

Hearing Request Application - Form 1
Zoning Board of Adjustment
City of Charlotte

Date Filed: 11/12/10 Case Number: 10-043 Received by: BPM/SSK

Instructions

This form must be filed out completely. Please attach the appropriate additional form depending on your request type along with required information as outlined in the appropriate checklist. Please type or print legibly. All property owners must sign and consent to this application, attach additional sheets if necessary. If the applicant is not the owner, the owners must sign the Designation of Agent section at the bottom of this form.

The Applicant Hereby (check all that apply):

- Requests a variance from the provisions of the zoning ordinance as stated on Form 2
- Appeals the determination of a zoning official as stated on Form 3
- Requests an administrative deviation as stated on Form 4

Applicant or Agent's Name: PAUL LORENZ AIA

Mailing Address: 101 CABARRUS AVE EAST SUITE 200

City, State, Zip: CONCORD NC 28025

Daytime Telephone: 704-793-9933 Home Telephone: 704-784-8008

Interest in this Case (please circle one): Owner Adjacent Owner Other

Property Owner(s) [if other than applicant/agent]: KIDANE HAILE

Mailing Address: 7020 LAWYERS RD.

City, State, Zip: CHARLOTTE, NC 28227

Daytime Telephone: _____ Home Telephone: _____

Property Address: 4541 MARGARET WALLACE CHARLOTTE NC

Tax Parcel Number: 193-043-08 Zoning District: B-1

Subdivision Name: _____ Conditional District: YES NO

Applicant Certification and Designation of Agent

I (we) certify that the information in this application, the attached form(s) and documents submitted by me (us) as part of this application are true and correct. In the event any information given is found to be false, any decision rendered may be revoked at any time. I (we) hereby appoint the person named above as my (our) agent to represent me (us) in this application and all proceedings related to it. I (we) further certify to have received, read and acknowledged the information and requirements outlined in this packet.

11-12-10
Date

Kidane Haile
Property Owner

Date

Property Owner

Variance Application - Form 2
Zoning Board of Adjustment
City of Charlotte

Date Filed: _____ Case Number: _____ Fee Collected: _____

Has work started on this project? YES NO
 If yes, Did you obtain a building permit? YES NO If yes, attach a copy.
 Have you received a Notice of Violation for this project? YES NO If yes, attach a copy.
 Has this property been rezoned? YES NO If yes, Petition Number: _____

(1) What zoning ordinance section numbers are you seeking a variance from? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement	Variance Request
Example	9.205 (1)(g)	45 foot rear yard	35 foot rear yard (10 foot reduction from required)
A	9.805(1)(g)	10' REAR YARD	5' REAR YARD (5' REDUCTION FROM REQUIRED)
B	TABLE 12.206(3)	PARKING OF VEHICLES IS NOT PERMITTED... NOR W/IN 5' OF ANY EXTERIOR LOT LINE	0' PARKING SET BACK FROM PROP. LINE

(2) Please describe why the variances requested are necessary.

The proposed building for this site needs to be a certain size to function and accommodate the coolers that are to be located around the interior perimeter of the store while allowing required customer circulation space. Merchandise display is crucial and requires a pre-determined amount of floor area. A variance would make this project possible as the building could be designed to accommodate the coolers, merchandise space, and circulation space. Accommodating the loading space, dumpster enclosure, and bike parking on this site can only be accomplished with the requested variance.

The unusual shape of the property and the location of the proposed right-of-way required by NCDOT and CDOT create the need to move the building and parking to the rear and side property lines doing away with the 10' rear yard and the required 5' distance from the pavement to the property line. Without the variance, a required loading space for a commercial structure will not be able to be accommodated on this site.

(3) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three rules to determine whether, in a particular situation, "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

(a) If the property owner/applicant complies with the provisions of the Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

Without a variance and rezoning, the right-of-way required by NCDOT and CDOT make the property un-useable for nearly any commercial development.

(b) The hardship of which the Applicant complains results from unique circumstances related to the Applicant's land. (Note: Hardships common to an entire neighborhood, resulting from overly restrictive zoning regulations, should be referred to the Charlotte-Mecklenburg Planning Department. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

The unusual shape of the property and the location of the proposed right-of-way required by NCDOT and CDOT create the need to move the building and parking to the rear and side property lines doing away with the 10' rear yard and the required 5' distance from pavement to the property line. Without a variance the building, parking, and loading area will not 'fit' on the property. Moreover, the applicant, before purchasing the property, was told by both Ron Jones and Tim Manes that the building's set back was 50' from the center line of the right-of-way. A simple rectangular building will not fit on the site so a wedge shaped building is the only solution for a building on this site.

(c) The hardship is not the result of the Applicant's own actions.

Securing a variance is the only way to make the site viable as Mr. Haile was unaware that placing a store on the site would have been impossible without a variance. Before the property was purchased, Mr. Haile was told by both Ron Jones and Tim Manes that the building's set back was 50' from the center line of the right-of-way making it possible to locate a convenient store on the site. Later, during a pre-submittal meeting it was learned that the setback is actually 70' from the right-of-way.

