

Board of Zoning Appeals



Agenda for the Thursday, February 9, 2017 Regular Meeting

Members of the Board of Zoning Appeals

Wesley Summers

Chairman

Jim Newman
Kathie Stallworth

Bob Pettit
Lynn Stembridge

CITIZEN ASSISTANCE: Individuals requiring special assistance or a sign interpreter to participate in the meeting are asked to please notify the Department of Planning and Development 48 hours prior to the meeting at 803-441-4221.

1. **Call to Order** – 6:00 p.m.
2. **Roll Call**
3. **Approval of Minutes** – Minutes of the Regular Meeting of November 3, 2016.
4. **Confirmation of Agenda**
5. **Application Number ZV 17-001** – A request by Brett Nevaril, representing Bright-Meyers NA, LLC, for a variance pursuant to Table 3-9 and Section 3.8.5.3.2 of the North Augusta Development Code. The applicant requests a variance to change the minimum frontage buildout in the Highway Corridor Overlay District from thirty percent (30%) to twenty-four percent (24%). The appeal affects property located on Edgefield Road and identified as Outlot 4, Tax Parcel Number 010-14-12-004.
 - **Public Hearing** – The purpose of the Hearing is to receive public comment on the application.
 - **Consideration** – Application Number ZV 17-001.
6. **Adjourn**

Board of Zoning Appeals



Minutes of the Thursday, November 3, 2016 Regular Meeting

Members of the Board of Zoning Appeals

Wesley Summers
Chairman

Jim Newman
Kathie Stallworth

Bob Pettit
Lynn Stembridge

1. **Call to Order** –Chairman Wesley Summers called the meeting to order at 7:00 p.m.
2. **Roll Call** – Board members present: Chairman Summers, Jim Newman, Kathie Stallworth and Lynn Stembridge. Bob Pettit was absent. Also in attendance: Scott Sterling, Director of Planning and Development; Christine DeCamp, Planner; and the press.
3. **Approval of Minutes** – The minutes of the June 2, 2016 regular meeting were approved as written.
4. **Election of Officers for 2017** – Mr. Newman nominated Wesley Summers to serve as Chairman and Kathie Stallworth to serve as Vice-Chairman in 2017. Ms. Stembridge seconded the nomination. The Board, on a 4-0 vote, elected Mr. Summers to serve as BZA Chairman and Ms. Stallworth to serve as Vice-Chairman in 2017.
5. **Consideration of 2017 Meeting Schedule** – Chairman Summers reviewed the proposed 2017 meeting schedule. Mr. Newman moved to approve the 2017 meeting schedule as presented. Ms. Stallworth seconded the motion. The motion passed 4-0.
6. **Adjourn** – Chairman Summers noted the upcoming retirement of Christine DeCamp, Planner, and thanked her for her years of service and support. With no objection, Chairman Summers adjourned the meeting at 7:03 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott Sterling".

Scott Sterling, AICP
Director of Planning and Development
Secretary to the Board

Department of Planning and Economic Development

Memorandum # 17-01

To: North Augusta Board of Zoning Appeals

From: Charles B. Martin, Interim Director

Subject: A request by James Vandercrake, representing Wendy's, for a variance pursuant to Table 3-9 and Section 3.8.5.3.2 of the North Augusta Development Code. The applicant requests a variance to change the minimum frontage buildout in the Highway Corridor Overlay District from thirty percent (30%) to twenty-four percent (24%). The appeal affects property located on Edgefield Road and identified as Outlot 4, Tax Parcel Number 010-14-12-004.

Date: February 9, 2017

Request

The applicant has requested a variance to allow the minimum frontage buildout be reduced from thirty percent (30%) to twenty-four percent (24%). The parcel is located within a Planned Development (Sweetwater) and this portion of the planned development is also within the HC, Highway Corridor Overlay District. The subject property is ±1.307 acres in size. The proposed plan seeks to develop a Wendy's Restaurant with drive-through that has a specified width of 46.9 feet. The frontage of property is two hundred feet along Edgefield Road.

The applicant has provided a letter request addressing each of criteria established in the North Augusta Development Code (NADC) to provide their rationale for the request.

Applicable Section of the North Augusta Development Code

Section 3.8.5.3.2, of the North Augusta Development Code specifies the minimum frontage buildout. The specific language is as follows:

Minimum frontage buildout means the portion of the corridor street frontage of the parcel or parcels included in the development that is occupied by a principal structure at the front setback line. (Example: A parcel that is 200 feet in length requires a building or combination of buildings that total not less than 60 (sixty) feet in length and is set back from the street the minimum setback, either 5 (five) feet or 30 (thirty) feet, but not more than the maximum of 90 (ninety) feet). (Rev. 12-1-08; Ord. 2008-18).

