



Cabarrus County Government

Cabarrus County Planning and Zoning Commission
Tuesday, April 12, 2022 @ 6:30 p.m.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Old Business Board of Adjustment Function:
 - A Petition VARN2022-00001 – Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. Evolution Recreation & Aquatics is the applicant. Ethan & Austin Properties is the owner. Address is 11202 Harris Road (PIN: 4670-45-1661).
3. Legal Update
4. Director's Report
5. Adjourn



Cabarrus County Government – Planning and Zoning Commission

Planning and Zoning Commission Minutes

April 12, 2022

Mr. Adam Dagenhart, Chair, called the meeting to order at 6:34 p.m. Members present, in addition to the Chair, were Mr. Andrew Nance, Ms. Ingrid Nurse, Mr. Charles Paxton, Mr. Chris Pinto, Mr. Brent Rockett, and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Phillip Collins, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board, Mr. Richard Koch, County Attorney and Mr. David Goldberg, Deputy County Attorney.

Roll Call

The Chair read the suggested rules of procedure:

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. The Applicant may make a presentation to the Board (optional) and will then answer questions from the Commission. There will be a 15-minute time limit on the presentation if the Applicant chooses to make a formal presentation. There will be no time limit on questions from the Board following the presentation.
3. When the Board is ready to proceed, the proponents (those speaking generally in favor of the case) will have a total of 10 minutes to speak and/or present documents in support of their position. The 10-minute time limit does not include questions directed to the proponents by the Commission.
4. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 10 minutes to speak and/or present documents in support of their position. The 10-minute time limit does not include questions directed to the opponents by the Commission.
5. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again, questions directed to the speaker will not count against the time limit. This will conclude the public hearing portion of the meeting and the Commission will proceed to deliberation.
6. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.
7. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being

removed from the building. Anyone speaking out of order shall likewise be subject to removal.

9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Charles Paxton, **MOTIONED, SECONDED** by Mr. Steve Wise to **ADOPT** the Rules of Procedures. The vote was unanimous.

The Chair said anyone wishing to speak for the following Board of Adjustment cases or to testify during the public hearing for these cases must be sworn in. If you wish to speak, we need to have a completed blue card and provide it to the Clerk.

The Chair asked anyone wishing to speak or to testify, to stand and he administered the oath.

Old Business Board of Adjustment Function:

The Chair introduced Petition VARN2022-00001 – Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. Applicant is Evolution Recreation and Aquatics is the Applicant. Ethan and Austin Properties is the owner. Address is 11202 Harris Road (PIN: 4670-45-1661)

The Chair asked if there are any Board Members that have any conflicts of interest, or any information related to the case that needs to be disclosed at tht time.

Mr. Brent Rockett said his employer is the YMCA and is in direct competition with many of the same services and programs that this business offers. While as an employer of that, he is not in direct conflict of interest in this particular matter, he believes it is best from the perception, and the possibility of there being a perceived conflict of interest, that he be recused from this particular matter.

The Chair asked if there was a motion to recuse Mr. Rockett.

Mr. Charles Paxton **MOTIONED, SECONDED** by Mr. Andrew Nance to recuse Mr. Brent Rockett from Petition VARN2022-00001. The vote was unanimous.

The Chair called on Mr. Phillip Collins to present staff report.

Mr. Phillip Collins, Sr. Planner, addressed the Board presenting the staff report for VARN2022-00001. He said the purpose of this request as stated before is to seek relief from Chapter 7 and Chapter 9, more specifically Chapter 7, Section 7-3.59.c. The existing facility was approved in 2005, as an indoor recreational facility and it was zoned OI-SU at the time. The site was developed using the standards in place at the time.

The Chair asked Mr. Collins to pause for a moment.

Mr. Koch said understands that Ms. Morris has talked with the Chair about the situation concerning the number of members we have tonight. We have a Variance, and we have a high vote requirement, and of course not having a full Board changes the percentages. He and Ms. Morris talked about it on the phone, and he understands that she has talked to the applicant about this. Mr. Koch thinks it should be put on the record that they are in favor of proceeding tonight instead of waiting and having the matter continued until we have full complement of members.

The Chair wants the applicant to understand that that means they will have to have five out of six for anything to pass tonight in favor.

Mr. Auggie Wong, CES Group Engineers, 3525 Whitehall Park Drive, Charlotte, NC addressed the Board stating that they confirm that.

Mr. Koch said ordinarily, we have nine members on this Board and for a variance like you are asking for tonight it would take eight of nine for a full board to pass it. When we have a lesser number, we have to figure it out under the Statute as to what it would be and since we have six members on the Board now that one is recused you will need five out of six.

He asked if Mr. Wong understood that.

Mr. Wong said yes.

Mr. Koch said to go forward tonight, typically when we do not have a full Board, we allow the applicant to continue the matter until we do have a full Board. But you have decided you want to go forward tonight?

Mr. Wong said yes, we understand that sir.

Mr. Collins continued with the Staff report stating that since the site was originally developed additional line items have been added to the Use Table of Chapter 3 and defined in Chapter 2, including the line items swim club, tennis club and country club.

The applicant is proposing to add outdoor amenities and features to the site which is consistent with the swim club line item. Development standards for this type of use requires a 200-foot setback for any accessory buildings, swimming pools, tennis courts, parking areas, or any amenity areas and adjacent residentially used or zoned property.

There are existing encroachments of the primary building and parking areas into the 200-foot setback as the site is currently configured. Proposed improvements and features will also encroach into the required 200-foot setback. The proposed features include, future parking areas, a playground, swimming pools and a walking trail.

He said Chapter 9, Table 4 Perimeter Landscape Buffers - The existing facility does not encroach

into the required perimeter landscaping buffers. However, the applicant is proposing new outdoor amenities that would encroach into the required perimeter landscape buffers. The encroachments include features such as, reconfigured parking areas, a playground, swimming pools, a 6-foot walking trail and a 7-foot berm.

The applicant is also requesting relief from the required landscaping plantings for the following:

- 164.5 feet of relief from the required landscaping along the southwestern property line where a 6-foot-tall opaque screening fence will be located
- 313.5 feet of relief from the required perimeter parking area along the eastern property line

The subject property is currently occupied by an indoor recreation facility. The main building is approximately 28,000 square feet in size and sits in the center of the property. Parking areas surround the main building in three sides. An access easement crosses the subject property (through the existing parking lot) on its east side. The access easement provides access to an existing Wireless Telecommunications Tower located to the north of the subject property. A 15-foot utility easement (Charlotte Water) also straddles the eastern property line.

Adjacent land uses consist of residential, vacant and Wireless Telecommunications Tower as mentioned. Due to the current zoning designation of Office Institutional and Conditional Use, the only permitted uses for the subject property are Indoor Recreational Facility and Office uses.

Surrounding zoning consists of Low Density Residential, OI-SU, City of Charlotte Single Family R3 and Town of Huntersville Rural Residential.

He would like to address the comments from the Fire Marshal, and NCDOT. He spoke with the Fire Marshal, and they clarified that there may be some issues with the sprinkler system, and if it is insufficient in any way, that they would have to add on to some of the area where the fire truck could get back in the proposed grasscrete area.

If you look on the screen (showed diagram on overhead), it is an addition to this area here, if they find that the sprinkler heads are not sufficient. If they do find that they are sufficient, obviously they will not have to do that. It is already covered in the variance request. Basically, that is an encroachment into the 200-foot setback.

Although the applicant did not show a line indicating the sight triangle requested by the NCDOT, the plantings are shown outside the sight triangle, so it would be expected whenever they come back with the zoning site plan review that they would show that line. They did show the landscaping outside of the sight triangle as you can see here (showed on diagram on overhead) it kind of goes at an angle to meet the sight triangle.

With regards to the history and other information section of the Staff report:

The subject property is located on Harris Road adjacent to the Cabarrus County line.

The current development proposal is classified under the Swim Club line item listed in Table 3-8 and the definition in Chapter 2.

The subject property was rezoned from Medium Density Residential (MDR) to Office Institutional – Conditional Use (OI-CU) in 2005. The rezoning limited the uses permitted on site to Indoor Recreational Facility and Office Use. The zoning of the subject property is still OI-CU. The site has been used as an indoor recreational facility since it was rezoned. If the variance requests are approved by the Board of Adjustment, the applicant intends to proceed with submitting a rezoning request for OI, which permits a swim club as a by right, PBS, use. He said those standards are listed in the Staff report.

Both Indoor Recreational Facilities and Swim Clubs are permitted based on the ability to comply with supplemental standards found in Chapter 7 of the Ordinance. Indoor Recreational Facilities and Swim Clubs, however, have different development standards. A different setback standard is required due to the change in the use of the property which includes a 200-foot setback between any accessory buildings, swimming pool, parking area or any amenity area and adjacent residentially zoned or used property.

The applicant is requesting relief from the required 200-foot setback of Section 7-3.59. He pointed out on the site plan that the 200-foot setback is represented by the white dash line. Basically, the entire site is almost entirely within that.

The applicant is requesting relief for the existing facility, existing and proposed parking areas, proposed walking trail, proposed outdoor pools, proposed playground, proposed accessory buildings and the fire access road

Harris Road is listed within the Cabarrus-Rowan Metropolitan Planning Organization's (CRMPO) Comprehensive Transportation Plan (CTP). The future right-of-way is listed as 110 feet and the current width of the right of way is around 80 feet. The applicant understands that the appropriate amount of right-of-way to allow for the NCDOT facility to be expanded will need to be dedicated at the time of site plan review and they have allotted for that in this site plan.

The application states that the reasons for seeking a variance are that the site has space limitations, and it is oddly shaped. Further, the application states that there are existing mature evergreen plantings along the adjacent residential property line to the east and the vacant properties to the west and north.

The applicant contends that if the required 32 and 51-foot buffers are imposed, the proposed improvements would not be possible, and the site would be limited to only providing indoor amenities.

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The applicant is requesting relief from the required buffers as follows: (he will try to point them out as we go)

They are asking to allow encroachments into the required 51-foot level 2 buffer along the eastern property line.

Relief from the existing paved parking area which will encroach 1 to 7 feet into the required buffer, on the eastern property line. The proposed dumpster pad encroaches 15 feet into the required buffer. The proposed parking/driveway encroaches 31 feet into the required buffer, the proposed 6-foot walking trail encroaches 37 feet into the required buffer. You will notice in the other ones he will say so many feet to so many feet, that is because it undulates in and out. It is not constant in that buffer.

Relief from the required landscaping for the perimeter parking lot yard along the eastern property line. This buffer is approximately 313.5 feet in length, landscape that would be required for that area is 16 canopy or 32 understory trees and 48 shrubs.

This is also the location, if you noticed in the comment section, that Charlotte Water looked over these plans and they pointed out that there is an easement, it right along this property and they are outside of that. Charlotte Water okayed the plans but ask that if there are any possibility of grading into to that in the future to let them know and that will be part of their approval process.

They are asking to allow encroachments into the required 51-foot buffer along the northern property line:

- the proposed 6-foot walking trail encroaches 20 to 42 feet (this is undulating) into the required buffer,
- the proposed paved parking/driveway encroaches 5 to 15 feet into the required buffer,
- the corner of the proposed dumpster pad encroaches 3.3 feet into the required buffer.

With regards to the Western property line, he wants to point out that that property was actually OI when it was in the City, but it was annexed and rezoned, so there is residential zoning there. Staff recommends that the 51-foot buffer, level 2 be what we use there. Obviously, the plans have not been updated. That is what we would say there it needs to be. The staff report would be changed to basically add 19 feet to all those encroachments that are listed, so it would read:

- the existing parking area encroaches 20 to 33 feet into the required buffer,
- the proposed 6-foot walking trail encroaches 49 feet into the required buffer, and
- the proposed safety fence encroaches 31 feet into the required buffer
- the proposed decking for the outdoor Olympic size pool encroaches 3 feet into the required buffer.

The applicant is also asking to allow encroachments into the required 51-foot level 2 buffer along the southwestern property line:

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- the existing gravel parking area encroaches 1 to 17 feet into the required buffer,
- the existing paved parking area encroaches 1 to 12 feet into the required buffer,
- the proposed walking trail encroaches 1 to 30 feet into the required buffer,
- the proposed opaque screening fence encroaches 32 feet into the required buffer,
- the proposed shade structure encroaches 23 feet into the required buffer,
- the proposed splash pad with pool deck & slide encroaches 29 feet into the required buffer, and
- the proposed safety fence encroaches 32 feet into the required buffer.

(Mr. Collins pointed it out on the overhead and said that out it is a dashed line along this section here)

The applicant is asking to allow for relief from the required landscaping for the perimeter buffer yard along the southwestern property line, where the opaque fence is, which measures to be about 164.5 feet in length. The landscaping for that portion would include 7 shade or 14 ornamental trees and 33 shrubs).

The application states that with a combination of landscaping and fencing as screening, and safety fencing along the pool area; the safety of the public is maintained. Internal activities will be screened except at the entrance of the facility. The adjacent neighbors will also be screened from the outdoor noise. With new onsite plantings and outdoor amenities, the current aesthetics for the overall site will be greatly improved.

Additionally, the application states that existing mature evergreen trees provide buffering to the multi-family development along the eastern side of the property.

A berm with screening fence is proposed within the 20-foot buffer along the western property line.

A 20-foot buffer is shown at the perimeter of the property on the site plan that contains the required perimeter plantings. He said that is identified by the yellow dashed line going around the entire site.

The applicant understands that the next step in the approval process is to request a rezoning of the subject property. If the rezoning request to OI is successful, the next step would be to move forward with the commercial zoning site plan review and permitting process for a swim club. He said that is where all of these changes would be reflected on the site plan.

Should the Board of Adjustment grant approval of the requested variances, the following conditions should be considered as part of the approval and case record:

- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.

- The applicant shall submit a site plan, along with the subsequent rezoning request, that is in compliance with the findings/conclusions of this variance request.
- Approved variances must be reflected on site plan submittals moving forward. Any changes thereto would require review and approval from the Board of Adjustment.
- The applicant shall provide 10'x70' sight distance triangles along the ROW line on both sides of the access. These triangles shall be shown on the zoning site plan and no plantings shall be within them.
- The applicant shall provide the pool plans to the Cabarrus Health Alliance for review and approval prior to construction.
- The applicant shall provide plans to Charlotte Water for review and approval prior to construction if grading within the easement (along the eastern property line) is needed.

The Chair asked if there were any questions for Staff. There being none he called on the applicant to make a presentation. The applicant did not make a presentation. The Chair asked if anyone had any questions for the applicant.

Mr. Paxton said it appears over these years you were an indoor swim club. It looks like to him all this work is being done outside. He asked if they were changing their business model or why are you doing all this work outside?

Mr. Mark Minier, 11202 Harris Road, Huntersville, NC., addressed the Board stating that before the pandemic, we were primarily an indoor fitness facility. As with most small businesses, we have had to repivot during the pandemic, to figure out a way to basically stay in business. That was a pivot to more of a childcare kind of business. We pick kids up after school, they come and do activities at the facilities, so that is our pivot. This design represents installing a playground for those children to play on, walking trails for their parents when they come to pick them up to get outdoor exercise. Also, the only 50-meter pool in the County will be installed, which will allow us to expand our youth sports program and host larger swim competitions which will bring an additional revenue into the County.

The Chair asked what is the current pool length?

Mr. Minier said the inside pool is a 25 yard by 25-meter pool and the pool being added is a 50-meter Olympic size pool.

Mr. Stephen Wise asked if the building existed when they purchased it, or has it always been there, or did you develop this building?

