

LINCOLNTON BOARD OF ADJUSTMENT
AGENDA
May 17, 2022
At 4:00 P.M. in City Council Chambers

1. Roll Call
2. Call to Order
3. Approval of minutes from the April 19, 2022 meeting
4. BOA-3-22- Application from Piedmont Companies, Inc. requesting a variance of section 153.123 of the Lincolnton UDO for the reduction of the 50 foot front yard Setback in the Planned Residential Development District (PRD). If approved the front setback, for this project, would be reduced to 30 feet. The subject properties are located on the west side of North Generals Blvd. directly across from the intersection of Timken Drive and North Generals Blvd. (Parcel ID 52992, 80962, 21104, and 21105).
5. Adjournment



**CITY OF LINCOLNTON
BOARD OF ADJUSTMENT**

PO DRAWER 617, LINCOLNTON, NC 28092

www.ci.lincolnton.nc.us

BOARD MEMBERS: Gene Poinsette, Chair, poinsetteg@charter.net; Greg McBryde, Vice-Chair, Gregory.Mcbryde@gmail.com; Rebecca Abernethy, rabernethy21@bellsouth.net; Stephen Silva, (ETJ), soundcity1@ymail.com; Trent Mason, trentonmason@gmail.com; Joy Smith, first alternate, joysmithmsnrn@gmail.com; Monte Tyson, monte@cbdeastmain.com, second alternate

Tuesday, April 19, 2022 Meeting

Present: Gene Poinsette, Rebecca Abernethy, Greg McBryde and Trent Mason

Absent: Joy Smith

Call to Order

Chairman Gene Poinsette called the meeting to order and recognized that Joy Smith and Monte Tyson were absent.

Approval of Minutes

Chairman Gene Poinsette asked the Board if there were any additions or corrections to the minutes of the March 15, 2022 meeting.

Motion: Greg McBryde made a motion to approve the minutes. Trent Mason seconded. Motion carried unanimously.

Chairman Gene Poinsette asked the Board if there was any other business to be addressed, to which there was none.

Adjournment

Motion: Greg McBryde made a motion to adjourn. Trent Mason seconded. Motion carried unanimously.

Jean Derby

MEMO TO: Lincolnton Board of Adjustment
FROM: City of Lincolnton Planning Department
DATE: May 17, 2022
SUBJECT: BOA-3-2022 – Piedmont Companies, Inc.

Property Information

- Property Location – 203 North Generals Blvd and Adjacent Parcels (Parcel ID 52992, 80962, 21104, and 21105)
- Current Zoning – Planned Business but Applying for PRD (CZ-4-2022)
- Property Size - 4.783 acres
- Current Use of Property – Single Family Dwelling and Vacant
- Adjacent Properties – Commercial and Residential

Variance Request

Application from Piedmont Companies, Inc. requesting a variance of section 153.123 of the Lincolnton UDO for the reduction of the 50 foot front yard Setback in the Planned Residential Development District (PRD). If approved the front setback, for this project, would be reduced to 30 feet. The subject properties are located on the west side of North Generals Blvd. directly across from the intersection of Timken Drive and North Generals Blvd.

Relevant UDO Requirement

153.123 PRD PLANNED RESIDENTIAL DEVELOPMENT DISTRICT.

(5) *Minimum front yard setback or setback from any dedicated street.* Fifty feet at project boundary.

Background Information

The variance would allow for the reduction of the 50 foot front yard Setback in the Planned Residential Development District (PRD). If approved the front setback, for this project, would be reduced to 30 feet. (See attached plan).

Currently there are four parcels with one Single Family House and the rest vacant land. The property has approximately 900 feet of frontage along North Generals Blvd. North Generals Blvd has a 150 foot right of way along this section of roadway. There are several utility easements along this sections which cannot be built on or under. (See map below





NOTE: PROXY INFORMATION GENERATED FROM OUR REGISTRARS' REPORTS IS NOT BASED ON A CENTRAL SOURCE AND CANNOT BE RELIED UPON TO BE ACCURATE. CLEVELAND ENJOYING A REPUTATION FOR THE ACCURACY OF THE INFORMATION SHOWN.

- [illegible]

NOT FOR C







Additional Applicant Statements (See Attached Application)

- The 50 foot front yard setback would move the proposed building units toward the rear of the property an additional 20 feet placing them directly on top of the City's dedicated sewer line/easement. The shape and topography of the main parcel in the project would prevent the movement of the proposed units to the rear of the sewer easement or further into the rear of the property.