Table 3-9, Dimensional Standards for the Highway Corridor Overlay District, is a chart that lists all of the applicable dimensional standards and setbacks for the parcels within the district. Included in the table is the minimum frontage buildout listed at thirty percent (30%).

Findings of Fact

Section 18.4.5.4.2 of the North Augusta Development Code defines the Board's powers and duties related to hearing and deciding upon appeals for variances and provides the criteria which Board of Zoning Appeals must use in its review each request. After reviewing the evidence and facts in the case, the Board may grant an appeal for a variance if it concludes that the strict application of the North Augusta Development Code would result in an unnecessary hardship. **To determine that an unnecessary hardship would result, and to grant a variance, the Board must find and explain in writing that the evidence and facts of the case prove that all of the following factors apply to the request:**

1. An unnecessary hardship exists;

Wendy's is seeking approval from the City of North Augusta for a variance from the minimum frontage buildout in the Highway Corridor Overlay District. The proposed building dimensions and position facing major roadway, which are standard for *The Wendy's Company*, provide for 46.9 feet of frontage. Based on an Edgefield Road property frontage of 200 feet, the project will provide an approximately 24% frontage buildout, short of the 30% minimum frontage buildout required in the Highway Corridor Overlay District pursuant to Table 3-9 and Section 3.8.5.3.2 of the North Augusta Development Code. The applicant has tried different building placement configurations, but the proposed building dimensions, together with the proposed traffic circulation pattern and the site dimensions, do not permit the 30% minimum frontage buildout.

- Several hardships exist due to this requirement. Using the available Wendy's corporate trademarked prototypical design, an alternate design (Exhibit B) is attached for reference with the following issues:
 - A loss of significant parking arises from the lack of lot width; the required queuing lane and bypass lane take up most of the available lot width.
 - Safety becomes a problem when forcing pedestrian traffic to cross the bypass and queuing lanes when entering from the drive-through side of the building. The classic Wendy's trademark design has shown to be historically safer.
 - Another safety issue may arise if the queuing lane is filled more than intended. Traffic may not be able to come or go as easily especially if overcrowded during peak hours. The Wendy's corporate trademark design was intended to use a bypass lane for this reason.
 - The Wendy's corporate trademark design was developed to present its architectural features from the front of the building as shown in the previously-built building photos instead of the drive-through windows.
 - The pedestrian connection to Edgefield Road's sidewalk currently meets ADA standards; Exhibit B's design would require the loss of even more parking, and may be less safe.

- 2. There are extraordinary and exceptional conditions pertaining to the particular piece of property;**
 - Outlot #4 of Sweetwater Square is rectangular (200' X 299.83') with the narrower edge facing the roadside. This does not allow for as much building frontage.
- 3. The conditions do not generally apply to other property in the vicinity;**
 - Outlot #1 of Sweetwater Square (Lulu's Car Wash) has a frontage buildout of approximately 24%. This facility was granted a variance for similar traffic pattern and safety reasons.
 - The parcel directly across Edgefield Road (Sonic) has a frontage buildout of approximately 24%.
 - Parcel located South along Edgefield Road (Zaxby's) has a frontage buildout of approximately 23.6%.
- 4. Because of the conditions, the application of this Chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and**
 - Because of the conditions, the application of the requirements of Table 3-9 and Section 3.8.5.3.2 of the North Augusta Development Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
 - Possible options would include:
 - Turning the building prototype 90 degrees.
 - (This would prohibit safe traffic function on site, or eliminate too much parking to be viable.)
 - Buying more land adjacent to the property.
 - (Available land would be too expensive and would mostly go to waste, even if the building is turned 90 degrees).
 - Using a different building prototype.
 - (Building prototypes are designed and optimized for use ahead of time. Completely redesigning the building at this point would be costly and may cause the design/construction schedule too much delay to be viable).
- 5. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. Harm to the character of the district may include structures that are significantly out of scale, and the creation or potential for the creation of excessive noise, light, traffic or incompatible late night activity.**
 - The variance would not cause any detriment to adjacent property or public good. The proposed job valuation would not change should the building be turned 90 degrees.
 - Voluntary conditions on the variance to minimize any potential adverse impacts:

- Wendy's has provided a site plan using a building prototype that uses the maximum frontage available in accordance with their design.

