

# Sumter City-County Board of Zoning Appeals

August 12, 2015

## BOA-15-11, 360 Pinewood Rd. (City)

The applicant is requesting several variances in order to demolish the McDonald's Restaurant and rebuild a new building on site. Variances requested are: 1) reduction in number of parking spaces from the 69 required to allow 42 spaces per Article 8, Exhibit 8-9 Off Street Parking Requirements for Non Residential Uses; (2) reduction in perimeter parking lot landscaping buffers from the required 5 foot to allow for 3 feet on North and South side of site per *Article 9, Section 9.b.4.b* and *Table 9-1 Landscaping Chart*. Property is located at 360 Pinewood Rd. and represented by Tax Map # 206-12-01-011.



# Sumter City-County Zoning Board of Appeals

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## BOA-15-11, 360 Pinewood Rd. (City)

### I. THE REQUEST

**Applicant:** Anthony Lynch, Integrity Engineering and Development Services, Inc.

**Status of the Applicant:** Project Engineers

**Request:** The applicant is requesting (1) a reduction in the number of required parking spaces from 69 to 42; (2) a reduction in the perimeter landscaping on the north and south side of the property from 5 ft. to 3 ft. to allow for the complete demolition and rebuilding of the existing McDonalds Restaurant.

**Location:** 360 Pinewood Rd.

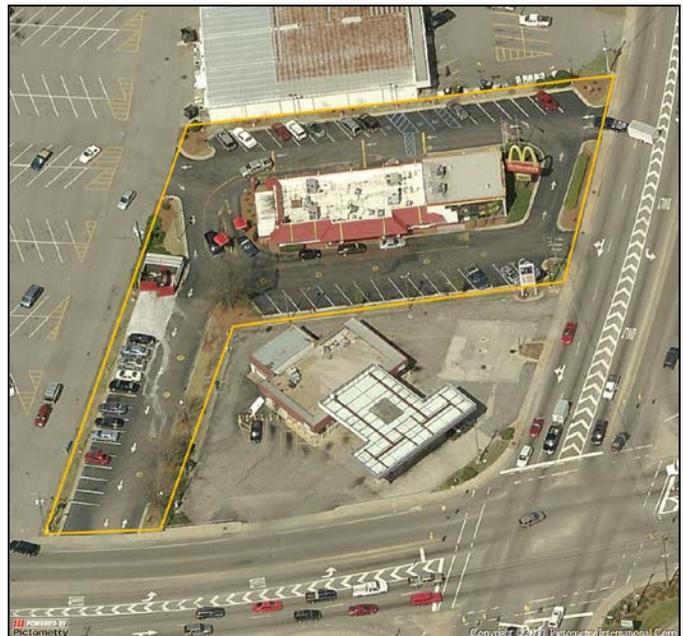
**Present Use/Zoning:** McDonalds Restaurant / General Commercial (GC) / HCPD (Highway Corridor Protection District)

**Tax Map Reference:** 206-12-01-011

### II. BACKGROUND

360 Pinewood Rd., shown in the pictometry to the right, is the +/-1.35 acre site of a currently operating McDonald's Restaurant. As per the Sumter County Assessor's Record Property Card, the site was originally constructed in 1986 with major improvements in 1995.

The site is nonconforming with respect to the number of parking spaces and landscaping. As per *Article 6* of the *Zoning and Development Standards Ordinance*, nonconforming sites may continue to operate without bringing the site into



compliance with current development standards. The following pictometry image and photograph shows the site as it is today.



***Pictured Above Left: pictometry view of 360 Pinewood Rd. looking West  
Above Right: Pinewood Rd. entrance to McDonalds.***

Based upon the submitted survey titled, “ALTA/ASCM Land Title Survey for First American Title Insurance Company, McDonald’s USA, LLC, McDonald’s Real Estate Company, and McDonald’s Corporation,” prepared by MSP & Associates Land Surveying, In; MSP Job # 13757; MSP File: MCDSUM2, dated 4/10/13; the following site conditions are present:

- 5,175.85 sq. ft. building;
- 49 parking spaces – the number of required parking spaces based upon *Article 8, Exhibit 8-9* is 62 spaces; there are 13 less spaces than what is required by current code.
- Northern landscape buffer strip is 6 ft. wide at its narrowest point – as per *Article 9, Landscape Standards*, the minimum bufferyard width for a Type A buffer is 5 ft.;
- Southern landscape buffer strip is 3 ft. wide at its narrowest point – as per *Article 9, Landscape Standards*, the minimum bufferyard width for a Type A buffer is 5 ft.;
- *Southern Parking Lot*: east buffer is 11 ft. wide, west buffer is 7 ft. wide;
- Two access points on Pinewood Rd. – the northernmost access point is entry only, the southernmost access point is exit only, there is a loop around drive to the front of the building to allow full site circulation.
- Full access point on the west side of the property entering and exiting the adjacent Savannah Plaza Shopping Center;
- Full access drive on McCrays Mill Rd. accessing the southern parking lot.
- *Drive-Thru Access*: Queuing lane for the drive-thru is one lane that splits into two as vehicles round the building to the rear of the structure. A by-pass lane for parked vehicles on the north side of the building is also accommodated.