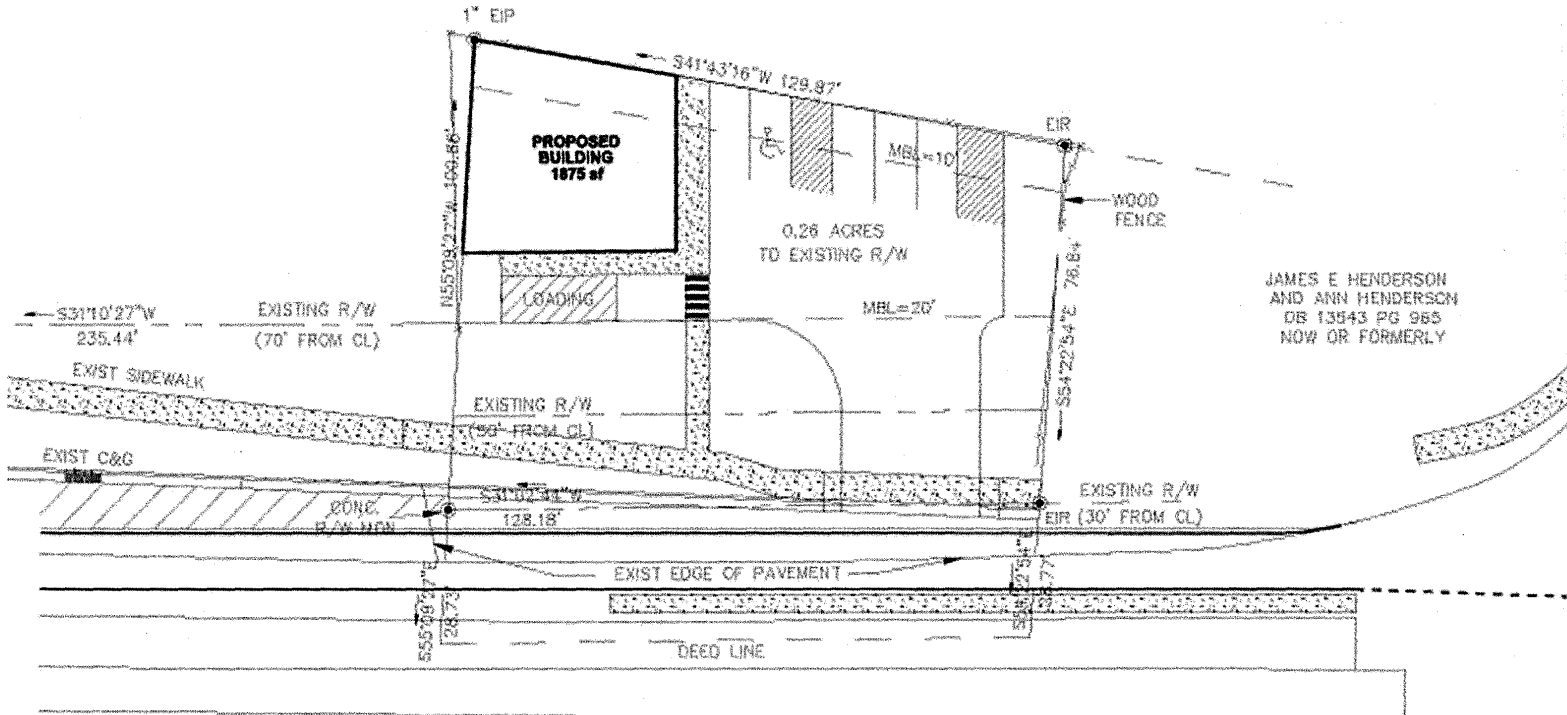
(4) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and, that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

The proposed convenience store sits among a setting of out-parcels and strip centers. The variance requested pertains to the elimination of the 10' rear yards but a 5' rear yard will be maintained to allow for the proper foundation design of the building. The variance will allow for parking and the loading area. Although the parking will be placed up to the property line, there are generous landscape buffers between Mr. Haile's lot and Mintworth Commons. Because of the location of Mintworth Commons and Mr. Haile's proposed store, the variance still would maintain at least a 60' separation between buildings. The shape of Mr. Haile's lot is unlike the surrounding parcels except for the adjacent lot making it difficult to accommodate a structure.

(5) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the Applicant.)

If the variance is denied, a commercial building will not be able to be accommodated on this site. A convenient store is in keeping with B-1 and NS zoning. Granting the variance will only allow the building to move within 5' from the property line and the parking lot to meet the property line. The large buffer between this lot and Mintworth Commons will maintain harmony with the purpose and intent of the ordinance. We believe in granting a variance, public enjoyment of the area would not be compromised.


MINTWORTH DEI LLC AND
DAHLEM ENTERPRISES INC
DB. 30901 PG 190
NOW OR FORMERLY



JAMES E HENDERSON
AND ANN HENDERSON
DB 13543 PG 985
NOW OR FORMERLY

MARGARET WALLACE ROAD
(SR 3156 R/W VARIES)

KEYED NOTES

KEYED NOTES LISTED BELOW ARE REFERENCED FROM THIS PLAN USING THIS SYMBOL. 

