

**City of Thomasville Planning & Zoning
Rezoning Case # BOA-20-02
Staff Report: Chuck George, Director**

Applicant: Spring Hill Land Trust

Owner: FSK Family Limited Partnership

Location: Lake Rd.

Tax Parcel ID Number: 1633800000013

Request: Variance

Description of Variance Request:

- The request for a variance from Article VII., section 2, I – Parking space required.
- A relief in the amount of 18 parking spaces from the provision of the Ordinance.
- Seeking to develop a 9,100 sq. ft. retail store which typically requires 64 parking spaces for the proposed square footage.

Site Information:

- Zoning District: M-1 Light Industrial

BOA Information:

- The board will identify reasons for the findings of facts based on the evidence given during the hearing. To grant the variance, the applicant must receive six votes, which represents 4/5 of the members of the board.
- The board of adjustment shall make the final determinations as to the number of spaces to be required but shall in all cases give due consideration to the needs and space available (Art. VII. Sec. I).

Attachments:

- Application
- Legal description
- Site map
- GIS map
- Zoning map
- Article VII., Section 2. – Off Street Parking Ordinance
- Finding of Facts form- Approval and Denial

Public Notice

<i>Notification</i>	<i>Planning/Adjustment Board</i>	<i>City Council</i>
Public Hearing Notice	9/15/20 & 9/22/20	N/A
Property Posted	9/18/20	N/A
Notification Letter Sent	9/14/20	N/A

CITY OF THOMASVILLE
P O Box 368 • Thomasville, NC 27360 • (336) 475-4255
Planning & Zoning Department

BOARD OF ADJUSTMENT VARIANCE APPLICATION

Date Received 8-31-20 By CWG Case # BOA-20-02 Hearing Date SEPT. 29, 2020

SUBJECT PROPERTY ADDRESS TBD Lake Rd & Lake Rd(W Holly Hill Rd), Thomasville, NC

APPLICANT / OWNER / REPRESENTATIVE INFORMATION

Applicant Name Spring Hill Land Trust

Address PO Box 6460 City Thomasville State TN Zip 31758

Telephone (O) _____ (C) 704-224-7364 Email brad@westandwoodrail.com

Property Owner Name FSK Family Limited Partnership

Address 3805- A University Dr City Durham State _____ Zip 27707

Telephone (O) _____ (C) 336-202-0012 Email _____

If another person will represent the applicant and/or property owner, please complete the information below.

Representative Name Joe Strickland

Address 214 Klumac Rd Suite 101 City Salisbury State NC Zip 28144

Telephone (O) _____ (C) 704-224-7364 Email jstrickland@teramore.net

PROPERTY INFORMATION

Parcel ID # 1633800000013 Zoning District M-1

Existing Use of Property Vacant

Proposed Use of Property (if different) Retail

RELIEF REQUESTED

By this application, the Board of Adjustment is hereby requested to grant a variance from the literal provisions of the City of Thomasville Zoning Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land indicated on this application in the manner shown by the attached site plan.

I am asking for relief in the amount of 18 feet, Parks inches from the following provision of the Ordinance:

Article VII, Section 2 of the Zoning Ordinance

(Indicate Section number and Title from the Zoning Ordinance)

I need this variance in order to (briefly describe the project or reason why the variance is necessary):

Thomasville's Zoning Ordinance requires .7 parking spaces for each gross 100 Sq/Ft of area (Calculated as 64 parking spaces. The proposed 9,100 sq. ft. Dollar General retail store historically requires only 30 parking spaces. Our site plan includes 46 spaces which exceeds Dollar General requirements by 16 parking spaces and exceeds peak hour utilization by 29 spaces (See Attached Exhibit) which confirms the Zoning Ordinance requirement is excessive for our use.

REQUIRED FINDINGS

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. The North Carolina General Assembly has enacted law that requires the Board to reach the following four conclusions, or findings, as a prerequisite to an approval of a variance. Please address each of the four conclusions separately.