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Mr. Minier said they purchased the building in 2016.

Mr. Wise asked if it always had a pool inside?

Mr. Minier said yes, sir.

Ms. Ingrid Nurse asked if the neighbors wanted the addition, or did you want the addition?

Mr. Minier said we are proposing the addition. We only have neighbors to the right side, there are some townhomes there to the west, and the north side is just fields.

Mr. Paxton asked if all the these, he is asking a variance for essential, or are they luxuries you think you need to stay alive economically?

Mr. Minier said they are essential.

The Chair asked if there were any more questions. He said you are asking for parking spaces within the buffer, how many spaces are you required for this expansion versus what you are actually showing.

Mr. Minier will have Mr. Wong come up and answer your question.

Mr. Auggie Wong, CES Group Engineers, 3525 Whitehall Park Drive, Charlotte, NC addressed the Board stating the existing parking is showing at 97 and additional parking is 21 for a total of 118.

The Chair said usually when you add square footage, you have a required parking number associated with that. Are you saying 21 spaces is what is required per zoning requirements or what you are requesting? He is trying to figure out how much you need for zoning, total spaces for the entire site. He does not know if 97 that you originally had, did zoning only required 75 and you got extra. That is what he is trying to figure out.

Mr. Wong said we have not looked at the parking count. We realized that because of the outdoor facilities, they will potentially be using that area. We would have to look at other parking offsite, whether that is bringing in buses during peak hours or during swim meets. We will have to look at the parking count for that.

The Chair said basically, you are telling me your parking, that you are proposing will not meet the fire occupancy load for indoor and outdoor facility?

Mr. Wong said we have not looked at that but potentially you are right about that.

The Chair asked Mr. Wong for some insight on the opaque fence material. He knows you have a cross section, but it does not really show him what it is.

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Mr. Wong said there is an image here and that is just an image.

The Chair said it looks to be like a chain link fence.

Mr. Wong said no. He does not think we want to look at a chain link fence. He said it could be a combination of both with decorative chain link fence or even a metal fence or any kind that is like an opaque.

The Chair said like a galvanized?

Mr. Wong said yes, galvanized fence. There are a lot of different products out there and we could certainly look at that during the site plan review. But the intent is to have an opaque fence, whether that is galvanized, chain link fence with one of those opaque slats or one of those, he guesses you could call it plastic. But it is more of what you see in the market out there.

The Chair is not for sure if there is a staff review on the fencing requirements or if we have any.

The Chair said it looks like in your rendering here, that you are showing the galvanized fencing around the pool, and it looks there is a fence on the northern property line, is that correct? It looks like a different material. He does not see it on the plan view.

The Chair said for those on the Board it is on page 26 if you want to look at it. We are talking about the area on the north side of the walking trail versus the fence around the pool. It looks to be two different materials.

Mr. Russ Angelo, Angelo Architects, 6525 Gaywind Drive, Charlotte, NC, addressed the Board stating that his office prepared these renderings and he felt like he would be more in tune to answer your questions.

He said the question was about the fencing material. What we envisioned by an opaque fence is maybe a vinyl or something esthetic that is easily maintained and certainly high enough to create the privacy. But there was never an intent to use chain link.

The Chair asked if that is different material than what he is seeing on the northern property line?

Mr. Angelo said Mr. Collins had this question and he answered as best as he could. These renderings were prepared about a month ago. As we pulled our drawings together for the variance request. There is a note on these renderings that says these are conceptual only.

In terms of the fence material, we did not get specific because at the time we were trying to emphasize the outdoor facilities which are the pools, the splash pad, and the playground.

The Chair said right, but you are also asking us to include the fence as part of your screening because of your request for reduction of the buffer. So, that is pretty valid information to know.

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Mr. Angelo said we welcome any input from the planning department on what they recommend.

But again, something like vinyl from his experience can be very acceptable and aesthetic. You see it almost looks like blanks, run vertically with some rails and a cap on the top. We are not envisioning any masonry or anything like you would see around a nice subdivision. It was not to that extent, but it was again, an aesthetically pleasing fence.

The Chair said right. The other issue with the fence is on the southwestern property line, you are not really proposing any additional landscaping especially in the area around the covered area, the splash pads, pool/slide. His understanding is that is a 15-foot buffer, previously what was allowed at the time it was developed. He is trying to understand, you are not proposing anything, and you are wanting to put an opaque fence.

Mr. Angelo said the reason as presented by Mr. Collins, the site is very tight, it is only 5.5 acres, and the existing building sits right in the middle. What that does from a planning standpoint, it limits all the sides of it. If this building was over on one side of the site, which it is not, we would have all kind of room to do other facilities. But it being in the middle, from when it was built in 2005 or 2006, limits our ability to put other facilities where they need to be. These facilities come in sizes like Mr. Minier said, the 50-meter pool is what it is, we cannot really make it half that size or it does not perform the right function. Similarly, with the splash pad and slide, to reduce the size of those means they are not going to function as intended. He is not trying to make it to where it cannot be done, but our preference is to size it accordingly, and to request that the opaque fence be the buffer.

The Chair asked if anyone else had any questions.

Mr. Chris Pinto said are the amount of parking spaces being driven by amount and curb and gutter, is that a part of the reason why we have the base the amount and another 22 or 23 to get to that number?

Mr. Angelo said quite honestly, because the building was there, and the parking was there, and going back to 2005 what was required, we wanted to look at these buffers because as you can see, from our drawings and details the variance is the first step. If the variance goes through, which we all hope it does. the next step is to get into more particular challenges with the site.

He will say his experience with pools, the way we would present the parking is the outdoor pool would be in use or the indoor pool. They are not being used at the same. It is not like we are going to have thousands of people there that require cars everywhere. The parking is dependent on the number of people, and the people is dependent on the area of deck space and pool water space, from his previous experience with kind of facility.

Mr. Pinto said half the year the outside stuff would be used, even the walking trails. He said the walking trails will be all year probably.

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Mr. Angelo said the outdoor pool, let's face it, if it is not going to be heated or if it is going to be heated, it is still going to be challenging to use a lot of the months out of the year. It is more of an outdoor feature.

Mr. Pinto said all of them, the splash pad and everything.

Mr. Paxton said with the increase of stuff going on, on the outside, how will your inside building be utilized?

Mr. Angelo said the inside pool, like a lot of pools is an exercise pool and it is a swim lesson pool. He said Mr. Minier is the owner and would be more qualified to answer that.

Mr. Minier said as you stated, a lot of the months of the year our programming is indoors. During the summer months the indoor pool will probably be used less and the outdoor pools more. As the winter months take over, we would be indoors. He does not know that we would have a huge increase in the number of people using it. Our design is not to increase our team size to thousand swimmers. We are trying to keep our team size pretty small and manageable, but we also want to offer amenities. There are several neighborhoods in the area that have no amenities and we would like to be able to provide them with the opportunities to have some outdoor amenities in the summertime. Also increasing our water safety programs for children in the area. We would be able to offer more space for those water safety programs.

Mr. Pinto said for younger children that could become prospective customers down the line. Family situations, three kids, four kids, some of them are in the big pool and some of them are in the small pool.

He said you have your walk going around, is there any way to plant the trees around the walk? Some of it is 20 to 33 feet into the required buffer. Is there any way to hide it somehow?

Mr. Minier said our optimal vision of it is to make it as natural as possible. So, the more trees and plantings we can put in, that is what our vision would be.

Mr. Pinto said are most of them evergreen?

Mr. Angelo said most of trees are pines out there.

Mr. Pinto said the existing, like loblolly or are you talking stuff on the ground or holly or something?

Mr. Angelo said they are not hollies. If we can see photos that would be perfect. (Scrolling through the staff report on the overhead) There are trees there, but of course any required trees as part of the landscaping are what needs to be there for screening and would be evergreen, he would think.

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The Chair said can you explain the large volume of firewood in the back? It looks a sawmill is going on back there.

Mr. Minier said the previous owners used an outdoor furnace boiler system to augment the pool heating which we do not use any more. That portion of the property obviously is going to become a parking lot and all that firewood and stuff will be removed. It is going to be removed one way or another. But we are sort of holding off on removing it until we know exactly what our purpose in removing it is going to be. But yes, it is unsightly.

The Chair asked if anyone else had any questions. He then asked if this is the only iteration or layout that you guys worked on.

Mr. Angelo said as he mentioned, there are not many ways to do this, the amenities that Mr. Minier is asking for because the space is so limited. The reason that Olympic pool is there straddling the main building, is because it has access, better access to the bathrooms inside and other things. The outdoor pool works with functions inside so that kind of determined that. The splash pad, you want to be in the front ideally for visibility. Even though there is screening, it is not going to be totally visible. He said it was like pieces to a puzzle.

The Chair played with the design and the pool could go in the back and not even encroach into the buffer.

Mr. Minier said, the issue with the pool in the back is the existing pump house. That would have to be moved or removed which would cause excessive down time in the indoor facility, to replumb and move the mechanicals to a different part of the property. His original vision of this was the 50-meter pool in the back, but because it adds excessive cost in redesigning the indoor mechanicals.

Mr. Pinto asked what the 200-setback thing is, what is that? Explain that to me.

The Chair will try and asked Staff to correct him if he is wrong. Because of the way it is zoned, in the Residential, it is required to have the 200-foot setback because you are OI versus Residential.

Mr. Pinto asked what the Industrial setback is. If he were to have I1, what would it be?

Ms. Susie Morris, Planning and Zoning Manager addressed the Board.

Mr. Pinto said let's say I was to get something that was already zoned I1, and I was going to build a metal building.

Ms. Morris said let me answer your first question. She said country club, swim club and golf course, are three things listed on one line item. It kind of assumes that you have a vacant piece of

property, and that 200-foot setback would be established at that time. Similar, to what we have for the wedding facilities, where it is 200 feet before any of those parking areas or any of the amenity areas, accessory buildings, any of that stuff starts happening, so that there is a distance requirement and then within that distance requirement you have that landscape buffering requirement.

The Chair said, so, it is more of the special use of property not necessarily the OI designation? It is a special use.

Ms. Morris said correct, so in the OI the setbacks are less. The building itself meets the OI requirements. But when you look at the swim club requirements, which really is the best place that they fit in our Ordinance, that is where that comes from. As far as Industrial to Residential, that is going to be the highest buffer and that is going to depend on what size the property is. So, if it was a five-acre lot like this, she thinks it would probably bump then up to a 100-foot buffer versus what the OI does. Because the OI is supposed to be our Office and Institutional, which is supposed to be that transitional district between Residential and Commercial.

Mr. Pinto said okay, he was just wondering.

The Chair asked if anyone had questions for the applicant. There being none the Chair opened the Public Hearing. The Chair said he has four cards speaking in favor of the variance. Mr. Auggie Wong, Mr. Mark Minier, Mr. Russ Angelo, and Ms. Leigh Hinson. He asked if any of them wanted to make any comments, they all declined.

There was one card in opposition of the variance, Mr. Jeff Gray. The Chair asked Mr. Gray to come forward and reminded him that if he has any questions for the applicant to address them to the Board.

Mr. Jeff Gray, Attorney, 209 Delburg Street, Davidson, NC., addressed the Board stating that he understands that. He is here on behalf of the Billings, they own the property to the north and to the west. They are currently under contract with Skybrook to redevelop that property, who is the developer to the east. This would be the second phase of that Skybrook development out there.

Their objections fall basically in two categories: 1) equity and 2) impact. The equity arguments are that they were having to comply with the setback requirements, and they are losing lots and developable property because they are complying. They have no problems with compliance, they knew it going in, they just object to the fact that across the line, a variance is being entertained when their plans were based on that buffer being there, which gets to the impact. When you look at where these trails are running on that northern property line, you are going to be having trails that are within 30 feet of bedroom windows and with that kind of activity going on behind a building that is what removed from the street you have a lot of issues. Obviously, those lots are not going to be as desirable, and they will probably be impacted because of the folks just not wanting to be next door to a facility that was permitted and constructed and built for an indoor facility and now this expansion to an outdoor facility that puts a very nice pool. No one can

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argue that it is not a great pool. This, just is not the place for this kind of pool, given how it has been zoned and how it has been developed and what the setbacks are. So, they asked him, unfortunately, they cannot be here tonight. They were planning on being here in March, they had a trip planned so they asked him to show up in their absence.

The Chair asked if there were any questions.

Mr. Stephen Wise asked if that part of Skybrook in Mecklenburg County.

Mr. Gray said yes and no. It cuts, that line is really funny out there. He thinks on the backside somewhere along the line the Town of Huntersville was delegated the responsibility.

The Chair (showed on diagram) thinks this line here represents the County line. This line here is Mecklenburg County and this one is the Town of Huntersville.

Mr. Gray said there is some property to the west that is involved in this Skybrook development. But the overwhelming majority, he would say is in Cabarrus County. He thinks the main entrances are going to be off of the Huntersville side of Harris which is another reason why he thinks the jurisdiction on the site plan approval was delegated to the Town of Huntersville.

The Chair would assume that was the case because of the utilities, water, and sewer. Because the County does not have water and sewer, so that is probably why it went to that jurisdiction.

Ms. Morris said if you look at the overall site plan, as the Chair pointed out, if you look at these pictures, this is the townhomes that are to the right of the project. What is shown, the grayed-out lines, this area has all been annexed into the Town of Huntersville. She said this is the County line and as the Board knows, we can only recognize what is on the Cabarrus side of the line. The product type and the design that Skybrook preferred is more comparable to Huntersville type project versus an unincorporated Cabarrus County no utility type project. So, the area around that particular property, it is completely surrounded now, by the Town of Huntersville. It is not Mecklenburg County, it is the Town of Huntersville. The house that is in the back, and the Cell Tower that is in the back that some of you all are familiar with, that property was all annexed in May 2021.

Mr. Gray was speaking to Ms. Morris off the microphone about the Billings property.

Ms. Morris explained and showed him what all was in Huntersville now and that the County has no jurisdiction.

Mr. Gray said one of the questions was, how does was the Mecklenburg County line....

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Ms. Morris explained that it was not the Mecklenburg County line and showed him Cabarrus County line, but this property does not back up to the County line. She showed him the line they were talking about. The Billings property itself actually comes around this property. She said this is the site plan from Huntersville and we have imposed it as part of this.

The Chair asked if there were any additional comments or questions for the applicant or staff?

The Chair has a question for Staff. He said obviously this site was probably developed before Phase 2. Are they having to meet any stormwater requirements?

Ms. Morris said the County standard is one acre or more developed. The State will look at what is existing and then what is proposed, anything that is there before 2007. She asked the applicant if they had already talked with the State and if they are going to have to get a permit, right?

Mr. Wong answered yes from the audience.

Ms. Morris said if you look, she thinks to the rear, you will see that they had....

The Chair knows they showed a drawing that showed the existing versus proposed impervious to kind of overlay it. By my calculations, he is about 1.66 acres on new impervious and he was not sure if he was going to get into over an acre of disturbance. Obviously, walking trails and stuff that are outside, everything is not all compact.

Ms. Morris said if you look at this drawing, this was the comparison between the two, as far as what is there and what is going to be there. She thinks in the end it is over an acre and they would have to get a permit from the State if it is over an acre.

The Chair said for erosion, sediment?

Ms. Morris said both.

The Chair said stormwater?

Ms. Morris said both.

Mr. Wise said it will probably take 12 months.

The Chair is curious how they are going to meet the Phase 2 requirements.

Ms. Morris would let them speak to that, from the engineer.

The Chair said do you have any insight on how you are going to address any stormwater from the State?