1. NEW EDGE OF PAVEMENT
2. NEW PAVEMENT EDGE LINE.
3. NEW MINI-SKIP LINE
4. 4' WIDE CONCRETE MEDIAN
5. NEW 2'-6" STANDARD C&G
6. NEW LANE WIDENING AND STRIPPING
7. NEW 6'-0" SIDEWALK
8. TYPE II COMMERCIAL DRIVEWAY
9. 10' x 25' LOADING SPACE
10. NEW CONCRETE SIDEWALK
11. 9'x19' STANDARD PARKING SPACE
12. HC VAN ACCESSIBLE SPACE
13. EXISTING STRIPING.
14. DUMPSTER ENCLOSURE.
15. BICYCLE RACKS.

SITE DATA

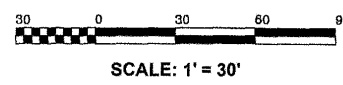
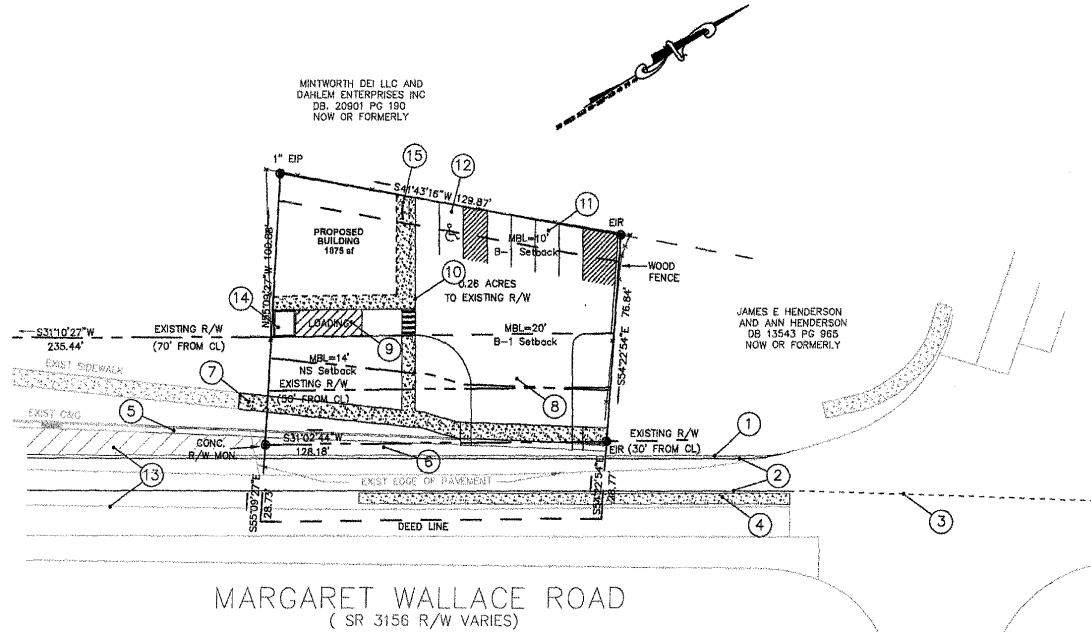
PARCEL ID # 19304308
 AREA - 0.26 ACRES (INCLUDING 60' R/W)
 ZONING: B-1
 SETBACKS: FRONT - 20'
 SIDE - 0'
 REAR - 10'

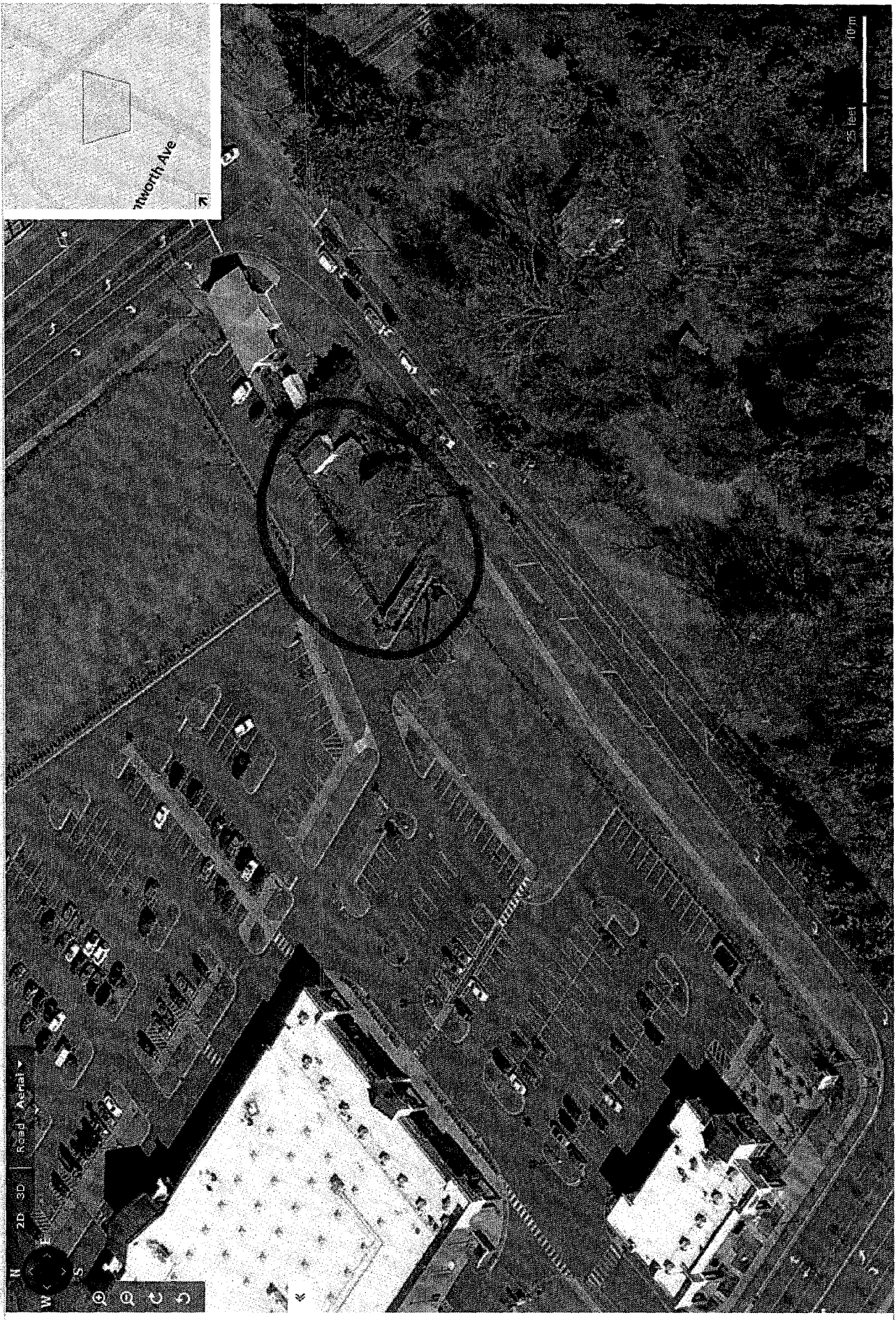
LONG-TERM BICYCLE PARKING
 2, OR 1 PER 12,000 SF
 SHORT-TERM BICYCLE PARKING
 5% OF PARKING
 BICYCLE PARKING PROVIDED: 2

