And the Grantor hereby warrants that Grantor is seized of the premises in fee and has the right to convey same in fee simple, that title is marketable and is free and clear of encumbrances other than as set forth herein, and that Grantor will forever warrant and defend the title against the lawful claims of all persons or entities whomsoever.

Title to the property hereinabove described is subject to the following exceptions:

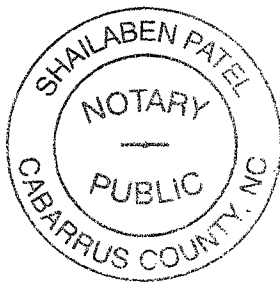
All such valid and enforceable easements, restrictions and rights of way of record and the lien of ad valorem taxes.

IN WITNESS WHEREOF, the Grantors duly executed the foregoing as of the day and year first above written.

 (seal)
JILL H. AUSTIN

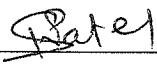
 (seal)
ANN GRIFFIN WALTERS

SEAL - STAMP



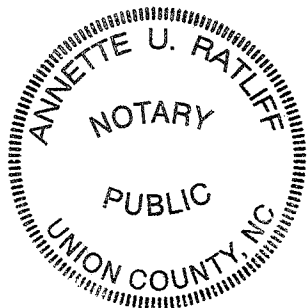
State of NC - County of Cabarrus

I, Shailaben Patel a Notary Public for Cabarrus County, State of NC, certify that the following person(s), either personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged to me that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Jill H. Austin. Witness my hand and official stamp or seal, this the 1st day of April, 2022.


Notary Public

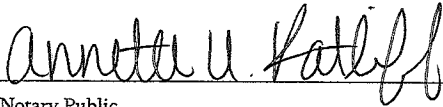
My Commission Expires: 11/05/2025

SEAL - STAMP



State of NC - County of Union

I, Annette U. Ratliff a Notary Public for Union County, State of NC, certify that the following person(s), either personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged to me that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Ann Griffin Walters. Witness my hand and official stamp or seal, this the 19th day of April, 2021.


Notary Public

My Commission Expires: 11-20-2024

1003 Oak Hill Drive in Monroe, NC

7-24-2024

[Back to search](#)

Save

Share

Hide

Active





See all 24 photos

\$449,950

1003 Oak Hill Dr, Monroe, NC 28112

Est.: \$2,648/mo Get pre-qualified

3 beds

4 baths

2,848 sqft

Single Family Residence

Built in 1984

0.45 Acres lot

\$446,500 Zestimate®

\$158/sqft

\$-- HOA

Request a tour
as early as tomorrow at 9:00 am

Contact agent

Exhibit 4

Page 71 of 86

What's special

SECONDARY LIVING QUARTERS

MASONRY FIREPLACE

-Union County/ Monroe

Southwood Estates subdivision. 1003 Oak Hill Dr.

Brick three bedroom three bath well maintained ranch the secondary living quarters

Over 2400 ft.²

Updated Kitchen w island, stone counters and Sub Zero refrigerator

Masonry fireplace

9 days on Zillow | **551** views | **9** saves

Zillow last checked: 3 hours ago

Listing updated: July 23, 2024 at 07:20am

Listing Provided by: James Kerr jkerrandcorealestate@gmail.com, J Kerr and Co LLC

Source: Canopy MLS as distributed by MLS GRID, MLS#: 4158062





4.2.2. RLD – RESIDENTIAL LOW DENSITY

- A. **Intent.** The Residential Low Density (RLD) district is intended to implement the rural land use character area as defined in the Forward Monroe plan. This district is designed to accommodate single family residential development in areas within the City of Monroe which may not be served by public water or sewer and are not appropriate for higher densities. RLD is intended to allow for single family homes on larger lots and may permit compatible uses as permitted in Section 7: Permissible Uses and Standards.