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

The additional 18 Parking Spaces would create an unnecessary addition of spaces and additional drive aisle that would be unutilized and greatly increase the environmental impact to this site by adding unnecessary materials and impervious surface.

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.

The Property's location within the city limits of Thomasville cause a parking requirement that is significantly greater than Davidson County's parking requirement for the same Category of Use. Thomasville Ordinance requires 65 Spaces for 9100 Gross Sq/Ft while Davidson County Ordinance requires only 46 for 9100 Gross Sq/Ft

3. The hardship does not result from actions taken by the applicant or 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 self-created hardship.

No actions nor design decisions by the Applicant created the excessive Zoning Ordinance requirements that are being requested for relief.

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 requested variance will allow the subject property to be developed above industry standard parking counts while maintaining safe access to the site and reducing environmental impacts resulting from unnecessary impervious surfaces.

SIGNATURES

Please be advised that the issuance of a variance does not excuse the applicant and/or property owner from obtaining all building, trade or other permits as required by law prior to beginning work.

When the applicant is someone other than the current property owner(s), the signatures of both the current property owner(s) and the applicant must be provided unless a power-of-attorney authorization is in effect. If a power-of-attorney is in effect, a properly executed copy is required to be submitted with this application.



Signature of Applicant

Joe Strickland
Print Name

8/27/2020
Date

Signature of Owner

Print Name

Date

EX0989660342

TDSON 007Y
578

5-16-96

EO-16-90

\$180.00



Real Estate
Excise Tax

FILED

MAY 15 PM 4:26

12.00
180.00at

Excise Tax \$180.00

Recording Time, Book and Page

Tax Lot No. 16-338-0-000-0013

Parcel Identifier No.

Verified by

County on the

day of

, 19

by

Mail after recording to F. Stuart Kennedy

PO Box 1050, Thomasville, NC 27360

This instrument was prepared by George W. Saintsing, Attorney

Brief description for the Index

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 16th day of May

, 19 96, by and between

GRANTOR
Henry W. Kennedy, Jr., individually, and
Henry W. Kennedy, Jr., attorney-in-
fact for Ernestine Grimes Kennedy;
Raymond M. Grimes, Jr. and wife,
Carlette B. Grimes;
Van D. Grimes and wife,
Edith B. Grimes;
Joyce Grimes Huss and husband,
John Huss;
Wanda B. Graves and husband,
Jimmy R. Graves; and
Shirley Ann M. Furcell and husband,
Jack L. Purcell, per instrument recorded

GRANTEE

F S K Family Limited Partnership

in Book 792, Page 704 in the Davidson
County Registry.

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Thomasville, Thomasville Township, Davidson

County, North Carolina and more particularly described as follows:

BEGINNING at a concrete monument located at the point where the western right of way line of Lake Road (NCSR 2085) intersects the northern right of way line of I-85 (ramp); running thence from said beginning point with the northern right of way line of I-85 South 66° 14' West 592.68 feet to a new iron pipe; running thence North 17° 20' East 255.01 feet to a new iron pipe in the line of the Douglas E. Hicks property; running thence with Hicks property line two calls as follows: South 65° 22' East 30.75 feet to an existing iron pipe and running thence North 17° 20' East 172.90 feet to a point in the southern right of way line of Lake Road (NCSR 2087); running thence with said right of way line a curve to the right having a chord distance of 215.59 feet, an arc distance of 215.71 feet, a radius of 1849.86, and a degree call of North 79° 24' East to a concrete monument in said right of way line; running thence again with said right of way line South 72° 10' East 152.33 feet to a concrete monument located at the point where said right of way line intersects the western right of way line of Lake Road, and running thence with the right of way line of Lake Road South 09° 41' East 162.41 feet to the point and place of beginning containing 2.97 acres more or less according to a plat of survey of the same prepared by E.M. Teer, RLS, dated April 25, 1989 entitled "Survey for Henry W. Kennedy, Jr. and others".

009755

For Back Reference See:

Deed Book 696, Page 70; Deed Book 699, Page 489; Deed Book 532, Page 972; Deed Book 524, Page 834; Deed Book 155, Page 51; Estate of R. McCoy Grimes; Deed Book 100, Page 17.

