



**Town of Cornelius  
Planning Board/Board of Adjustment**

**Agenda  
September 9, 2019  
6:30 PM  
Assembly Room**

- 1. Call To Order**
- 2. Determination of Quorum**
- 3. Approval of Minutes**
  - A. August 12, 2019 Minutes**
- 4. Public Hearing and Consideration of Approval**
  - A. VAR 03-19 19425 Statesville Rd**
- 5. Next Meeting**
- 6. Adjournment**

## REQUEST FOR BOARD ACTION

 [Print](#)

**Date of Meeting:** September 9, 2019

**To:** Chair and Planning Board Members

**From:** Summer Smigelski, Planning Admin.

**Action Requested:**

Review and Approve Minutes

**Manager's Recommendation:**

Approval

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">Minutes_08122019_Draft - Copy.docx</a>	August 12, 2019 Minutes	Backup Material

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Minutes

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**TOWN OF CORNELIUS PLANNING BOARD**

Assembly Room  
August 12, 2019  
6:30 p.m.

**Members Present**

Keith Eicher, Chair  
Phil Bechtold, Alternate  
Edward Marxen, Alternate  
Michael Osborne  
Cameron Bearder, Alternate  
Joseph Dean  
Susan Johnson  
Hardy McConnell  
Lee Peterson, Vice Chair  
Danielle Miller

**Members Absent**

**Staff Present**

Summer Smigelski, Admin. Assistant  
Monterai Adams, Planner  
Aaron Tucker, Planning Director

**VISITORS**

See Sign-In Sheet

**DETERMINATION OF QUORUM**

Chair Eicher called the Planning Board meeting to order at 6:30 pm and noted there was a quorum present.

**APPROVAL OF MINUTES**

Mr. Osborne made a motion of approval for the July 08, 2019 Minutes. Mr. Dean seconded. All in favor, motion approved.

**In Favor:** Mr. McConnell, Mr. Dean, Mr. Eicher  
Ms. Johnson, Mr. Peterson, Ms. Miller  
Mr. Osborne

**Opposed:** None

**SUP 01-19 Chase Bank**

Chair Eicher asked for a motion to open the public hearing.

Ms. Johnson made a motion to open the public hearing. Mr. Bechtold seconded. All in favor, motion approved.

**In Favor:** Mr. McConnell, Mr. Dean, Mr. Eicher  
Ms. Johnson, Mr. Peterson, Ms. Miller  
Mr. Osborne

**Opposed:** None

Chair Eicher called forward anyone wishing to testify to be sworn in by the Board Secretary.

Ms. Smigelski swore in applicant's and Town staff.

Ms. Adams: "Chairman and members of the Board. My name is Monterai Adams and I will be presenting SUP 01-19 Chase Bank. The proposed 1.5-acre property is located at 19400 W. Catawba Avenue. The applicant is proposing to demolish the current Rite Aid building and construct a Chase Bank with plans to build a second building later. The bank will include a 3,000s.f. building as well as a two-lane drive through. The proposed future building may be as large as 4,500sf. The Town's Land Development Code mandates a minimum of 2 parking spaces per 1,000sf and a maximum of 4 parking spaces per 1,000sf. The code maximum for this site plan is 30 parking spaces between both buildings. The request is for 55 parking spaces between both buildings at a parking ratio of 7.3 spaces per 1,000 sf of building area. The existing building was built in 1999 and was a Rite Aid for many years. This building has been vacant for some time. The applicant is requesting additional parking spaces based on what they see as required to meet the vehicle load for everyday bank use and the services that will be housed in this building. This branch will also house the regional directors and will provide community financial training events, which require around 30 parking spaces for each event. That concludes staff presentation.

Chair Eicher thanked staff and asked for the applicant to please come forward.