Exhibit 5

Table 4.2.2. RLD District Development Standards Table

RLD District Development Standards Table		
Building Height		Maximum 3 Stories
Density		Maximum 2 Units / Acre
Setbacks ¹	Front	25'
	Side	15' (interior lot) 20' (corner lot)
	Rear	20' (interior lot) 25' (through lot)
Lot	Width	100' Minimum
	Area	20,000 Square Feet Minimum

Exhibit 6

July 26, 2024

1003 Oak Hill Drive,
Monroe, NC 28110

Re: 1003 Oak Hill Drive, Monroe NC

To Whom It May Concern:

This is a courtesy letter to inform you that it has come to staff's attention that 1003 Oak Hill Drive in Monroe, NC, further identified with parcel ID 09-279-073 is operating an illegal accessory dwelling unit. Please see the attached Zillow advertisement. Accessory dwelling units are not permitted within the RLD, Residential Low Density District (UDO Section 157.4.2.2. Permissible Uses and Standards) as only one dwelling unit is allowed per lot in the RLD zoning district.

In order for this matter to be resolved, the use of the structure as an accessory dwelling unit must be discontinued immediately. If this use has not ended by **August 6, 2024**, the city will move forward with the official zoning violation process.

If you have any questions, please contact me at (704) 282-4550 or by email at pblaszyk@monroenc.org. Thank you for your cooperation.

Sincerely,

Patrick Blaszyk

Patrick Blaszyk
Planner

Exhibit 7



CITY OF MONROE

P.O. BOX 69 MONROE, NC 28111-0069
PHONE 704-282-4520

NOTICE OF VIOLATION - Case No. CEZONE202401175

8 August , 2024

ANN GRIFFIN WALTERS
1003 OAK HILL DRIVE
MONROE, NC 28110

Copy to:

RE: Property Located at: 1003 OAK HILL DRIVE, MONROE, NC 28110
Tax Map Lot Reference: 09-279-073

Dear Ann Walters:

Upon investigation on August 8th, 2024 the above referenced property is determined to be in violation of Code 157 of the City of Monroe Code of Ordinances entitled **ZONING CODE**, and specifically, the conditions constituting the violation are noted.

That you are ordered to abate or remove the conditions constituting the violation within 10 days from the receipt of this Notice. If you fail, neglect or refuse to abate or remove the conditions constituting the violation within 10 days from the receipt of this order, you will be liable for civil penalties as provided in Chapter 10 of the Monroe Code of Ordinances. This notice shall constitute a **Notice of Violation** pursuant to said section.

That the above-referenced property **MUST BE BROUGHT INTO COMPLIANCE** not more than 10 days after the receipt of this notice. Should you fail to bring the property into compliance with the City Code within 10 days, the City of Monroe may issue a **CIVIL CITATION** in the amount of \$50.00 for the first citation. A continued violation shall be subject to additional penalties of \$100.00 for the second citation, and \$500.00 for the third and subsequent citation, as well as any administrative costs, attorney's fees and other relief as provided by law.

If the violation is repeated within a two year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to the penalties as described above. A repeat violation is one which is identical to or reasonably similar to a previous violation for which a Notice of Violation or Civil Citation has been issued by the City.

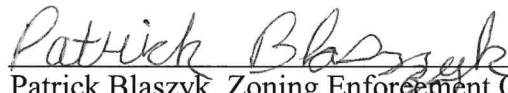
Exhibit 8



CITY OF MONROE

P.O. BOX 69 MONROE, NC 28111-0069
PHONE 704-282-4520

APPEAL RIGHTS: If you disagree with the above findings and order for 3003 SECREST SHORT CUT RD, MONROE, NC 28110, you have **THIRTY (30) DAYS** within which to exercise your right of appeal to the Board of Adjustment of the City of Monroe which will stay all proceedings until said Board makes its determination. Appeals may be filed with the Planning and Community Development Department of the City of Monroe at 300 West Crowell Street, Monroe, NC.


Patrick Blaszyk, Zoning Enforcement Officer



CITY OF MONROE

P.O. BOX 69 MONROE, NC 28111-0069
PHONE 704-282-4520

VIOLATION DETAIL

VIOLATION
DESCRIPTION:
Date:
8/8/2024

157.4.2.2 RLD District Development Standards: The maximum density in the Residential Low Density (RLD) zoning district is 2 units per acre. Only 1 dwelling unit per parcel is permitted in the RLD zoning district.

