

To: Zoning Board of Adjustment

From: Carter W. Falk, AICP, Deputy Planning Manager/Zoning

Date: March 28, 2019

Subj: **USE VARIANCE: Perimeter-Day, LLC (Owner) Ashlyn Rockwell – McGonagle School of Irish Dance (Applicant) 116 Perimeter Road (Sheet E Lot 1510) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#251) to allow a dance school in a portion of an existing multi-tenant building. AI Zone, Ward 1.**

PROPOSAL:

The applicant, Ashlyn Rockwell, is requesting a use variance to occupy a portion of an existing multi-tenant building to allow a dance school. The property is located in the Airport Industrial (AI) Zone. The property is 135,772 square feet in area (3.15 acres).

SITE ANALYSIS:

The subject site is located on the southerly side of Perimeter Road, located near the end of the street (see attached maps). To the north, across Perimeter Road, is Airport property, zoned AI. To the east is a multi-tenant office building, zoned AI. To the south, across a 75-foot wide treed buffer strip owned by the Airport, are single family homes, zoned A-Suburban Residence (R30). To the west is Airport property, zoned AI.

According to the Land Use Code, Section 190-15, Table 15-1, Table of Uses (#251), "*schools, art, music, dance, dramatics, or other fine arts*" is permitted in each Commercial Zone - Local Business (LB), General Business (GB), Highway Business (HB), Downtown-1/Mixed Use (D-1/MU) and Downtown-3/Mixed Use (D-3/MU). Further, the proposed use is permitted as a Conditional Use, subject to Planning Board approval, in every Residential Zone – Rural Residence (R40), A-Suburban Residence (R30), B-Suburban Residence (R18), C-Suburban Residence (R9), A-Urban Residence (RA), B-Urban Residence (RB) and C-Urban Residence (RC). The proposed use is not permitted in any of the Industrial zones.

The building is approximately 14,600 square feet in size. The applicant is proposing to use one of the six tenant spaces in the building, approximately 2,400 square feet. Access to the building is from either one of two driveways to the building from Perimeter Road, the proposed use would be the second unit from the far right. The proposed use is for an Irish Dancing School, McGonagle School.

The site has 43 parking spaces, along with spaces in the rear of the building for loading. The proposed dance studio requires a maximum parking requirement of 1:200, or 1 per 4 students, whichever is greater. The 1/200 requirement would be for 12 parking spaces. Class sizes are anticipated to have 20-25 students, using this ratio would require 7 parking spaces, therefore, the requirement would be for the square footage of 1/200, requiring 12 parking spaces. The site has sufficient parking spaces.

The applicant has indicated that the school will have two employees, with one per shift. Operating hours will be Monday, Wednesday and Friday from 4-10 p.m., and Saturday from 9:00 am to 2:00 p.m. Therefore, the parking that the proposed use will generate will mainly be when the other building tenants have left.

The City's Future Land Use Plan identifies the subject property as "Government/Institutional". In order for the ZBA to grant the variance request, the applicant must satisfy all the relevant points of law, as listed below:

Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship: The applicant must establish that, owing to special conditions of the property that distinguish it from other properties in the area, that (1) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property, and (2) that the proposed use is reasonable.

The applicant states that Ordinance hinders the ability to operate small businesses, and that the use of this space as a dance studio does not alter the character of the neighborhood, which already offers a variety of businesses to include gyms, schools, manufacturing plants, restaurant, and others. The applicant indicates that there will be no structural changes to the building.

The proposed use will observe the spirit of the ordinance: the proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights".

The applicant states that the character of the Perimeter Road Industrial Park area would never be in question or at risk by allowing the proposed dance school here. The applicant states that the classes are primarily offered during non-peak hours, nights and weekends, thereby lessening the traffic on Perimeter Road, also, that there is sufficient parking for all patrons of the area.

The proposed use will not diminish the values of surrounding properties: the Board will consider expert testimony, but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.

The applicant indicates that the owner of the building was receptive of the school occupying the space, and that all classes will be held on-site and inside the building,

out of sight from other tenants and the public. The outside will be plowed and shoveled in the winter and maintained by the landlord. The applicant has indicated that the requested variance would allow the use in 12 of 15 other zoning districts, and will not infringe upon the rights of the abutting neighbors.