The property hereinabove described was acquired by Grantor by instrument recorded in

A map showing the above described property is recorded in Plat Book _____ page _____

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

- A. 1996 Davidson County ad valorem tax lien, which shall be prorated at closing between Grantor and Grantee.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in his corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

.....
 (Corporate Name)
 By:
 President
 ATTEST:

 Secretary (Corporate Seal)

USE BLACK INK ONLY

Henry W. Kennedy, Jr. (SEAL)
 Henry W. Kennedy, Jr., Individually
Henry W. Kennedy, Jr. (SEAL)
 Henry W. Kennedy, Jr., attorney in fact for
 Ernestine Grimes Kennedy; Raymond M. Grimes,
 Jr. and wife, Carlette B. Grimes; Van D. Grimes;
 Grimes and wife, Edith B. Grimes; Joyce Grimes
 Huss and husband, John Huss; Wanda B. Graves
 and husband, Jimmy R. Graves; and Shirley
 Ann M. Purcell and husband; Jack L. Purcell

SEAL-STAMP NORTH CAROLINA, _____ County.
 I, a Notary Public of the County and State aforesaid, certify that _____ Grantor,
 personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my
 hand and official stamp or seal, this _____ day of _____, 19____.
 My commission expires: _____ Notary Public

SEAL-STAMP NORTH CAROLINA, _____ County.
 I, a Notary Public of the County and State aforesaid, certify that _____ Secretary of
 personally came before me this day and acknowledged that _____ he is _____
 a North Carolina corporation, and that by authority duly
 given and as the act of the corporation, the foregoing instrument was signed in its name by its _____
 President, sealed with its corporate seal and attested by _____ as its _____ Secretary.
 Witness my hand and official stamp or seal, this _____ day of _____, 19____.
 My commission expires: _____ Notary Public

The foregoing Certificate(s) of *Jennifer C. Seeker*
 is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.
 by *Ronald W. Callant* REGISTER OF DEEDS FOR *Davidson* COUNTY
Mary E. Rhodes Deputy Assistant - Register of Deeds

