

A-G-E-N-D-A

SPECIAL MEETING

BOARD OF ADJUSTMENT

CITY COUNCIL CHAMBER
308 E. STADIUM DRIVE

THURSDAY, JULY 11, 2019
5:30 P. M.

Oath of Office for: Joan Moore

1. Meeting called to order.
2. Roll call.
3. Approval of minutes of the special meeting on March 7, 2019.
4. Unfinished business:
6. Items from staff:
7. New business:

(A) Special Use Permit 201 E. Meadow Road SU-19-02
Consideration of a special use permit for a light industrial use at 201 E. Meadow Road in the space formerly occupied by K-Mart as allowed for in Section 11.26(c)(3)(c)(17) of the special use requirements of the Board of Adjustment section of the City of Eden Zoning Ordinance. Request submitted by Arthur Dick. SPECIAL USE CASE: SU-19-02.

(B) Appeal Carolina Avenue AP-19-01
Consideration of an Appeal, submitted by James Dudley Lewis, appealing the enforcement action of the Zoning Enforcement Officer for property located on Carolina Avenue, PIN 7090-10-47-9314. APPEAL AP-19-01

1. Ordering the cessation of a contractor's office and storage yard in a Residential-6 district.
 2. Occupation and use of property without a zoning compliance permit.
8. Items from the Board of Adjustment:
 9. Adjournment.

**PLEASE CALL THE PLANNING AND INSPECTIONS DEPARTMENT
UPON RECEIPT OF THIS AGENDA PACKAGE
336-623-2110 OPT. 2**

MINUTES OF A SPECIAL MEETING
OF THE BOARD OF ADJUSTMENT
MARCH 7, 2019

The Board of Adjustment held a regular meeting on Thursday, March 7, 2019, at 5:30 p.m. in the City Hall council chamber.

Members present: Cleveland Ellison
Diana Biggs
Will Flynt
David L. Everett
Hope Gilley
Jackie Hampton
Charles Johnson
Terry Shelton
Barney Walker

Members absent: None

Staff present: Kelly K. Stultz, Planning Director
Debra M. Madison, Planning Coordinator/Legal Assistant

Others present: Corey Aiken, Applicant
Dwight Aiken, Applicant

*Excused absence.

The meeting was called to order by Board Chairman, Cleveland Ellison. The roll was called and it was determined that a quorum was present.

ELECTION OF OFFICERS: CHAIRMAN
VICE CHAIRMAN

A motion was made by Charles Johnson, seconded by Diana Biggs that Cleveland Ellison be nominated for the position of Chairman of the Board of Adjustment. Motion carried unanimously.

A motion was made by Barney Walker, seconded by Charles Johnson that Will Flynt be nominated for the position of Vice Chairman of the Board of Adjustment. Motion carried unanimously.

APPROVAL OF MINUTES OF A SPECIAL MEETING ON APRIL 5, 2018.

The minutes of the special meeting on April 5, 2018, were presented to the Board. Hope Gilley made a motion that the minutes be approved as submitted. Will Flynt seconded the motion. Motion carried unanimously.

UNFINISHED BUSINESS:

Chairman Ellison announced that a former board member, Frances Craddock, has passed away since the last meeting.

ITEMS FROM STAFF: NONE

NEW BUSINESS:

SPECIAL USE PERMIT FRIENDLY ROAD SU-19-01

Consideration of a special use permit for a Private Recreation Use (Handgun shooting range and small game hunting facility) as allowed for in Section 11.26(c)(3)(c)(3) of the special use requirements of the Board of Adjustment section of the City of Eden Zoning Ordinance as requested by Carolina Firearms Training & Consulting, LLC.

Cleveland Ellison explained the process to the Board and those in attendance. The Board of Adjustment members are appointed by the City Council. After she speaks and presents the staff report, others may speak in favor of or against the application. If the Board votes to deny the permit, the applicants can appeal the decision to the Superior Court.

Cleveland Ellison swore in the persons that planned to speak during the hearing: Kelly K. Stultz and Corey Aiken.

Kelly read Section 11.26(2)(4) Quasi-Judicial Decisions from the City of Eden Zoning Ordinance.

Kelly Stultz presented the Staff Report which included the Findings of Fact and Staff Analysis and Staff Conclusion as follows:

The subject property is located at the north end of Friendly Road near the NC/VA state line. The property consists of approximately 20.81 acres of undeveloped, wooded property. The property is located in a rural residential area in the city's ETJ.

The application submitted is complete and therefore eligible for consideration.

FINDINGS OF FACT

- (a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted;
 - (b) That the use meets all required conditions and specifications;
 - (c) That the use will not substantially injure the value of the adjoining or abutting properties, or that the use is a public necessity;
 - (d) That the location and character of the use, if developed according to the plan as submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development for Eden and its environs.
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STAFF ANALYSIS

With respect to the findings of fact, staff provides the following analysis:

- (a) The applicant has submitted an application to operate a private recreation and hunting club on the property. Staff is of the opinion that such use on the subject property would be in harmony with the surrounding neighborhood and would not be a danger to public health and safety in the area.

- (b) The use meets all required conditions and specifications, in addition to the following:
 - (1) The private recreation use shall meet all setbacks and other requirements for the zoning district.
 - (2) A minimum 30 foot vegetative buffer shall be maintained between the use and any adjoining property.
 - (3) Any outdoor shooting area shall be faced away from any adjoining use or any public street or right-of-way. Such area shall be protected by a minimum 15 foot earthen berm designed for target shooting purposes.
 - (4) A trained staff person shall be on-site at all times when the use is operational.
 - (5) Traffic will not be substantially increased in the area.
 - (6) All parking for the use shall be on-site. No on-street parking shall be permitted.
 - (7) No outdoor activities shall be permitted before 8:00 a.m. or after 6:00 p.m.
- (c) Staff is of the opinion that the use would not substantially injure the value of the adjoining or abutting properties.
- (d) Staff is of the opinion that the use would be in harmony with the surrounding area and in conformity with the general development plans for the area.

Based upon the facts submitted and discovered at the time of this report, staff finds that sufficient facts are proven to recommend approval of the special use permit. Therefore, staff recommends approval of the special use permit.

Will Flynt – Did you get any telephone calls or questions?

Kelly – Yes. We mailed notices to property owners in the area and some of them called with questions about the proposed use but remember this is a quasi-judicial proceeding and cannot be based on opinions.

One of the Applicants, Corey Aikens, spoke to the Board representing Carolina Firearms Training and Consulting, LLC. He explained that he and his brother were born and raised in Eden, his mother still resides on Hale Street. Together they have 45 years of military experience. Both are retired from the military. They have trained in excess of 100 citizens in Rockingham County for the concealed carry permit. They are often ask about where they can find a safe environment to have target practice with small fire arms. They started looking for land not only for target practice but help develop commerce in the area. We would be providing back to the community and providing a service to the community with something that the community was asking for. We both work for BB&T in addition to offering concealed carry classes and teach personal defense.