VEHICLE PARKING
 1 SPACE PER 250 SF
 REQUIRED - 8
 PROVIDE - 5
 HC - 1

OWNER

ZULA EXPRESS INC.
 7020 LAWYERS ROAD
 CHARLOTTE, NC 28227



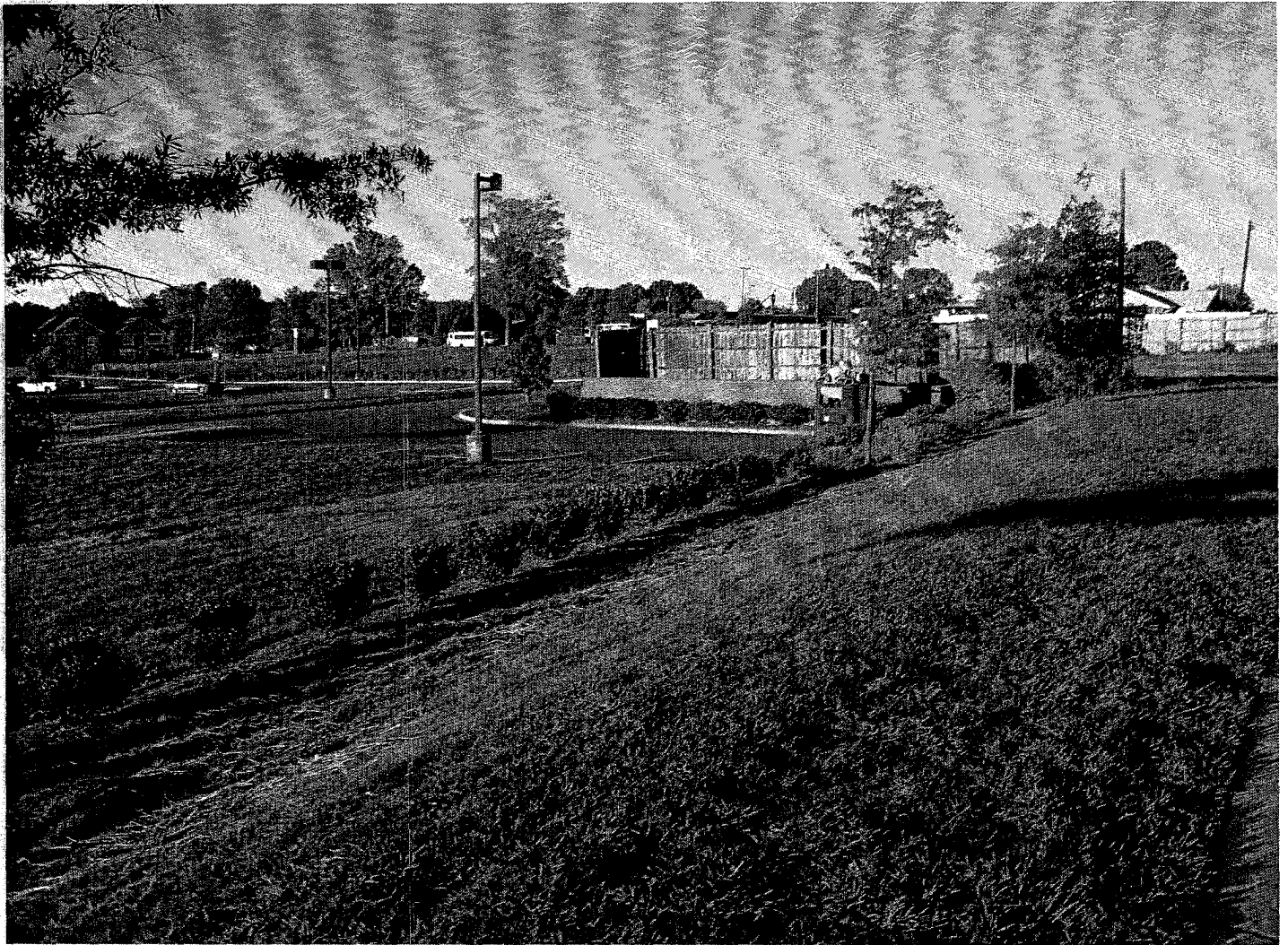


2D 3D Road Aerial
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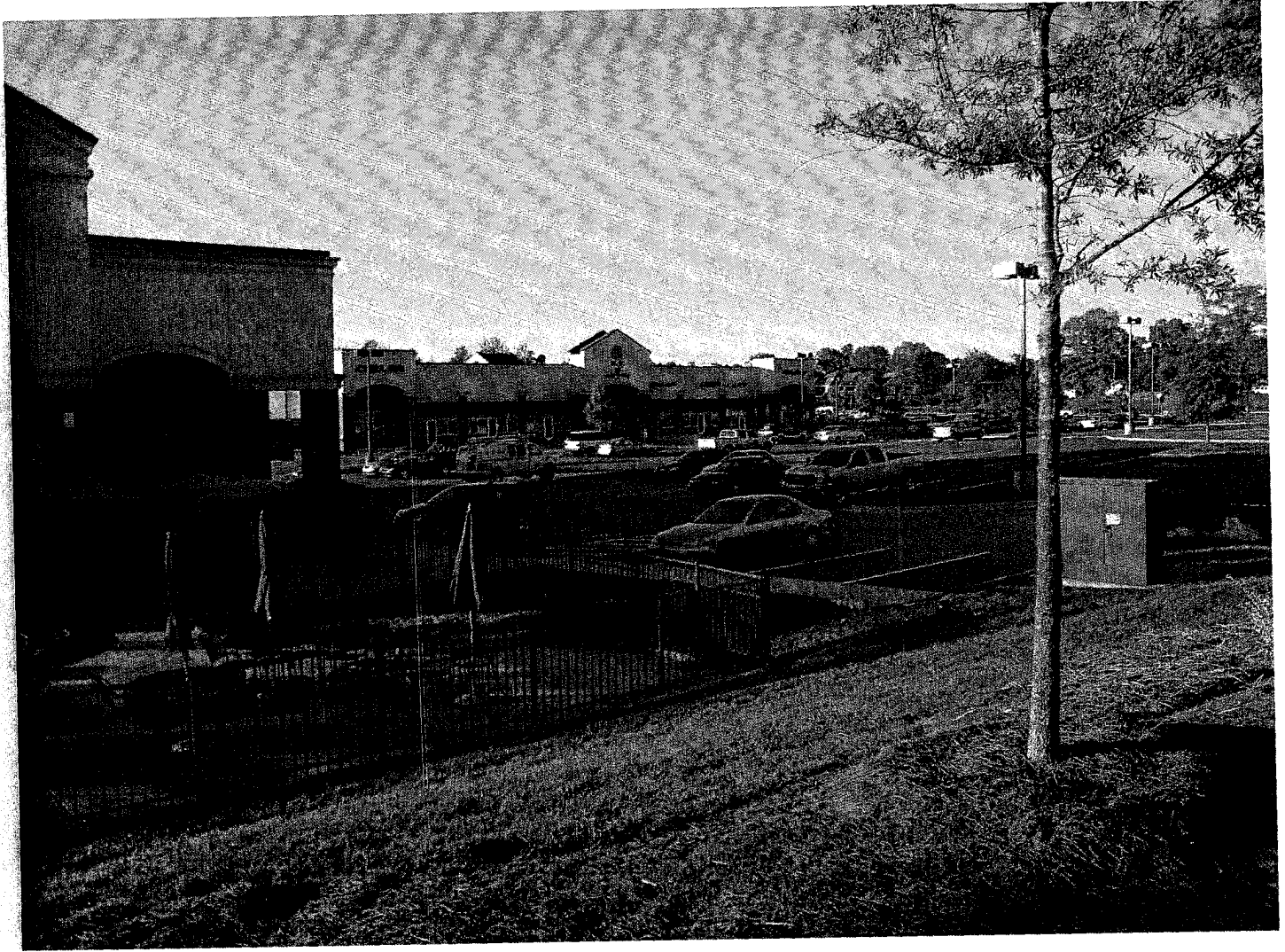
🔍 🔍 ↻ 🏠

7thworth Ave

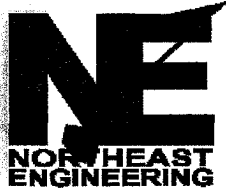
10 m
25 feet



Looking at the subject property (where the fence and retaining wall is) from the south



Mintworth Commons – southeast of subject property



NorthEast Engineering, P.A.