PRELIMINARY

DATE: 11-30-09
 DRAWN BY: JENNY
 CHECKED BY: JENNY
 PROJECT NO: 20090000

SCALE: 1"=30'
 SHEET: C100

DOLLAR GENERAL
 THOMASVILLE, NC

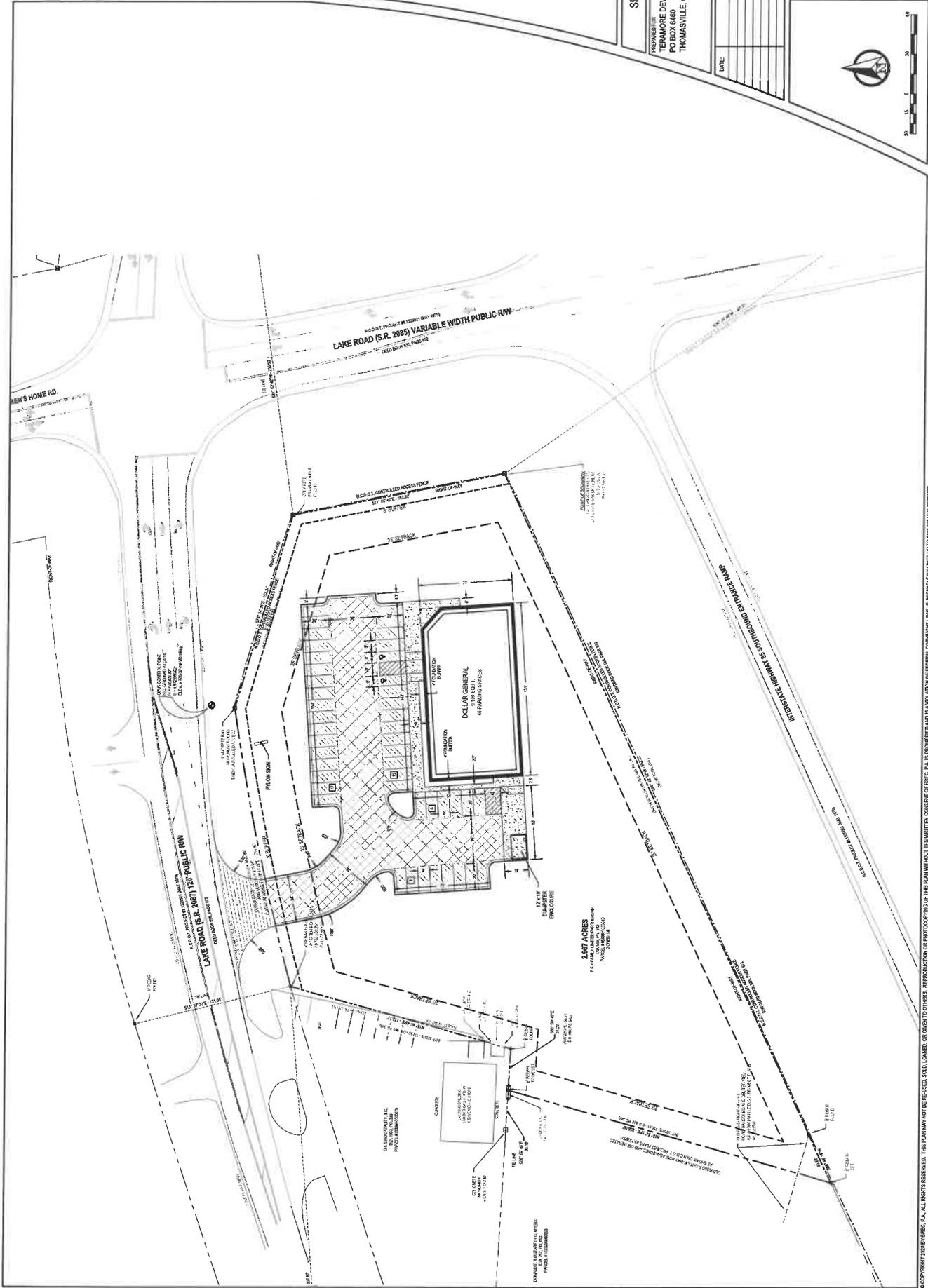
SITE PLAN

PREPARED BY:
 RESURGENCE DEVELOPMENT, LLC
 PO BOX 8469
 THOMASVILLE, GA 31758

DATE:	REVISIONS:

PROJECT NO: 20090000
 DATE: 11-30-09
 DRAWN BY: JENNY
 CHECKED BY: JENNY
 PROJECT NO: 20090000

SCALE: 1"=30'
 SHEET: C100



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Davidson County GIS



Parcel Number : 163380000013
Pin Id : 6776-01-28-8104
Owner : F S K FAMILY LIMITED PARTNER-
SHIP
1000 LEXINGTON AVE
THOMASVILLE NC 27360-0000
Property Address: LAKE RD

Land Units: 2.97 AC
Deed Book: 0989 Pg: 0342
Deed Date: 05/01/1996
Account Number: 9026897

Request for Variance (BOA-20-02)