Charles Johnson – Do you plan to limit it to just hand guns?

Corey – We initially put on the application handguns. We think it is important to ensure that the surrounding neighborhood is comfortable with what we are doing. We want to be sure that it is not a one-time thing. It will be a growing thing. It will be far back in the northeast corner. We have our construction process and plans in place for the stalls to

be built. Right now we are starting with the firearms. We hope that, at some time, we can go with a 150 yard berm for AR's but we don't want to start that way. It is obvious from the hunting stands in the area that rifles or AR's are already being used on the land. We would do it in a controlled manner. We would have NRA certified staff.

Charles Johnson – The 15 foot berms – how far off the property line would they be?

Corey – We would be beyond the clearing that is on the map. We would adhere to the 30 foot buffer required on all sides. There would be an additional buffer to get 100 to 150 yards. We would be sure that it is safe for the entire area. We would build a building on the property and the location would be based on the perk tests. We would have all the sound reduction necessary to help with the sound. We will have a security fence.

Charles Johnson – Will you meet all state, federal and local guidelines?

Corey – Yes. We will check back with the City from time to time to be sure that we are in compliance and ask if there have been any complaints. We want to be a partner with the City.

Charles Johnson - Will you ever do sales out there, like hand guns?

Corey – We haven't thought about that but before you can sell ammunition and stuff like that you have to be FFL certified so at some point that may be an option when we put a building out there. Again, we would have all the protocols in place. We have been looking for a long time and we wanted to come back to Eden.

Jackie Hampton – What are the hours that you would be open?

Corey – 8:00 to 6:00 are the mandatory guidelines. Our classes normally start at 9:00 a.m. and we don't go past 5:00 p.m. If people want to come out and fire we would probably go 9 to 3 or 9 to 4. I'm former military and I don't like night firing unless it's a personal defense situation. We would make sure that we adhere to the neighborhood.

Dianna Biggs – What is your weekend schedule? Is it a 7 day operation? Will you be open on Sundays?

Corey – Right now we probably would be closed on Sunday. We have families and things to do plus we travel. I am currently residing in Raleigh and Dwight resides in Clemmons. I come regularly to check on my Mom. I'm thinking we would do it during the week and have limited hours with the proper staff. It's crawl, walk, run right now. On the weekends we would definitely be there to staff it. I'm hoping that at some point, we get a consistent schedule but all that will be determined once we have an action plan in place.

Barney Walker – Do the participants furnish the firearms? You don't rent them?

Corey – We furnish and rent our own firearms. We have firearms. We have been doing this for a while so if we do a class of 22, we have enough firearms to be sure that we can facilitate the entire class.

Cleveland Ellison – So when you finish the class, all they have to do is go downtown to get the permit.

Corey – When the class is over, I give them the permit. At that point, I send a follow up email to the participants about the county guidelines. I have about 5 counties represented in the last class. I follow up with them to be sure they do the documentation. With Rockingham County, you can go online to get the forms, fill out the packet, go the Sheriff's Office to submit the forms and the wait is about 6 weeks.

David Everett – Tell me about the topography of the land from the road to the northeast corner.

Corey – There are a lot of small pine trees. It is so dense you can't see through the trees to where the clearing is. There is a road but it is grown over. We plan to clear that for a 2 lane road to the clearing and parking lot labeled on the map. About 150 yards from the road, we plan to put in a covered pad for a building. We would have 6 to 8 stalls.

David Everett – Is the clearing sitting up on a hill or knoll?

Corey – It is actually level. It looks like they might have already had a berm there that is grown up. The property on the east side doesn't drain very well and had a lot of standing water.

Charles Johnson – Would you explain the ATV trails?

Corey – What we thought was that since we had that whole side, we would do a quarter mile ATV trail. We have had people ask about places to ride so they didn't have to travel as far. Insurance is a factor as well. We thought that would add another recreational activity for the property.

Will Flynt – The covered hangar showing on your site map, that is just covered and not enclosed?

Corey – It is just covered right now.

Will Flynt – So all shooting will be done outdoors – no enclosed ranges? Give me an example of how many people you hope to have there at one time shooting and for how long will they be shooting and how much will they be shooting?

Corey – That is a great question. So you talked about us having a concealed carry class. When we do concealed carry classes, the range time is the only part that is outside. We have done 25 to 30 people at one time. We can get them out there and finished in 1:45 or 2 hours. That's having 6 stalls with up to 10 stands. Now, if you are talking about people coming out there to shoot, we would do it in hour increments to do target shooting. On any given day, you might have 5 to 25 people that show up at different times while we are open. We would only have 8 positions so they would have to wait.

Speaking in Favor – None

Speaking in Opposition:

Homer E. Wright, Jr. (Sworn in by Chairman Ellison) You can't help but be impressed with him. He is going to do a good job at what he does. I love this town and I am probably the oldest citizens living here. I hate to be here in opposition to anything that comes up but there are things that I think we should take note of. There are 16 new houses across the street. There are 3 for sale and there are 30+ other residents. Noise is a big factor. It doesn't blend well with desirability. Residential and gun ranges are just not good partners and I am familiar with gun ranges, not like he is, but I am familiar with gun ranges. All I can ask, is that when you are considering this please think would I like to live next to a gun range. I know it is across the street but I also know that over the last 3 years I have dealt with some of this and . . . For what they have done and what they plan, it is great, but just think about it and ask yourself if you would like to live next to it. It does not and has not attracted people. Thank you for your consideration.

George Fisher (Shown in by Chairman Ellison) – 523 Round House Road. I am a gun advocate and I believe in gun ownership and the right to bear. I used to be an avid gun hunter myself. I am not against firearms. I am against – if you will notice where that 523 is on the plat, just to the top left of that is my house and if you will follow that yellow line, that is the northeast side of this property that is being considered for this gun range. You will notice that the terrain is pretty open. That is actually cow pasture that is being utilized, it is being rented from the Scales. There are 40 to 50 heads of cattle there. A lot of the time they will be right up next to the fence right behind my house. Mrs. Stultz indicated earlier in her opening statement that the proper procedures would be in place. I have no doubt about that whatsoever. I'm sure these gentlemen are very reputable and they have the utmost concern for safety because of their previous training, but she mentioned two things: public health and safety. I want to focus on one of those, safety is going to be taken care of but public health. We're not talking about the physical kind. There is a lot of issues that are being dealt with out in our society today different pollutions which do affect your health. The one I want to bring to your attention is noise pollution. Along a lot of your major highways there are berms put up, walls and other things because of noise pollution. Sound travels at about 1,000 feet a second. The gentleman indicated that there would be hundreds and hundreds of rounds 800 feet from my back door that is going to hit me in less than a second from every round that is fired. I don't know where any of you live but put yourself in my place. Allow me and some of my buddies to go 500 to 600 feet from where you live and shoot several thousand rounds a day. It was indicated Monday through Friday, not necessarily Saturday and Sunday, but it was not quantified that it would not be. This could be seven days a week. Pounding, pounding, pounding with this noise pollution. Another thing that was brought up. I love ATV's. There again look at the terrain. The terrain would carry these ATV's, not all silent, not all quiet, I know because I have ridden them. They are going to be circling right behind my back door. There again, noise pollution. I have been living there 33 years. 1156 Friendly Road is my home place. So between those two locations, I have been living there over 50 years on the north end of Friendly Road. All I can do is say to you that I am not against economic development but I think it needs to be where it is actually beneficial to the community. On this north end of Friendly Road, we are a community. I do not think that this would be advantageous for our community.

