

Sumter City-County Board of Zoning Appeals

October 14, 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) variance to reduce the width on the rear and side Type A Buffer to permit 3 ft. widths instead of 5 ft. as required per *Article 9, Landscaping Buffer Requirements; Sections 9.b.2 & 9.b.4.b*; (2) variance in the number of required parking spaces to reduce the number of required parking spaces from 69 to 49 per *Article 8, Section I; Exhibit 8-9 Off Street Parking Requirements*; (3) variance in the minimum parking space dimensions for 90 degree spaces to permit 9 ft. x 18 ft. stalls instead of 9 ft. x 19 ft. per *Article 8, Section I; 8.i.3.d. Parking Design Requirements*; (4) variance in the two-way drive aisle width within a parking lot to permit a 24 ft. two-way drive instead of 25 ft. aisle per *Article 8, Section I, 8.i.3.e Width of Aisles*. Property is located at 360 Pinewood Rd. and represented by Tax Map # 206-12-01-011.



Sumter City-County Zoning Board of Appeals

October 14, 2015

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) reduction in side and rear buffering from 5 ft. to 3 ft. (2) variance in the number of parking spaces to reduce parking from 69 spaces to 49 spaces (3) variance in minimum parking space dimensions for 90 degree parking stalls to permit 9 ft. x 18 ft. parking spaces (4) variance in the width of a two-way drive aisle to allow 24 ft. width instead of 25 ft. in order to allow for the complete demolition and rebuilding of the existing McDonalds Restaurant.

Location: 360 Pinewood Rd.

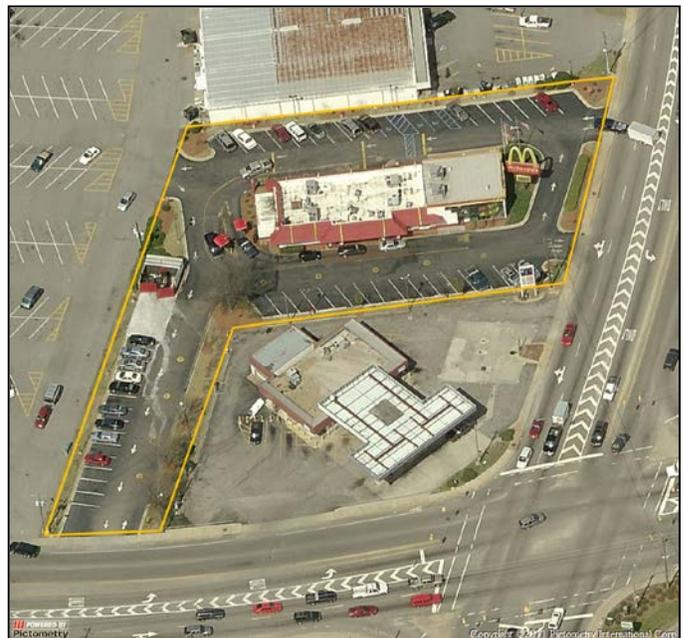
Present Use/Zoning: McDonalds Restaurant / General Commercial (GC) / HCPD (Highway Corridor Protection District)

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 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 in order 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.

This request was first reviewed by the Board of Appeals at the August 12, 2015 meeting. At that time, the Board deferred action on the original request in order to allow the Applicant and Planning Staff to work together on an alternate site redevelopment proposal. The Applicant submitted a plan titled, "Preliminary Site Plan Option A McDonald's Sumter, SC McDonald's USA, L.L.C.," prepared by integrity Engineering & Development Services, dated 5/1/15 and revised 9/2/15, sheet C-1.

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

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.***

The parcel is an irregular shape and developed prior to the adoption of the current regulations; the following is a list of existing site conditions:

- 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.

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 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.*

The development parcel itself is irregularly shaped, with limited parcel width to comply with current buffering and parking standards.

As proposed, the buffering plan will provide 6,067 sq. ft. of buffer area. If Ordinance minimums of 5 ft. and 10 ft. were implemented along the perimeter of the property, excluding access drives, the property would have 5,587 sq. ft. of planting area. In addition, the proposed buffer areas are large enough to plant canopy trees in the Type A Buffer Yards adjacent to the hardware store and the adjacent gas station/convenience store where a bulk of the parking is located.

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 for the existing building. The applicant is now proposing to increase building size to 5,762 sq. ft. while retaining the 49 parking spaces.