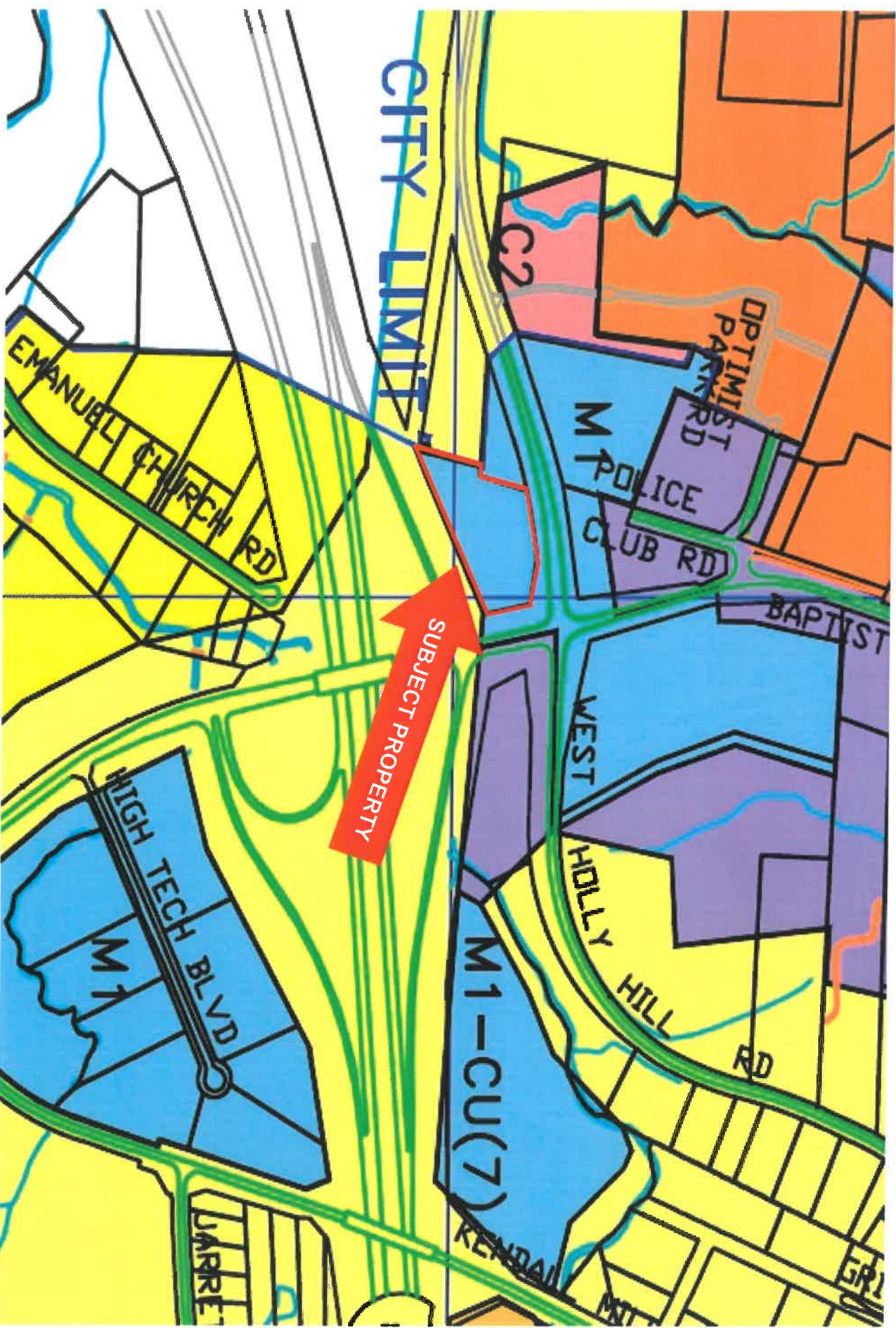
Applicant: Spring Hill Land Trust

Owner: FSK Family Limited Partnership

Location: Lake Rd TAX ID 16-338-0-000-0013

Existing Zoning: M-1 Light Industrial

Proposed Variance: Request to reduce the number of parking spaces from 64 to 46



Section 2. - Off-street parking.