41 Edgewood Avenue, NE

Concord, NC 28025

www.nee-pa.com

P 704.788.6372 F 704.786.4750

October 29, 2010

Mr. Paul Lorenz
Lorenz Architecture
101 Cabarrus Avenue East
Suite 200
Concord, NC 28025

Ref: 4541 Margaret Wallace Road
Charlotte, NC

Dear Mr. Lorenz:

Based on our meeting with Mr. Richard Odynski, Assist. District Engineer with the NCDOT; below is a summary of their requirements for the improvements to Margaret Wallace Road in order to obtain a driveway permit for the proposed site.

1. Type II Commercial Driveway Entrance.
2. 4' concrete monolithic island to be keyed in; island to begin at stop bar and extend west along Margaret Wallace to 50' beyond the proposed driveway entrance.
3. Widen, overlay, and restripe roadway as required to install improvements.
4. Install white mini-skip stripes across the intersection to direct traffic to newly installed island.
5. Determine if the existing storm drainage system is adequate for the roadway improvements.

If you have any questions or comments, please contact this office.

Sincerely,
NorthEast Engineering, PA

A handwritten signature in black ink, appearing to read 'R. Dale Fink'.

R. Dale Fink PE, PLS

Paul Lorenz

From: "Kidane Haile" <kidanehaile@gmail.com>
Date: Monday, October 18, 2010 4:55 PM
To: "Paul Lorenz" <Paul@lorenzarchitecture.com>
Subject: Fwd: 4541 Margaret Wallace rd
Paul,

I just got this email Today.

----- Forwarded message -----
From: **Dru Brown** <dru@dahlem.com>
Date: Mon, Oct 18, 2010 at 11:19 AM
Subject: RE: 4541 Margaret Wallace rd
To: Kidane Haile <kidanehaile@gmail.com>

Dear Mr. Kidane Haile,

After careful consideration along with review our current agreements, we must decline your request to access your property through Mintworth Commons.

However, if you wish to remove the fence, please indicate your preference to remove the fence in writing by form of a letter on your letterhead. Upon receipt of the letter and your success in achieving commercial zoning, we will grant permission to remove the fence. Please mail the letter to the address listed below.

If the current zoning is to remain in place, you will need to restore the fence to the good condition it was in before the house wash demolished.

Thank you,

M. Dru Brown

Property Manager

Dahlem

10/18/2010

Kidane Haile
Zula Express Inc.
7020 Lawyers Road
Charlotte, NC 28227

Charlotte Mecklenburg Planning Department – 8th floor
600 East Fourth Street
Charlotte, NC 28202

Re: Variance for 4541 Margaret Wallace Road Charlotte, NC (Tax #193-043-08)

November 1, 2010

To Whom It May Concern:

I have tried to contact the owner of Mintworth Commons on Wyalong Drive on several occasions to discuss access from the center and the variance I am now attempting to secure. I was told from the property owner of Mintworth Commons that it would be impossible to gain access from Mintworth Commons. I have not heard back from the property owner regarding the variance. The center is immediately west of my parcel. The variance, which will permit both the building and parking to negate the 10' rear yard and 5' pavement setback allowing both the proposed building and parking to hug the property lines on the parcels' north and west sides. This is the only way I can construct a building and accommodate a loading area, dumpster, and bike parking.

I have met with Ron Jones and Tim Manes several times to discuss rezoning my parcel to NS. Before I purchased the property, Mr. Jones and Tim Manes both informed me that my parcel's r.o.w. was 50' from the center line of the r/w. I could have made the site work without rezoning if the proposed r/w had been 50' from the center line of the road like I was originally told.

Sincerely,



Kidane Haile

Jim Henderson
Carefree Carpet
9744 Idlewild Road
Charlotte, NC 28227

Charlotte Mecklenburg Planning Department
600 East Fourth Street
Charlotte, NC 28202

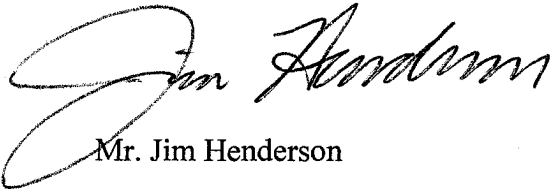
Re: Variance for 4541 Margaret Wallace Road Charlotte, NC (Tax #193-043-08)

October 17, 2010

To Whom It May Concern:

Being the property owner to the east of Mr. Haile's lot I am in support of a variance for 4541 Margaret Wallace Road which will permit both the building and parking to negate the 10' rear yard and 5' pavement setback allowing both the proposed building and parking to hug the property lines on the parcels' north and west sides. I understand this is the only way Mr. Haile can provide for a loading area.

Sincerely,

A handwritten signature in cursive script that reads "Jim Henderson". The signature is written in black ink and is positioned above the typed name.

Mr. Jim Henderson

Paul Lorenz

From: "Carroll, Jennifer A" <jacarroll@ci.charlotte.nc.us>
Date: Monday, October 18, 2010 4:26 PM
To: "Paul Lorenz" <Paul@lorenzarchitecture.com>; "Rorie, Dennis" <drorie@ci.charlotte.nc.us>; "Jones, James "Ron"" <rjones3@ci.charlotte.nc.us>
Subject: RE: Variance of 4541 Margaret Wallace Road Tax Id# 193-043-08
If this is the variance you are asking for then CDOT has no issues with this. The side yard and rear yard do not have an effect on the front setback or R/W.