Applicant: "My name is David Parry. I'm the project manager at CoreStates, Inc. Located at 1900 South Blvd. in Charlotte. We are proposing to demolish the existing vacant Rite Aide building located at 19400 West Catawba Avenue and constructing a bank building with drive-thru ATM's and a second building for future lease. We are requesting a change/modification to the existing parking requirements to allow an increase in parking spaces for this use/site. We believe the additional parking will benefit the bank as well as the future lease building and the customers to both. The overall parking count will remain like what is currently existing on the property.

Mr. Osborne: "No changes to the existing entrance?"

Mr. Parry: "That is correct."

Chair Eicher: "Same with the exit?"

Mr. Parry: "Correct."

Chair Eicher: "Any other questions? Okay, hearing none. Thank you sir. Anyone wish to speak from the public? Okay, hearing none."

Mr. Osborne made a motion to close the public hearing. Mr. Dean seconded. All in favor, motion approved.

**In Favor:** Mr. McConnell, Mr. Dean, Mr. Eicher  
Ms. Johnson, Mr. Peterson, Ms. Miller  
Mr. Osborne

**Opposed:** None

Chair Eicher: "We have the opportunity to negotiate, to decline, or to approve. I will now entertain a motion."

Mr. Peterson made a motion to approve SUP 01-19 Chase Bank. Mr. Osborne seconded. All in favor, motion approved.

**In Favor:** Mr. McConnell, Mr. Dean, Mr. Eicher  
Ms. Johnson, Mr. Peterson, Ms. Miller  
Mr. Osborne

**Opposed:** None



### **Land Use Plan Discussion**

Mr. Tucker presented the proposed Land Use Plan changes in the Westmoreland/Highway 21 vicinity, from low density single family to neighborhood commercial. The proposed Land Use Plan changes would allow a better transition between highway commercial to the single-family neighborhoods that are in the area. Last meeting the board discussed not going as far up from Highway 21 as it was previously shown. Staff revised the boundary to take the change back towards 21. Based on feedback from the board, staff has asked for discussion on changing the primary land use from sit down or fast food restaurants to just say restaurant and leave it open for a developer to come up with for a potential use. Mr. Tucker opened for board discussion.

### **See attached Presentation**

The board discussed urban mixed use as an option.

After discussion the board agreed they would like to present urban mixed use to the property owners and get their feedback.

### **Election of Chair & Vice Chair**

Chair Eicher asked for the board to elect a Chair and Vice Chair.

Ms. Johnson made a motion to recommend Keith Eicher to remain as Chair. Mr. Osborne second. All in favor and motion approved.

**In Favor:** Mr. McConnell, Mr. Dean, Mr. Eicher  
Ms. Johnson, Mr. Peterson, Ms. Miller  
Mr. Osborne

**Opposed:** None

Mr. Dean made a motion to elect Lee Peterson to continue as Vice Chair. Ms. Johnson seconded. All in favor, motion approved.

**In Favor:** Mr. McConnell, Mr. Dean, Mr. Eicher  
Ms. Johnson, Mr. Peterson, Ms. Miller  
Mr. Osborne

**Opposed:** None

### **NEXT MEETING**

Monday, September 09<sup>th</sup>, 2019

### **ADJOURNMENT**

Ms. Johnson made a motion to adjourn the meeting at 7:02 p.m. Mr. McConnell second. All in favor and motion approved.

**In Favor:** Mr. McConnell, Mr. Dean, Mr. Eicher  
Ms. Johnson, Mr. Peterson, Ms. Miller  
Mr. Osborne

**Opposed:** None

Respectfully Submitted:

\_\_\_\_\_  
Keith Eicher  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Summer Smigelski  
Secretary

\_\_\_\_\_  
Date

## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 9, 2019

To: Board of Adjustment members

From: Gary Fournier, CZO - Planner












**Action Requested:**

The Applicant is seeking a variance from the 50 foot Interstate buffer per Section 5.5.4 of the Land Development Code. The applicant is asking for the buffer to be decreased to 10 feet.