Granting of the requested variance will not be contrary to the public interest: the proposed use must not conflict with the explicit or implicit purpose of the ordinance and that it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights”.

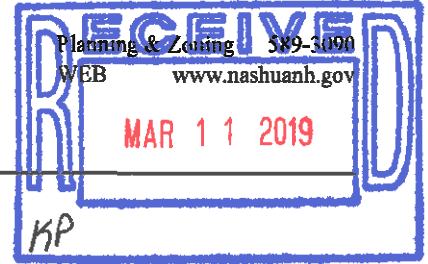
The applicant states that granting this variance will not be contrary to the public interest because it is a public service, and that Irish dance is a way for Nashua residents and visitors to connect with the many of their rich cultural roots and heritages, and that this use will provide family friendly activities, physical fitness, and youth programming. The applicant has stated that the McGonagle School of Irish Dance has been a business in Nashua for over 25 years.

Substantial justice would be done to the property owner by granting the variance: the benefits to the applicant must not be outweighed by harm to the general public or to other individuals.

The applicant states that the property owner is in support of the dance school because of its positive business model and business ethic, and that no harm will come to the general public or individuals, as the activity is considered sage and accepted in multiple zoning area, including residential.



City of Nashua
Planning Department
 229 Main Street
 Nashua, New Hampshire 03061-2019



VARIANCE APPLICATION (ZBA)

PLEASE NOTE: INCOMPLETE OR ILLEGIBLE APPLICATIONS WILL BE RETURNED TO APPLICANT.

This application must be completed and submitted to the Planning Department no later than the dates listed on the Zoning Board of Adjustment (ZBA) schedule sheet. Please print clearly or type.

1. VARIANCE INFORMATION

a. ADDRESS OF REQUEST 116 Perimeter Rd, Nashua, NH 03063 Units I and J
 Zoning District AI Sheet 0000E Lot 01510

b. VARIANCE(S) REQUESTED:
Include School of Dance in Zone AI
use variance

c. LAND USE CODE SECTION(S) REQUESTING VARIANCE(S) FROM 6145/611610
190-15, table 15-1 #251

2. GENERAL INFORMATION

a. **APPLICANT/ OPTIONEE** (List both individual name and corporate name if applicable)
 (Print Name): Ashlyn Rockwell - McGonagle School of Irish Dance
 Applicant's signature _____ Date _____
 Applicant's address 30 Carriage Lane, Milford, NH 03055
 Telephone number H: _____ C: 603-318-5487 E-mail: ashlyn.rockwell@gmail.com

b. **PROPERTY OWNER (Print Name):** Brian Goulet - Perimeter - Day, LLC
 *Owner's signature Brian Goulet Date 3/11/2019
 Owner's address 116 Perimeter Road, Unite F
 Telephone number H: 603 880 4601 C: 603-801-1876 E-mail: bgoulet@normaneday.com

*Agents and/or option holders must supply written authorization to submit on behalf of owner(s).

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|---|------------------------------|-------------------------------|---|
| OFFICE USE ONLY | Date Received <u>3/11/19</u> | Date of hearing <u>4/9/19</u> | Application checked for completeness: <u>CF</u> ✓ |
| PLR# <u>2019-00044</u> | Board Action _____ | | |
| \$ _____ application fee <input type="checkbox"/> | Date Paid _____ | Receipt # _____ | |
| \$ _____ signage fee <input type="checkbox"/> | Date Paid _____ | Receipt # _____ | |
| \$ _____ certified mailing fee <input type="checkbox"/> | Date Paid _____ | Receipt # _____ | |

[Redacted Address Box]

3. PURPOSE OF REQUEST

Answer all questions below. Provide as much information as available to give the ZBA the necessary facts to review your case. Attach additional sheets if necessary. See "Procedures for Filing a Variance" for further information.

- 1. **Granting of the requested variance will not be contrary to the public interest, because:** (The proposed use must not conflict with the explicit or implicit purpose of the ordinance and that it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

Granting of this variance will not be contrary to public interest because it is a public service. Irish dance is a way for Nashua residents and visitors to connect with the many of their rich cultural roots and heritages. In addition, this variance will provide family friendly activities, physical fitness (public health) engagement opportunities, and youth programming. McGonagle School of Irish Dance has been a business in Nashua for 25+ years providing public shows and education on Irish Heritage and youth programming. Occupation of this space will allow us to grow our operation.