The Board of Zoning Appeals may not grant a variance under the following circumstances:

- 1. To allow the establishment of a use not otherwise permitted in a zoning district.**
Approval of the variance request would not allow a use that is not permitted in the PD, Planned Development and approved general development plan for this property.
- 2. To extend physically a nonconforming use of land.**
Approval of the variance request will not physically extend a nonconforming use of land.
- 3. To change zoning district boundaries shown on the official zoning map.**
Approval of the variance request would not change any zoning district boundaries.
- 4. If the unnecessary hardship is self imposed by the applicant, the variance should not be granted.**
The applicant has purchased the commercial zoned property with intention of developing a Wendy's restaurant with drive-through facility. The applicant's engineer has attempted to orient the building in multiple arrangements within the confines of a functional layout for vehicular circulation (the primary function of the proposed use). The most functional orientation places the main structure perpendicular to the corridor street, Edgefield Road, and does not create enough building frontage buildout to meet the Development Code standards.
- 5. The fact that property may be utilized more profitably, should a variance be granted, shall not be considered grounds for a variance.**
The applicant has provided staff with evidence that the proposed site plan cannot comply with the Development Code regulations for minimum building frontage without the acquisition of additional property to orient the building 90 degrees from its current position. While acquiring additional property to place the main building parallel with Edgefield Road is possible, the remaining four Sweetwater Commons Planned Development outparcels would diminish in lot width to accommodate the minimum frontage buildout needed to orient the proposed facility parallel with Edgefield Road. The request for a variance does not appear to be motivated by a potential increase in profitability.

Board Action

The Board of Zoning Appeals may approve, approve with conditions or deny the request in Application ZV 13-001 based on the finding of facts listed above and any additional information submitted in evidence at the hearing. In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to

promote the public health, safety, or general welfare. **If the Board of Zoning Appeals approves the requested variance the following recommended conditions should be applied:**

1. **The variance shall be granted once the applicant secures a site plan approval from the city. The variance will be voided if the applicant cannot achieve a site plan approval.**

History and Evaluation

1. The subject property is zoned PD, Planned Development and part of the approved Sweetwater General Development Plan and Ordinance. The property is also located within the HC, Highway Corridor Overlay District.
2. The subject property is 1.307 acres in total area.
3. The North Augusta Development Code (effective January 1, 2008) was amended by City Council to provide regulations related to minimum (building) frontage buildout. The code amendments were adopted on December 1, 2008. During the development process of the amendment, extensive research was conducted to determine an appropriate minimum frontage buildout.
4. The applicant proposes to develop a Wendy's restaurant with drive-through facility on the subject property.
5. The property currently has access from Edgefield Road via an unnamed interior, rear access drive with Walnut Lane at the north end and Stephens Farm Lane at the south end. Walnut Lane and Edgefield Road is signalized and Stephens Farm Lane and Edgefield Road is a planned signalized intersection.
6. The applicant's engineer has worked with staff to evaluate alternative layouts of the proposed building and parking areas in an attempt to find an alternative that complies with the minimum frontage buildout requirement. No suitable solutions were discovered in the design layout process.
7. A minor site plan is required to approve the primary use (restaurant with drive-through) for the subject property. The applicant has met with staff several times to discuss the project and developed an overall concept plan. The applicant has submitted an application, fee and minor site plan sets for review.
8. Land Use and Zoning

	<u>Existing Land Use</u>	<u>Future Land Use</u>	<u>Existing Zoning</u>
Subject Parcel	Vacant	Mixed Use	PD, Planned Development/HC, Highway Corridor Overlay
North	Vacant	Mixed Use	PD, Planned Development/HC, Highway Corridor Overlay
South	Gas Station, Fast Food Restaurants	Commercial	PD, Planned Development
East	Commercial	Mixed Use	PD, Planned Development (Sweetwater)
West	Trucking Terminal/Vacant/Retail	Mixed Use	PD, Planned Development