Franklin Hopkins (Sworn in by Chairman Ellison) – 414 Northridge Drive. I moved to Northridge a few years ago and I was one of the first residents in the new homes. I found out about this potential gun range last night. I got off work and rushed here from

Madison when I found out what was going on. I didn't receive any notices in the mail. My parents live in The Oaks where the police gun range is by the City of Eden sewer plant. If you are ever outside during the summer time, you can hearing the police shooting all night, until 9:30 at night and that is over a mile away. This isn't going to just affect my house, it is going to affect Grand Oaks, Blue Creek and all the other surrounding areas. I don't want to live there. I just got married, I plan to have kids. How am I supposed to raise a family listening to gun fire across the street. I am a huge advocate for guns, love shooting but we just opened something on the Harrington Highway with about 1,000 acres. Why not put it there? Why does it have to be in the middle of the houses? There are houses all up and down the street. It's not just affecting one person. They are affecting hundreds of people. I don't think you are taking into consideration how many people are going to be able to hear the gun sound. I know that from my house, I can hear people shooting in Virginia from Virginia Avenue. Rockingham County is a huge place and I don't understand why we need to have it there. There is bound to be another place that we can do this other than right there between houses. I don't know of any other gun range that is in as populated an area as this. My whole point of moving to Northridge was because of its location and being in the City and being quiet. Having this come up now affects my property value and my potential to sell my house as well as the other homes in the area. I am definitely concerned. I would like to get more information on the proposal.

Ann Fish (Sworn in by Chairman Ellison) – 331 Wilshire Drive. I have lived in Northridge for 30 years. It is a very quiet and safe neighborhood. I am single and I do not want to live anywhere else. I don't think it will be safe if we are going to have people firing so close to us. What's to keep these people from turning around and shooting towards our homes. They can't control people. We have heard in the past about gun accidents. The ATV's make a lot of noise. I never received a notice about this meeting at 11:00 a.m. today. It won't be safe to go outside. I grew up around guns. My concern is the quietness. We have a quiet neighborhood. Children play in the yards and people walking their dogs. It won't be safe anymore. If we are having to listen to these guns all day, would you. I have a friend that lives near a firing range and they promised no night shooting but they wake her up at night. We have enough of these ATV's. The kids will be riding their ATV's illegally down Friendly Road. I go to church about a mile from the Eden firing range and we can hear them a mile away during church. We have young women expecting babies. If they are firing guns all day, it will keep the babies awake. It will affect the peace and quiet in our area. I require naps during the day. I won't be able to sleep with all the gun fire. I want each board member to put your place in our places and think about it. Would you want someone firing guns all day across the road from your property. Would you want your safety and quiet disrupted?

Woodrow Reese (Sworn in by Chairman Ellison) I represent the Weaver family that owns property that adjoins this property in Virginia. Mr. Weaver is 77 years old and has dementia. If someone drops something, he goes haywire. Mrs. Weaver passed away a year ago. Her greatest fear was that someone would die of a hunting accident because her father died as a result of an accident. The application talks about hunting. There are turkeys and geese in the area. If they go outside, they could get shot from someone shooting at the hunting range. On behalf of the Weavers, we object.

Cleveland Ellison – We have had enough speakers.

Kelly – We cannot restrict how many people can speak.

Brad Fisher (Sworn in by Chairman Ellison) – 1158 Friendly Road. I am a gun advocate and I think these gentlemen are very smart. WE having been trying to fence in our property for several months in order for my daughter to have somewhere to ride her horses. I don't think it would be appropriate to have guns and ATV noise in this area. Noise will be a huge issue for the area. Put yourself in our shoes. Would you want this in your back door?

Jeff Parrish (Sworn in by Chairman Ellison) – 413 Northridge Drive. I am not a gun enthusiast. I have known Corey Aikens since he was 12 years old. I know him to be a quality young man. I don't know his brother but I know something about brothers. However, I live there and closer than anyone here except the Fishers. I have concerns about the possibility of noise pollution. I would love to encourage the young men to come back and build industry but I don't want it in my back yard. I say to Corey it is a wonderful plan that you have but I don't want it in my back yard. I found out about this from a gentleman from the news station this afternoon. I did come to find out more information. I don't want it where I live. I think there are other options but I don't care about the other options. I am going to ask the board members to vote against this.

Will Flynt – Do you plan to fence the entire 20 acres?

Corey – Yes. It will be secure. The facilities will not be as close as people think.

Will Flynt – Small animal hunting?

Corey – They do deer hunting there now. Our intent is for it to be private. There is obviously small animal hunting going on there now. There will be cameras and drones in the area. We will have rod iron type fence along the entire front side. The sides may be different. The gentleman that spoke at 523 is actually on the southeast side of this property is more than 800 feet from the area.

Charles Johnson – Is the ATV definite?

Corey – No. It was just an idea but we wanted feedback from the community. The houses are a long way from the ATV trail.

Charles Johnson – Will you be open on Sunday?

Corey – It's a 95% chance that we will not be open on Sunday.

Charles Johnson – If we impose a time limit on the shooting times?

Corey – We could work with that?

Hope – Were there any other properties considered?

Corey – The nearest thing was way off US 220 but it wasn't developed like this property. This property has been developed for hunting. We are trying to find something local to Eden.

Hope Gilley – We heard statements from people that they did not receive a notice.

Kelly – Read the notice requirements in the Board of Adjustment section of the Zoning Ordinance.

Debra Madison – We mailed notices to everyone that was within 100 feet of this property.

Jeff Parrish – Can we get the number of letters that were mailed and the number of responses were received?

Kelly – Explained the Board of Adjustment is here to accept evidence in order to make a decision. After the public hearing is closed, you can ask questions you think is necessary.

Cleveland Ellison closed the public hearing.

Chairman Ellison explained that the decision made by the Board of Adjustment could be appealed to Superior Court.

Charles Johnson – Does a change of hours have to be voted on tonight?

Kelly – If the Board of Adjustment denies the application, the applicant cannot make the same application for a year. The Board of Adjustment has the ability to add conditions. The applicant does not have to accept them. You can't tell them to come back with another application on this same parcel of land.