- 2. **The proposed use will observe the spirit of the ordinance, because:** (The Proposed use must not conflict with the explicit or implicit purpose of the ordinance and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

The character of the Perimeter Road Industrial park area would never be in question or at risk by allowing McGonagle School of Irish Dance to occupy space. While we have a fair number of students and families attending classes, these classes are primarily offered during non-peak hours (nights and weekends) lessening the traffic flow on Perimeter Rd. In addition, this type of business would be an ideal fit occupying space that already has gyms, sports complexes, colleges, and industrial businesses. Plenty of parking is available for our patrons and other businesses within the industrial park.

- 3. **Substantial justice would be done to the property-owner by granting the variance, because:** (The benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

The property-owner fully supports McGonagle School of Irish Dance occupying the space because of the positive business model and business ethic. No harm will come to the general public or individuals, as the activity is considered sage and accepted in multiple zoning areas, including residential.

- 4. **The proposed use will not diminish the values of surrounding properties, because:** (The Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

While touring the facility, the owner of McGonagle was able to speak with the landlord who was receptive to the school occupying the available space. All McGonagle classes will be held on-site and inside the building (out of sight from other tenants and the public). The outside will be plowed / shoveled in winter and maintained by the landlord according to the outlined lease. The requested variance would allow use of the property in a manner that is already accepted in 12/15 zoning areas of Nashua, NH, and not infringe on the rights of the abutting neighbors.

VARIANCE APPLICATION

Address

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5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship, because: (The applicant must establish that because, because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way. Also, you must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood. Alternatively, you can establish that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.

The current zoning status prohibits / significantly hinders the ability to operate small business commence and the free market. The use of this space as a dance studio does not alter the character of the neighborhood, which already offers a variety of businesses to include: fitness gyms, schools, manufacturing plants, a restaurant, among other businesses. No structural changes to the building, undesirable traffic changes, or dangers will be presented upon occupation and operation of McGonagle School.

4. USE VARIANCE ADDITIONAL INFORMATION

Please answer all questions below that are applicable. Your answers to these questions will allow staff to better understand your request.

- a. Total number of employees 2 Number of employees per shift 1
b. Hours and days of operation Monday, Wednesday, Friday 4-10pm, Saturday 9-2pm
c. Number of daily and weekly visits to the premises by customers, clients, vendors and solicitors 100 students-see 4F
d. Number of daily and weekly commercial deliveries to the premises 0
e. Number of parking spaces available 20+

f. Describe your general business operations: Irish dance classes taught to students of varying ages. Class sizes of 20-25 students at a time with multiple carpooling families.

g. Describe any proposed site renovations, including, but not limited to - landscaping, lighting, pavement, structural changes, signage, access and circulation: Addition of dance floor inside the property, sign on the front door. No additional changes.

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all the city ordinances and state laws regulating construction. I understand that only those point specifically mentioned are affected by action taken on this appeal.

Signature of Applicant (Handwritten signature)

Date 3/11/19

Print Name Ashlyn J Rockwell

Date 3/11/19

The staff report for a Use Variance request will be available no later than Friday of the week before the ZBA meeting. If you would like a copy, please indicate below:
I will pick it up at City Hall
Please email it to me at
Please mail it to me at



*Perimeter – Day, LLC
Property Managers*

March 8, 2019

City of Nashua
Zoning Board of Adjustment
229 Main Street
Nashua, NH 03061

To Whom It May Concern:

Ashlyn Rockwell, owner of McGonagle School of Irish Dance is interested in an available tenant space in my building at 116 Perimeter Road. I have both researched and visited her business. It is my opinion that her School will be a good fit and addition to this location.

I believe the Nashua Airport is an important integral piece of the City of Nashua as evident by the wide variety of businesses that have been added over the recent years to the Perimeter Road AI zoned area. That being said, the newest businesses added are not considered to be industrial in nature.

I respectfully ask and encourage that her business be approved for this location.