Public Notice

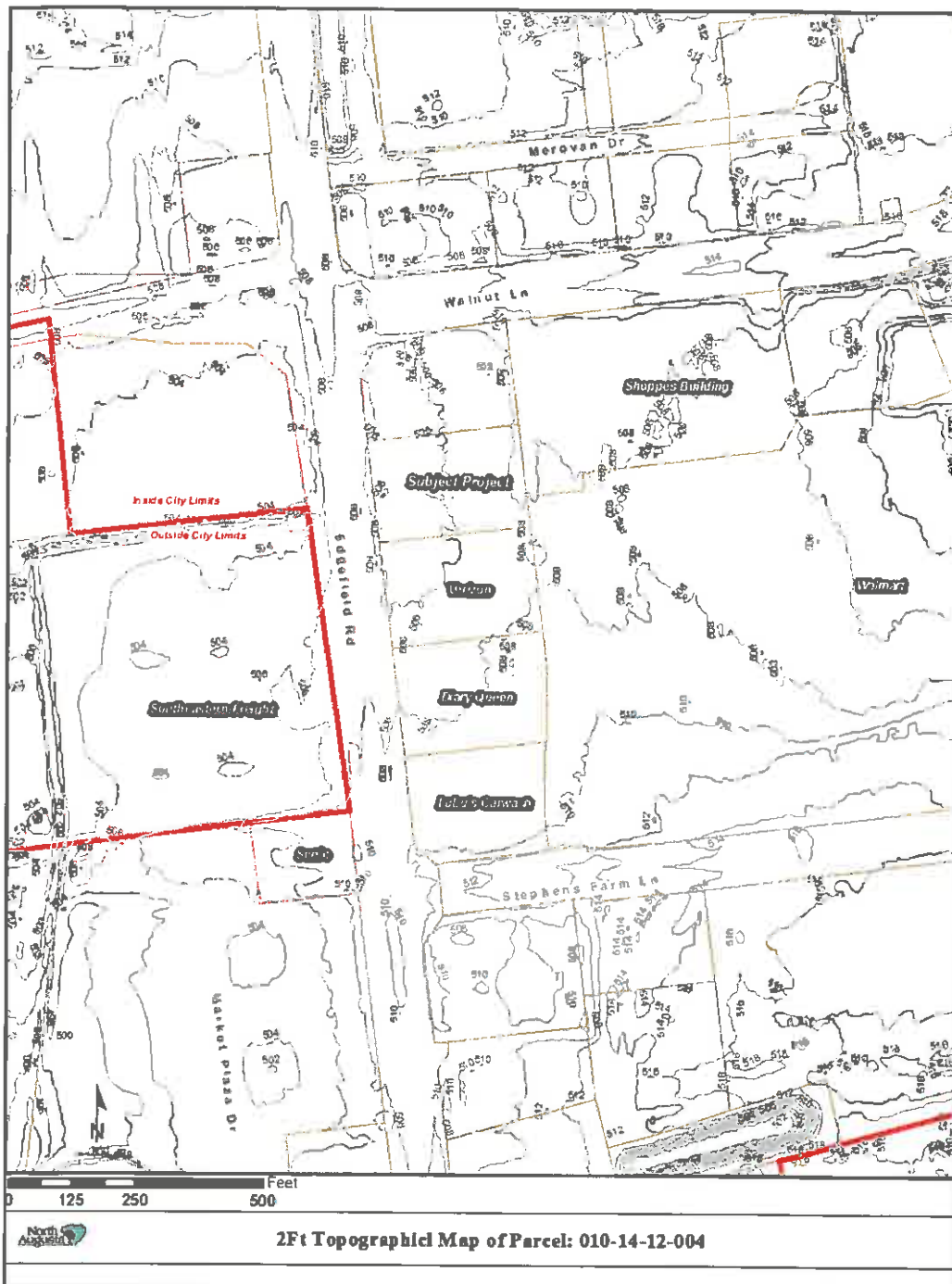
A public notice describing the variance request and advertising the scheduled date of the Board of Zoning Appeals hearing was published in *The Star* on January 25, 2017. A written notice of the variance request and scheduled date of the Board of Zoning Appeals hearing was mailed to the owners of property within 200 feet of the subject property on January 23, 2017. The property was posted with the required public notice on January 25, 2017.

cc: Nisit Sapparkhao, Infinity Engineering Group, LLC
James Vandercrake, Wendy's
Kelly Zier, City Attorney