Thanks,

Jennifer A. Carroll, EI

Project Manager - Land Development
Charlotte Department of Transportation
600 East Fourth Street
Charlotte NC 28202
Ph: 704-432-2674 Fax: 704-336-4400
Email: jacarroll@ci.charlotte.nc.us

From: Paul Lorenz [<mailto:Paul@lorenzarchitecture.com>]
Sent: Monday, October 18, 2010 4:16 PM
To: Carroll, Jennifer A; Rorie, Dennis; Jones, James "Ron"
Subject: Variance of 4541 Margaret Wallace Road Tax Id# 193-043-08
Importance: High

Hi Jennifer:

The attached plan sketch was done by Ron Jones but I believe you and Dennis looked at it too.

The variance, which will permit both the building and parking to negate the 10' rear yard and 5' pavement setback allowing both the proposed building and parking to hug the property lines on the parcels' north and west sides. This is the only way the building can be constructed while accommodating a loading area, dumpster, and bike parking.

We are hoping to submit the application for a November hearing.

Thank you!

Paul Lorenz AIA NCARB
101 Cabarrus Ave. East Ste. 200 Concord, NC 28025
704.793.9933 paul@lorenzarchitecture.com
www.lorenzarchitecture.com

Information from ESET Smart Security, version of virus signature database
5543 (20101018) _____

The message was checked by ESET Smart Security.