**Manager's Recommendation:**

Hear evidence and render a decision

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">VAR_03-19_Staff_Report.docx</a>	VAR 03-19 Staff Report	Backup Material
 <a href="#">Exhibit_A_Zoning_Map.pdf</a>	Exhibit A Zoning Map	Exhibit
 <a href="#">Exhibit_B_Vicinity_Map.pdf</a>	Exhibit B Vicinity Map	Exhibit
 <a href="#">Exhibit_C_Property_Map.pdf</a>	Exhibit C Property Map	Exhibit
 <a href="#">Exhibit_D_LDC_Section_5.5.4.pdf</a>	Exhibit D LDC Section 5.5.4	Exhibit
 <a href="#">Exhibit_E_Variance_Application.pdf</a>	Exhibit E Variance Application	Exhibit
 <a href="#">Exhibit_F_Site_Plan.pdf</a>	Exhibit F Site Plan	Exhibit
 <a href="#">Exhibit_G_Property_Photo.jpg</a>	Exhibit G Property Photo	Exhibit
 <a href="#">Exhibit_H_Property_Photo.jpg</a>	Exhibit H Property Photo	Exhibit
 <a href="#">Exhibit_I_Birdseye_Photo.pdf</a>	Exhibit I Birdseye Photo	Exhibit
 <a href="#">VAR_03-19_FoF.docx</a>	VAR 03-19 FoF	Backup Material



**VAR 03-19**  
**19425 Statesville Rd**  
**Staff Analysis**

**September 9, 2019**

**Applicant:** Laurence Development Inc.  
PO Box 202  
Davidson, NC 28036

**Tax Parcel Reference:** 005-183-05

**Location:** 19425 Statesville Road

**Variance Request:** The Applicant is seeking a variance from the 50 foot Interstate buffer per Section 5.5.4 of the Land Development Code. The applicant is asking for the buffer to be decreased to 10 feet.

**Zoning:** Highway Commercial (HC)

**Hearing Date:** September 9, 2019

**Staff Commentary:**

The Applicant is seeking a variance from the 50 foot Interstate 77 buffer per Section 5.5.4 of the Land Development Code. A 50 foot Type A buffer is required along the edge of all properties abutting the right-of-way for Interstate 77. The applicant is asking for the buffer to be decreased to 10 feet.

Staff will present testimony at the hearing that covers the following basic facts and will introduce the Town exhibits into evidence:

1. The subject property is within the Town of Cornelius Zoning jurisdiction and is currently zoned Highway Commercial (HC). The property is shown on the Zoning Map as Exhibit A, on an Aerial Vicinity Map as Exhibit B, and on an Aerial Property Map as Exhibit C.
2. Section 5.5.4 of the Land Development Code shows a 50' Interstate Buffer for the Highway Commercial zoning district. Section 5.5.4 of the Land Development Code is shown as Exhibit D.
3. The Applicant has submitted a Town of Cornelius Variance Application and a proposed site plan. The Variance Application is shown as Exhibit E and the site plan Exhibit F.
4. I visited the property and took two pictures which are shown as Exhibits G and H.
5. I have also provided a birdseye view photo of the property which is shown as Exhibit I.