Aerial Photography



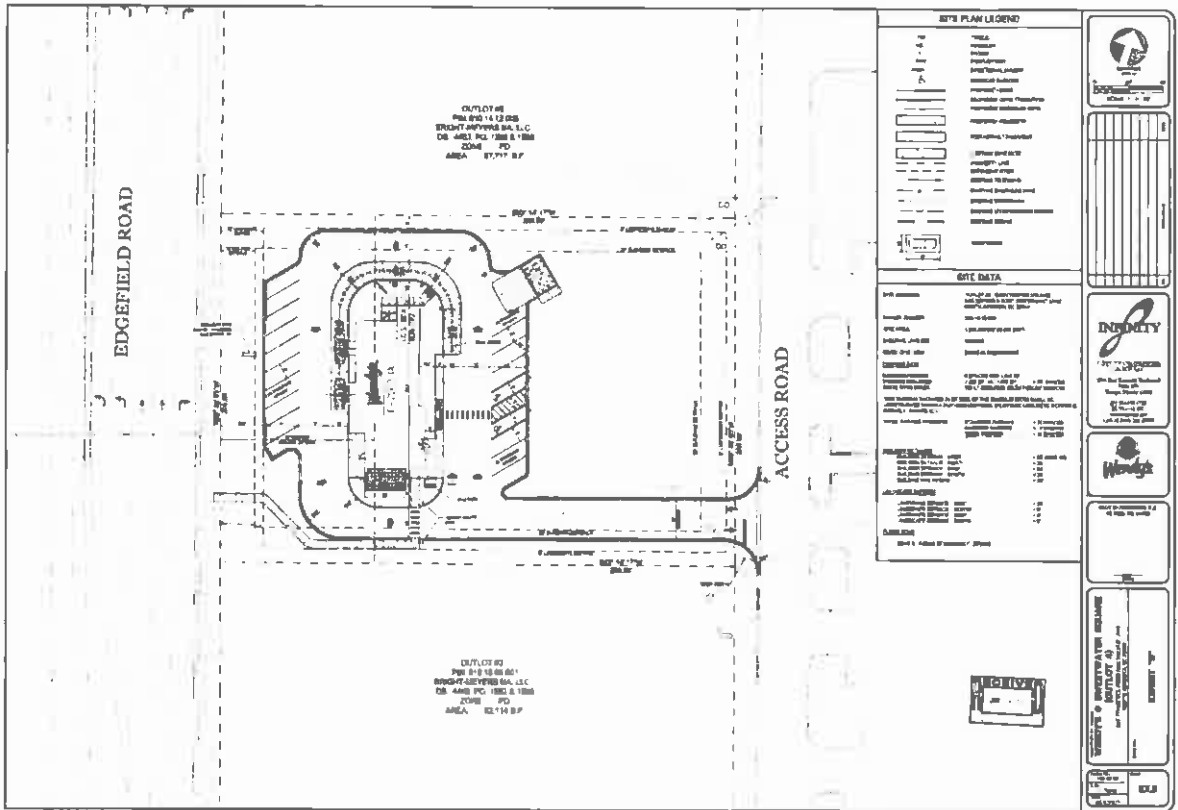
Topography



Zoning



Wendy's Exhibit B



Building Photos of Wendy's 1



Building Photos of Wendy's 2



Building Photos of Wendy's 3



Building Photos of Wendy's 4



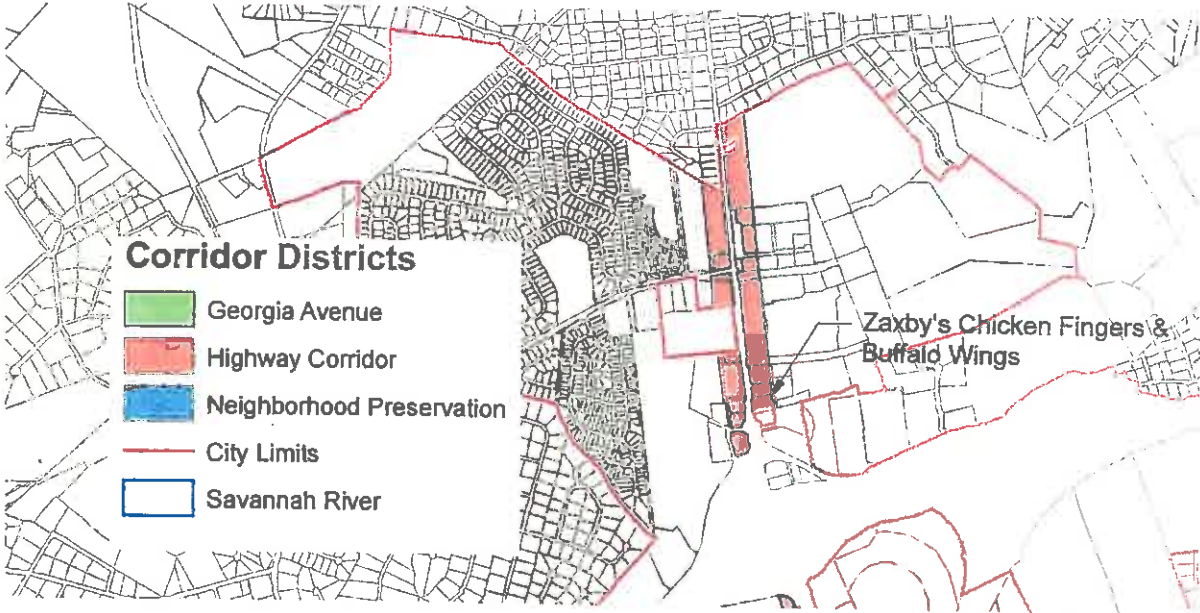
Building Photos of Wendy's 5



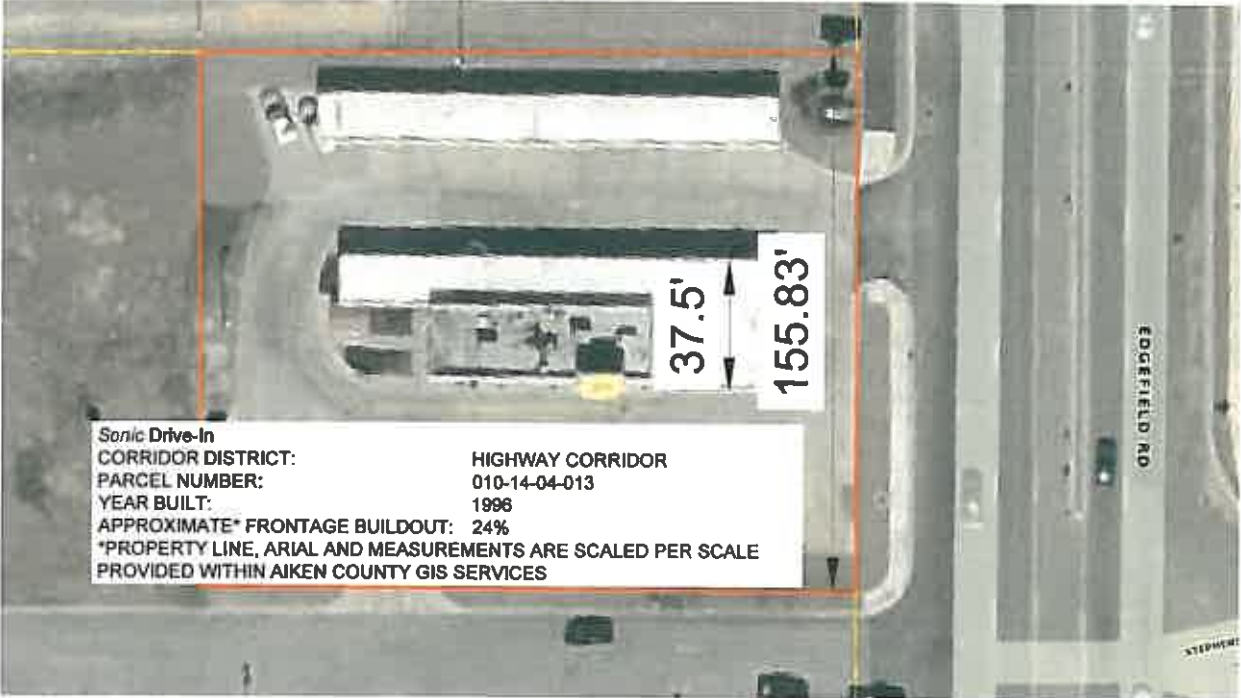
Zaxby's Info 1



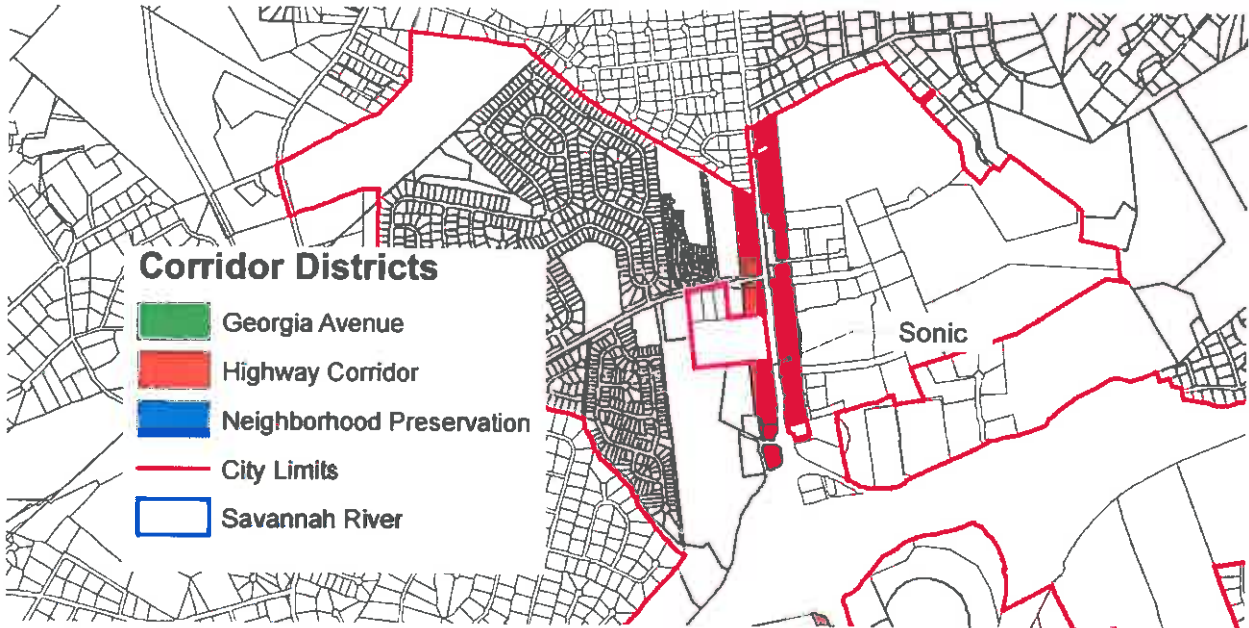
Zaxby's Info 2



Sonic Info 1



Sonic Info 2



January 23, 2017

RE: Request by Brett Nevaril, representing Bright-Meyers NA, LLC, for a variance pursuant to Table 3-9 and Section 3.8.5.3.2 of the North Augusta Development Code. The applicant requests a variance to change the minimum frontage buildout in the Highway Corridor Overlay District from thirty percent (30%) to twenty-four