Mr. Wong said he is a landscape architect, and our engineers are looking at an underground cistern, and looking in the back to do a linear retention basin to meet that requirement. We are looking at different options, underground cistern and permeable pavers might be another option to that.

The Chair said is that a cistern that will be in these buffers? That would be considered another infraction on the buffer if you are going with a permeable paver.

Mr. Wong said it would be within the parking areas.

Mr. Wise said underground.

The Chair said underground would be but not necessarily with permeable pavers.

There being no further comments or questions the Chair closed the Public Hearing.

The Chair read the Section 12-20 Application of the Variance of Power:

Section 12-20 Application of the variance power

A variance may only be allowed by the Commission in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all the following findings:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

All of these findings of fact shall be made in the indicated order by the Commission, which is not empowered to grant a variance without an affirmative finding of fact on all four categories above. Each finding of fact shall be supported by substantial, material, and competent evidence in the record of the proceeding before the Commission.

The Commission may impose reasonable conditions upon the granting of any variance to ensure

that the public health, safety, and general welfare shall be protected, and substantial justice done. Violation of such conditions shall be a violation of this Ordinance.

The Chair said the Board will need to go through these and have a discussion. He reminded the Board that the variance requires 80 percent to pass, so that would be five out of six votes to pass. He said we can add conditions, we can request tradeoffs, we can approve some and maybe not all and we can also approve it without any type of trade off. He opened the floor for discussion.

Ms. Morris said it has been brought to our attention that the rebuttal period was not offered.

The Chair apologized and reopened the Public Hearing. He asked if there was a rebuttal from the applicant.

Mr. Mark Minier said when they purchased the property in 2016, the owners, the Billings represented by Mr. Gray, had plans and aspirations to build an outdoor facility such as we are presenting. So, we were kind of questioning why they are no longer in favor of it. When we did our address to the neighbors, they had no opposition. So, that is his question, what is the opposition.

Mr. Jeff Gray said a contract with a third party, Skybrook.

The Chair asked Mr. Minier if that answered his question.

Mr. Minier said yes.

The Chair asked if anyone else had any comments before he closes the Public Hearing.

Ms. Leigh Hinson, 14228 Eastfield Road, Huntersville, NC., addressed the Board stating that she has worked at this location since February 2008. She worked for the Billings, and she now works for Mr. Minier. She was aware of the Billings goals and plans to build an outside facility. She too is also surprised by their opposition to this. It is also her understanding that the contract with the third party, the plans for that has not been approved, that they are not in the Skybrook HOA. So, she feels like our plans should take precedence over something that is not approved or is not moving forward yet.

There being no further questions or comments the Chair closed the Public Hearing.

The Chair said essentially, we have two major ones. We have the setbacks, and we have the buffers. We can start with the setbacks. He said obviously, pretty much the entire site is within the 200-foot setback. We will be discussing the pool, the playground, the slide, the covered area, dumpsters as well as parking. He does not know if parking classifies as a structure, but it is within the setbacks.

Mr. Collins said setback section under item C, there shall be a 200-foot minimum setback between any accessory building, swimming pool, lighted tennis court, or parking area.

The Chair said essentially everything they are asking for is in the setbacks. The walking trail is pretty self-explanatory, he does not have any hardships on that, but obviously the rest of it is pretty major.

Mr. Wise said there is just a lot going on with these setbacks. He is not sure if all of this will work at the end and if we don't need more engineered drawings. We do not know what the stormwater, fire truck access, there is a lot of stuff going on and he would hate to grant all of these variances and they don't work. It is kind of tough because everything is going into the setback.

The Chair said basically, the comment made earlier about who is first, it does not really matter because the properties are zoned what they are. It is based on zoning, not particular use. The particular use yes, for this applicant, yes. They are having to buffer from zoning, not actual what is on the ground.

Mr. Paxton said due to Covid, it certainly has increased an economic hardship on the applicant. Therefore, he is a little more lenient on some things that might keep him to survive. Exactly what those are he guesses we will have to take up on an individual basis or if you have any suggestions.

The Chair said it is an existing business. He does not know that hardships cover that, it is not like it is a vacant property, and he does not know that we can count that as a hardship.

Mr. Paxton said what about the personal circumstances as well as hardship resulting from the conditions there? He is just throwing that out for discussion. He is not going to be hard and fast, but he does think we should give some consideration to the hardship because of the Covid. Everybody has to adapt and change, exactly how much of an adaptation or change he guesses is a tough question.

Mr. Pinto said what kind of relief would they be able to get on the 313.5-foot buffer, with the canopy of trees and 48 shrubs and a water easement from Charlotte Water. How does that work? Do they plant oak trees or whatever and then Charlotte Water has to come in and maintain something or if they bring a line? How do you make somebody put something on top of that and then if something happens and Charlotte Water comes in there?

The Chair said they were not proposing anything over the easement. The easement has to stay clear. His concern is we have some buffers with some pretty substantial encroachments. It is hard for him, if it is one or two things, but the only side of this property that is not affected by this variance request is along Harris Road. Every other inch of this perimeter is impacted by what

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they are wanting to develop, whether it be a setback or the buffers. We are talking a pool, a slide, covered areas, parking and a dumpster. The walking trail, that is not uncommon, he does not see

an issue with that request. They are only requesting 20-foot buffer with a six-foot trail that is actually landscaped.

Ms. Morris said one of ways maybe to think about this in reverse would be that #1 yes, there is the 200-foot setback issue. This particular site, that type of use did not exist back then. It either had to be indoor recreation or outdoor recreation, there wasn't anything like that. This particular site also was zoned to an OI zoning designation before we even had that designation in the Ordinance, so it was a little different.

She said in terms of the buffer, she does not think it has been stated yet and it was in your staff report. There is a consisted 20-feet around the edge, except for where that fence is proposed. But the applicant did have in their application, that they intended to install all of the plantings that would be required of the 50-foot buffer or the 30-foot buffer within those particular areas. She thinks some of that is what Mr. Collins provided as the calculations to those areas that may be short those plantings. She said that might be an easier way to approach if you kind of work backwards from that if that makes sense.

The Chair said he always gets stuck in landscape points which is the old way. You are saying in some areas they are not going to meet their points requirement for those areas but in other areas they are going too.

Ms. Morris said it is her understanding, and Mr. Collins can correct her if she is wrong, that the 20-foot that is proposed, they would meet the plantings in those areas. The only areas where they they would not be able to meet the plantings, she thinks is in the northeast corner and then southwest property line. She said Mr. Collins can answer any more of those details for you.

Mr. Collins said there actually is additional on the eastern property line. They are meeting the perimeter buffer, but it is the parking lot perimeter buffer that they are asking for relief from on that. Which would be additional to the perimeter buffer.

The Chair said so they are asking for relief on the eastern parking lot buffer with the parking in the required buffer.

Ms. Morris said there are three primary things: #1 is the buffers, #2 is some sections of the perimeter landscape, and #3 is the parking lot landscape. The Ordinance requires that outside that parking area there should be a 10-foot buffer where it is adjacent to residential. They are requesting not to install that because it would be a buffer up against a buffer. The exterior buffer that you see there that is a consist 20 feet around the perimeter. So, if you take it each side, we can help you with the variances that are needed on each side.

The Chair asked Ms. Morris to put the map up that shows the yellow line. He said the yellow line represents the 20-foot buffer that they are proposing.

Ms. Morris said correct, and it is our understanding that they are proposing that whatever the required plantings would be for the overall buffer that they would be accommodated in that buffer. She asked the applicant if that was correct.

The Chair said the applicant stated yes from the audience.

Mr. Andrew Nance knows we have had cases in the past where people claim they are going to try to squeeze 50-feet worth of buffer into a much smaller area, and we have had issues with that because the plants are going to fight for nutrients, they are not going to live. So technically, you are not really providing the buffer that you are claiming you are going to provide.

The Chair asked Staff if this would require any type of landscape bond?

Ms. Morris said unless it was to not install it, but as stated previously, the Board can add conditions as long as the Applicant understands and agrees to those conditions. She asked if the Chair was speaking about a maintenance bond like we have done in the past or a maintenance contract?

The Chair said yes.

Ms. Morris said yes.

The Chair is really struggling with this. It is like taking 50-pounds of flour and putting it in a 10-pound bag. He kind of agrees with Mr. Wise, that we do not really have all the information. The stormwater could really impact this site, obviously, sediment and erosion would go away, but to not know what type of stormwater mechanism they are going to use is very difficult especially if they do not do underground.

Mr. Nance said Mr. Wise's point earlier, we have not been given enough information he feels like, and the parking is a good example of that. We do not know how much they are required. We are being told how much they plan to add, but do not know if their current parking meets their requirements, if the additional parking will meet those requirements. Another point was brought up, we were told that the indoor and outdoor facilities will not be used at the same time, but it is hard for him to believe that the applicant will not try to utilize both areas at the same time.

The Chair said he counted 32 parking spaces that are in the buffer, obviously not all completely but impacting the buffer one way or the other. There adding 21 and we have 11 existing that are already creating an issue.

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Ms. Morris said one of the other things that was not brought up during the discussion about this that was in your Staff report, there is actually an easement that travels across that right side of the property to the cell tower in the back.

The Chair would assume that it just follows the drive by on up into the gravel path.

Ms. Morris said yes. It is her understanding, that is why they were trying to place the parking spaces on the exterior side where you would normally see like a row in between there, to try to accommodate that easement, because you cannot block that easement.

The Chair agrees with Mr. Nance on the concern about the parking. You cannot tell me how many you are required to have. You stated you are probably going to have to do offsite parking.

Mr. Paxton said, since we obviously have some concerns, now his question is, is the applicant willing to maybe defer any definitive action and go back to the drawing board and bring us back some more finite answers to these questions.

Mr. Angelo thinks it is unfortunate we do not have all the answers for you because you are asking obviously some very good questions of our group and of the property owners. But, in working with Mr. Wong, he is landscape, he has civil designers and Mr. Angelo is doing a project now, where underground detention is kind of the way to do it because obviously there is not room on this site to put a pond, so that becomes the answer. So, whether we have to say that, or wait some time from now to say that. We can say it right now probably if that helps resolve some unknowns.

In terms of the parking count, he thinks again, this variance from his understanding is focused on the setbacks and buffers. Parking is going to be an issue. We feel like we can address that in our next round of agency reviews. He does not know if it is a deal breaker for the variance.

The Chair has a question for legal. If we do table this and request additional information, would it be only the six that are up here are would it be whoever is at the next meeting?

Mr. Richard Koch, County Attorney said the same rules still apply. If we have those that are not here become familiar with what was discussed in this hearing through the minutes or through some other way where they can get up to speed, and they feel that they are up to speed, then they could sit. That is what the law is.

Mr. Koch told the applicant if the hearing is deferred, there may be a different group up here. We usually try to keep it the same if we can, but that is usually more when we have a full Board anyway and now, we have six tonight. But we can supplement it with other people that could hear it if it is not finished tonight at a subsequent time. The law does allow that, but they do have to have made themselves familiar with what went on at the hearing that they were not present for.

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Mr. Angelo said thank you.

Mr. Wise said if the variance for the setbacks is voted on or whatever, then they come for the rezoning for OI next month maybe? What is the process on that?

The Chair really does not know why we did not do all of that at once.

Ms. Morris said because the applicant wanted to see the results of the variances.

The Chair said to whether or not they want to rezone it?

Ms. Morris said to figure out if they needed to potentially look at some other type of design or what they needed to do. You all know, typically if we have a variance, if they have to do something else with the project, we typically advise them to split those up into two separate meetings because they may have to go back and they may have to revise the site plan based on what the determination was. They would be asking for just a straight OI so that does not involve any type of a site plan. She believes they bought their application today, but it is pending what happens this evening.

Ms. Morris was just asking the Applicant if they would be amenable to doing a Conditional Use Rezoning with the OI, to limit it to the swim club to the indoor recreation and then the associated site plan. If it was to go that route, they would have to have either their stormwater permit in place or have something from the State that said that it would not be required. She was just asking, she did not know if that potentially would give the Board a different comfort level. Regardless, we still have to deal with the variances.

Mr. Paxton said in his opinion, given all the unanswered questions that are here tonight, he makes a Motion that we Table this Variance request until some point in the future, either the next meeting or when they are able to provide more definitive answers.

Ms. Morris said if this motion moves forward if the Board could provide some direction to the Applicant has far as what the Board would like to see.

The Chair thinks he can speak for Mr. Paxton and correct him if he is wrong, the concerns are the parking, the stormwater, what is required versus what is requested. Obviously, the fire occupancy load may have some impact on that because obviously they cannot have but so many occupants indoor, outdoor period. He does not know if that will drive the parking, but obviously the stormwater what type of measure they are going to use and where it might to be. He thinks those are two biggest things.

The Chair would like more information on the fencing. You are asking us to include the fencing as a part of your buffer. He would like to see more information on those areas.

The Chair said we have a motion and Ms. Nurse said she will second it.

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Mr. Wise would like to discuss something.

The Chair said sure, we do not have to vote yet.

Mr. Wise said Ms. Morris asked us to give them more direction on what we are looking for. Can they come back, and we do the Conditional Use and the Variances all in the same meeting just to save time, if we are happy with what they present to us, or does it have to be the same variance again when they come back?

Ms. Morris will not answer on behalf of the Applicant, but she thinks that they wanted to try to work their way through this process so that they knew what they had to work with moving forward.

The Chair said obviously if the variance is not approved and they did the conditional use at the same time, then they are stuck to that conditional use requirement.

Ms. Morris said they have to have their stormwater in place. They have to have their soil and erosion control in place because that plan moves forward.

Mr. Wise said for permitting?

Ms. Morris said correct. She thinks we probably need to deal with the variances first. If they stick with just OI, then they could go that route because that would not impact the site. That is just the zoning and then continue to work on the variances.

We will have that discussion with the applicant. We did have a lot of discussion about, do we break it up into two meetings, do you try to do it together, just because some of these are difficult decisions and sometimes it does take some time to work through them.

The Chair said another thing to add would be the revision of the buffer requirement on the western boundary from the 32 to 51-feet, to show that, so we would have a representation of what that would look like. Those three things.

There being no further discussion, the Chair said we have a **MOTION** and a **SECOND** on the floor to **TABLE VARN2022- 0001**, Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. The vote was unanimous.

The Chair asked the Applicant was clear on what the Board is asking moving forward.

The applicant responded from the audience, and it was inaudible.

The Chair told the Applicant to work with Staff.

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Legal Update

Mr. David Goldberg addressed the Board that we received a partial judgement payment for the McClain RV Case that we had a judgment on, \$514 down, about \$3200 left, so the checks are

coming in. He drove by there on Sunday and the RV is now gone. He has moved into the Apollo Park by the Speedway, he found out today that he was back over there. We will keep pursuing that and we have some plans as far as how best to clean up that property.

He knows last meeting was a lot, just know this is not done, in the sense that you will have the opportunity to vote on the findings and conclusions to formalize your decision from last time. You will approve the minutes, approve the record and vote on that. At that point the Applicant will have an opportunity to appeal within 30 days to Superior Court. There are a lot of conclusions that could come from that, including sending the case back to this Board for further action.

So, the same thing goes as before, he knows we all want to talk about it, we all have opinions, but the best approach would be to limit to what is on the record and to treat this as an ongoing matter. If you do have any questions or any contacts from anyone, please let us know and we can handle it from there. We are still working with the other side of this towards the next steps in resolution if possible.

No Directors Report

There being no further discussion, Ms. Ingrid Nurse **MOTIONED, SECONDED** by Mr. Andrew Nance to adjourn the meeting at 8:14 p.m. The vote was unanimous.