Hope Gilley – When we look at the facts and the plan/application presented, items A and B have been followed. C and D portion of our findings concerns me. I don't have the figures on the impact of gun ranges on property values. It's an uncertainty. I don't think it will materially endanger the health and safety.

Kelly – The Special Use permit will follow the land.

Will Flynt – In my opinion, A and B are ok. C is impossible to prove. We don't have enough data to make that a fact. D – Is it in harmony with the area. I don't doubt that hunting is going on now and being such a dense residential area, it is more residential than anything else. I'm not sure about harmony with the area.

Charles Johnson – The industrial area close by is extremely noisy.

Cleveland Ellison – Can we vote?

Kelly – We need at least 5 board members to overturn my recommendation.

Charles Johnson made a motion to approve the Special Use Permit and to restrict the hours of shooting to 9 a.m. to 4 p.m. with hours of operation to 8 a.m. to 6 p.m. The motion failed for lack of a second.

David Everett called the question.

Will Flynt made a substitute motion that due to a lack of a second to approve the application, that the application be denied and find that as stated in Requirement D it is not in harmony with the area. Hope Gilley seconded the motion. Vote as follows:

6 yes and 3 no

ADJOURNMENT:

There being no further business to come before the Board, a motion and a second was made for adjournment. Motion carried unanimously.

Respectfully submitted,

Kelly K. Stultz, Administrative Assistant to
the Board of Adjustment

ATTEST:

Cleveland Ellison, Chairman



PLANNING & INSPECTIONS DEPARTMENT
APPLICATION FOR A SPECIAL USE PERMIT

INSTRUCTIONS: Please complete this application and provide the required information. In order for this application to be accepted, all applicable sections of this form must be completed, all required information provided and the application fee paid at the time of submittal.

(1) APPLICANT INFORMATION:

NAME: Arthur Dick TELEPHONE: 336-382-3229
MAILING ADDRESS: 245 West Friendly Ave
CITY Greensboro STATE NC ZIP CODE 27401
APPLICANT'S PROPERTY INTEREST OR LEGAL RELATIONSHIP TO OWNER(S): Partner

(2) PROPERTY OWNER INFORMATION:

NAME: ACE Ventures LLC TELEPHONE: 336 382 3229
MAILING ADDRESS: 245 West Friendly Ave
CITY Greensboro STATE NC ZIP CODE 27401

(3) PROPERTY INFORMATION:

TAX PROPERTY IDENTIFICATION NUMBER(S)(PIN): 0177539/PIN 7080 09 25 3342 00

STREET LOCATION: Meadow Rd Former Kmart Building Eden Mall
DEED BOOK: 1448 PAGE NUMBER 0064
YEAR CURRENT OWNER ACQUIRED PROPERTY: 2019
PROPERTY SIZE (in acres or in square feet if less than 1 acre): 10.987 acres
PUBLIC WATER AVAILABLE YES NO PUBLIC SEWER AVAILABLE YES NO
CURRENT USE OF PROPERTY: Vacant

(4) ZONING INFORMATION:

ZONING DISTRICT: _____
SPECIAL USE PERMIT REQUESTED: Light Industrial
APPLICABLE SECTION OF THE ZONING ORDINANCE: _____

(5) ADDITIONAL INFORMATION:

INCLUDE WITH THIS APPLICATION A COPY OF THE RECORDED DEED TO THE PROPERTY.
INCLUDE A DEVELOPMENT PLAN FOR THE PROPERTY THAT SHOWS EXISTING AND PROPOSED FEATURES ON THE PROPERTY AS THEY RELATE TO THE SPECIAL USE PERMIT REQUESTED.

(6) SPECIAL USE REQUIREMENTS:

ALL SPECIAL USE PERMITS ISSUED MUST MEET THE FOLLOWING GENERAL REQUIREMENTS IN THE SPACE PROVIDED OR ON A SEPARATE SHEET OF PAPER INDICATE THE FACTS THAT YOU INTEND TO PRESENT REGARDING HOW THE PROPOSED USE MEETS THESE GENERAL REQUIREMENTS.

- a. The use will not materially endanger the public health or safety if located where proposed and developed according to plan as submitted and approved.

- b. The use meets all required conditions and specifications. (Please note the zoning ordinance for the conditions and specifications on each special use.)

- c. The use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.

- d. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Eden and its environs.

- a. Operations of this light industrial facility will not materially endanger the public health or safety if allowed to locate where proposed due to the facts of the industrial process is safe and not detectable from the conditions listed that could be considered objectionable. Also the light manufacturing process is located inside a building and away from all public contact or close proximity to the public. A significant portion of the process is inside storage and distribution which poses no threat to the public or neighboring occupants.
- b. The use of this facility under ordinance 11.2(c)(3)(c)(17) meets all conditions and specifications as listed. Items a, b, c, d and e of the proposed text shall be adhered to and met by our processes meeting all required conditions and specifications. This is a safe and low impact light industrial process that will go unnoticed in most instances from the public.
- c. The use of this property under the ordinance as described will not substantially or otherwise injure the value of the adjoining properties in any way. In fact it will increase the value due to the improvements we desire to make to the facility. In addition to the successful operations of our business turning an abandoned facility into a successful operation.
- d. The use of this property shall conform to the character of the location maintaining harmony with the area and its current uses. Our plan is to renovate and improve this facility to improve the overall appearance and functionality. Also, our desire is to not transform the character of this facility or area but to enhance it thru wise planning to preserve the existing character and the long range use of the facility as currently in place.

(7) APPLICANT CERTIFICATION:

I hereby certify that, to the best of my knowledge, the information shown on this application is true and accurate, and that I hereby request the issuance of a special use permit as described herein.

Applicant's Signature

6/17/19

Date of Signature

(8) PROPERTY OWNER(S) CERTIFICATION:

The undersigned property owner(s) hereby certify to the ownership of the property shown and described in this application for a special use permit, and hereby requests the issuance of a special use permit as described herein.

Property Owner's Signature

6/17/19

Date of Signature

Property Owner's Signature

Date of Signature

(9) CORPORATION CERTIFICATION:

IT IS HEREBY CERTIFIED, that _____, a Corporation, is the owner in fee simple of lands which is described in this application for a special use permit and that the Corporation hereby requests the issuance of a special use permit as described herein.

IN TESTIMONY WHEREOF, that said Corporation has caused these presents to be signed by its duly authorized officer and has caused its Corporate Seal to be affixed thereto.

Witness the signature(s) and seal(s) this _____ day of _____, 20_____.