- There are existing easements and rights of way that will not allow the building to be placed in any other location on the property.
- The requested reduction in the front yard setback should not have a negative impact on public safety and would allow for the development of the property.

Findings of Fact

1. 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.
2. 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.
3. 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.
4. 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.

Staff Comments

- The applicant's request should not affect the neighborhood negatively in any way. The variance request should be consistent with the spirit, purpose, and intent of the ordinance.
- The applicant will need to address, at the meeting, how the four findings of fact are met in order for the Board of Adjustment to grant the variance.

BoA-3-22

PLANNING DEPARTMENT

Laura Elam – Planning Director
Mark Carpenter – Zoning Administrator
Jean Derby – Planning Assistant



TELEPHONE 704-736-8930
FAX 704-736-8939

Application for Variance

Description of request: _____

Request for a reduction of the 50' front yard setback as currently required in the Planned Residential District ordinance to a 30' front yard setback.

Applicant information:

Name: _____ Piedmont Companies, Inc. _____

Address: _____ Post Office Box 1732 _____

City: _____ Lincolnton _____ **State:** _____ NC _____ **Zip:** _____ 28092 _____

Telephone: _____ 704 736 4333 _____ **Email:** _____ sandyc@piedcorp.com _____

Property owner information (if different from applicant)

Name: _____ Charles Arrice - 1681 Cloudburst Circle, Lincolnton, NC 28092
_____ Land Investors - 1285 Oak Grove Road, Lincolnton, NC 28092 _____

Address: _____ See above _____

City: _____ **State:** _____ **Zip:** _____

Telephone: _____ Please contact Sandy Cashion 704 736 4333 _____ **Email:** _____ Charles Arrice - acharles01@att.net
_____ Land Investors % - johngillelandrealty.com _____

Property location and description

Address: _____ 203 N. Generals Boulevard and Adjacent Parcels _____

52992, 80962, 21104 and 21105

Tax parcel no. (five-digit): _____ **Current zoning classification:** _____ PB - Applying for PRD

A sketch of the property including the following information shall accompany this application: lot dimensions, setback dimensions for existing structures, location of all existing structures, other topographical features (bodies of water, significant stands of trees, etc.). Based on the nature of the application, the Zoning Administrator shall have the authority to request additional necessary information and/or waive one or more of these items.

Variance Request Description

Section(s) of the Unified Development Code requesting relief from: _____

Section 153.123 PRD - D. 5 - Minimum Front Yard Setback or setback from dedicated street . Fifty feet at subject project boundary

Applicant's description of why a variance from the terms of these provisions is needed: _____

Some or all of the properties being assembled for this development are encumbered by an existing 100 foot DOT right of way along General's Boulevard, a dedicated Duke Power electrical easement which contains major load electrical poles and a dedicated 30' sewer line easement that also runs through the proposed development as shown on the attached plat. Due to the locations of these dedicated easements and rights of ways and the irregular shape of the property, there is very little usable acreage to utilize for development. The buildings as shown on the attached plat have been placed so as not to encroach into or over any of these dedicated easements/rights of ways with a 30 feet front

yard setback. The buildings cannot be moved forward because of the DOT and Duke Power restrictions and they cannot be moved back an additional 20 feet without being over the dedicated sewer easement. Without the variance request being granted, the property has very little opportunity for development.

The DOT right of way is currently 102 feet from the center line of Generals' Boulevard which should allow for future expansion; however, the DOT would also have to deal with or relocate the high capacity power lines that exist on the property, which we believe would deter them from expanding the right of way into or in close proximity to the proposed development.

The Board of Adjustment, after having held a public hearing to consider the variance request, will address each of the following findings of fact and draw the following conclusions in order to render their decision:

1. Unnecessary hardship would result from the strict application of the ordinance. (NOTE: It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.);
2. The hardship results from the conditions that are peculiar to the property, such as location, size or topography. (NOTE: 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.);
3. The hardship did not result from actions taken by the applicant or the property owner. (NOTE: 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); and,
4. 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 applicant is asked to address each of these findings as they pertain to their variance request. Please use additional sheets if necessary. In order to grant a variance, each of the findings must be found in the affirmative by the Board of Adjustment by a 4/5 majority of the Board's membership.