Narrative: A Zillow real estate advertisement was reported to Planning Staff that 1003 Oak Hill Drive is advertising an accessory dwelling unit (ADU). ADU's are not permitted in the RLD zoning district as only 1 dwelling unit is allowed per parcel. This also exceeds that maximum permissible density of 2 units per acre as the parcel is only .446 acres in size.



CITY OF MONROE

P.O. BOX 69 MONROE, NC 28111-0069
PHONE 704-282-4520

NOTICE OF VIOLATION - Case No. CEZONE202401175

27 August, 2024

ANN GRIFFIN WALTERS
1003 OAK HILL DRIVE
MONROE, NC 28110

Copy to:

RE: Property Located at: 1003 OAK HILL DRIVE, MONROE, NC 28110
Tax Map Lot Reference: 09-279-073

Dear, Ann Walters:

Upon investigation on July 26th, 2024 the above referenced property is determined to be in violation of Code 157 of the City of Monroe Code of Ordinances entitled **ZONING CODE**, and specifically, the conditions constituting the violation are noted.

That you are ordered to abate or remove the conditions constituting the violation within 10 days from the receipt of this Notice. If you fail, neglect or refuse to abate or remove the conditions constituting the violation within 10 days from the receipt of this order, you will be liable for civil penalties as provided in Chapter 10 of the Monroe Code of Ordinances. This notice shall constitute a *Notice of Violation* pursuant to said section.

That the above-referenced property **MUST BE BROUGHT INTO COMPLIANCE** not more than 10 days after the receipt of this notice. Should you fail to bring the property into compliance with the City Code within 10 days, the City of Monroe may issue a **CIVIL CITATION** in the amount of \$50.00 for the first citation. A continued violation shall be subject to additional penalties of \$100.00 for the second citation, and \$500.00 for the third and subsequent citation, as well as any administrative costs, attorney's fees and other relief as provided by law.

If the violation is repeated within a two year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to the penalties as described above. A repeat violation is one which is identical to or reasonably similar to a previous violation for which a Notice of Violation or Civil Citation has been issued by the City.

Exhibit 9



CITY OF MONROE

P.O. BOX 69 MONROE, NC 28111-0069

PHONE 704-282-4520

VIOLATION DETAIL

VIOLATION

DESCRIPTION:

Date:

8/27/2024

157.4.2.2 RLD District Development Standards: The maximum density in the Residential Low Density (RLD) zoning district is 2 units per acre. Only 1 dwelling unit per parcel is permitted in the RLD zoning district.

Narrative: A Zillow real estate advertisement was reported to Planning Staff that 1003 Oak Hill Drive is advertising an accessory dwelling unit (ADU). ADU's are not permitted in the RLD zoning district as only 1 dwelling unit is allowed per parcel. This also exceeds that maximum permissible density of 2 units per acre as the parcel is only .446 acres in size.



Exhibit 10

City of Monroe Appeal Application Form

Applicant's Name: Ann G Walters

Applicant's Address: 1003 Oak Hill Drive, Monroe, NC 28112

Property Owner's Name: Ann G Walters

Property Owner's Address: 1003 Oak Hill Drive, Monroe, NC 28112

Existing Use of Property: Residential home

Property Location: 1003 Oak Hill Dr, Monroe, NC 28112

Tax Map Number: 09 - 279 - 073 Lot Size: 0.45 Acres Zoning District: RLD

Date of Zoning Officer's decision: 8/27/2024

For Staff Use Only

Application #: _____

Date Submitted: _____

Approved: _____

Denied: _____

Summary of Zoning Officer's decision: Upon investigation on July 26th, 2024 the above referenced property is determined to be in violation of Code 157 of the City of Monroe de of Ordinances entitled ZONING CODE, and specifically, the conditions constituting the violation are noted. This notice all constitute a Notice of Violation pursuant to said section. 157.4.2.2 RLD District Development Standards: The maximum density in the Residential Low Density (RLD) zoning district is 2 units per acre. Only 1 dwelling unit per parcel is permitted in RLD zoning district.