A copy of the survey has been attached to this report.

The applicants are currently working with the property owner on a plan to demolish the site and rebuild. It is the intention to provide additional drive-thru capacity at this site to accommodate existing customer drive-thru volume. Voluntary demolition of the site removes all existing grandfathering; site redevelopment is expected to comply with current standards.

The applicant has submitted a site plan in support of this application showing the proposed layout for the site rebuild. The redevelopment project is classified as a Major Site Plan and is required to be reviewed and approved by the Sumter City-County Planning Commission. To date, no application has been made to the Planning Commission. The applicants have submitted to the Board of Zoning Appeals seeking variances prior to undertaking full site development plans. As such, the following is a brief analysis of the submitted plan in light of relevant zoning regulations. This review is based upon the plan titled, "Preliminary Site Plan Option A McDonald's Sumter, SC," prepared by Integrity Engineering & Development Services, Inc. Sheet No. C-1, dated 5/1/15 and revised 7/6/15 and 7/20/15.

- 5,762 sq. ft. building; this is 586.15 sq. ft. larger than the existing building;
- 42 parking spaces – the number of required parking spaces based upon *Article 8, Exhibit 8-9* is 69 spaces; there are 27 less parking spaces than what is required by current code.
- Northern landscape buffer strip is 3 ft. wide at its narrowest point – as per *Article 9, Landscape Standards*, the minimum bufferyard width for a Type A buffer is 5 ft.;
- Southern landscape buffer strip is 3 ft. wide at its narrowest point – as per *Article 9, Landscape Standards*, the minimum bufferyard width for a Type A buffer is 5 ft.;
- *Southern Parking Lot*: the southern parking lot is not proposed to be changed or reconfigured to add additional parking although there is sufficient width to accommodate the required 5 ft. Type A buffer strips in conjunction with a 1-way access drive and 45 degree parking spaces on both sides of the parking lot. The current configuration is a singular row of 90 degree spaces with a full access drive from McCrays Mill Rd.
- Two access points on Pinewood Rd. – the northernmost access point is proposed to be a full access drive, the southernmost access point is proposed to be exit only. In consultation with SCDOT, the northernmost access drive will not be permitted to become full access and additional mitigation may be required for the access drives on Pinewood Rd.
- Relocated full access point on the west side of the property entering and exiting the adjacent Savannah Plaza Shopping Center;
- *Drive-Thru Access*: The proposed plan shows two full queuing lanes on the north side of the building in addition to the by-pass lane for parked vehicles on the north side of the building.

A copy of this plan has been attached to this report.

**Article Six: Nonconforming Zoning Uses and Sites** is the mechanism by which the Zoning Ordinance addresses continued use and redevelopment of nonconforming sites specifically Section 6.a.1 states:

*6.a.1. Purpose: The use of or improvements to real property may become nonconforming when standards established by this Ordinance change. Specifically, legal nonconforming zoning uses and legal nonconforming sites (structures and lots) were initially lawful and existed prior to the adoption of this Ordinance or prior to an amendment hereto but, due to the enactment of this Ordinance or such amendment no longer conform to the requirements herein. To the extent that such nonconforming uses and nonconforming sites have been in continual use, they have been allowed to remain in use despite the noncompliance with this Ordinance.*

*The purpose of this Article Six is to allow the continued use and operation of these nonconforming uses and nonconforming sites pursuant to the requirements of this Article Six. The goal is not to encourage the persistence of nonconformities, but to ease the burden on property owners and eventually to ensure that all zoning uses, structures, and lots comply with the requirements of this Ordinance.*

Additionally, Section 6.c.4. addresses projects as nonconforming sites as follows:

*6.c.4. Projects at Nonconforming Sites. The Property Owner or Applicant may not undertake a Project that will create new nonconformities with Development Standards...*

Because this project is a voluntary demolition and reconstruction project, Planning Staff does not have latitude under **Article 6, Non-Conforming Zoning Uses and Sites**, to grant any variances from the development standards. The two requested variances must be reviewed and approved by the Board of Zoning Appeals.

### **III. FOUR PART TEST**

- 1) There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

As stated in the applicant's application submission, "Due to the high drive thru volume at this restaurant, there is need for greater than normal drive-thru capacity and less than normal parking capacity."