Request for Variance

1) Unnecessary hardship would result from the strict application of the ordinance. (NOTE: It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This statement is based upon the following reason(s):

Enforcing the 50 foot front yard setback would move the proposed building units toward the rear of the property an additional 20 feet placing them directly on top of the City's dedicated sewer line/easement. The shape and topography of the main parcel in the project would prevent the movement of the proposed units to the rear of the sewer easement or further into the rear of the property.

2) The hardship results from the conditions that are peculiar to the property, such as location, size or topography. (NOTE: 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.); This statement is based upon the following reason(s):

~~There are existing easements and rights of ways that will not allow the building to be placed in any other location on the~~ property. As indicated above there is an existing 102' foot DOT right of way (see exhibit), an existing Duke Power easement with existing high capacity poles and a 30' City Sewer easement located to the rear of the proposed development. These existing easements/rights of ways along with the irregular shape and topo of the property would not allow for development of the property as intended.

3) The hardship did not result from actions taken by the applicant or the property owner. (NOTE: 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. This statement is based upon the following reason(s):

The existing easements and rights of ways were put in place prior to the current property ownership or transfers.

4) 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. This statement is based upon the following reason(s):

We believe that all other safety and ordinance requirements have been considered and will be met with the intended development of the project. The requested reduction in the front yard setback should not have a negative impact on public safety and would allow for development of the property to benefit the City and provide needed housing in the area.

Signatures

Sandra H. Cashin 4-18-22
Applicant Date

Property Owner, If Different From Applicant Date

ma ce 4-18-22
Zoning Administrator Date



SITE SKETCH PLAN
SCALE: 1" = 50'

NOTE: PROPERTY INFORMATION GENERATED FROM DEED DESCRIPTIONS, TOPOGRAPHY BASED ON LINCOLN COUNTY GIS INFORMATION, NOT BASED ON A CERTIFIED SURVEY, AND CANNOT BE RELIED UPON TO BE ACCURATE. CLAYTON ENGINEERING & DESIGN, IS NOT LIABLE FOR THE ACCURACY OF THE GIS INFORMATION SHOWN.