CORPORATE SEAL

Name of Corporation

Secretary

By: _____

President

DEPARTMENTAL USE ONLY

APPLICATION NUMBER: SU-19-02

FEE PAID:

RECEIVED BY: KKS

DATE: 6/17/19

**PLANNING AND INSPECTIONS DEPARTMENT
SPECIAL USE PERMIT REQUEST
June 25, 2019**

CASE NUMBER:	SU-19-02
REQUEST:	Special Use Permit: Light Industrial in BSC
APPLICABLE REGULATIONS:	Section 11.26(3)(c)(17)
APPLICANT:	Arthur Dick
APPLICANT'S STATUS:	Interested property buyer

PROPERTY INFORMATION

LOCATION:	201 E. Meadow Road (Eden Mall K-Mart)
PIN:	7080-0925-3342
ZONING:	BSC
ZONING HISTORY:	Zoned BSC at time of original zoning.

GENERAL INFORMATION

The subject property is located on East Meadow Road in the Eden Mall. The subject property is the former K-Mart building.

The application submitted is complete and therefore eligible for consideration.

FINDINGS OF FACT

- (a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted;
 - (b) That the use meets all required conditions and specifications;
 - (c) That the use will not substantially injure the value of the adjoining or abutting properties, or that the use is a public necessity;
 - (d) That the location and character of the use, if developed according to the plan as submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development for Eden and its environs.
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STAFF ANALYSIS

With respect to the findings of fact, staff provides the following analysis:

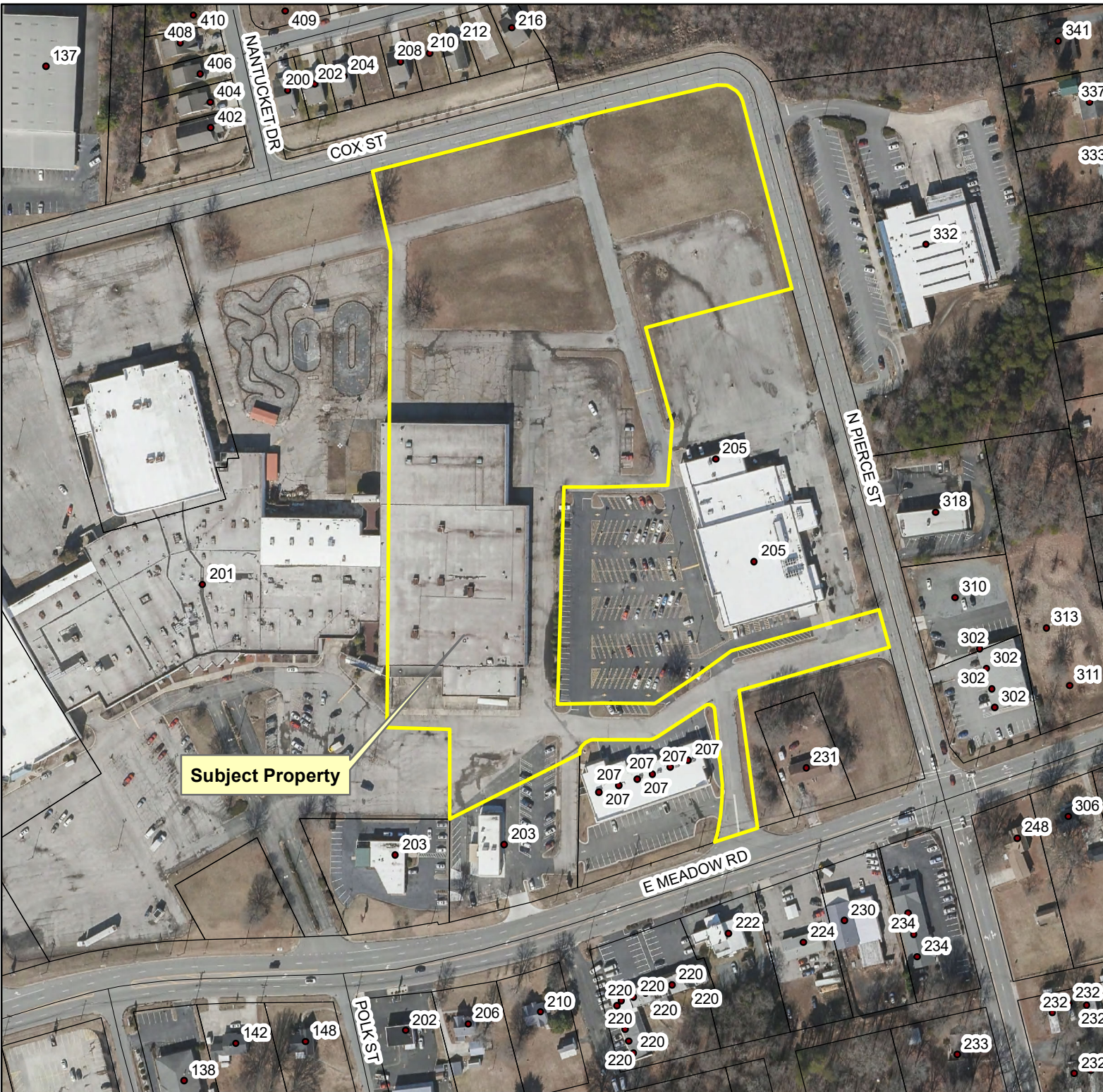
- (a) The applicant has submitted an application to operate light industrial use on the property. Staff is of the opinion that such use on the subject property would be in harmony with the surrounding neighborhood and would not be a danger to public health and safety in the area.
- (b) The use meets all required conditions and specifications, in addition to the following:
 - (1) Only light industrial uses which can be located in close proximity to other uses in the district, and which will not create any smoke, fumes, noise, odor, dust or other hazardous or objectionable conditions which could be detrimental to the health, safety or general welfare of the community shall be considered as permitted uses.
 - (2) All industrial operations and any associated uses shall be conducted indoors.
 - (3) No industrial operations nor any storage of any materials or equipment associated with the industrial operations shall be permitted outside or in any common area outside of the industrial facility.
 - (4) All industrial uses shall meet all other applicable requirements of the zoning district, including parking and signage, and all applicable building code, fire code and occupancy requirements.
 - (5) Only existing buildings may be utilized for industrial uses.
- (c) Staff is of the opinion that the use would not substantially injure the value of the adjoining or abutting properties.
- (d) Staff is of the opinion that the use would be in harmony with the surrounding area and in conformity with the general development plans for the area.

STAFF CONCLUSION

Based upon the facts submitted and discovered at the time of this report, staff finds that sufficient facts are proven to recommend approval of the special use permit. Therefore, staff recommends approval of the special use permit.

STAFF RECOMMENDATION:

Approval of the Special Use Permit Request.