The original structure was constructed in the 1980s and was not constructed to the full requirements of ADA or the Energy Conservation Codes as administered by the current Building Code. It appears that building size is being driven by the desire to make a reinvestment in the property without losing an excess number of seats and retaining an indoor play area. The building comparison break down between existing and proposed is as follows:

	Existing Building	Proposed Building
<i>Total Area</i>	5476 sq. ft.	5762 sq. ft.
<i>Vestibules</i>	0 sq. ft.	128 sq. ft.
<i>Bathrooms</i>	253 sq. ft.	392 sq. ft.
<i>Cooler/Freezer</i>	372 sq. ft.	426 sq. ft.
<i>Kitchen/Dining/Play Area</i>	4851 sq. ft.	4815 sq. ft.
<i>Seating Capacity</i>	114 seats	112 seats

Although the structure is getting larger, based on comparisons of the two structures, the increase in size will not increase building capacity. This increase in size is in part being driven by sizing the facility to accommodate the accessibility standards required by the current building codes while retaining a comparable seating capacity.

Retaining 49 parking spaces on site will not make the site any more non-conforming than the current conditions.

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

Other properties in the vicinity are more regularly shaped with larger development areas. Additionally, adjacent uses require less intense parking standards.

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.*

Full compliance with the development standards is not physically possible on this site. The intent of the Ordinance is to over time decrease the degree of nonconformities within the community while retaining established businesses—not to promote redevelopment that creates new nonconformities and/or increases the degree of nonconformity at a given site. The development proposal as submitted, meets the intent of the Zoning Ordinance.

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 not be of substantial detriment to the adjacent property. The proposed redevelopment will result in a site configuration that meets the intent of the ordinance without increasing the existing degree of non-conformity.

IV. STAFF RECOMMENDATION

Staff recommends approval of this request. Overall, the submitted plan proposal maximizes the property while utilizing the building size and drive-thru configuration desired by the applicant. The submitted proposal is not more non-conforming than the current development site.

V. DRAFT MOTIONS FOR BOA-15-11

- A. I move that the Zoning Board of Appeals approve BOA-15-11, subject to the findings of fact and conclusions contained in the draft order, dated October 14, 2015 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals deny 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.

VII. BOARD OF ZONING APPEALS – SEPTEMBER 9, 2015

The Sumter Board of Zoning Appeals at its meeting on Wednesday, September 9, 2015, voted to defer this request until the October 14, 2015.

VIII. BOARD OF ZONING APPEALS – OCTOBER 14, 2015

The Sumter Board of Appeals at its meeting on Wednesday, October 14, 2015, approved this request , subject to the findings of fact and conclusions contained in the draft order, dated October 14, 2015 attached as Exhibit 1.

Exhibit 1
Order on Variance Application
Board of Zoning Appeals

BOA-15-11, 360 Pinewood Rd. (City)
October , 2015

Date Filed: October 14, 2015

Permit Case No. BOA-15-11

The Board of Zoning Appeals held a public hearing on Wednesday, October 14, 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:

The development parcel itself is irregularly shaped, with limited parcel width to comply with current buffering and parking standards.

As proposed the buffering plan will provide 6,067 sq. ft. of buffer area. If Ordinance minimums of 5 ft. and 10 ft. were implemented along the perimeter of the property, excluding access drives, the property would have 5,587 sq. ft. of planting area. In addition, the proposed buffer areas are large enough to plant canopy trees in the Type A Buffer Yards adjacent to the hardware store and the adjacent gas station/convenience store where a bulk of the parking is located.

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 for the existing building. The applicant is now proposing to increase building size to 5,762 sq. ft. while retaining the 49 parking spaces.

The original structure was constructed in the 1980s and was not constructed to the full requirements of ADA or the Energy Conservation Codes as administered by the current Building Code. It appears that building size is being driven by the desire to make a reinvestment in the property without losing an excess number of seats and retaining an indoor play area. The building comparison break down between existing and proposed is as follows:

	<u>Existing Building</u>	<u>Proposed Building</u>
<u>Total Area</u>	<u>5476 sq. ft.</u>	<u>5762 sq. ft.</u>
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<u>Seating Capacity</u>	<u>114 seats</u>	<u>112 seats</u>

Although the structure is getting larger, based on comparisons of the two structures, the increase in size will not increase building capacity. This increase in size is in part being driven by sizing the facility to accommodate the accessibility standards required by the current building codes while retaining a comparable seating capacity.

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:

Other properties in the vicinity are more regularly shaped with larger development areas. Additionally, adjacent uses require less intense parking standards.

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:

Full compliance with the development standards is not physically possible on this site. The intent of the Ordinance is to over time decrease the degree of nonconformities within the community while retaining established businesses—not to promote redevelopment that creates new nonconformities and/or increases the degree of nonconformity at a given site. The development proposal as submitted, meets the intent of the Zoning Ordinance.