NCDOT Right of Way Exhibit

Lincoln County GIS Website

arcgisserver.lincolncounty.org/taxparcelviewer/

Lincoln County GIS

Search Results Layers

Parcel Search

Enter Owner Name

Enter Owner Name

ex. Smith John

Search

Enter Parcel ID or PIN

Enter Parcel ID or PIN

ex. 50786 or 3623842097

Search

Enter Address

203 n Generals

ex. ## W NC 150 HWY

Subdivision

Search

Addresses & Structures Search

Sales Search

Query

County Home Page | Data Download | Tax Inquiry System | Help

300 ft

Road Map Topo Photography

Measure

Feet

Measurement Result

103.1 Feet

103.09 Feet

Map Scale: 1 inch = 300 feet

68°F

10:05 AM

4/14/2022



Powerline Easement

Photo Taken Looking
North



Photo Taken Looking South



Google Earth

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A topographic map of a residential area. A specific parcel is outlined in blue, located in the lower-left quadrant. The map features brown contour lines indicating elevation, with labels such as 1580, 1600, 1620, 1640, 1660, 1680, 1700, 1720, 1740, 1760, 1780, 1800, 1820, 1840, 1860, 1880, 1900, 1920, 1940, 1960, 1980, 2000, 2020, 2040, 2060, 2080, 2100, 2120, 2140, 2160, 2180, 2200, 2220, 2240, 2260, 2280, 2300, 2320, 2340, 2360, 2380, 2400, 2420, 2440, 2460, 2480, 2500, 2520, 2540, 2560, 2580, 2600, 2620, 2640, 2660, 2680, 2700, 2720, 2740, 2760, 2780, 2800, 2820, 2840, 2860, 2880, 2900, 2920, 2940, 2960, 2980, 3000, 3020, 3040, 3060, 3080, 3100, 3120, 3140, 3160, 3180, 3200, 3220, 3240, 3260, 3280, 3300, 3320, 3340, 3360, 3380, 3400, 3420, 3440, 3460, 3480, 3500, 3520, 3540, 3560, 3580, 3600, 3620, 3640, 3660, 3680, 3700, 3720, 3740, 3760, 3780, 3800, 3820, 3840, 3860, 3880, 3900, 3920, 3940, 3960, 3980, 4000, 4020, 4040, 4060, 4080, 4100, 4120, 4140, 4160, 4180, 4200, 4220, 4240, 4260, 4280, 4300, 4320, 4340, 4360, 4380, 4400, 4420, 4440, 4460, 4480, 4500, 4520, 4540, 4560, 4580, 4600, 4620, 4640, 4660, 4680, 4700, 4720, 4740, 4760, 4780, 4800, 4820, 4840, 4860, 4880, 4900, 4920, 4940, 4960, 4980, 5000, 5020, 5040, 5060, 5080, 5100, 5120, 5140, 5160, 5180, 5200, 5220, 5240, 5260, 5280, 5300, 5320, 5340, 5360, 5380, 5400, 5420, 5440, 5460, 5480, 5500, 5520, 5540, 5560, 5580, 5600, 5620, 5640, 5660, 5680, 5700, 5720, 5740, 5760, 5780, 5800, 5820, 5840, 5860, 5880, 5900, 5920, 5940, 5960, 5980, 6000, 6020, 6040, 6060, 6080, 6100, 6120, 6140, 6160, 6180, 6200, 6220, 6240, 6260, 6280, 6300, 6320, 6340, 6360, 6380, 6400, 6420, 6440, 6460, 6480, 6500, 6520, 6540, 6560, 6580, 6600, 6620, 6640, 6660, 6680, 6700, 6720, 6740, 6760, 6780, 6800, 6820, 6840, 6860, 6880, 6900, 6920, 6940, 6960, 6980, 7000, 7020, 7040, 7060, 7080, 7100, 7120, 7140, 7160, 7180, 7200, 7220, 7240, 7260, 7280, 7300, 7320, 7340, 7360, 7380, 7400, 7420, 7440, 7460, 7480, 7500, 7520, 7540, 7560, 7580, 7600, 7620, 7640, 7660, 7680, 7700, 7720, 7740, 7760, 7780, 7800, 7820, 7840, 7860, 7880, 7900, 7920, 7940, 7960, 7980, 8000, 8020, 8040, 8060, 8080, 8100, 8120, 8140, 8160, 8180, 8200, 8220, 8240, 8260, 8280, 8300, 8320, 8340, 8360, 8380, 8400, 8420, 8440, 8460, 8480, 8500, 8520, 8540, 8560, 8580, 8600, 8620, 8640, 8660, 8680, 8700, 8720, 8740, 8760, 8780, 8800, 8820, 8840, 8860, 8880, 8900, 8920, 8940, 8960, 8980, 9000, 9020, 9040, 9060, 9080, 9100, 9120, 9140, 9160, 9180, 9200, 9220, 9240, 9260, 9280, 9300, 9320, 9340, 9360, 9380, 9400, 9420, 9440, 9460, 9480, 9500, 9520, 9540, 9560, 9580, 9600, 9620, 9640, 9660, 9680, 9700, 9720, 9740, 9760, 9780, 9800, 9820, 9840, 9860, 9880, 9900, 9920, 9940, 9960, 9980, 10000. The map also shows various buildings, roads, and other geographical features. A blue-outlined parcel is highlighted in the lower-left quadrant. The map is oriented with North at the top. The blue-outlined parcel is located in the lower-left quadrant, bounded by a blue line. The parcel is surrounded by other residential lots and buildings. The map shows a mix of residential and commercial areas. The blue-outlined parcel is a large, irregularly shaped lot. It is located near a road and a body of water. The map is a detailed topographic map with contour lines and various labels. The blue-outlined parcel is a key feature of the map. It is located in the lower-left quadrant, bounded by a blue line. The parcel is surrounded by other residential lots and buildings. The map shows a mix of residential and commercial areas. The blue-outlined parcel is a large, irregularly shaped lot. It is located near a road and a body of water. The map is a detailed topographic map with contour lines and various labels. The blue-outlined parcel is a key feature of the map.