- A. No part of an off-street parking area required for any building or use for the purpose of complying with the provisions of off-street parking requirements in this ordinance shall be included as part of any off-street parking area similarly required for another building or use unless the times of usage of such buildings or uses will not be simultaneous, as determined by the board of adjustment.
- B. Off-street parking space shall be located on the same lot as the use for which provided or on a separate lot within 200 feet of any entrance to the building, provided that such parking space land is owned by the owner of the building or leased for the same period of time as the building.
- C. The off-street parking requirements for two or more uses on the same lot may be combined and used jointly, provided that the parking space shall be adequate in area to provide the same total off-street parking requirements with all such uses.
- D. No parking shall be provided that would necessitate the automobile backing onto any street right-of-way except in the case of single family detached dwellings. Sufficient maneuvering space shall be provided on the lot to enable the motorist to enter all street rights-of-way in a forward direction.
- E. All off-street parking spaces shall be provided with shield or bumper guards so located that no part of parked vehicles will extend beyond the parking space onto any public right-of-way.
- F. All off-street parking areas in any commercial, manufacturing or office-institutional district provided or required by this ordinance shall be graded and paved, prior to occupancy, to the specifications of the department of public works. Said paving shall include subsurface storm drainage, curbing, etc., as may be necessary to provide adequate stormwater runoff; provided, however, the zoning enforcement officer may authorize temporary occupancy if such paving of such parking areas is incomplete subject to the following conditions:
 - 1. The construction of the parking area is sufficient to provide safe ingress, egress, parking and maneuvering.
 - 2. The development is fit for occupancy in all other respects.
 - 3. The developer provides the city with a cash security equal to 120 percent of the cost, as agreed to by the zoning enforcement officer, for completion of the pavement. Such security shall be provided in the same manner and subject to the same rules as are set forth in the subdivision ordinance except that if the developer fails to complete the pavement within 120 days the project shall be in default and the city may take whatever appropriate action it may deem necessary to obtain compliance with the pavement requirement.
- G. All multifamily dwellings with more than four units shall have parking areas graded and paved, prior to occupancy, to the specifications of the department of public works. Said paving shall include subsurface storm drainage, curbing, etc., as may be necessary to provide adequate stormwater runoff; provided, however, the zoning enforcement officer may authorize temporary occupancy if such paving of such parking areas is incomplete subject to the following conditions:
 - 1. The construction of the parking area is sufficient to provide safe ingress, egress, parking and maneuvering.
 - 2. The development is fit for occupancy in all other respects.
 - 3. The developer provides the city with a cash or equivalent security equal to 120 percent of the cost, as agreed to by the zoning enforcement officer, for completion of the pavement. Such security shall be provided in the same manner and subject to the same rules as are set forth in the subdivision ordinance except that if the developer fails to complete the pavement within 120 days the project shall be in default and the city may take whatever appropriate action it may deem necessary to obtain compliance with the pavement requirement.
- H. An off-street parking space shall not be less than the size required below for the angle parking shown.

Angle (degrees)	Stall Width (feet)	Curb Length per Car (feet)	Stall Depth (feet)
0	8	23.0	8.0
20	8	23.5	14.0
30	8	16.0	16.5
45	8	11.3	19.1
60	8	9.3	20.5
70	8	8.5	20.8
90	8	8.0	19.0

I. Parking space required. The following parking ratios shall control, as applicable, in the zoning districts.

Auditoriums, stadiums and theaters	1 space for every 5 seats
Banks and financial services	1 space for every 200 square feet of gross floor area
Churches	1 space for every 4 seats in principal auditorium
Community or private swimming clubs	1 space for every 5 members (or families)
Drive-through service such as banks, dry cleaners, carwashes, etc.	Stacking for 4 vehicles at each bay, window or lane
Dwelling unit having home beauty shop	2 spaces
Fire stations	1 space for each person on duty on a normal shift
Furniture showroom display facilities	1 space for each 1,000 square feet for showroom space, plus 2

	spaces for each 3 employees
Hospitals	1 space for each bed space
Hotels and motels	1 space for every guestroom, plus 2 spaces per 3 employees on largest shift
Indoor commercial recreation (physical fitness centers, game rooms, etc.)	1 space for each 130 square feet of gross floor area devoted to such use
Industries	1 space for every 2 employees during maximum employment and 1 space for every truck to be stored or stopped simultaneously
Institutions and clubs	1 space for every 5 seats in principal assembly room
Medical clinics	4 spaces for each doctor plus 1 space for each employee
Nursing homes, rest homes	1 space for each 3 patient beds
Offices	1 space for every 250 square feet of gross floor area
Personal services (barbershops, hair salons, business schools, dance studios, gyms)	2.5 spaces per operator or employee
Preschool	1 space for each regular employee and 1 added space for every 6 children or fraction
Residence, multifamily	2 spaces for each dwelling unit
Residence, multifamily for elderly and handicapped	0.75 spaces for each dwelling unit
Residence, single-family, two-family	2 spaces (may be in a single drive with one car behind the other)
Restaurants or other eating places	1 space for each four seats
Retail businesses	0.7 of a space for every 100 square feet of gross floor area; 1