Parking requirements are directly tied to building size. As per *Article 8, Exhibit 8-9* Restaurants are required to have 1.2 parking spaces per 100 sq. ft. of Gross Floor Area

under the current regulations. As it is today, the site has 49 parking spaces for the 5,175.85 sq. ft. building—13 less than is required by code. The applicant is now proposing to both increase building size to 5,762 sq. ft. and further decrease the number of available parking spaces to 42.

It is true that the site plan as proposed cannot be developed without variances but that in and of itself is not an extraordinary or exceptional condition. The development parcel itself is irregularly shaped, however there is sufficient development area to meet the current development standards with appropriate site development planning and building sizing.

***2) These conditions do not generally apply to other property in the vicinity.***

These development standards do in fact apply to all other properties in the vicinity. This area is predominantly zoned General Commercial (GC) and a majority of the adjacent lots are nonconforming sites of record. Each of these sites will be subject to the same development standards as 360 Pinewood Rd. should they voluntarily demolish to rebuild. In addition, there are two properties in the vicinity that also operate as drive-thru restaurant operations, each of these sites meet the minimum number of required parking spaces based upon building size as well as maintain the required bufferyard widths with drive-thru queuing.

***3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

It is true that not granting the requested variances will not permit the construction of the submitted development proposal, however; the site is currently in operation. The intent of the Ordinance is to over time decrease the degree of nonconformities within the community—not to promote development that creates new nonconformities and/or increases the degree of nonconformity at a given site.

***4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.***

Authorization of the requested variances will be of substantial detriment to the adjacent property. As it is today, at peak periods of use, patrons of this site use the adjacent shopping plaza for overflow parking. To further decrease the number of spaces on-site further deflects customer volume on to adjacent sites.

#### **IV. STAFF RECOMMENDATION**

Staff recommends denial of this request. While some level of development variance may ultimately be required for this site, Planning Staff believes the request to be premature. There are areas of the site available to be reconfigured to provide additional parking, and

changes to internal site planning could help net the additional 4 ft. of space necessary to meet bufferyard widths.

**V. DRAFT MOTIONS FOR BOA-15-11**

- A. I move that the Zoning Board of Appeals deny BOA-15-11, subject to the findings of fact and conclusions contained in the draft order, dated August 12, 2015 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals approve BOA-15-11, subject to the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-15-11.

**VI. BOARD OF ZONING APPEALS – AUGUST 12, 2015**

The Sumter Board of appeals at its meeting on Wednesday, August 12, 2015, deferred this request until the next meeting to allow the applicant and staff to work together on the revised site plan.

**Exhibit 1**  
**Order on Variance Application**  
**Board of Zoning Appeals**

**BOA-15-11, 360 Pinewood Rd. (City)**  
**August 12, 2015**

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Date Filed: August 12, 2015

Permit Case No. BOA-15-11

The Board of Zoning Appeals held a public hearing on Wednesday, August 12, 2015 to consider the appeal of Integrity Engineering and Development Services, Inc, 3615 Braselton Hwy., Suite 201, Dacula, GA 30019 for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions:

1. The Board concludes that Applicant  **has** -  **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

Parking requirements are directly tied to building size. As per Article 8, Exhibit 8-9 Restaurants are required to have 1.2 parking spaces per 100 sq. ft. of Gross Floor Area under the current regulations. As it is today, the site has 49 parking spaces for the 5,175.85 sq. ft. building—13 less than is required by code. The applicant is now proposing to both increase building size to 5,762 sq. ft. and further decrease the number of available parking spaces to 42.

It is true that the site plan as proposed cannot be developed without variances but that in and of itself is not an extraordinary or exceptional condition. The development parcel itself is irregularly shaped, however there is sufficient development area to meet the current development standards with appropriate site development planning and building sizing.

2. The Board concludes that these conditions  **do** -  **do not** generally apply to other property in the vicinity based on the following findings of fact:

These development standards do in fact apply to all other properties in the vicinity. This area is predominantly zoned General Commercial (GC) and a majority of the adjacent lots are nonconforming sites of record. Each of these sites will be subject to the same development standards as 360 Pinewood Rd. should they voluntarily demolish to rebuild. In addition, there are two properties in the vicinity that also operate as drive-thru restaurant operations, each of these sites meet the minimum number of required parking

spaces based upon building size as well as maintain the required bufferyard widths with drive-thru queuing.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property  **would** -  **would not** effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:

It is true that not granting the requested variances will not permit the construction of the submitted development proposal, however; the site is currently in operation. The intent of the Ordinance is to over time decrease the degree of nonconformities within the community—not to promote development that creates new nonconformities and/or increases the degree of nonconformity at a given site.

4. The Board concludes that authorization of the variance  **will** -  **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district  **will** -  **will not** be harmed by the granting of the variance based on the following findings of fact:

Authorization of the requested variances will be of substantial detriment to the adjacent property. As it is today, at peak periods of use, patrons of this site use the adjacent shopping plaza for overflow parking. To further decrease the number of spaces on-site further deflects customer volume on to adjacent sites, harming the character of the district.