Subject Property

SPECIAL USE PERMIT

SU-19-02

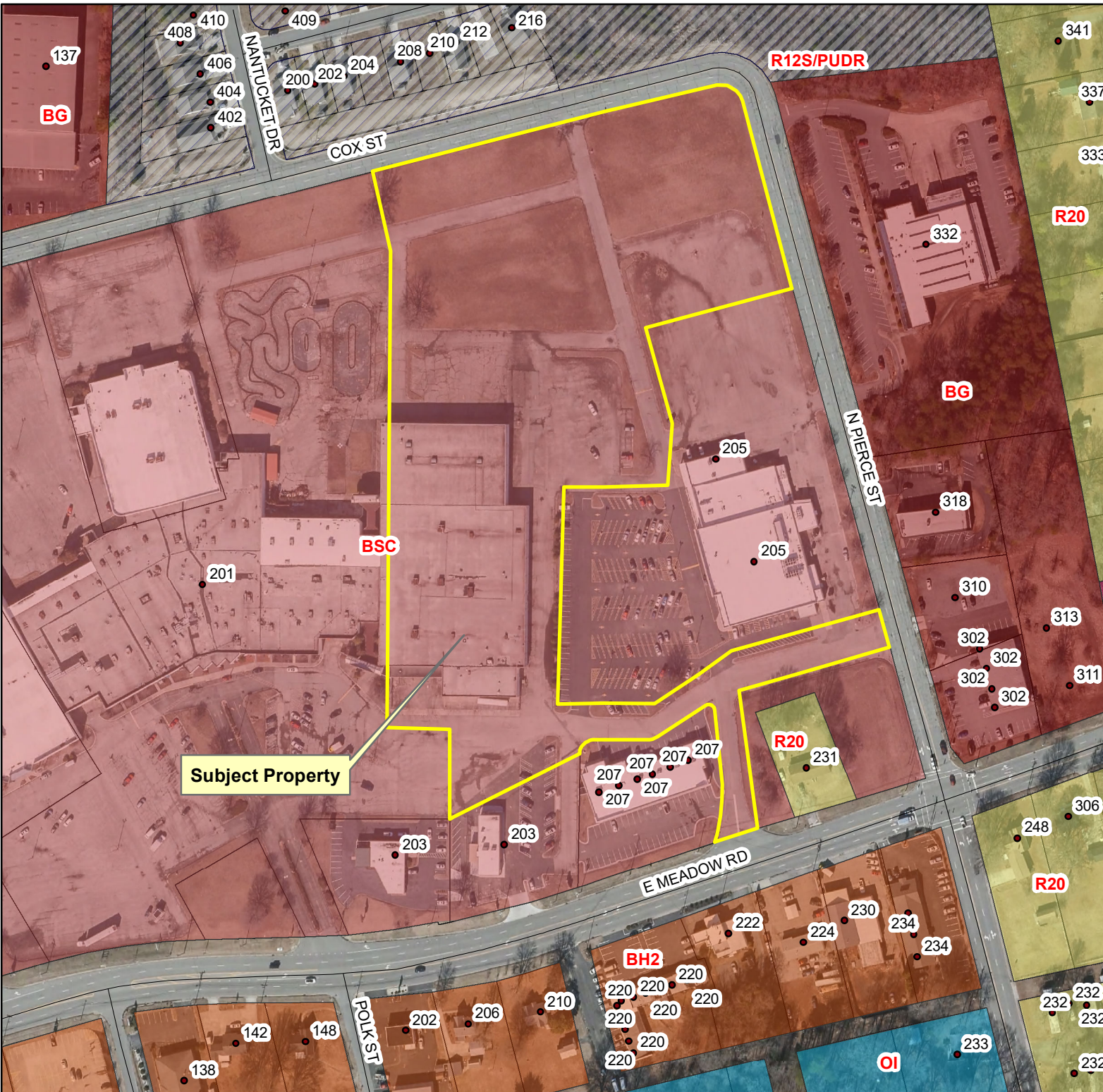
AERIAL MAP



**201 E. Meadow Road
Former K-Mart Building**

PIN 7080-09-25-3342

Zoned: B-SC



Subject Property

SPECIAL USE PERMIT
SU-19-02
ZONING MAP



201 E. Meadow Road
Former K-Mart Building

PIN 7080-09-25-3342

Zoned: B-SC

**SPECIAL USE PERMIT
OF THE CITY OF EDEN, NORTH CAROLINA**

GRANTOR: City of Eden

GRANTEE: DBI of Eastern Carolina LLC
Arthur Dick

**Prepared By:
Record & Return to:
Erin B. Gilley
City of Eden
P O Box 70
Eden, NC 27289-0070**

SPECIAL USE PERMIT

On the date listed below, the Board of Adjustment for the City of Eden conducted a hearing, pursuant to notice duly given, to consider the following special use permit application.

SPECIAL USE CASE NUMBER: SU-19-02 **HEARING DATE:** July 11, 2019

APPLICANT: DBI of Eastern Carolina LLC, Owner and Arthur Dick, Applicant

PROPERTY LOCATION: 201 E. Meadow Road, Former K-Mart Bldg, Eden, NC 27288

TAX PIN: 7080-09-25-3342; Parcel No. 177539; Tract 5 Deed Book 1448, Page 64

REQUESTED SPECIAL USE: Light Industrial Use

APPLICABLE SECTION OF ZONING ORDINANCE: 11.26(c)(3)(c)(17) -- Special Uses

Having heard all evidence and argument presented at the hearing, the Board finds that the application is complete, that the application complies with all of the applicable requirements of the Eden Zoning Ordinance for the development proposed, and that therefore the application to make use of the above described property for the purpose indicated is hereby approved, subject to all applicable provisions of the zoning ordinance.

SU-19-02 Light Industrial Use Facility

- (a) The applicant has submitted an application to operate a light industrial use facility on the property. Staff is of the opinion that such use on the subject property would be in harmony with the surrounding neighborhood and would not be a danger to public health and safety in the area.
- (b) The use meets all required conditions and specifications, in addition to the following:
 - (1) Only light industrial uses which can be located in close proximity to other uses in the district, and which will not create any smoke, fumes, noise, odor, dust or other hazardous or objectionable conditions which could be detrimental to the health, safety or general welfare of the community shall be considered as permitted uses.
 - (2) All industrial operations and any associated uses shall be conducted indoors.
 - (3) No industrial operations nor any storage of any materials or equipment associated with the industrial operations shall be permitted outside or in any common area outside of the industrial facility.
 - (4) All industrial uses shall meet all other applicable requirements of the zoning district, including parking and signage, and all applicable building code, fire code and occupancy requirements.
 - (5) Only existing buildings may be utilized for industrial uses.

CITY OF EDEN BOARD OF ADJUSTMENT

Chairman

ATTEST:

Kelly K. Stultz, Administrative Assistant
to the Board of Adjustment

We, the owners of the above specified property, do hereby acknowledge receipt of this special use permit. The undersigned owner(s) do further acknowledge that no work may be done pursuant to this permit except in accordance with all its conditions and requirements and that this restriction shall be binding on them and their successors in interest.

DBI OF EASTERN CAROLINA LLC

BY: _____

Name: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he/she is the _____ of DBI of Eastern Carolina LLC , a North Carolina limited liability company, and that by authority duly given and as the act of such entity, he/she signed the foregoing instrument in its name on its behalf as its act and deed.