10/18/2010

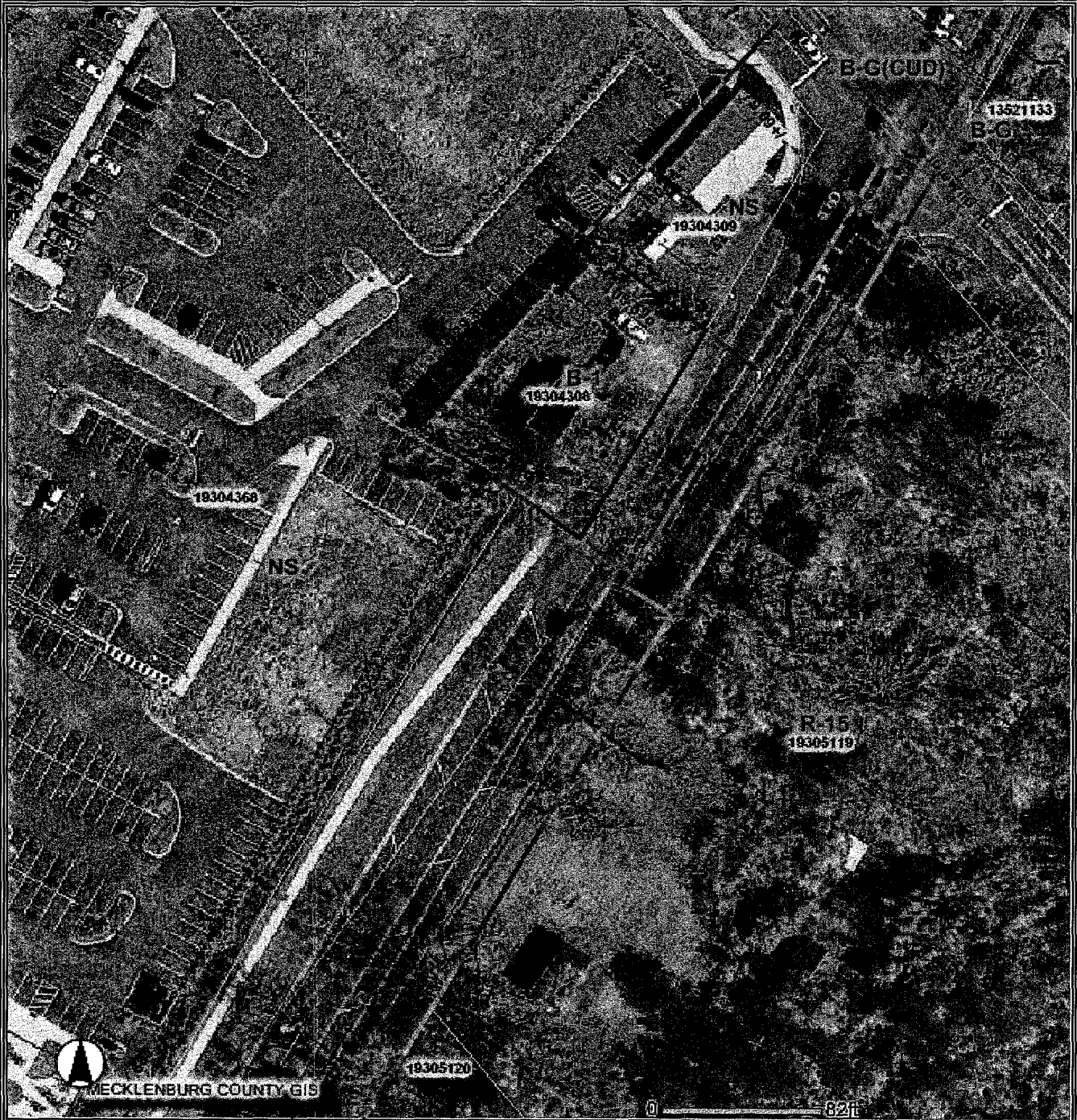
Mecklenburg County, North Carolina

POLARIS

Property Ownership Land Records Information System

Date Printed: Mon Nov 15 08:43:56 EST 2010

4541 Margaret Wallace Rd





This map is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

**Mecklenburg County, North Carolina
POLARIS**

Parcel Ownership and GIS Summary

Date and Time: 11/15/2010 10:18:05 AM

Parcel ID #: 19304308 GIS ID #: 19304308		FEMA Flood Information	
Owner Name:	ZULA EXPRESS INC	FEMA Panel #:	3710458200J
Mailing Address:	7020 LAWYERS RD CHARLOTTE, NC 28227	FEMA Flood Zone:	OUT
Property Characteristics		FEMA Panel Date:	03/02/2009
Legal Desc.:	PTR2 U/M	Community Flood Information	
Land Area:	14810.40039 SF	Community Flood Zone:	OUT
Fire District:	00-CITY OF CHARLOTTE	Regulated Watershed Information	
Special District:	N/A	Watershed Name:	McALPINE
Account Type:	NC CORP	Watershed Class:	
Municipality:	1-CHARLOTTE	Building Photography	
Property Use:	SINGLE-FAM	PHOTO #1	
Deed Reference(s) and Sales Price		Location: 4541 MARGARET WALLACE RD	
25660-394 (6/1/2010) \$167,000.00			
09381-644 (12/2/1997) \$0.00			
Situs Addresses Tied to This Parcel		19304308 001	
4541 MARGARET WALLACE RD		Information contained within this photo may be used as a visual aid and to generally locate, identify, and inventory parcels in Mecklenburg County, North Carolina. There are inherent errors and limitations associated with this type of electronic medium. Mecklenburg County cannot warrant or guarantee the information contained herein including but not limited to its accuracy or completeness.	
Site Location Information		<p align="center">Powered by</p> 	
Zoning Boundaries:	Contact Appropriate Planning Department or See Map.		
ETJ Area:	CHARLOTTE		
Charlotte Historic Districts:	NO		
Within Charlotte 6/30/2009 Annexation Area:	NO		
Census Tract #:	57.08		
Parcel Falls Inside a Water Quality Buffer?: NO			
Post Construction District			
Jurisdiction:	Charlotte		
District:	Central Catawba		

The information provided by this program is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. Users of this map data are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.