Sincerely,

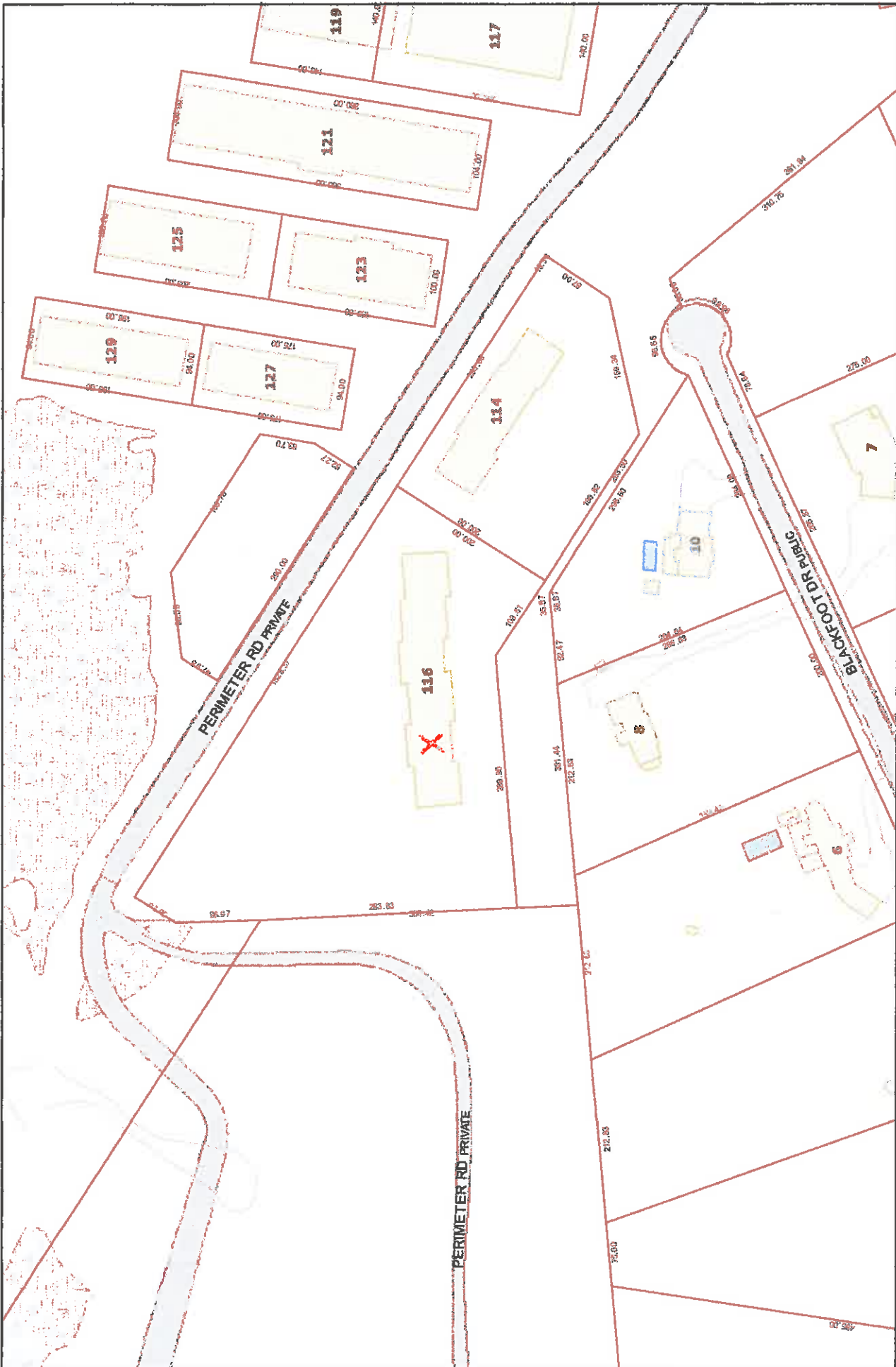
A handwritten signature in black ink, appearing to read 'Brian R. Goulet'. The signature is fluid and cursive.