APPROVED BY:


Mr. Adam Dagenhart

SUBMITTED BY:


Arlena B. Roberts

ATTEST BY:

Susie Morris, Planning and Zoning Manager

Exhibit A
Staff Report

Variance: VARN2022-00001

Applicant Information: Evolution Recreation & Aquatics
11202 Harris Road
Huntersville, NC 28078

Owner Information: Ethan & Austin Properties LLC
17501 Huntersville-Concord Road
Huntersville, NC 28078

PIN: 4670-45-1661

Area in Acres: +/- 5.501 acres

Purpose of Request: The purpose of this request is to seek relief from:

Chapter 7, Section 7-3.59.c

The existing facility was approved in 2005 as an Indoor Recreational Facility that was zoned OI-SU. The site was developed using the standards in place at that time. Since the site was originally developed, additional line items have been added to the Use Table of Chapter 3 and defined in Chapter 2, including the line item, Swim Club, Tennis Club, Country Club (Swim Club).

The applicant is proposing to add outdoor amenities and features to the site, which is consistent with the Swim Club line item. The development standards for this type of use requires a 200-foot setback for any accessory buildings, swimming pools, tennis courts, parking areas, or any amenity areas and adjacent residentially used or zoned property.

There are existing encroachments of the primary building and parking areas into the 200-foot setback as the site is currently configured. Proposed improvements and features will also encroach in to the required 200-foot setback. The proposed features include, future parking areas, a playground, swimming pools and a walking trail. (See EX1.0 and EX2.0)

Chapter 9, Table 4 Perimeter Landscape Buffers

The existing facility does not encroach into the required perimeter landscaping buffers. However, the applicant is proposing new outdoor amenities that would encroach into the required perimeter landscape buffers. The encroachments include features such as, reconfigured parking areas, a playground, swimming pools, a 6-foot walking trail and a 7-foot berm. (See EX1.0 and EX2.0)

The applicant is also requesting relief from the required landscaping plantings for the following:

- 164.5 feet of relief from the required landscaping along the southwestern property line where a 6-foot-tall opaque screening fence will be located (7 Shade or 14 Ornamental Trees and 33 shrubs).

- 313.5 feet of relief from the required perimeter parking area along the eastern property line (16 canopy or 32 understory trees and 48 shrubs)

Site Description: The subject property is currently occupied by an indoor recreation facility. The main building is approximately 28,000 square feet in size and sits in the center of the property. Parking areas surround the main building in three sides. An access easement crosses the subject property (through the existing parking lot) on its east side. The access easement provides access to an existing Wireless Telecommunications Tower located to the north of the subject property. A 15-foot utility easement (Charlotte Water) also straddles the eastern property line.

Current Land Uses: Indoor Recreation

Adjacent Land Uses: Residential, Wireless Telecommunications Tower and Vacant

Permitted Uses: Indoor Recreational Facility and Office (only)

Existing Zoning: OI-SU (Office and Institutional – Special Use)

Surrounding Zoning:
 North: LDR (Low Density Residential)
 East: LDR
 South: OI-SU & R-3 (City of Charlotte Single Family)
 West: OI-SU & R (Town of Huntersville Rural Residential)

Signs Posted: 01/19/2022

Newspaper Notification 1: 01/26/2022

Newspaper Notification 2: 02/02/2022

Notification Letters: 01/18/2022

Exhibits

- Exhibit A – Staff Report
- Exhibit B – Application
- Exhibit C – Staff Maps
- Exhibit D – Site Plan
- Exhibit E – Adjacent Property Owner Information
- Exhibit F – Original 2005 Rezoning Request Information
- Exhibit G – Neighborhood Meeting Information

- Exhibit H – Aerial & Street Level Photos

Agency Review Comments

Emergency Services Review:

No comments. (per Justin Brines, Deputy Chief EMS).

Fire Review:

Variance Request Approved. Additional requirements may be required in site plan and building plans. (per Matthew Hopkins, Fire Marshal's Office).

NCDOT Review:

We do not need a driveway permit but do ask that all the plantings currently shown in the sight distance triangles be removed. There should be 10'x70' sight distance triangles shown on the ROW line on both sides of the access. Please show these triangles and remove all the plantings within them. (per Jeff Burleson, NCDOT)

Sherriff's Department Review:

No comments. (per Ray Gilleland, Lieutenant Sherriff).

Cabarrus Health Alliance:

No comments regarding variance encroachments. The pool plans would need to be reviewed and approved prior to construction. (Chrystal Swinger, Cabarrus Health Alliance)

Charlotte Water:

The plans look good to me, if the applicant ends up needing to grade in the Charlotte Water easement, please let me know. (per Nick Stanziale, Interim Division Manager)

Zoning Review:

See staff report (per Phillip Collins, Sr. Planner)

History / Other Information

- The subject property is located on Harris Road adjacent to the Cabarrus County line.
- The subject property is approximately 5.501 acres in size.
- The current development proposal is classified under the Swim Club line item listed in Table 3-8 and the definition in Chapter 2.

SWIM CLUB, TENNIS CLUB, COUNTRY CLUB - A private club that provides one or more of the following: tennis or swimming facilities, indoor or outdoor exercise facilities, recreation rooms, recreational equipment, tennis or swimming lessons, etc. These types of facilities are restricted to use by members and their guests.

Country Clubs may also include golf courses and/or a clubhouse with dining and banquet facilities.

- The subject property was rezoned from Medium Density Residential (MDR) to Office Institutional – Conditional Use (OI-CU) in 2005. The rezoning limited the uses permitted on site to Indoor Recreational Facility and Office Use. The zoning of the subject property is still OI-CU. The site has been used as an indoor recreational facility since it was rezoned. If the variance requests are approved by the Board of Adjustment, the applicant intends to proceed with submitting a rezoning request for OI, which permits a swim club as a by right, PBS, use. The PBS supplemental development standards are as follows:

Swim Club, Tennis Club, Country Club

Agriculture/Open, Countryside Residential, Low Density Residential, Medium Density Residential, High Density Residential/Mixed Use, Office/Institutional, Limited Commercial and General Commercial districts

- a. In any residential district, the minimum area shall be one (1) acre.*
 - b. Clubhouses shall meet the primary setbacks for the zoning district.*
 - c. There shall be a 200 foot minimum setback between any accessory buildings, swimming pool, lighted tennis court, parking area or any amenity area and adjacent residentially zoned or used property.*
 - d. Lighting for amenity areas shall be designed such that it does not spill over onto adjacent properties.*
 - e. Outdoor swimming pools shall be protected by a fence, a minimum of four (4) feet in height and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking. See Appendix G, North Carolina Building Code, Swimming Pools, Spas and Hot Tubs for requirements.*
- Both Indoor Recreational Facilities and Swim Clubs are permitted based on the ability to comply with supplemental standards found in Chapter 7 of the Ordinance. Indoor Recreational Facilities and Swim Clubs, however, have different development standards. A different setback standard is required due to the change in the use of the property (adding outdoor features) which includes a 200-foot setback between any accessory buildings, swimming pool, parking area or any amenity area and adjacent residentially zoned or used property.
- The applicant is requesting relief from the required 200-foot setback of Section 7-3.59 for the following:
 - Existing facility
 - Existing and proposed parking areas
 - Proposed walking trail
 - Proposed outdoor pools
 - Proposed playground
 - Proposed accessory buildings

- Fire access road
- Harris Road is listed within the Cabarrus-Rowan Metropolitan Planning Organization's (CRMPO) Comprehensive Transportation Plan (CTP). The future right-of-way is listed as 110 feet and the current width of the right of way is around 80 feet. The applicant understands that the appropriate amount of right-of-way to allow for the NCDOT facility to be expanded will need to be dedicated at the time of site plan review.
- The application states that the reasons for seeking a variance are that the site has space limitations, and it is oddly shaped. Further, the application states that there are existing mature evergreen plantings along the adjacent residential property line to the east and the vacant properties to the west and north.
- The applicant contends that if the required 32- and 51-foot buffers are imposed, the proposed improvements would not be possible, and the site would be limited to only providing indoor amenities.
- The applicant is requesting relief from the required buffers as follows:
 - Allow encroachments into the required 51-foot level 2 buffer along the eastern property line:
 - the existing paved parking area encroaches 1 to 7 feet into the required buffer,
 - the proposed dumpster pad encroaches 15 feet into the required buffer,
 - the proposed parking/driveway encroaches 31 feet into the required buffer, and
 - the proposed 6-foot walking trail encroaches 37 feet into the required buffer.
 - Allow for relief from the required landscaping for the perimeter parking lot yard along the eastern property line. This buffer is approximately 313.5 feet in length (16 canopy or 32 understory trees and 48 shrubs). This is also the location of the Charlotte Water easement which limits the planting area.
 - Allow encroachments into the required 51-foot level 2 buffer along the northern property line:
 - the proposed 6-foot walking trail encroaches 20 to 42 feet into the required buffer,
 - the proposed paved parking/driveway encroaches 5 to 15 feet into the required buffer, and
 - the corner of the proposed dumpster pad encroaches 3.3 feet into the required buffer.
 - Allow encroachments into the required 32-foot level 3 buffer along the western property line:
 - the existing parking area encroaches 1 to 14 feet into the required buffer,
 - the proposed 6-foot walking trail encroaches 30 feet into the required buffer, and

- the proposed safety fence encroaches 12 feet into the required buffer
 - Allow encroachments into the required 51-foot level 2 buffer along the southwestern property line:
 - the existing gravel parking area encroaches 1 to 17 feet into the required buffer,
 - the existing paved parking area encroaches 1 to 12 feet into the required buffer,
 - the proposed walking trail encroaches 1 to 30 feet into the required buffer,
 - the proposed opaque screening fence (164.5' length along the splash pool) encroaches 32 feet into the required buffer,
 - the proposed shade structure encroaches 23 feet into the required buffer,
 - the proposed splash pool with deck & slide encroaches 29 feet into the required buffer, and
 - the proposed safety fence encroaches 32 feet into the required buffer.
 - Allow for relief from the required landscaping for the perimeter buffer yard along the southwestern property line which is approximately 164.5 feet in length not be installed. A 6-foot-tall opaque screening fence will be installed in this area in lieu of the landscape (7 shade or 14 ornamental trees and 33 shrubs).
- The application states that with a combination of landscaping and fencing as screening, and safety fencing along the pool area; the safety of the public is maintained. Internal activities will be screened except at the entrance of the facility. The adjacent neighbors will also be screened from the outdoor noise. With new onsite plantings and outdoor amenities, the current aesthetics for the overall site will be greatly improved. Additionally:
 - The application states that existing mature evergreen trees provide buffering to the multi-family development along the eastern side of the property.
 - A berm with screening fence is proposed within the 20-foot buffer along the western property line.
 - A 20-foot buffer is shown at the perimeter of the property on the site plan that contains the required perimeter plantings.
- The applicant understands that the next step in the approval process is to request a rezoning of the subject property. If the rezoning request to OI is successful, the next step would be to move forward with the commercial zoning site plan review and permitting process for a swim club.

Conditions of Approval

Should the Board of Adjustment grant approval of the requested variances, the following conditions should be considered as part of the approval and case record:

- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- The applicant shall submit a site plan, along with the subsequent rezoning request, that is in compliance with the findings/conclusions of this variance request.
- Approved variances must be reflected on site plan submittals moving forward. Any changes thereto would require review and approval from the Board of Adjustment.
- The applicant shall provide 10'x70' sight distance triangles along the ROW line on both sides of the access. These triangles shall be shown on the zoning site plan and no plantings shall be within them.
- The applicant shall provide the pool plans to the Cabarrus Health Alliance for review and approval prior to construction.
- The applicant shall provide plans to Charlotte Water for review and approval prior to construction if grading within the easement (along the eastern property line) is needed.

Exhibit B Application



CABARRUS COUNTY VARIANCE APPLICATION

STAFF USE ONLY:

Application/Accela#: _____

Reviewed by: _____

Date: _____

Amount Paid: _____

INSTRUCTIONS/PROCEDURES:

1. Schedule a pre-application meeting with Staff. During this meeting, Staff will assess the proposed variance request to evaluate options that may be available to you through the zoning ordinance. If it is necessary to proceed with the request, Staff will explain the procedures and requirements, including the thresholds of consideration for variance requests.
2. Submit a complete application to the Planning Division. All applications must include the following:
 - Cabarrus County Land Records printout of all adjacent property owners. This includes properties located across the right-of-way and all on-site easement holders. The list must include owner name, address, and Parcel Identification Number.
 - A recent survey or legal description of the property.
 - Required number of copies of the proposed site plan (determined at pre-app meeting). At a minimum, the site plan must show the following:
 - The subject property and any adjacent properties.
 - All existing buildings, including setbacks from property lines.
 - All proposed buildings, parking facilities and accessory uses, including setbacks from property lines (if applicable).
 - The location and type of screening and buffering proposed (if applicable).
 - Impervious surface ratio (if applicable).
 - Waterbody buffers (if applicable).
 - Delineation of the proposed variance on the site plan so that the type and nature of the variance the applicant is seeking is clear. (This may be accomplished by submitting two site plans. One to show the requirements of the ordinance and a second to show what the variance request will achieve.)
 - Any additional item(s) that must be illustrated on the plan as determined during the pre-application meeting.
 - Any additional documents essential for the application to be considered complete. (Determined at pre-application meeting)
3. Submit cash, check, or money order made payable to Cabarrus County.

Fees: Residential Variance request = \$500.00 first acre + \$15.00 each additional acre
 Non-residential Variance request = \$600.00 first acre + \$15.00 each additional acre
 (Plus cost of advertising and engineering fees if applicable)

The deadline for submittal is always the same day as the Planning and Zoning Commission Meeting which is the second Tuesday of the month. Applications must be submitted before 2:00 p.m. that day.

Incomplete applications will be returned to the applicant and will not be processed.

PROCESS SUMMARY:

1. Hold a pre-application meeting with Staff to discuss your request and the variance process.
2. Submit a complete application with the appropriate fees to the Cabarrus County Planning Division.
3. When the complete application is received, Staff and appropriate agents will review the application and site plan and will make comments on the proposed request.

- Depending on the comments received, the applicant may be required to address the comments and/or revise the site plan prior to proceeding with the variance process.
4. Staff will begin to prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for the variance request.

Meeting Information: Meetings are held the second Tuesday of each month at 6:30 p.m. in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE or an alternative location as announced.

Variance: Variance requests are considered by the Board of Adjustment during a quasi-judicial hearing. This means that anyone wishing to speak regarding the application must be sworn in. The vote requirement for the variance request to pass is 80% or greater. Additional conditions may be added as part of the variance approval process.

Questions: Any questions related to the variance process may be directed to the Planning Division at 704-920-2141, between 8 AM and 5 PM, Monday through Friday.