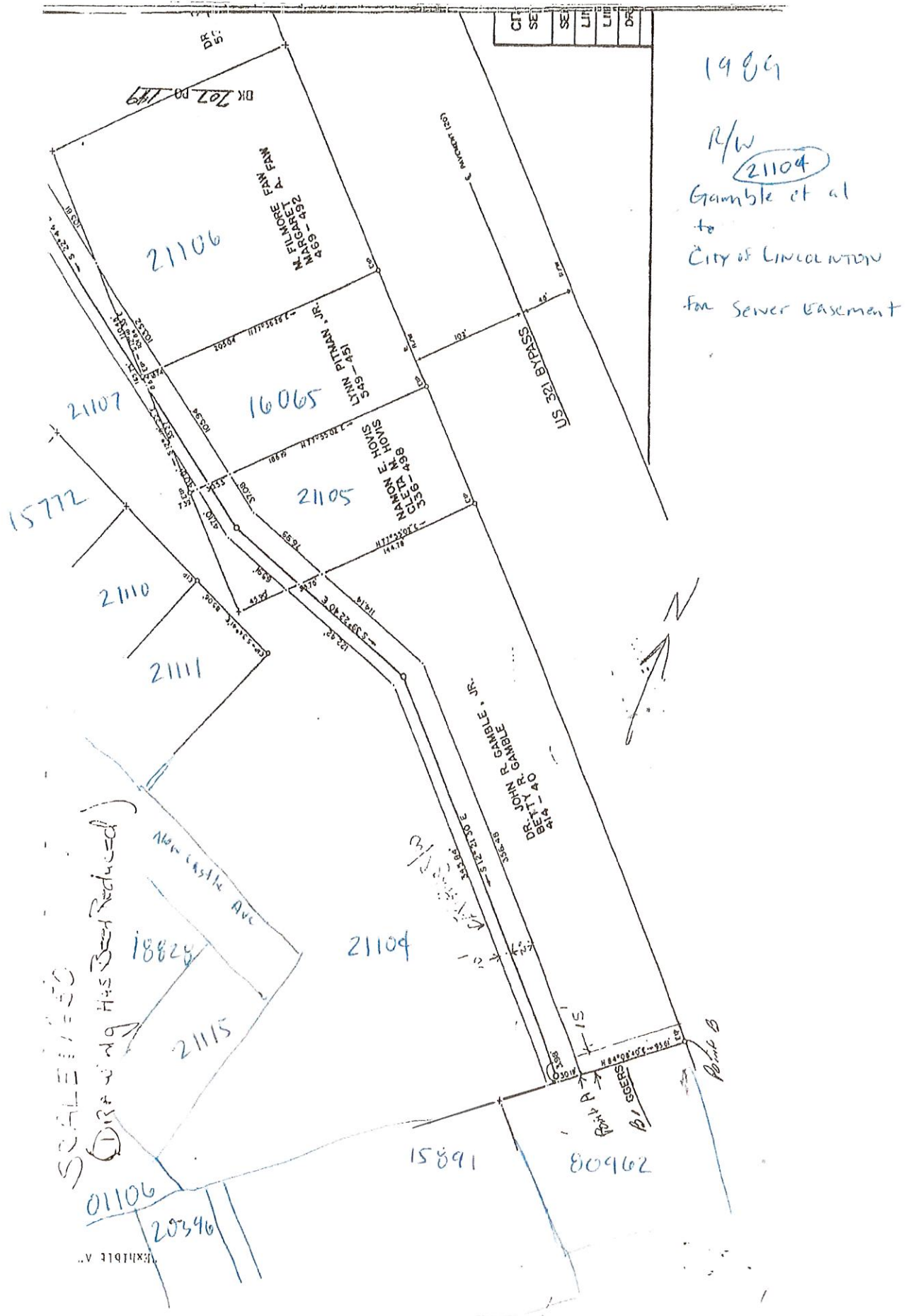
0 100 200 Feet

Esrl, Inc., Lincoln County, NC

Office of the Tax Administrator, GIS Mapping Division
Lincoln County and its mapping contractors assume no legal responsibility for
the information contained on this map. This map is not to be used for land
conveyance. The map is based on NC State Plane Coordinate System 1983 NAD.

1 inch = 289 feet

City Sewer Easement Exhibit



Signatures

Sandra K. Castion

04.18.22

Applicant

Date

Arin Chalk

4/18/22

Property Owner, If Different From Applicant

Date

Zoning Administrator

Date

Signatures

Sandra W. Cochran

04.18.22

Applicant

Date

Steph E. Land

4/18/22

Property Owner, If Different From Applicant

Date

Zoning Administrator

Date