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 not be of substantial detriment to the adjacent property. The proposed redevelopment will result in a site configuration that meets the intent of the ordinance without increasing the existing degree of non-conformity.

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

- 1) **Must be constructed in substantial conformance with the Applicant submitted a plan titled, "Preliminary Site Plan Option A McDonald's Sumter, SC McDonald's USA, L.L.C.," prepared by integrity Engineering & Development Services, dated 5/1/15 and revised 9/2/15, sheet C-1.**

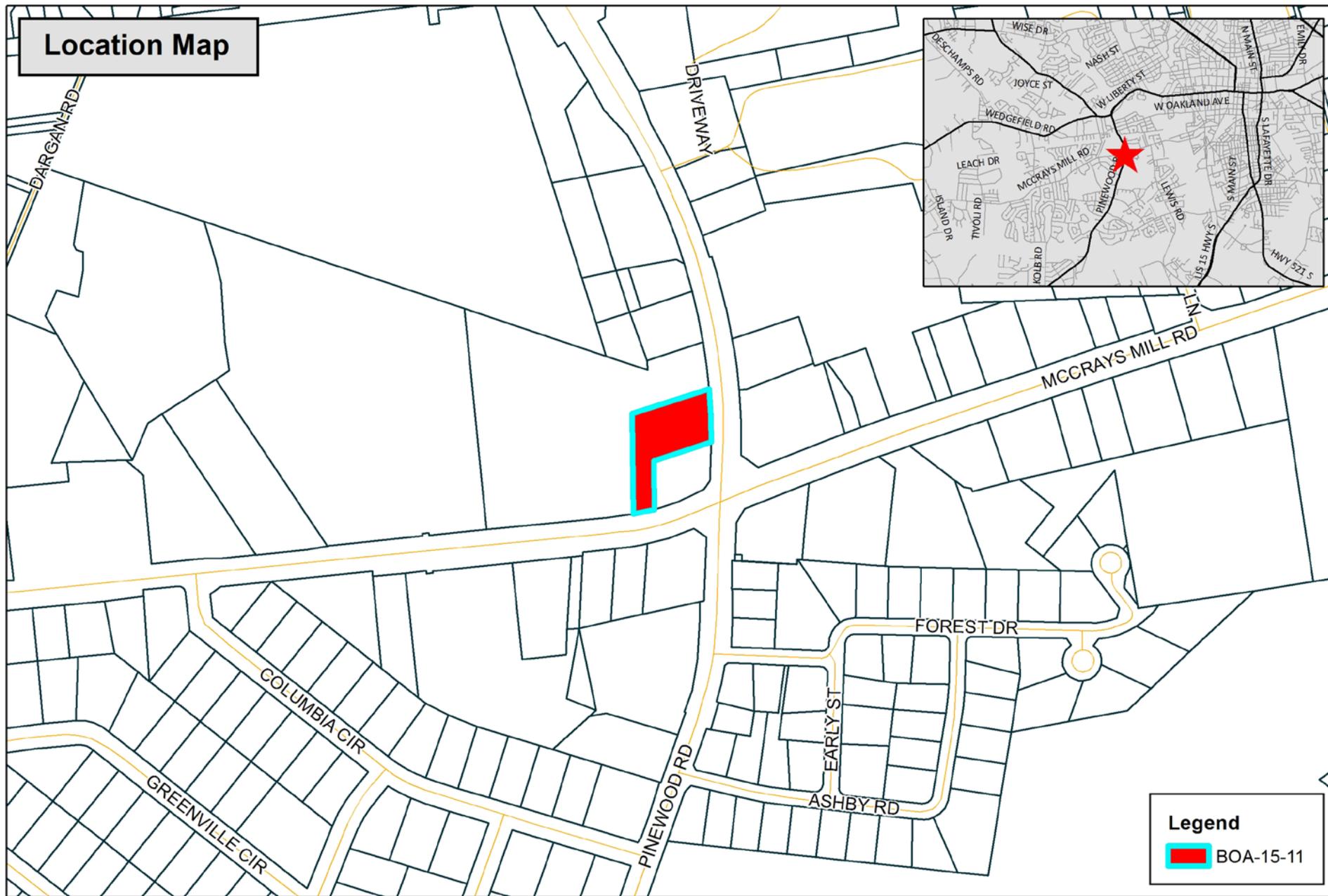
Approved by the Board by majority vote.

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

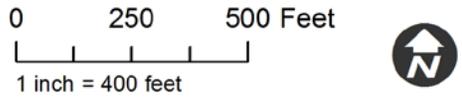


Legend

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