APPLICANT

Evolution Recreation & Aquatics

NAME

11202 Harris Rd.

ADDRESS

Huntersville, NC 28078

CITY, STATE, ZIP CODE

404-822-8398

PHONE NUMBER

FAX NUMBER

berkowitz.jessica@gmail.com

E-MAIL ADDRESS

Legal Relationship of Applicant to Property Owner

Existing Use of Property

Existing Zoning

Property Location

PROPERTY OWNER

Ethan & Austin Properties LLC

NAME

17501 Huntersville, Concord Rd.

ADDRESS

Huntersville, NC 28078

CITY, STATE, ZIP CODE

954-234-8252

PHONE NUMBER

FAX NUMBER

ibnsb@me.com

E-MAIL ADDRESS

Consultant/Tenant

Swim Club, Indoor Rec. facility

O/I Permitted Based on Std. use

11202 Harris Road, Huntersville
NC 28078

Tax Map and Parcel Identification Number (PIN)

46704516610000

TO THE BOARD OF ADJUSTMENT

I, Jessica Berkowitz, HEREBY PETITION THE BOARD OF ADJUSTMENT FOR A **VARIANCE** FROM THE LITERAL PROVISIONS OF THE **ZONING ORDINANCE**. UNDER THE INTERPRETATION GIVEN TO ME BY THE ZONING ADMINISTRATOR, I AM PROHIBITED FROM USING THE AFOREMENTIONED PARCEL OF LAND. I REQUEST A **VARIANCE** FROM THE FOLLOWING PROVISION(S) OF THE ORDINANCE.

The following information shall be completed by applicant(s) seeking a variance:

1. Variance Request Including Related Zoning Ordinance Section(s)

Section: _____

Section 7 - 3.59 - Setback Encroachment

Chapter 9, Table 4. Landscaping Buffering Requirement

2. Reason(s) for Seeking a Variance

Per the Section above, the site has space limitations as well as being an odd shaped.
There is already an existing mature evergreen plantings along the adjacent residential
property (east) and vacant lands on the west and north side.

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. State law and local ordinance provide strict requirements on standards for granting a variance. Pursuant to G.S. 160D-705(d) and Cabarrus County Development Ordinance § 12-20, the Board must make the following four conclusions before issuing a variance:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

In order to make its determination, the Board will review the evidence submitted in this application as well as receive public comment during the scheduled public hearing. This application will be entered into the official record of the public hearing.

THE RESPONSIBILITY FOR PRESENTING EVIDENCE TO SUPPORT THE VARIANCE REQUEST, AS DESCRIBED DURING THE MEETING AND TO THE BOARD OF ADJUSTMENT, LIES COMPLETELY WITH THE APPLICANT.

FINDING OF FACT CHECKLIST

Please provide an explanation to each point in the space provided.

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

(This often will be the most difficult area in which to make a determination. The issue, as established by court decisions, deals with the nebulous term of "reasonableness." Generally, if the variance is sought to make a greater profit on this property at the expense of others in the area, this point cannot be met. This item is best reviewed with the concept of, "is the property barred from a reasonable use if the strict terms of the ordinance are adhered to"?)

If the said buffer of 32 feet (west) and 51 feet (three sides) is imposed, the proposed improvement would not work and would limit this property to only providing indoor benefits.

The required width of 15 feet along Harris Road can be met.

- 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 problem must be unique to the property and not a public hardship and must apply to the property, not the property owner).

The site has an odd shaped, and on the North and West side (former owner of property) is vacant. the East side has mature evergreen trees that provide buffer to the multifamily. The applicant is proposing to install a berm with screening fence within the 20' proposed setback. Required plantings within the buffer, street and parking lot yards (per Chap. 9 Ordin.) can be met but need variance. The proposed adjacent residential development has a 20' setback.

- 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**

(The hardship must not be caused by the action or inaction of the applicant, such as failure to exercise reasonable due diligence before buying a property or building without a permit.)

The adjacent properties (West and North) are vacant and owned by previous owner. The adjacent proposed residential development has a 20' setback.

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.

(If a variance is granted, is the overall "spirit" of the zoning ordinance still intact? While difficult to explain, some types of variance requests are not in accord with the general intent and purpose of the ordinance and therefore must be cautiously reviewed. These often include extending a non-conforming use in scope, a use variance (not allowed), and modifying a dimensional standard to the detriment of a neighborhood or area. Also, does the variance make sense? Will its approval or denial endanger any one? Will the essential character of the area be altered if approved or denied?)

With a combination of landscape and fence as screening, and safety fence along the pool area, the safety of the public is maintained. Internal activities will be screened except at the entrance. the adjacent neighbors will also be screened from the outdoor noise. with on site plantings the current outdoor aesthetics will greatly improved.

POSSIBLE CONDITIONS, SUGGESTED BY THE APPLICANT:

If the Board of Adjustment finds that a variance may be in order but the Board still has concerns in granting the variance, reasonable conditions can be imposed to assure that any of the four points will continue to be met and not violated. In your review of the four points, are there any conditions that you believe would clarify the justification of a variance? If so, suggest these conditions in the space below.

Applicant is prepared to install fence and/or landscape along the perimeter to meet the conditions.

I CERTIFY THAT ALL OF THE INFORMATION PRESENTED BY ME IN THIS APPLICATION IS, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.

SIGNATURE OF OWNER: Jessica Buknowitz DATE: 2/25/2022

SIGNATURE OF APPLICANT: Jessica Buknowitz DATE: 2/25/2022

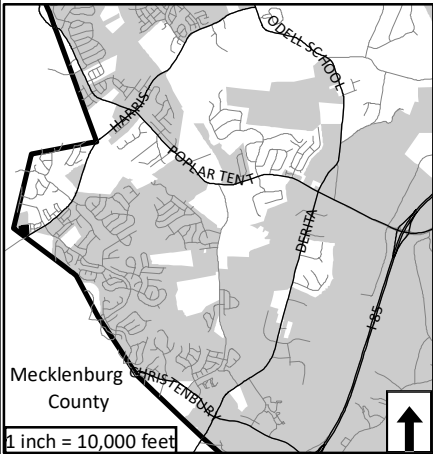
Exhibit C

Staff Maps

Western Planning Area Existing Zoning

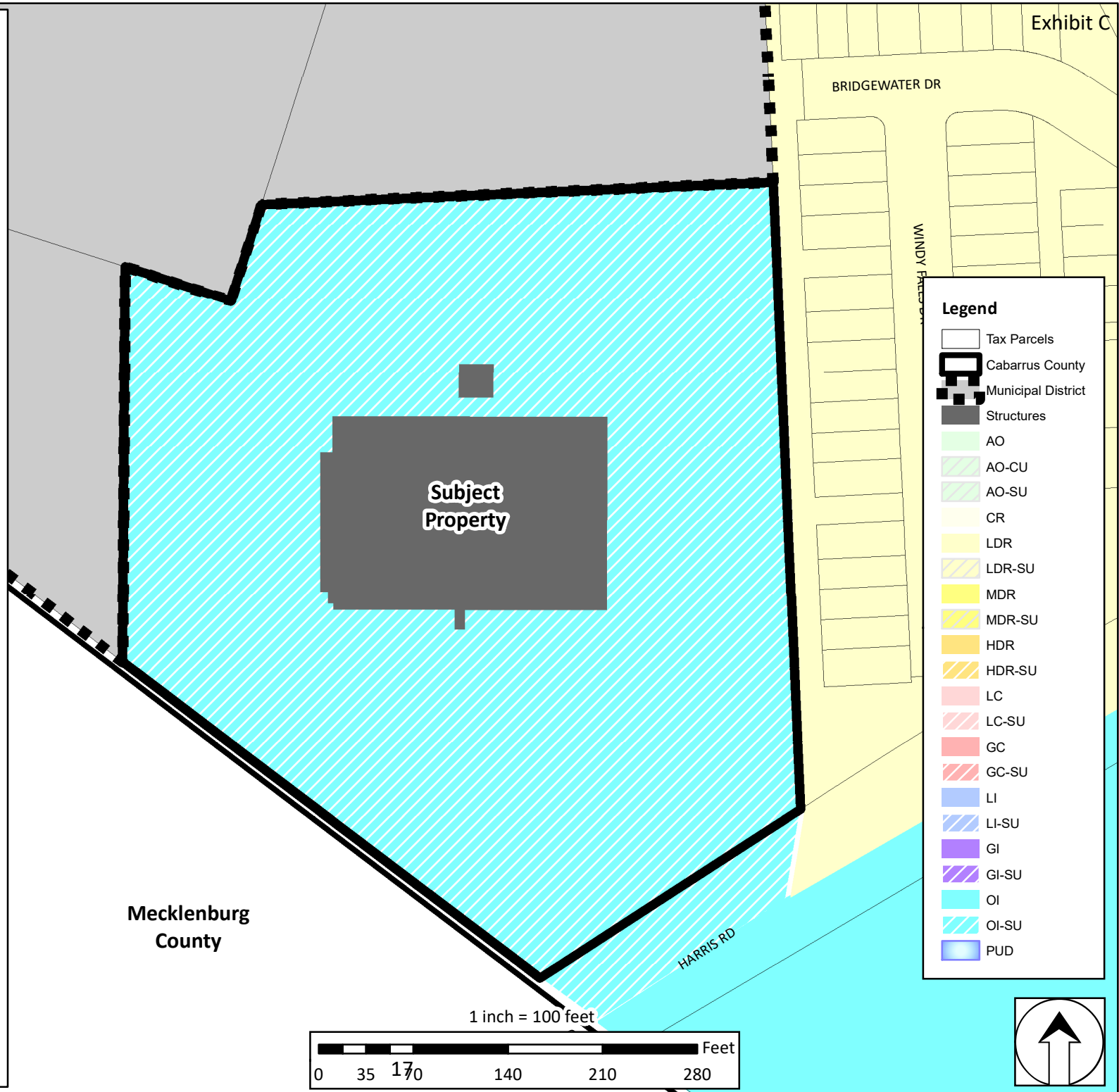


Applicant: Evolution Recreation & Aquatics
 Owner: Ethan & Austin Properties LLC
 Case: VARN2022-00001
 Address: 11202 Harris Road
 Purpose: Relief from setback requirements,
 and landscape buffering requirements
 PIN: 4670-45-1661



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

Map Prepared by Cabarrus County Planning & Development - April 2022



Legend

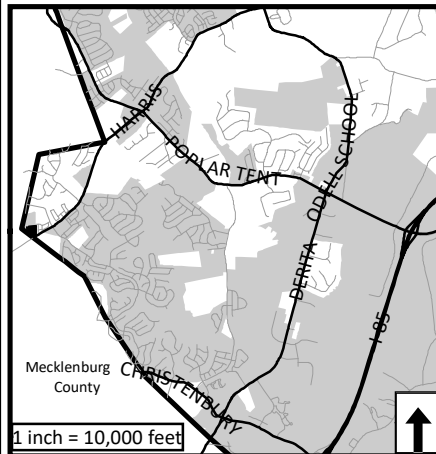
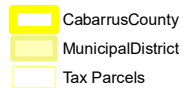
- Tax Parcels
- Cabarrus County
- Municipal District
- Structures
- AO
- AO-CU
- AO-SU
- CR
- LDR
- LDR-SU
- MDR
- MDR-SU
- HDR
- HDR-SU
- LC
- LC-SU
- GC
- GC-SU
- LI
- LI-SU
- GI
- GI-SU
- OI
- OI-SU
- PUD



Western Planning Area Aerial Map



Applicant: Evolution Recreation & Aquatics
 Owner: Ethan & Austin Properties LLC
 Case: VARN2022-00001
 Address: 11202 Harris Road
 Purpose: Relief from setback requirements,
 and landscape buffering requirements
 PIN: 4670-45-1661



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

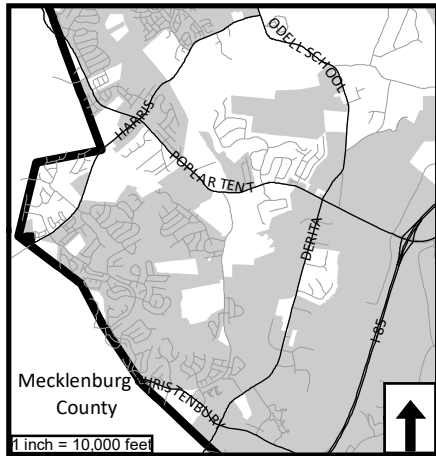
Map Prepared by Cabarrus County Planning & Development - April 2022



Western Planning Area Future Land Use



Applicant: Evolution Recreation & Aquatics
 Owner: Ethan & Austin Properties LLC
 Case: VARN2022-00001
 Address: 11202 Harris Road
 Purpose: Relief from setback requirements,
 and landscape buffering requirements
 PIN: 4670-45-1661



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

Map Prepared by Cabarrus County Planning & Development - April 2022

Mecklenburg County

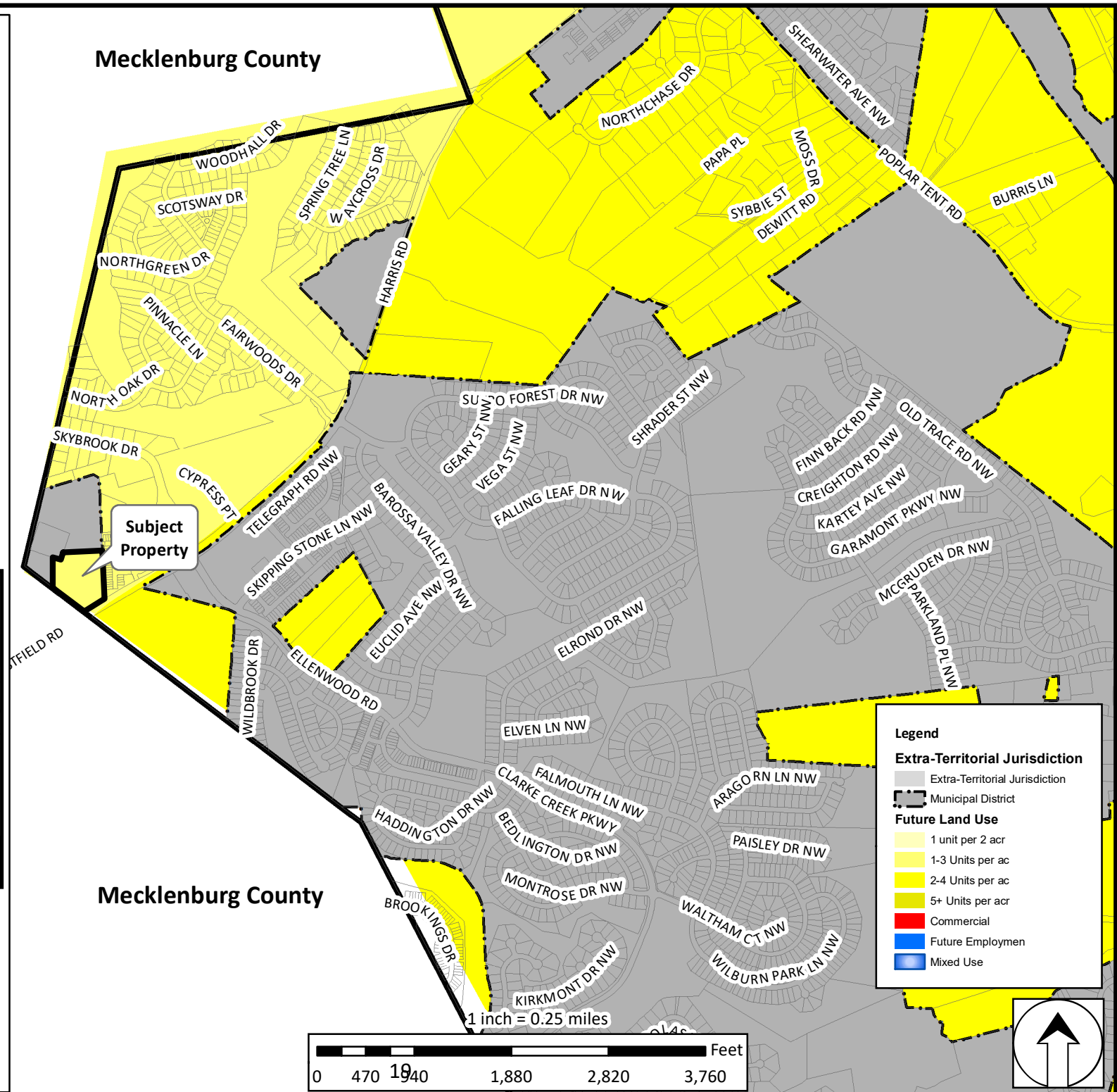


Exhibit D Site Plan



SITE DATA

EXISTING PARKING: 97
ADDITIONAL PARKING: + 21
TOTAL PROPOSED PARKING: = 118

TOTAL SITE AREA: (217,800) 5.50 AC
SITE AREA W/O R.O.W.: (229,126) 5.26 AC

EXIST. IMPERVIOUS AREA: (95,396) 2.19 AC
PROP. IMPERVIOUS AREA: (123,275) 2.83 AC

EXIST. PERCENT IMPERVIOUS AREA:
2.19 AC / 5.26 AC = 41.6%

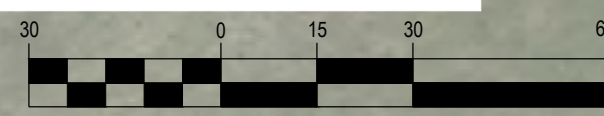
PROP. PERCENT IMPERVIOUS AREA:
2.83 AC / 5.26 AC = 53.8%