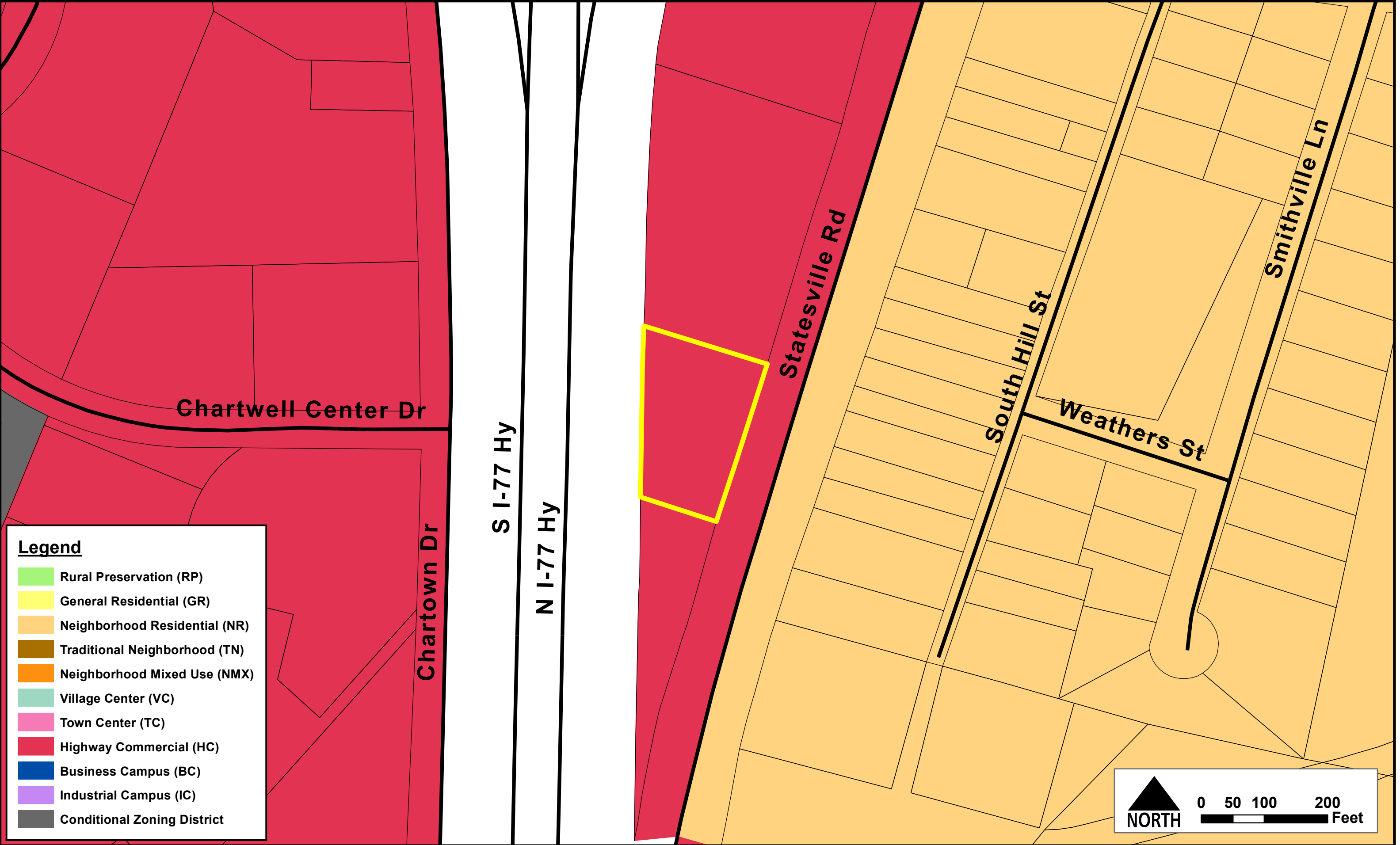
The Board of Adjustment shall receive and consider all relevant evidence in the hearing and make its decision based on the competent, material and substantial evidence.

**Exhibits:**

*Exhibit A:* Zoning Map

<i>Exhibit B:</i>	Aerial Vicinity Map
<i>Exhibit C:</i>	Aerial Property Map
<i>Exhibit D:</i>	Section 5.5.4 of the LDC
<i>Exhibit E:</i>	Variance Application
<i>Exhibit F:</i>	Site Plan
<i>Exhibit G:</i>	Property Photo
<i>Exhibit H:</i>	Property Photo
<i>Exhibit I:</i>	Birdseye Photo

Exhibit A Zoning Map



**Legend**

- Rural Preservation (RP)
- General Residential (GR)
- Neighborhood Residential (NR)
- Traditional Neighborhood (TN)
- Neighborhood Mixed Use (NMX)
- Village Center (VC)
- Town Center (TC)
- Highway Commercial (HC)
- Business Campus (BC)
- Industrial Campus (IC)
- Conditional Zoning District