	space minimum
Roadside stands, new and used car sales, house and truck, trailer sales, outdoor machinery sales	4 spaces for each salesperson on duty during period of average greatest employment, plus 1 space per each two other employees during period of average greatest employment
Rooming and boarding houses	1 space for each roomer, in addition to normal dwelling unit requirements
School, senior high	1 space per school employees [sic] and 1 space per 4 students
Schools, elementary or junior high	3 spaces for each room used for administration office or class instruction, or 1 space for each 6 seats in auditoriums and other places of assembly or facilities available for the public, whichever is greater
Shopping center	5 spaces per 1,000 square feet of gross floor area (optional to computing parking on a store-by-store basis)
Wholesale establishments, warehouses, and other businesses not catering to retail or package trade	1 space for every 3 employees during maximum employment and 1 space for every truck to be stored or stopped simultaneously

Special situations which are not covered by the above shall be handled by the planning board. The board of adjustment shall make the final determination as to the number of spaces to be required but shall in all cases give due consideration to the needs and space available, and shall classify the proposed use in one of the categories listed above.

(Ord. of 2-16-04(3), § 1)

MOTION FOR VARIANCE HEARING*

APPROVAL	Based on the stated Findings of Fact, I move that the Zoning Enforcement Officer be overruled and the Variance granted (with the following conditions) based on the findings listed below: (Must read ALL)	
Variances -	When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following.	
(1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict applicaiton of the ordinance because:	<i>State reason:</i>	
(2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because:	<i>State reason:</i>	
(3) The hardship is not the result of the applicant's own actions because:	<i>State reason:</i>	
(4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because:	<i>State reason:</i>	

Date

Doug Hunt, Chairperson

*Motions should either (1) approve the variance request; (2) approve the variance request with conditions; or (3) deny the variance request. Findings of fact and conclusions must be made for both approvals and denials.

MOTION FOR VARIANCE HEARING*

DENIAL	Based on the stated Findings of Fact, I move that the Zoning Enforcement Officer be upheld and the Variance denied based on the findings listed below: <i>(Must read a minimum of one: if more apply, read them as well.)</i>	
Variances -	When there [are not] practical difficulties or unnecessary hardships that result from carrying out the strict letter of this ordinance.	
(1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will not result to the property by applying strict application of the ordinance because:	<i>State reason:</i>	
(2) The hardship of which the applicant complains does not result from conditions that are peculiar to the property and unique circumstances related to the applicant's property because:	<i>State reason:</i>	
(3) The hardship is the result of the applicant's own actions because:	<i>State reason:</i>	
(4) The variance is not in harmony with the general purpose and intent of this ordinance and does not preserve its spirit and does not assure public safety because:	<i>State reason:</i>	

_____ **Date**

_____ **Doug Hunt, Chairperson**

*Motions should either (1) approve the variance request; (2) approve the variance request with conditions; or (3) deny the variance request. Findings of fact and conclusions must be made for both approvals and denials.



PRELIMINARY



DOLLAR GENERAL
THOMASVILLE, NC

SITE PLAN

PREPARED FOR:
TERAMORE DEVELOPMENT, LLC
PO BOX 6460
THOMASVILLE, GA 31758

DATE:	REVISIONS:



DRAWN BY:	J. EDWARDS
CHECKED BY:	J. CHURCH
DATE:	06/24/2020
PROJECT NUMBER:	3180982010
SCALE:	1" = 30' (H) 1" = 60' (V)
SHEET:	C100

DO NOT SCALE - PLANS MUST BE RECEIVED AS A COMPLETE SET