AREA OF IMPROVEMENTS: +/- 3.30 AC

KEY

- CANOPY TREE
- UNDERSTORY TREE
- EVERGREEN SHRUB

GRAPHIC SCALE



ZONED
OI



ENGINEERS
PLANNERS
SURVEYORS
SCIENTISTS

CES Group Engineers, LLP
NC FIRM LICENSE #F-1240
274 N. Hwy. 16, SUITE 300
DENVER, NC 28037
T 704.480.1500
www.ces-group.net



ANGELO ARCHITECTS
ARCHITECTURAL, DESIGN & CONSTRUCTION SERVICES
2225 PLANTATION CENTER DRIVE, SUITE A1, MATTHEWS, NC 28105
www.angelosarchitects.com TEL 704.844.8147

SEAL:

SUBMITTALS	
DATE:	PURPOSE:
1/25/22	INITIAL SUBMITTAL
2/23/22	ADDRESSED COMMENTS
3/25/22	ADDRESSED COMMENTS

OWNER / DEVELOPER
ETHAN & AUSTIN PROPERTIES, LLC
17501 HUNTERSVILLE, CONCORD RD.
HUNTERSVILLE, NC 28078
954-234-8252

PROJECT DESCRIPTION:
EVOLUTION RECREATION & AQUATICS
HUNTERSVILLE, NC

PROJECT NO:
7719.0821

DRAWING REVISIONS	
NO.	REVISION DESC.

DRAWN BY: SNH REVISD BY: —
CHECKED BY: ACW ISSUED BY: —

DRAWING TITLE:
**CONCEPTUAL
PLAN WITH
VARIANCE
REQUEST**

DRAWING NUMBER:

EX2.0

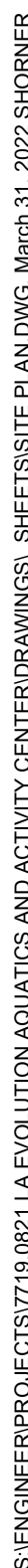


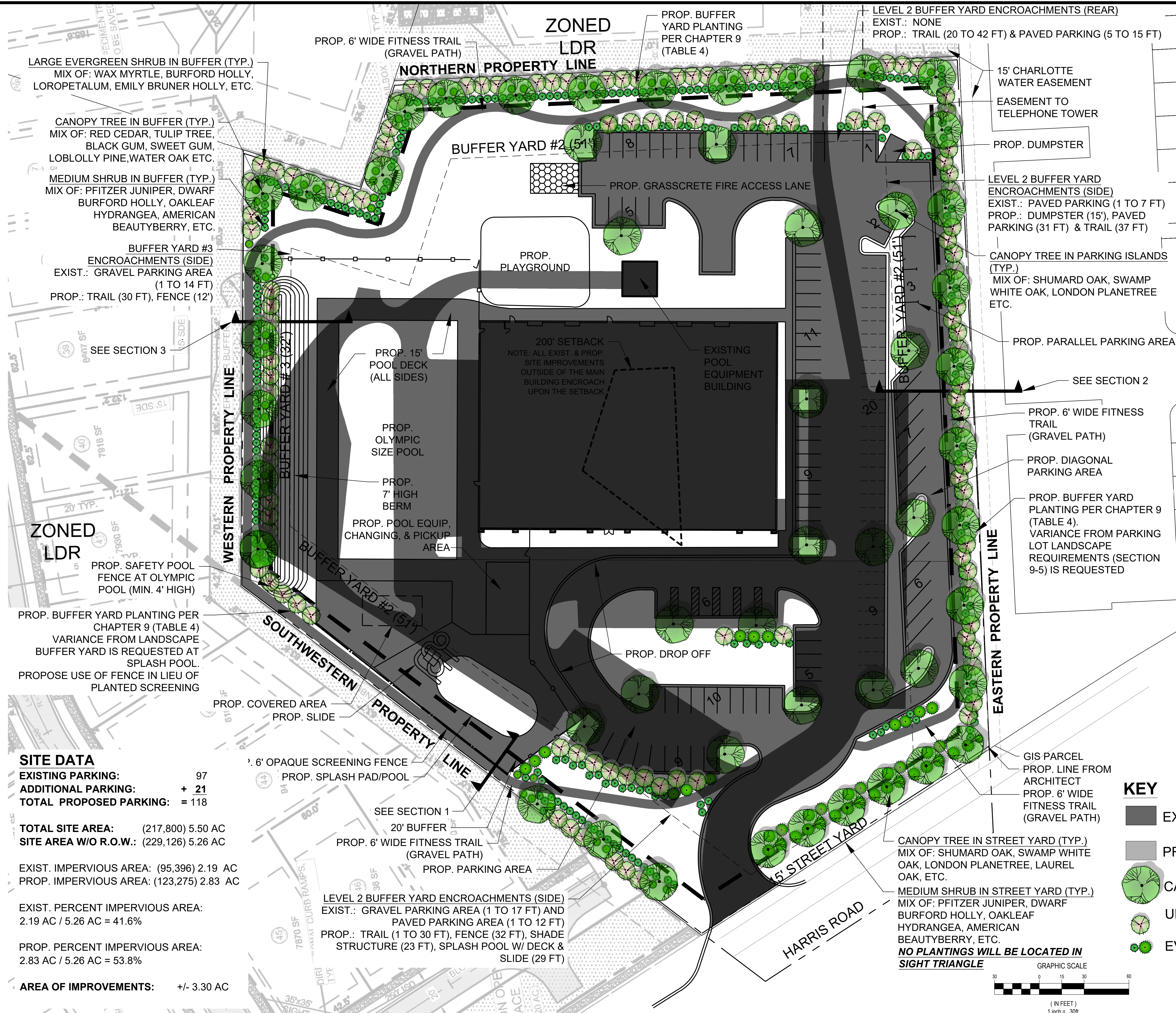
CES Group Engineers, LLP
NC FIRM LICENSE #F-1240
274 N. Hwy. 16, SUITE 300
DENVER, NC 28037
T 704. 489.1500
www.ces-group.net




PROJECT DESCRIPTION:
**EVOLUTION RECREATION &
AQUATICS**
HUNTERSVILLE, NC

EX3.0








CES
 ENGINEERS
 PLANNERS
 SURVEYORS
 SCIENTISTS

CES Group Engineers, LLP
 NC FIRM LICENSE #F-1540
 27 DORRIN, NC 28037
 T 704.489.1000
 www.ces-engineers.com

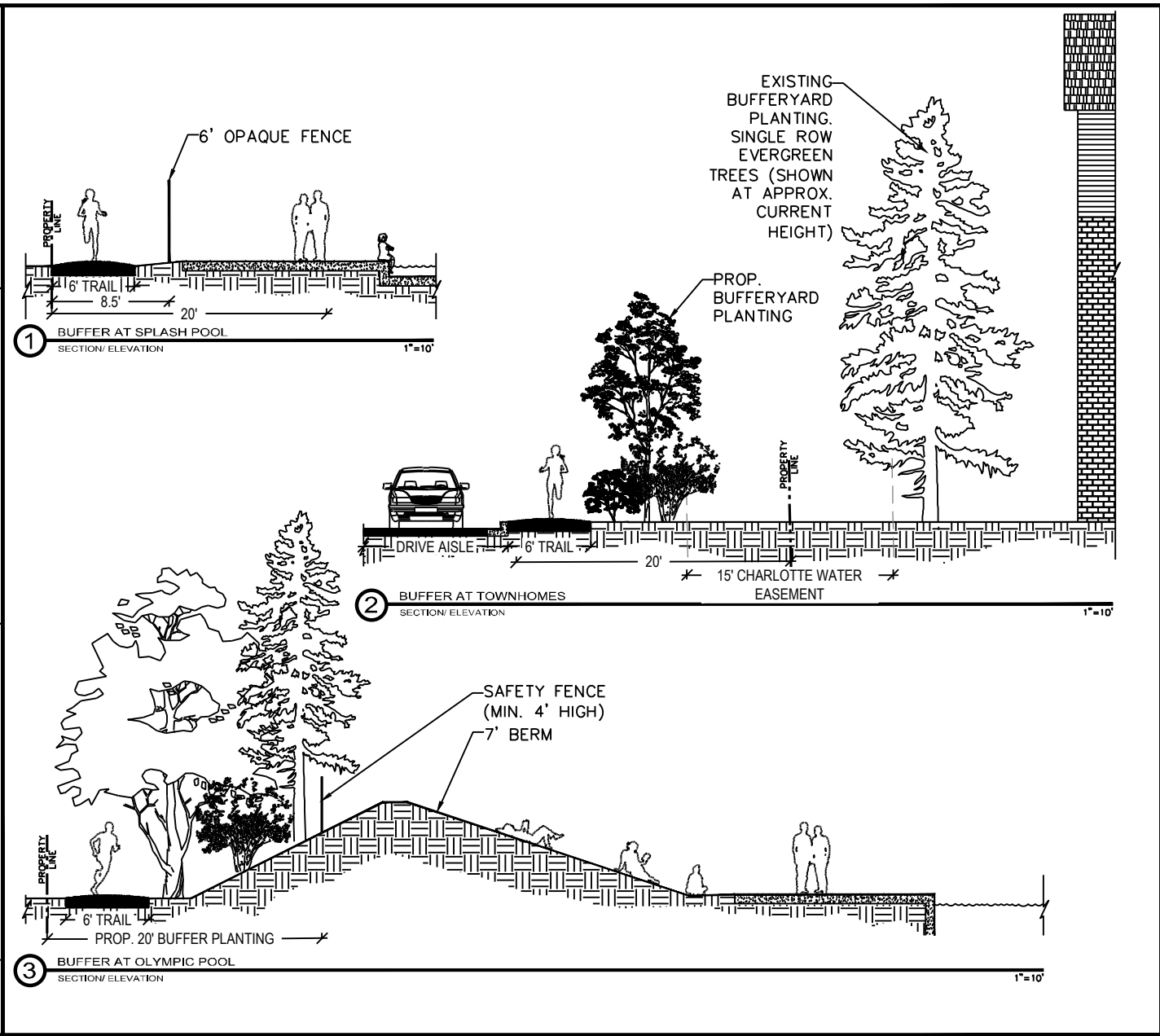


ANGELO ARCHITECTS
 ARCHITECTS, INTERIORS & EXTERIORS DESIGN
 1000 N. WATKINS, SUITE 200
 DORRIN, NC 28037
 www.angelosdesign.com

EVOLUTION RECREATION & AQUATICS
 HUNTERSVILLE, NC

REVISIONS		
Date	Description	Approved

BUFFERS WITH VARIANCE
 Date: JAN. 11, 2022





VIEW 1 - Olympic pool, Splash Pad & Cabana area

"These Rendering are conceptual only, refer to civil drawings and other information for specific locations of landscaping, fencing, and other site improvements".



VIEW 3 - Splash Pool Area



VIEW 2 - Olympic pool & Playground



VIEW 4 - Olympic Pool & Cabana Area

Exhibit E

Surrounding Property Owner Information

4670-45-1661 ETHAN AND AUSTIN PROPERTIES LLC 17501 HUNTERSVILLE CONCORD RD HUNTERSVILLE, NC 28078		
4670-55-1040, 02924103B & 02924103A WOODLEY WALLACE FARMS LLC 14842 EASTFIELD RD HUNTERSVILLE, NC 28078	4670-35-8966 STEVEN & MYRA BILLINGS 14647 EASTFIELD RD HUNTERSVILLE, NC 28078	4670-45-6640 SKYBROOK SIGNATURE TOWNHOMES OWNERS ASSOC PO BOX 481349 CHARLOTTE, NC 28269
4670-46-0288 & 02111116 MYRA'S DREAM LLC A NC LLC 14647 EASTFIELD RD HUNTERSVILLE, NC 28078		

January 18, 2022

Dear Property Owner:

A Variance Application has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday, February 8, 2022 at 6:30 PM in the 2nd floor Commissioner's Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S, Concord, NC 28026. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about this variance request, I encourage you to attend this meeting.

- | | |
|----------------------------|---|
| • Petitioner | Evolution Recreation & Aquatics |
| • Petition Number | VARN2022-00001 |
| • Property Location | 11202 Harris Road |
| • Parcel ID Number | 4670-45-1661 |
| • Existing Zoning | Office & Institutional Special Use (OI-SU) |
| • Variance Request | Relief from the requirements of; Chapter 5
Section 5-8, Chapter 7 Section 7-3.59.c &
Chapter 9 Table 4 |

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,



Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development
704.920.2181

If reasonable accommodations are needed please contact the ADA Coordinator at (704) 920-2100 at least 48 hours prior to the public hearing.

January 18, 2022

Dear Property Owner:

A Variance Application has been filed in our office for property **adjacent** to yours. The property and specifics of the request are listed below. The Cabarrus County Board of Adjustment will consider this petition on Tuesday, February 8, 2022 at 6:30 PM in the 2nd floor Commissioner's Chambers of the Cabarrus County Governmental Center, located at 65 Church Street S, Concord, NC 28026. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about this variance request, I encourage you to attend this meeting.

- | | |
|----------------------------|---|
| • Petitioner | Evolution Recreation & Aquatics |
| • Petition Number | VARN2022-00001 |
| • Property Location | 11202 Harris Road |
| • Parcel ID Number | 4670-45-1661 |
| • Existing Zoning | Office & Institutional Special Use (OI-SU) |
| • Variance Request | Relief from the requirements of; Chapter 5
Section 5-8, Chapter 7 Section 7-3.59.c &
Chapter 9 Table 4 |

If you have any questions regarding this petition, or the hearing process, please contact me at Cabarrus County Planning and Development at 704.920.2181.

Sincerely,



Phillip Collins, AICP
Senior Planner
Cabarrus County Planning and Development
704.920.2181

If reasonable accommodations are needed please contact the ADA Coordinator at (704) 920-2100 at least 48 hours prior to the public hearing.