**NORTH**

0 50 100 200 Feet



Exhibit B Aerial Vicinity Map





Exhibit C Aerial Property Map





## Exhibit D

[illegible]





## Exhibit E

### TOWN OF CORNELIUS VARIANCE APPLICATION

Date Filed: 7 / 23 / 2019	Case #: VAR 03 - 19
Fee Paid: \$ 350.00	Public Hearing: / / TBD
Applicant: Laurence Development	Tax Parcel: 00518305
Location of Variance: Rear Property Line	Zoning: HC

I, Larry Bearden, hereby petition the Board of Adjustment for a **VARIANCE** from the literal provisions of the Town of Cornelius Land Development Code because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land described above in a manner shown by the Plot Plan attached to this form. I request a variance from the following provisions of the Land Development Code (cite Section and numbers):

Section 5.4.4 of the Land Development Code: Interstate Buffer Requirement

5.5.4 LB

Describe the variance being requested on the above referenced property: \_\_\_\_\_

Variance is to reduce the required 50' Interstate Buffer to 10'.

The remaining 10' Buffer will be planted with low height trees (Crepe Myrtles) and landscaped underneath existing powerlines.

#### FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act (G.S. 160A-388), the Board is required to reach the following conclusions as a prerequisite to the issuance of a variance:

- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- B. 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.

- C. 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.
- D. 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.

**Please State Facts & Arguments in Support of EACH of the Following Statements:**

- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property

With a combination of the 50' Interstate Buffer and the 25' setback from Hwy 21, the remaining land does not provide adequate space to construct a Commercial Building with the required parking to serve the business. The front 25' buffer will remain as intended with trees and shrubs in area shown.

- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

The size and shape of the property limit the amount of distance from East to West for development. With the 50' buffer in place the distance that can be developed is limited to approx. 120' on the North to 60' on the South. This does not allow the required space needed to construct the Commercial Building and provide the required parking.

- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The adding of the 50' Interstate Buffer into the City Development code created a hardship for this property. The buffer limits the space needed for developing the property for any type of Commercial use.

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

The intent of the ordinance is to provide a visual buffer between the Interstate and the Commercial use

A screening of low growing trees will be provided between the Commercial use and the Interstate

right of way. This, with the combination of the existing trees located within the Interstate Right

of Way will adequately provide the buffering as in the Ordinance Intended.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

LAURENCE DEVELOPMENT, INC.