Reason for appeal of decision: I am writing to appeal the zoning violation letter I received in regards to housing situation of Robert, a young African American veteran who has honorably served our country.

Due to the current economic climate, Robert is facing he is not able to find affordable housing. The house is currently for sale, we would permission for him to be able to stay until the house is sold. I feel I have a moral obligation to support those who have sacrificed so much for our nation. Robert has been a responsible tenant and has contributed positively to our neighborhood. Allowing Robert to stay would not only provide him with the stability he desperately needs to avoid becoming homeless. It also upholds the values of compassion and support that our community stands for. I kindly urge you to consider this appeal and take the necessary steps to ensure that Robert can remain in his home until the house is sold. Your understanding and support will make a significant difference in the life of a deserving veteran. Thank you for your attention to this matter.

Ann G Walters

Applicant-Printed



Applicant-Signature

9/15/24

Date



Signature of Zoning Officer

9/23/24

Date

Exhibit 11

FOR STAFF USE ONLY

(PLEASE DO NOT WRITE BELOW THIS LINE)

Adjoining property owners information attached: Yes _____ No _____

Public hearing date: _____

Notice to applicant and adjoining property owners mailed on : _____ INT. _____

Action taken by the Board of Adjustment: _____

Notification of Action mailed to applicant on: _____

APO Map

PLZONA-2025-00057

Legend

- Centerlines
- 150-Foot Buffer
- Parcels
- Notified Properties
- Subject Property

18 Parcels Notified



Exhibit 12

ACCTNO	OWNERNAME1	OWNERNAME2	OWNERADDRE	OWNERCITY	OWNERSTATE	OWNERZIP
09279046	GOMEZ JOSE LEAL	HERNANDEZ MAYRA ALEJANDRA LEAL	1502 LANCASTER AVE	MONROE	NC	28112
09279051	RIVES LINDA SHAW SUCCESSOR TRUSTEE		3560 MEMBERS CLUB BLVD	SOUTHPORT	NC	28461
09279076	STONESTREET MARCIA A	STONESTREET RAYMOND L	1004 LAKEWOOD DR	MONROE	NC	28112
09238075	HELMS CHARLES F	HELMS LESSIE T	2627 ROLLING HILLS DR	MONROE	NC	28110
09276075	BARRINO DELORIS		1406 LANCASTER AVE	MONROE	NC	28112
09276077	MCGINNIS ELEANOR DUNLAP		505 EAST TALLEYRAND AVE	MONROE	NC	28112
09279074	LITTLE ANTHONY JR		1001 OAK HILL DR	MONROE	NC	28112
09279075	WALKER LAVERN HENDERSON		1002 LAKEWOOD DR	MONROE	NC	28112
09279077	NOLL BRADLEY	NOLL DAWN	1006 LAKEWOOD DR	MONROE	NC	28112
09279071	BARNARD JEFFREY M	COTTER AMANDA J	1007 OAK HILL DR	MONROE	NC	28112
09279072	NASH DENNIS		1005 OAK HILL DR	MONROE	NC	28112
09279049	RIVES LINDA SHAW SUCCESSOR TRUSTEE		3560 MEMBERS CLUB BLVD	SOUTHPORT	NC	28461
09279044	GRIFFIN LAND HOLDINGS LLC		PO BOX 1561	MONROE	NC	28111
09279047	CASTREJON ENRIQUE MARBAN	CORDERO-ELIGIO SILVIA	1500 LANCASTER AVE	MONROE	NC	28112
09279073	WALTERS ANN GRIFFIN		1003 OAK HILL DR	MONROE	NC	28110
09279048	AUSTIN JEREMY	AUSTIN CHELSEA	1000 OAK HILL DR	MONROE	NC	28112
09276076	VERA MARIA		1402 LANCASTER AVE	MONROE	NC	28112
09279050	RIVES LINDA SHAW SUCCESSOR TRUSTEE		3560 MEMBERS CLUB BLVD	SOUTHPORT	NC	28461

Exhibit 13