Jan 19, 2022 at 8:54:06 AM
Cabarrus County



Jan 19, 2022 at 8:53:21 AM
Huntersville, NC 28078



Exhibit F
Original Request Information

Petition: C2005-05 (R)

Petitioner(s)	Yarbrough-Williams & Houle, Inc.
Agent Information:	PO Box 7007 Charlotte, NC 28241
Property Owner Information:	Myra's Dream LLC (Myra W. Billings) 14647 Eastfield Rd. Huntersville, NC 28075
Existing Zoning:	MDR – Medium Density Residential
Proposed Zoning:	OI-CU – Office Institutional Conditional Use
Purpose:	The petitioner is seeking a zoning change to permit an indoor recreational facility.
Property Location:	14647 Eastfield Road
PIN:	4670-45-1944 (Portion of – See attached site Plan.)
Area:	5.519 Acres
Site Description:	The subject property is vacant.
Zoning History:	The subject property is currently zoned MDR, Medium Density Residential. The current zoning classification does not allow indoor recreational facilities as a permitted use.
Area Relationships	North: Residential (MDR-Medium Density Residential) South: Residential (MDR-Medium Density Residential) East: Residential/Skybrook Subdivision Swim Club (MDR-Medium Density Residential) West: Residential (MDR-Medium Density Residential)
Exhibits:	1 Staff report 2. Current Zoning Map – submitted by staff 3. Subject Property Map – submitted by staff 4. Letter to adjacent property owners
Code Considerations:	Per the proposed text change to add the O-I Zone to the Cabarrus County Zoning Ordinance, the O-I district is intended to accommodate relatively low intensity office and institutional uses at an intensity complementary to residential land use. When appropriate, this district can serve as a transition between residential land use and higher intensity non-residential uses.

Site Considerations: The subject parcel is located in close proximity to individual properties zoned MDR (Medium Density Residential), Skybrook Subdivision and O/I (Office/Institutional) zoned property, contingent subsequent zoning map amendments. The adjacent property uses are primarily residential in nature along with a parcel used by Skybrook Subdivision as their amenity site. The Skybrook amenity site has a pool, cabana, and other outdoor recreational type facilities on the lot.

Per the Draft Northwest Area Plan, the subject property is classified as mixed use. The proposed indoor recreational facility is consistent with appropriate uses allowed in the mixed use area. The proposed indoor recreational facility may be considered complementary to the adjacent and area property owners. The OI-CU zoning designation for the subject property would create a transitional area between single family residential uses and other potentially more intense uses.

Site Plan Considerations: The applicant has provided a site plan for staff to review. A preliminary review of the site plan shows the following:

- The proposed lot is 5.501 Acres.
- The proposed structure meets the minimum setback requirements for the O-I CU Zoning District.
- The proposed plan shows the required 15' buffer yard along Eastfield Road.
- The proposed plan shows a level 3 buffer yard around the perimeter of the property. The buffer yard has been reduced on the North and East property line by the installation of a six foot berm and vegetation. This meets the screening requirement for an institutional use adjacent to residential property.
- The site plan has been reviewed by the Cabarrus County Zoning Office and is compliant with all development standards per Cabarrus County Zoning Ordinance contingent the rezoning of this parcel.

Conclusion: The petitioner has requested a rezoning from MDR to O-I CU. Per the Cabarrus County Zoning Ordinance, the proposed rezoning request is in keeping with the intent of the O-I Zone to allow uses that may be complementary to residential uses.

**Planning Staff
Recommendation:**

Should the Board consider approval of the rezoning, Planning staff recommends that the following conditions be applied:

- 1. The subject property shall be required to secure a driveway permit issued by the NCDOT.*
- 2. The proposed project shall meet all of the Performance Based Standards set forth in Chapter Seven of the Cabarrus County Zoning Ordinance for Indoor Recreational Facilities.*
- 3. The proposed project shall be subject to a final site development plan review and approval as stated in Chapter 12, Section 12-8, Site Development Plan.*
- 4. The subject property must acquire all applicable state, local, and federal permits prior to the subject property being developed.*
- 5. Approval of this petition shall be contingent the approval of the O-I Text Amendment by the Cabarrus County Board of Commissioners (public hearing to be held June 20th, 2005).*

April 21, 2005
May 19, 2005
June 16, 2005

Cabarrus County Application for a Zoning Map Amendment



OFFICIAL USE ONLY:

Petition Number: _____
Date Filed: _____
Received By: _____
Amount Paid: _____

The following steps are required in order for your application to be considered complete.
Incomplete applications will be returned to the applicant and will not be processed.

1. Schedule a pre-application meeting with staff.
2. Submit a completed application for an amendment to the official zoning map. All applications must include:
 - A list of all adjacent property owners (include owner name, address, and Parcel Identification Number).
 - A recent survey or legal description of the property or area to be rezoned.
3. Submit cash, check, or money order made payable to Cabarrus County.

Fees: Residential rezoning request less than 5 acres = \$400
Residential rezoning request greater than 5 acres = \$400 + \$5/acre
Non-residential rezoning request = \$500 + \$5/acre

The Rezoning Process:

Month 1: Hold a pre-application meeting with staff to discuss your rezoning request and the map amendment process. Submit a Zoning Map Amendment application to Cabarrus County Planning Services. **All applications must be submitted by the third Thursday of the month to have a public hearing set for the following month.** During this month planning staff will review your application, prepare a staff report to the board, and notify all adjacent property owners.

Month 2: After your application is submitted and reviewed by staff, your request will be forwarded to the Cabarrus County Planning and Zoning Commission. Commission meetings are held on the third Thursday of every month at 7:00 p.m. At this meeting the Commission will hold a public hearing and may vote on your request. Commission meetings are held at the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street.

A vote of $\frac{3}{4}$ of the Commission will constitute a final decision unless the decision of Planning and Zoning Commission is appealed to the Cabarrus County Board of Commissioners within 15 days. If appealed, the case will be scheduled for the next available Board of Commissioners meeting.

Questions: Contact Cabarrus County Planning Services Division, with any questions regarding rezonings in Cabarrus County. Planning Services can be contacted at 704-920-2141.

County Offices are open from 8am to 5pm Monday through Friday.

**Cabarrus County
Application for a Zoning
Map Amendment**



OFFICIAL USE ONLY:

Petition Number: 605-05-121

Date Filed: _____

Received By: _____

Amount Paid: _____

Approved - 9-0

Subject Property Information

1. Street Address 14677 EASTFIELD RD. HUNTERSVILLE NC 28078
2. PIN(s) (10 digit #) 4670-- 45 -- 1944 ; -- -- --
3. Deed Reference Book 3067 Page 102
5. Township # _____

Description of Subject Property

6. Size (square feet or acres) 5.519 ACRES (240,407 SF)
7. Street Frontage (feet) 218.39 LF
8. Current Land Use of Property RESIDENTIAL
9. Surrounding Land Use
 North MDR RESIDENTIAL
 South MDR RESIDENTIAL
 East MDR RESIDENTIAL/ SWIM CLUB
 West MDR RESIDENTIAL

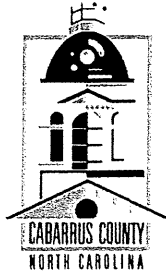
Request

10. Change Zoning From RESIDENTIAL MDR To ~~HD/M~~ HD/M *OI - CU*

11. Is this a request for a "Conditional Use" District? YES ~~NO~~ *yes - m. B. Bieps*
 (If YES, you must also submit an application for a Conditional Use Permit)

12. Purpose for Request REZONING PROPERTY TO ALLOW INDOOR
RECREATIONAL FACILITY

**Cabarrus County
Application for a
Conditional Use Permit**



Application Number: COG-05(R)
 Date Filed: _____
 Received By: _____

Applications for a Conditional Use Permit/District must be accompanied by an application for a Zoning Map Amendment.

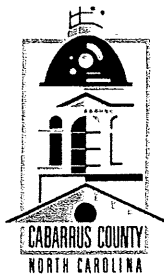
1. Please submit twelve (12) copies of a development plan in conformance with Section 13-11 of the Cabarrus County Zoning Ordinance. (all conditional use applications are encouraged to include a site specific development plan which, if approved, will be binding on the property in question):
2. Please list the specific permitted land use(s) that you are proposing. Land use(s) shall be chosen from Section 3-8 of the Cabarrus County Zoning Ordinance titled "Table of Permitted Uses."

Indoor Recreational facility
office use

3. Please list any specific conditions that you would be willing to impose as part of this application (example: no outside storage permitted on-site, increased buffer width).

See Site Plan.

**Cabarrus County
Application for a
Conditional Use Permit**



OFFICIAL USE ONLY:

Decision Number: _____
Date Filed: _____
Received By: _____

Owner Information

It is understood by all parties hereto that while this application will be carefully considered and reviewed, the burden of providing its need and providing all required evidence rests with the below named petitioner. In addition, it is understood and acknowledged that if the property is rezoned as requested and the Conditional Use Permit authorized, the property involved in this request will be perpetually bound by the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended through the rezoning process. It is further understood and acknowledged that it is the responsibility of the petitioner to file the development plan in the Cabarrus County Register of Deeds Office as a deed restriction upon the subject property.

If, after two years from the date of approval substantial construction has not begun, the property in question may revert to its prior zoning designation after a public hearing is held in compliance with the required procedure for an zoning map amendment.

I do hereby certify that all information which I have provided for this application is, to the best of my/our knowledge, correct.

Property Owner

Myra W. Billings (Myra's Dream)
Steven G. Billings
LLC

Address

14647 Eastfield Rd
Huntersville, NC 28078

Phone

(704) 825-9495

Fax

(704) 947-9687

Signature

Myra W. Billings

**Cabarrus County
Application for a Zoning
Map Amendment**



OFFICIAL USE ONLY:

Petition Number: _____
Date Filed: _____
Received By: _____
Amount Paid: _____

Owner/Agent/Applicant Information

It is understood by all parties hereto including owner, petitioner, and/or agents that while this application will be carefully considered and reviewed, the burden of providing its need rests with the below named petitioner.

I do hereby certify that all information which I have provided for this application is, to the best of my knowledge, correct.

13. Property Owner

MYRA'S DREAM LLC *(Myra W. Billings, owner)*
Address 14677 EASTFIELD RD. HUNTERSVILLE NC 28075
Phone (704) 875-9495 / (704) 201-4287
Fax (704) 947-9687
Signature *Myra W. Billings*

14. Agent (if any)

YARBROUGH-WILLIAMS & HOULE, INC.
Address P.O. BOX 7007 CHARLOTTE, NC 28241
Phone (704) 556-1990 EXT. 105
Fax (704) 556-0505
Signature *Jeffrey*

15. Applicant (if any)

Address _____
Phone _____
Fax _____
Signature _____

NOTES

THIS PROPERTY SUBJECT TO ALL OTHER RIGHTS-OF-WAY AND EASEMENTS OF RECORD NOT OBSERVED IN THE FIELD WHICH WOULD BE DISCLOSED BY A FULL TITLE SEARCH.

PER NCDOT IN ALBEMARLE THE RIGHT-OF-WAY OF ALLEN HARRIS ROAD ALSO KNOWN AS EASTFIELD ROAD, IS THAT WHICH IS MAINTAINED BY THE STATE FROM BACK OF DITCH TO BACK OF DITCH, AN ASSUMED RIGHT-OF-WAY OF 100' IS SHOWN FOR PICTORIAL PURPOSES ONLY.

AREAS CALCULATED BY COORDINATE METHOD.

DISTANCES SHOWN ARE GROUND DISTANCES.

TO CONVERT TO GRID DISTANCES APPLY THE COMBINED GRID FACTOR OF 0.9998495.

THIS SURVEY IS NOT INTENDED TO MEET GS 47-30 REQUIREMENTS. THIS SURVEY WAS PREPARED PER THE STANDARDS OF PRACTICE FOR LAND SURVEYORS IN NORTH CAROLINA WITH AN ERROR OF CLOSURE IN EXCESS OF 1:10,000.

AT THE TIME OF THIS SURVEY THE OFFICE OF NORTH CAROLINA GEODETIC SURVEY HAS NOT SET THE REVISED MONUMENTS DEPICTING THE COUNTY LINE BETWEEN MECKLENBURG AND CABARRUS COUNTY.

15' THOROUGHFARE BUFFER NOTE

FIFTEEN(15) FOOT LANDSCAPE SETBACK SHALL CONTAIN A MIXTURE OF THE FOLLOWING: ONE TREE WHICH WILL REACH A LEVEL OF SIX(6) FEET WITHIN THREE(3) YEARS EVERY THIRTY(30) LINEAR FEET OF FRONTAGE, LOW LEVEL SHRUBS, DECORATIVE TREES (MINIATURE TREES IF LOCATED UNDER POWER LINES), AND GRASS.

PARKING NOTE:

PARKING REQUIRED (MIN 1.5/1000 SF)= 42 SPACES

(MAX 10/1000 SF)= 279 SPACES

PARKING PROVIDED 89 SPACES

±6 HANDICAPPED SPACES

95 TOTAL PARKING SPACES

LANDSCAPING NOTE:

USE THE APPROVED LANDSCAPING PLANT LIST FOR CABARRUS COUNTY AS SHOWN ON PART V SECT. 9.14

BUFFER TREES

ALL SHRUBS AND TREES FOR PLANTING WITHIN BUFFERS MUST BE ON THE APPROVED PLANT LIST FOUND IN PART V. COMPARABLE SUBSTITUTES MAY BE APPROVED BY THE ZONING ADMINISTRATOR.

A) TREES, AT LEAST FORTY PERCENT OF REQUIRED TREES WITHIN A BUFFER MUST BE LARGE MATURING TREES WITH A MINIMUM CALIPER OF 2 1/2" MEASURED 6" ABOVE GROUND AT THE TIME OF PLANTING; SMALL MATURING TREES MUST HAVE A MINIMUM CALIPER OF 1 1/2" MEASURED 6". TWENTY-FIVE PERCENT OF THE TREES IN THE BUFFER MUST BE EVERGREEN.

B) SHRUBS, MUST BE EVERGREEN AND AT LEAST 2 1/2 FEET TALL WHEN PLANTED WITH AN AVERAGE HEIGHT OF 5 OF 6 FEET EXPECTED AS NORMAL GROWTH OVER A FOUR YEAR PERIOD. TWENTY-FIVE PERCENT OF SHRUBS MAY VARY FROM THE ABOVE AS FOLLOWS:

-MAY BE DECIDUOUS

-MAY BE TWO FEET TALL WHEN PLANTED PROVIDED THREE TO FOUR FEET GROWTH IS ANTICIPATED OVER A FOUR YEAR PERIOD

-IF PLANTED ON A BERM MAY BE OF A LESSER HEIGHT PROVIDED THAT COMBINED HEIGHT OF THE BERM AND PLANTINGS IS AT LEAST 6 FEET AFTER FOUR YEARS.

TREE AND SHRUB REQUIREMENTS:

NORTH BUFFERYARD: *(SEE NORTH & EAST BUFFERYARD NOTE)

-518 LINEAR FEET

-52 SHRUBS

-16 TREES

EAST BUFFERYARD: *(SEE NORTH & EAST BUFFERYARD NOTE)

-518 LINEAR FEET

-52 SHRUBS

-16 TREES

WEST BUFFERYARD:

-750 LINEAR FEET

-150 SHRUBS

-45 TREES

SOUTH THOROUGHFARE BUFFERYARD:

-230 LINEAR FEET (8 TREES) *(SEE NOTE ABOVE)

-ONE TREE WHICH WILL REACH A LEVEL OF SIX(6) FEET WITHIN

THREE(3) YEARS EVERY THIRTY(30) LINEAR FEET OF FRONTAGE

SIGNAGE NOTE:

ENTRANCE SIGNAGE & BUILDING SIGNAGE ARE NOT TO EXCEED 50 SQ.FT. TOTAL

INTERIOR LANDSCAPING

-TREES

REQUIRED AT A RATE OF ONE PER SIXTEEN PARKING SPACES. AT LEAST FORTY PERCENT OF REQUIRED TREES MUST BE LARGE MATURING TREES WITH A MINIMUM CALIPER OF 2 1/2" MEASURED 6" ABOVE GROUND AT THE TIME OF PLANTING; SMALL MATURING TREES MUST HAVE A MINIMUM CALIPER OF 1 1/2" MEASURED 6". TWENTY-FIVE PERCENT OF THE TREES THROUGHOUT THE PARKING LOT MUST BE EVERGREEN.