WITNESS my hand and notarial seal, this the _____ day of _____, 2019.

Notary Public

My commission expires: _____

NOTE: An appeal from the decision of the Board of Adjustment may be made to Rockingham County Superior Court within 30 days after this order is filed in the office of the administrator of the zoning ordinance or after a written copy thereof is delivered to every aggrieved party who has filed a written request with the administrative assistant or chairman of the board at the time of hearing, whichever is later.



PLANNING & INSPECTIONS DEPARTMENT

APPEAL

FROM NOTICE AND ORDER OF THE ZONING ENFORCEMENT OFFICER

INSTRUCTIONS: Please complete this application and provide the required information. In order for an appeal to be accepted, a written request must be submitted. It is recommended that this form be completed to aid the applicant in presenting information to the Board. A \$100.00 application fee must accompany the application.

(1) APPELLANT INFORMATION:

NAME: James Dudley Lewis TELEPHONE: 336-520-7854
864-637-9267
MAILING ADDRESS: 1324 Carolina Ave
CITY, STATE & ZIP CODE: Eden, Nc, 27288
APPELLANT'S PROPERTY INTEREST OR LEGAL RELATIONSHIP TO OWNER(S):
Renting to own land in which owner still owns.

(2) PROPERTY OWNER INFORMATION:

NAME: Anita Carol TELEPHONE: 336-520-7777
MAILING ADDRESS: 1422 Fieldcrest Rd
CITY, STATE & ZIP CODE: Eden, NC, 27288

(3) PROPERTY INFORMATION:

_ STREET LOCATION: 7090-10-47-9314
_ YEAR CURRENT OWNER ACQUIRED TITLE TO PROPERTY: ?
_ PROPERTY SIZE (in acres or square feet if less than 1 acre): ?
_ CURRENT USE OF PROPERTY: Storage of personal property
and personal work space - play yard for my kids.

(4) ZONING INFORMATION:

ZONING DISTRICT: ?

(The current zoning classification will be shown on the letter you received)

(9) CORPORATION CERTIFICATION:

IT IS HEREBY CERTIFIED, that _____,
a Corporation, is the owner in fee simple of lands which are described in this application
for an appeal and that the Corporation hereby requests the Board of Adjustment hear and
decide this appeal.

IN TESTIMONY WHEREOF, the said Corporation has caused these presents to be signed
by its duly authorized officer and has caused its Corporate Seal to be affixed thereto.

Witness the signature(s) and seal(s) this _____ day of _____, 19_____.

CORPORATE SEAL _____ Name of Corporation _____

_____ Secretary By: _____ President

DEPARTMENTAL USE ONLY

APPLICATION NUMBER: APP 19-01 FEE PAID: N/A
RECEIVED BY: [Signature] DATE: 6-26-2019

**PLANNING AND INSPECTIONS DEPARTMENT
REPORT TO THE BOARD OF ADJUSTMENT
July 1, 2019**

CASE NUMBER: AP-19-01

APPEAL: An appeal from the enforcement action of the Zoning Enforcement Officer:

1. Ordering the cessation of a contractor's storage yard in a Residential-6 zoning district.
2. Operation and use of a property without a zoning compliance permit.

APPLICANT: James Dudley Lewis (property tenant)
1324 Carolina Avenue
Eden, NC 27288

RESPONDENT: Kelly K. Stultz, Planning & Inspections Director/Zoning Enforcement Officer

APPLICABLE REGULATIONS: Zoning Ordinance
Section 11.24(d)(1) Residential-6 Permitted Uses
Section 11.28(b) Enforcement – Certificate of Zoning Compliance

PROPERTY INFORMATION

LOCATION: Carolina Avenue

PIN: 7090-10-47-9314

ZONING: Residential-6

ZONING HISTORY: Zoned Residential-6 at time of original zoning

APPEALS

The Zoning Ordinance and the Board of Adjustment Rules of Procedure set forth the requirements for making and hearing an appeal. They state that the Board shall hear and decide all appeals from and review any order, requirement, decision, or determination made by the Administrator of the Zoning Ordinance. An appeal may be taken by any person aggrieved or by any officer, department or board of the City of Eden. An appeal stays all proceedings in furtherance of the appeal action.

The Board of Adjustment can hear appeals provided that a notice of appeal is filed within thirty (30) days after the interested party or parties receive notice of the order, requirement, decision or determination made by the Administrator.

A concurring vote of four-fifths (4/5) of the Board members is necessary to reverse any order, requirement, decision or determination of the Administrator of the Zoning Ordinance according to NCGS 160A-388(e).

GENERAL INFORMATION

On May 17, 2019, Ms. Anita S. Carroll, the property owner, was notified of the violation of Section 11.24(d)(1) of the Zoning Ordinance, which prohibits operation of a contractor storage yard in a Residential-6 district and Section 11.28(b) of the Zoning Ordinance which prohibits the use of land or structure where a Certificate of Zoning Compliance has not been obtained.

On June 14, 2019, a Notice of Zoning Ordinance Violation was sent to Ms. Anita Stultz Carroll, property owner, stating the nature of the violation and the required corrective measures to be taken, as well as the penalty for the violation and the process of appeal.

On June 26, 2019, an appeal was received from Mr. James Dudley Lewis, the property tenant. Mr. Lewis contends that the property is not being used in violation of the Zoning Ordinance and that the construction equipment and other items stored on the property are his personal property, personal work space and a play area for his children.