Brian R. Goulet

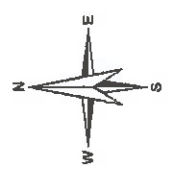


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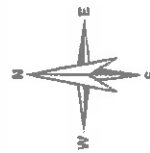
X Proposed location for McGonagle School of Irish Dance



Nashua, NH

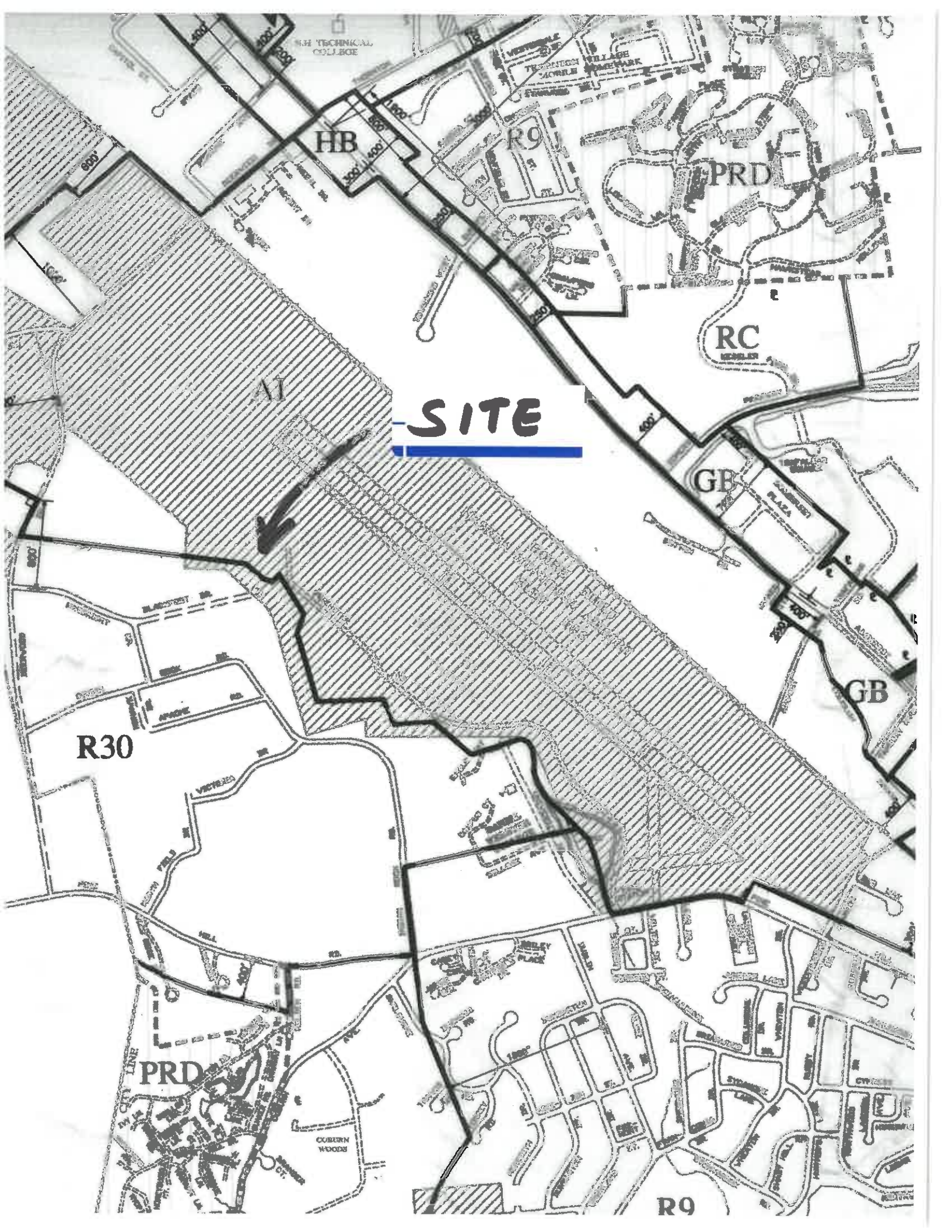


X Proposed McGonagle School of Irish Dance



X Proposed McGonagle School of Irish Dance





S.H. TECHNICAL COLLEGE

HB

R9

PRD

RC

SITE

GB

GB

R30

PRD

COBURN WOODS

R9