Print

Close

Parcel Information

Parcel ID 19304308	Account NC CORP	Parent	Previous
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Owner(s)

Owner Name ZULA EXPRESS INC	Mailing Address 7020 LAWYERS RD	City/State CHARLOTTE NC 28227
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Legal Information

Legal PTR2 U/M	Municipality CHARLOTTE	Annexed	Special District	Fire District CITY OF CHARLOTTE	Acreage 0
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Total Parcel Assessment & Exemptions

Building 15400	Land 44400	Features 2200	Total 62000	Exemption	Year Approved	Review Date	Amount
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Sales Information

Sale	Price	Stamps	Qualify	V/I	DeedBook	Type	Legal Ref.	Grantor
Jun 1 2010	167000	334.0000		IMP	25660 - 394	WARRANTY D	25660-394	HIPKINS,CRAIG R
Dec 2 1997	0		RELATED	IMP	09381 - 644	DEED STAMPS	09381-644	HIPKINS CRAIG R

Land Use

Use C700	Units 14810.40	Type SF	Neighborhood T301	Assessment 44400
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Building Information

Bldg 1	Description Single-Fam	Type RES	Year Built 1948	Property Location 4541 MARGARET WALLACE RD CHARLOTTE					
Bldg 1	Story 1 STORY	Units 1	Total SqFt 910	Heated 840	Foundation CRAWL SPACE	Ext. Wall ALUM,VINYL -	Grade AVERAGE 02	Value 15400	
Bldg 1	Heat AIR-DUCTED	Fuel GAS	FirePlace	AC AC-CENTRAL	Fixtures	Bedrooms 2	Full Baths 1	3/4 Baths	1/2 Baths 0

Sub Areas

Bldg 1	Description BASE (FIRST FLOOR)	Size 840
1	PORCH - OPEN - FINISHED	70

Depreciation

Bldg 1	Physical AV - 31.00%	Functional	Economic ECON - 43.00%	Special	Override
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Special Features & Yard Items

Bldg 1	Built 1948	Type GARAGE	Quantity 1	Units 14X20	Value 2200
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Value Changes

Notice Date	Tax Year	Reason	Changed To	Deferred
Jan 17 2003	2003	Countywide Revaluation	62000	0
Feb 20 1998	1998	Countywide Revaluation	70000	
Mar 18 1994	1994	Added Air Condition	58380	
Mar 26 1993	1993	Correction of Land Area	49460	
Mar 26 1993	1993	Correction of Land Area: Acreage/Sw ftg/	49460	
Jan 2 1991	1991	Countywide Revaluation	38030	