ADMINISTRATOR'S BASIS FOR ACTION

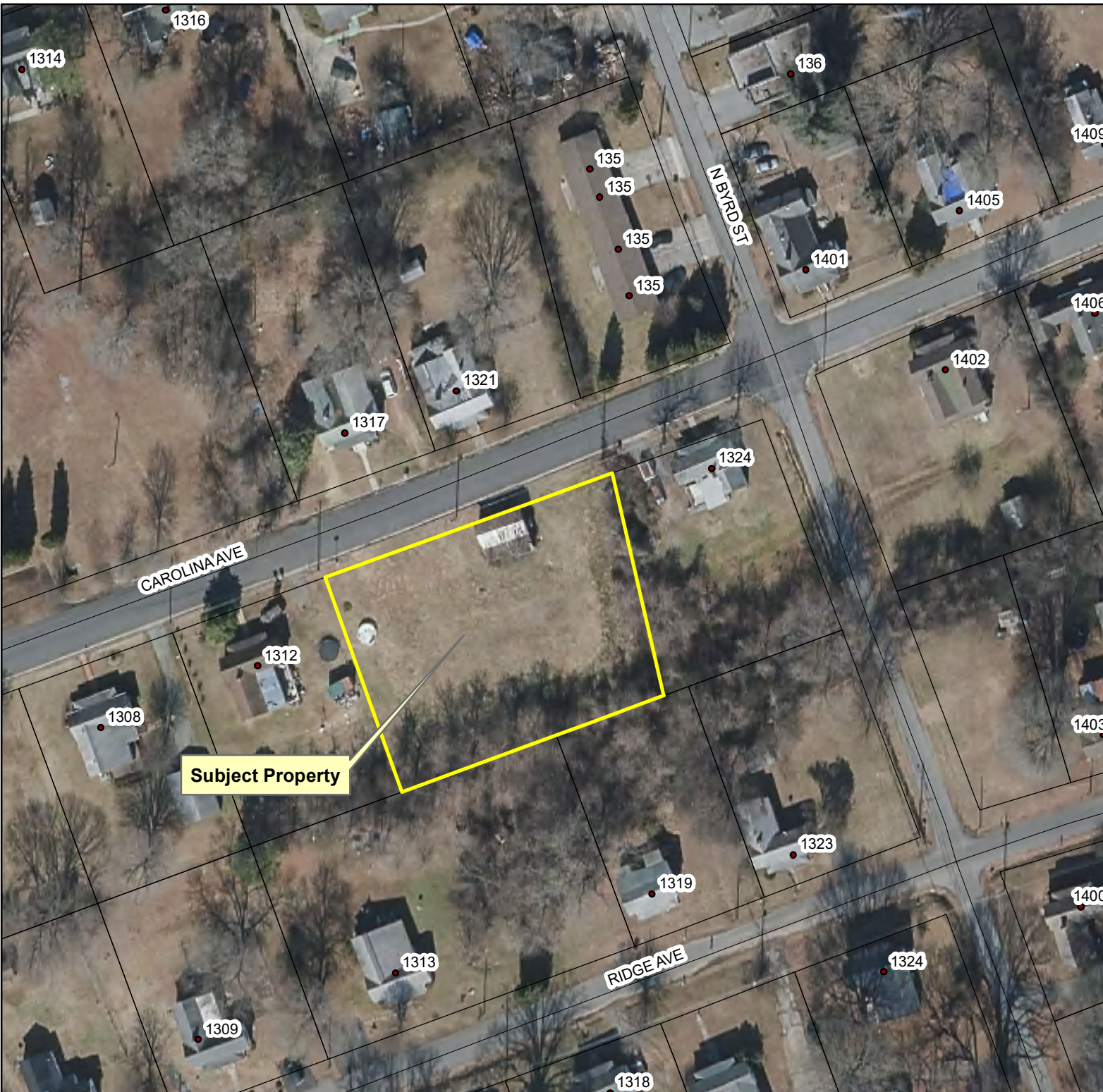
Section 11.24(d)(1) of the Zoning Ordinance defines the R-6 Residential District as a district in which the principal use of land is for single family, two-family and multi-family residences. The regulations of this district are designed primarily for the developed residential area where dwellings already exist on small lots creating relatively high density neighborhoods. The regulations are intended to discourage any use which because of its character would interfere with the residential nature of this district. This section prohibits contractor storage yards as a permitted use. Also, Section 11.28(b) of the Zoning Ordinance prohibits the use of land or structure where a Certificate of Zoning Compliance has not been obtained.

The Zoning Administrator's determination is based on the fact that contractor's storage yards are not listed as a permitted use in the Residential-6 district, whereas they are specifically listed as a permitted use in the Business General, Industrial-1 and Industrial-2 districts.

Based on the foregoing information, staff recommends denial of the appeal.

STAFF RECOMMENDATION:

Denial of the appeal.



APPEAL CASE

AP-19-01

AERIAL MAP



**Vacant Lot on the
South Side of
Carolina Avenue**

PIN 7090-10-47-9314

Zoned: Residential-6



APPEAL CASE
AP-19-01
ZONING MAP



**Vacant Lot on the
South Side of
Carolina Avenue**
PIN 7090-10-47-9314
Zoned: Residential-6



Planning and Inspections Department

308 East Stadium Drive, Eden, North Carolina 27288 Phone: (336) 623-2110 Fax: (336) 623-4057

May 17, 2019

Ms. Anita S. Carroll
1321 Carolina Avenue
Eden, NC 27288

Re: Property Identified as Carolina Avenue
PIN #7090-10-47-9314

Dear Ms. Carroll:

In response to citizens' complaints and the Department's inspection, the property identified above has been found to be in violation of the City of Eden Zoning Ordinance. There is a business being operated on the property, a contractor's storage yard located on the property and two (2) accessory structures have been constructed without the required building permits. Commercial businesses and contractor storage yards are not permitted uses in the Residential-6 zoning district. The business needs to be closed or moved to an appropriately zoned lot and the contractor's equipment removed from the property. You need to make application for a building permit if you want to keep the accessory structures.

Please contact the Planning Department within ten (10) days so we can make arrangements to abate these violations. If you have questions, we will be available to answer them during regular business hours. The City appreciates your assistance in this matter.

Sincerely,

Kelly K. Stultz, AICP
Planning & Inspections Director











Planning and Inspections Department

308 East Stadium Drive, Eden, North Carolina 27288 Phone: (336) 623-2110 Fax: (336) 623-4057

June 14, 2019

CERTIFIED MAIL

Ms. Anita Stultz Carroll
1422 Fieldcrest Road
Eden, NC 27288

Re: **NOTICE OF ZONING ORDINANCE VIOLATION**
Property Identified as Carolina Avenue
PIN# 7090-10-47-9314

Dear Ms. Carroll:

In response to citizen complaints and the Department's observations, you are hereby notified that an inspection of the above referenced property indicated that you are in violation of the City of Eden Zoning Ordinance;

NATURE OF VIOLATION:

- (1) Operation of a contractor's office and storage yard;
- (2) Operation and use of a property without a zoning compliance permit.

THE FOLLOWING CORRECTIVE MEASURES MUST BE TAKEN:

Cessation of the contractor's office and storage yard. All equipment and contractor materials must be removed from the property.

PENALTY FOR VIOLATION:

Should you fail to comply with the notice and order and make the necessary corrective measures once you have received this notice, then you will be subject to the penalties of Section 11.22(n) of the Zoning Ordinance that states: "Any person violating any provision of this ordinance or failing to comply with any order made thereunder shall be guilty of a misdemeanor and punishable by a fine not to exceed fifty (\$50) dollars or imprisoned not exceeding thirty (30) days. Each day of violation is considered a separate offense." **Furthermore, the City may impose a civil penalty of one hundred (\$100) dollars per day for each day the violation continues.**

APPEAL:

Please be advised that you have the right to appeal this order and request a review of the enforcement action by the Board of Adjustment. Any such appeal must be filed with the Board of Adjustment within thirty (30) days of the receipt of this notice and order.

Should you want further information, please do not hesitate to contact me. The City will greatly appreciate your cooperation.

Sincerely,



Kelly K. Stultz, AICP
Planning & Inspections Director

June 4, 2019



June 4, 2019