percent (24%). The appeal affects property located on Edgefield Road and identified as Outlot 4, Tax Parcel Number 010-14-12-004.

Please note: Your property is not included in the variance request application. You are receiving this notice only because you own property within 200 feet of the proposed project area.

Dear North Augusta Property Owner:

The City recently received a request from Brett Nevaril, representing Bright-Meyers NA, LLC, for a variance to change the minimum frontage buildout in the Highway Corridor Overlay District from thirty percent (30%) to twenty-four percent (24%). The appeal affects property identified as Tax Parcel Number 010-14-12-004 located on Edgefield Road. The project parcel is zoned PD, Planned Development and is included in the HC, Highway Corridor Overlay District.

A map of the affected parcel is enclosed, along with a copy of the public hearing notice that will be published in *The Star* on January 25. **Only the area outlined in black on the map is part of the variance application.**

The North Augusta Board of Zoning Appeals will hold a public hearing and meeting to consider the variance request on Thursday, February 9, 2017. The hearing will begin at 6:00 p.m. and will be held in the City Council Chambers on the third floor of the North Augusta Municipal Center, 100 Georgia Avenue. You are welcome to attend this public hearing. Following the public hearing, the Board of Zoning Appeals will consider and decide on the application.

If you have any questions, please contact the Department of Planning and Development at 803-441-4221.