Name of Appellant

PO BOX 202

Appellant's Mailing Address

DAVIDSON, NC 28036

City, State, Zip Code

23 July 2019

Date

336 918 0489

Telephone Number

LATBEARDEN@BELLSOUTH.NET

Email Address

Laurence Bearden

Appellant Signature

President



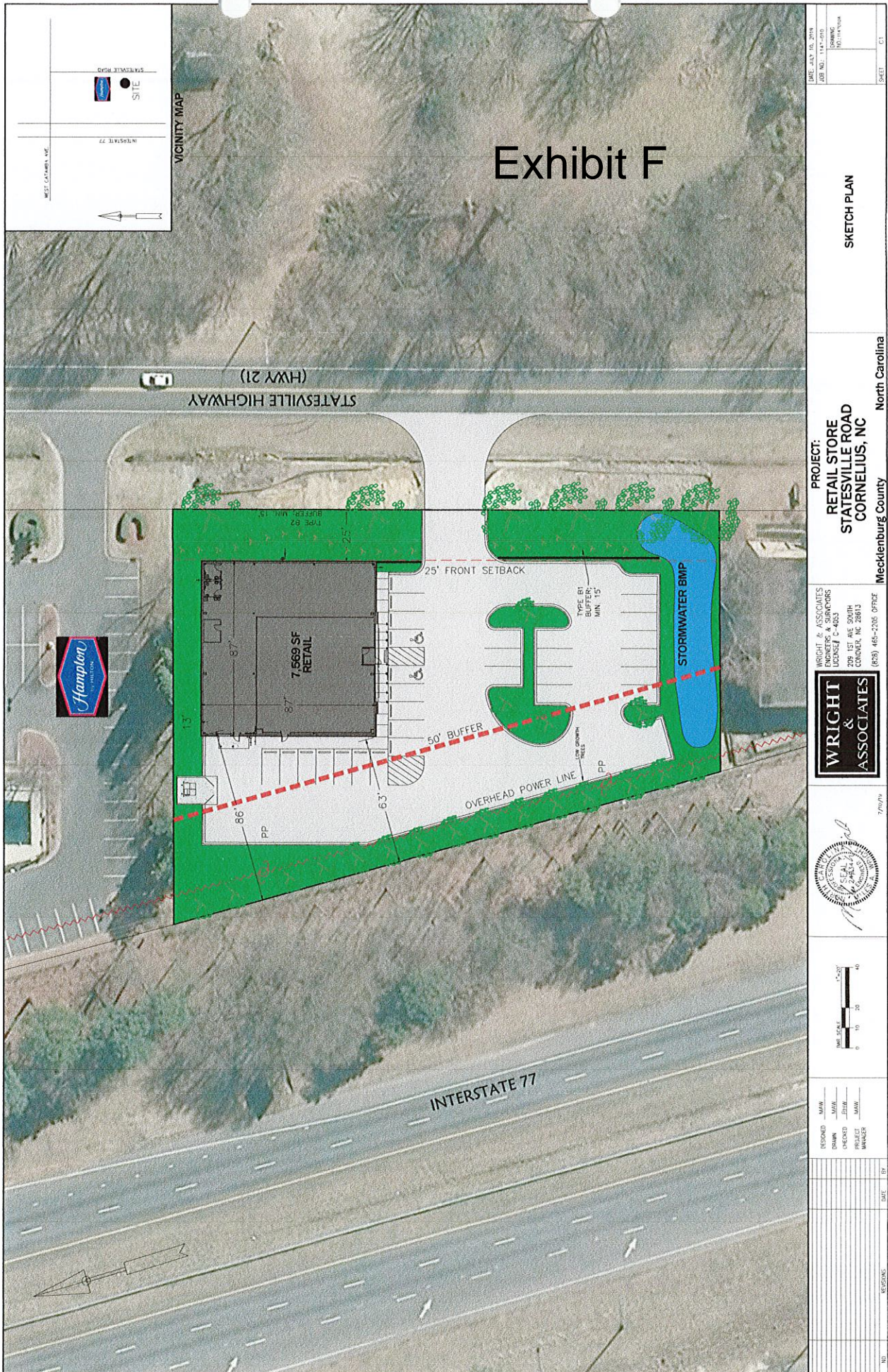




Exhibit G





Exhibit H







Exhibit I

Statesville Road (US 21)

(I 77)

(I 77)





## TOWN OF CORNELIUS

### Variance FINDINGS OF FACT

<b>Appellant: Laurence Development Inc.</b>	<b>Case #: VAR 03-19</b>
<b>Acreage: 0.992</b>	<b>Tax Parcel(s): 005-183-05</b>

The Planning Board, in considering an application for a variance, shall give due consideration to the following:

- The citing of other nonconforming or conforming uses of land or structures in the same or other districts, shall not be considered grounds for the granting of a variance.
- The request for a variance for a particular use expressly, or by inference, prohibited in the district involved, shall not be granted.

The Planning Board may only grant a variance, having first held a public hearing on the matter and having made the following determinations:

- A. There are unnecessary hardships resulting from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

☐ YES

☐ NO

The decision to make this finding is based on the following facts: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- B. 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.

☐ YES

☐ NO

The decision to make this finding is based on the following facts: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



- C. The hardship does not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

☐ YES

☐ NO

The decision to make this finding is based on the following facts: \_\_\_\_\_

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- D. 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.

☐ YES

☐ NO

The decision to make this finding is based on the following facts: \_\_\_\_\_

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