THE BOARD, THEREFORE, ORDERS that the variance is  **DENIED**  
 **GRANTED with the following conditions:**

Approved by the Board by majority vote.

Date issued: \_\_\_\_\_

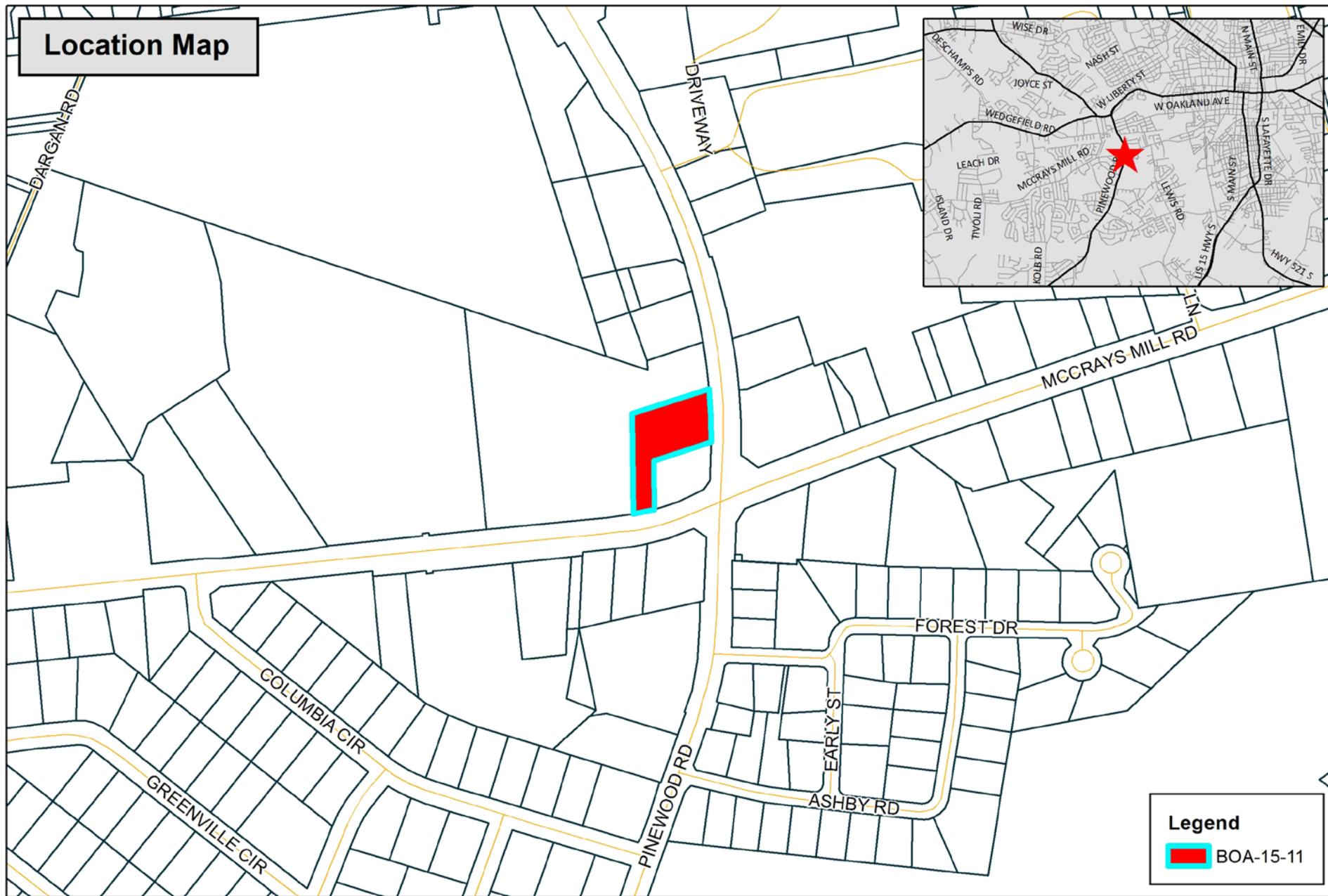
\_\_\_\_\_  
Chairman

Date mailed to parties in interest: \_\_\_\_\_

\_\_\_\_\_  
Secretary

**Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.**

# Location Map

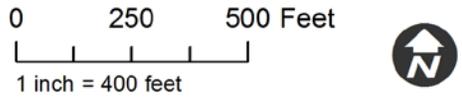


**Legend**

BOA-15-11

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 Geographic Information Systems (GIS)  
 Date: 7/21/2015

**BOA-15-11**  
 360 Pinewood Rd., Sumter, SC  
 Tax Map # 206-12-01-011