Sincerely,



Charles B. Martin, Interim Director
Department of Planning and Development

City of
North Augusta, South Carolina
Board of Zoning Appeals

PUBLIC HEARING NOTICE

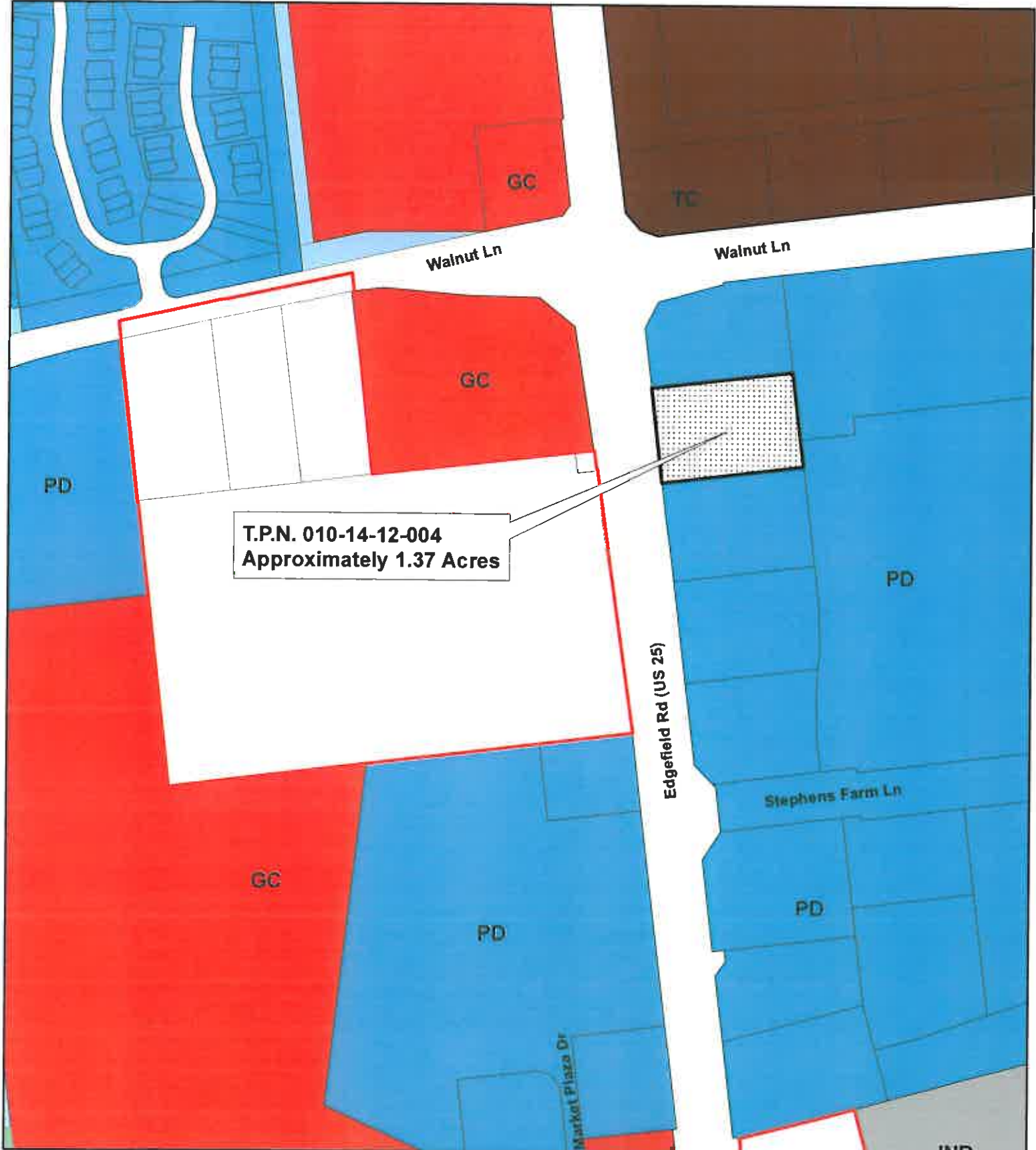
The Board of Zoning Appeals will hold a Public Hearing at its monthly meeting beginning at 6:00 PM on Thursday, February 9, 2017, in the Council Chambers, North Augusta Municipal Center, 100 Georgia Avenue, North Augusta, South Carolina, to consider the following appeal:

ZV 17-001 – A request by Brett Nevaril, representing Bright-Meyers NA, LLC, for a variance pursuant to Table 3-9 and Section 3.8.5.3.2 of the North Augusta Development Code. The applicant requests a variance to change the minimum frontage buildout in the Highway Corridor Overlay District from thirty percent (30%) to twenty-four percent (24%). The appeal affects property located on Edgefield Road and identified as Outlot 4, Tax Parcel Number 010-14-12-004.

Documents related to the application will be available for public inspection in the Department of Planning and Development on the second floor of the North Augusta Municipal Center, 100 Georgia Avenue, North Augusta, South Carolina, 803-441-4221, after February 2, 2017. All citizens and property owners interested in expressing a view on any matter that is the subject of a public hearing are encouraged to attend.

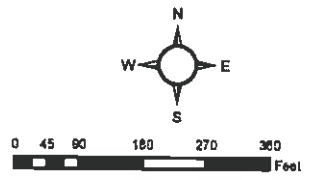
CITIZEN ASSISTANCE:

Individuals needing special assistance or a sign interpreter to participate in the meeting are asked to notify the Department of Planning and Development at 803-441-4221 at least 48 hours prior to the meeting.



T.P.N. 010-14-12-004
Approximately 1.37 Acres

Application Number ZV 17-001
Tax Parcel Number 010-14-12-004
A Request for A Variance to Change
the Required Mimimum Frontage
Buildout in the Highway Corridor
Overlay District from 30% to 24% for
Outparcel #4, Sweetwater Square



E:\2017 ReZone\ZV 17-001.MXD
 January 20, 2017