-SHRUBS

REQUIRED AT A RATE OF THREE PER SIXTEEN SPACES. MUST BE EVERGREEN AND AT LEAST 2 1/2' TALL WHEN PLANTED WITH AN AVERAGE HEIGHT OF 5 TO 6 FEET EXPECTED AS NORMAL GROWTH OVER A FOUR YEAR PERIOD. TWENTY-FIVE PERCENT OF SHRUBS MAY VARY FROM THE ABOVE AS FOLLOWS:

*MAY BE DECIDUOUS, OR,

*MAY BE TWO FEET TALL WHEN PLANTED PROVIDED THREE TO FOUR FEET OF GROWTH IS ANTICIPATED OVER A FOUR YEAR PERIOD.

INTERIOR LANDSCAPING TREE AND SHRUB REQUIREMENTS:

TREES:

-1 TREE PER 16 PARKING SPACES

95 PARKING SPACES = 6 TREES REQUIRED

SHRUBS:

-3 SHRUBS PER 16 PARKING SPACES

95 PARKING SPACES = 18 SHRUBS REQUIRED

CHAPTER 7 SECTION 7.4.29 RECREATION FACILITY INDOOR

A) BUFFERYARD ABUTTING RESIDENTIALLY USED PROPERTY MUST PROVIDE SCREENING AT LEVEL 3

TABLE FOUR BUFFERYARD LEVELS

ACREAGE LESS THAN	.5	1	1.5	2	2.5	3	3.5	4	4.5	5	5.5	6	6.5	7	7.5	8	8.5	9	9.5	10 OR MORE ACRES
BUFFERYARD #1	43'	46'	49'	52'	55'	58'	61'	64'	67'	70'	73'	76'	79'	82'	85'	88'	91'	94'	97'	100'
*TREES PER 100'	9 TREES	10 TREES	11 TREES	12 TREES	13 TREES	14 TREES	15 TREES	16 TREES	17 TREES	18 TREES	19 TREES	20 TREES	21 TREES	22 TREES	23 TREES	24 TREES	25 TREES	26 TREES	27 TREES	28 TREES
*SHRUBS PER 100'	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS	60 SHRUBS
BUFFERYARD #2	25'	27'	30'	33'	36'	39'	42'	45'	48'	51'	54'	57'	60'	63'	66'	69'	72'	75'	78'	81'
*TREES PER 100'	6 TREES	7 TREES	8 TREES	9 TREES	10 TREES	11 TREES	12 TREES	13 TREES	14 TREES	15 TREES	16 TREES	17 TREES	18 TREES	19 TREES	20 TREES	21 TREES	22 TREES	23 TREES	24 TREES	25 TREES
*SHRUBS PER 100'	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS	40 SHRUBS
BUFFERYARD #3	12'	14'	16'	18'	20'	22'	24'	26'	28'	30'	32'	34'	36'	38'	40'	42'	44'	46'	48'	50'
*TREES PER 100'	3 TREES	4 TREES	5 TREES	6 TREES	7 TREES	8 TREES	9 TREES	10 TREES	11 TREES	12 TREES	13 TREES	14 TREES	15 TREES	16 TREES	17 TREES	18 TREES	19 TREES	20 TREES	21 TREES	22 TREES
*SHRUBS PER 100'	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS	20 SHRUBS

EXCEPTIONS:

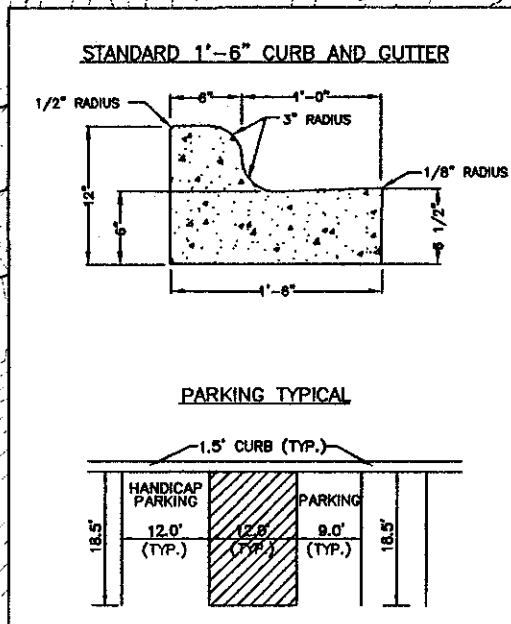
1) THE MINIMUM WIDTH OF A BUFFER MAY BE REDUCED BY 25 PERCENT IF A FENCE OR WALL IS CONSTRUCTED.

2) SHRUBS ARE NOT REQUIRED IF A FENCE OR WALL IS CONSTRUCTED.

3) AN EVERGREEN (OPAQUE) VEGETATIVE HEDGE IF USED WILL REDUCE THE BUFFERYARD WIDTH BY ON HALF AND ELIMINATE THE NEED FOR REQUIRED SHRUBBERY AND/OR TREES.

4) A BERM WITH A MINIMUM HEIGHT OF SIX FEET WILL REDUCE THE BUFFERYARD WIDTH BY ONE HALF AND THE OTHERWISE REQUIRED PLANTING MATERIALS BY ON HALF. THE RESULTING BERM MUST BE SOWN WITH FESCUE GRASS AND MAINTAINED.

NORTH & EAST BUFFERYARD NOTE: THE NORTH & EAST BUFFERYARD HAS BEEN REDUCED BY THE INSTALLATION OF A BERM WITH A MINIMUM HEIGHT OF SIX FEET AND WILL REDUCE THE BUFFERYARD WIDTH BY ONE HALF AND THE OTHERWISE REQUIRED PLANTING MATERIALS BY ONE HALF. THE RESULTING BERM MUST BE SOWN WITH FESCUE GRASS AND MAINTAINED.



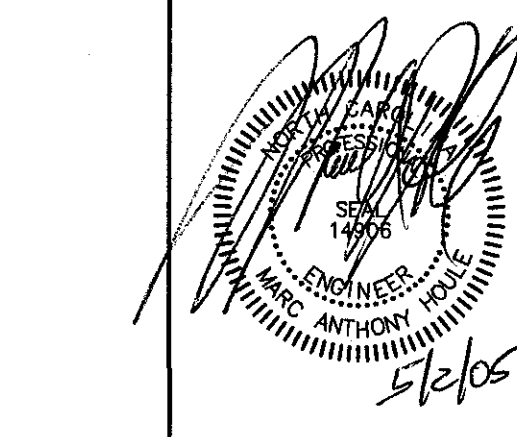
IMPERVIOUS AREA
PARKING LOT - 53,213 SQ.FT.
SIDEWALK - 3,170 SQ.FT.
BUILDING - 28,539 SQ.FT.
TOTAL - 84,922 SQ.FT.

NOW OR FORMERLY
MVC, LLC.
DEED: 12597-914
ZONING: OPS

LEGAL DESCRIPTION
BEGINNING AT AN IRON REBAR FOUND IN THE NORTHERN RIGHT OF WAY LINE OF HARRIS ROAD(S.R.#1449), SAID IRON HAVING N.C. GRID COORDINATES (NAD 83) OF N=605,503.2833 E=1,474,644.0084 AND BEING LOCATED S44-40-18W 3714.16' FROM A NORTH CAROLINA GEODETIC CONTROL MONUMENT "MD18 FFH" SAID MONUMENT HAVING N.C. GRID COORDINATES (NAD 83) OF N=608,052.493 E=1,477,032.572. THENCE S02-29-44E 58.04' TO A POINT IN THE CENTERLINE OF HARRIS ROAD(S.R.#1449), THENCE FOLLOWING THE CENTERLINE OF HARRIS ROAD S56-59-05W 182.09' TO A POINT IN THE CENTERLINE, SAID POINT ALSO BEING IN THE CABARRUS & MECKLENBURG COUNTY LINE. THENCE FOLLOWING SAID COUNTY LINE N52-46-44W 53.13' TO AN IRON SET IN THE RIGHT OF WAY LINE OF HARRIS ROAD (A.K.A EASTFIELD ROAD IN MECKLENBURG COUNTY), CONTINUING WITH CABARRUS & MECKLENBURG COUNTY LINE ALSO BEING A COMMON LINE WITH MYRA'S DREAM, LLC. (DEED:3067-102) N52-46-44W 386.19' TO AN IRON SET. THENCE LEAVING COUNTY LINE AND FOLLOWING THE EASTERN MARGIN OF A INGRESS & EGRESS EASEMENT (DEED:765-117) N00-21-27E 289.13' TO AN IRON SET IN THE SOUTHERN PROPERTY LINE OF STEVEN G. & MYRA BILLINGS(DEED:765-115). THENCE TWO CALLS WITH THE BILLINGS PROPERTY (DEED:765-115) (1) 872-00-41E 82.35 TO AN IRON REBAR FOUND (2) N17-47-01E 74.63' TO AN IRON SET IN THE BILLINGS LINE AND BEING A COMMON CORNER WITH MYRA'S DREAM, LLC. (DEED:3067-102). THENCE WITH MYRA'S DREAM, LLC. LINE N87-30-16E 377.39' TO AN IRON SET IN THE LINE OF JORDAN HOLDINGS, LLC. (DEED:3753-232). THENCE S02-29-44E 460.16' TO THE POINT AND PLACE OF BEGINNING CONTAINING 5.501 ACRES AS SHOWN ON A SURVEY PREPARED BY YARBROUGH-WILLIAMS & HOULE, INC. DATED: APRIL 20, 2005.

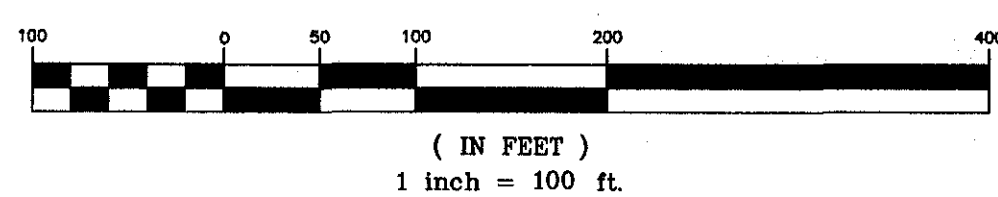
NOW OR FORMERLY
JOHN WOOLEY WALLACE, SR
14832 HARRIS RD.
HUNTERVILLE, NC, 28078
DEED: 3737-816
ZONING: MDR

OWNER INFORMATION:
MYRA'S DREAM, LLC.
14324 EASTFIELD ROAD
HUNTERVILLE, NC 28078
PHONE:# 704-201-4287



APPROVED
DATE 4/16/05
DUPLICATE

GRAPHIC SCALE



THIS PLAN IS A FINAL DESIGN-NOT
RELEASED FOR CONSTRUCTION
UNLESS INITIALLED/DATED AS APPROVED:
APPROVED: INITIALS DATE

SHEET TITLE

REZONING SITE PLAN
5.501 ACRES TOTAL

PROJECT
NORTH MECKLENBURG AQUATIC CENTER
TOWNSHIP #2, CABARRUS COUNTY
FOR: MYRA BILLINGS



YARBROUGH-WILLIAMS & HOULE, INC.
Planning & Surveying & Engineering
726 Wedgton Oak Court Charlotte, NC 28203
704.556.1990 704.556.0605(fax)

PROJECT NO.

SCALE

1"=100'

DATE 4/20/05

DRAWN BY JUN

CHECKED BY JEW

DATE

140-71

SHT 1 OF 1 SHTS

Exhibit G

Neighborhood Meeting Information



Meeting Minutes

Applicant: **Evolution Recreation & Aquatics**
 11202 Harris Road,
 Huntersville, NC 28078

Prepared by: Augustine Wong, PLA
 CES Group Engineers, LLP

Date: January 7, 2022

Due to public gathering restrictions resulting from Covid-19, an alternative method to reach adjacent properties and residents were conducted. A door-to-door meeting with each property owner with social distancing imposed.

- A site plan, description of the proposed improvement along with contact information to provide input was provided.
- This information was either left at their door (when occupant was not available) or handed to the occupants.
- A brief overview of the improvements and contact information to submit comments were provided.

The following are comments from the door-to-door meetings.

- 1) Will it increase my HOA fees? – Windy Falls Drive Townhome
- 2) Opening of car door during early morning in parking lot? – Windy Falls Drive Townhome
- 3) I have no opposition to the setback variance and fully support it – Raina Berry, 852 Skybrook Falls Drive (via text on 1/7/2022)

End of Minutes.

Greetings.

My name is Augustine Wong, PLA, a landscape architect with CES Group Engineers in Denver, North Carolina.

CES Group Engineers is assisting Evolution Recreation & Aquatics (Ethan & Austin Properties, LLC) at 11202 Harris Road, Huntersville, NC 28078 with site expansion of their current indoor swimming pool and playground to include outdoor swimming pool, splash pad, changing room and parking lot. This facility has been providing swimming lessons and aquatic safety classes to the community especially to children and seniors for many years and the expanded fitness, and competitive swimming facility will enhance their current services.

Due to land restriction, they are seeking a setback variance of 20 feet from the County which will include a combination of plantings and/or fence on top of a berm to achieve the landscape screening requirement.

If you have comments to support or against this setback variance, please let us know as soon as you are able. Comments can be sent to awong@ces-group.net; or to leave a text or voice message at 803.448.5815

We appreciate your input and thank you for your time.

Name of Business:

Evolution Recreation & Aquatics
11202 Harris Rd
Huntersville NC 28078

Cullen, Terina
878 Windy Falls Dr
Huntersville, NC 28708
PIN: 46704546650000

Property Owner:

Ethan & Austin Properties LLC
17501 Huntersville-Concord Rd.
Huntersville, NC 28078

7) Alsop, Michael
874 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704546670000

Immediate Residential Neighbors:

- 1) Godwin, Jeffery
Godwin, Latrise
898 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704545710000
- 2) Sethurahman Sivasamy
Sethurahman, Sumithra
894 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704545740000
- 3) SN NC LLLC
890 Windy Falls DR
Huntersville, NC 28078
Mailing address: 8390 E Via De Ventura
Ste F110
Scottsdale, AZ 85258
PIN: 4670454660000
- 4) Raam Naveen
Krishnegowda Anita
886 Windy Falls Dr
Huntersville, NC 28078
PIN: 4670454680000
- 5) Underwood, Clarence
Underwood, Renee
882 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704546600000
- 6) Cullen, John

- 8) White, Kenneth Corey
White, Melissa Erin
10414 Summercrest Court
Charlotte, NC 28267
PIN: 46704547600000
- 9) Prince, Adam
Prince, Margaret
866 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704547620000
- 10) BSMN LLC
862 Windy Falls Dr
Huntersville, NC 28708
Mailing: 10114 Edgecliff Road
Huntersville, NC 28078
PIN: 46704547640000
- 11) Bakong, Chrystel
858 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704547560000
- 12) Pagunuran, Gilbert
Pagunuran, Gina
854 Windy Falls Dr
Huntersville, NC 28078
Mailing address: 2210 Donnington Lane
NW, Concord, NC 28027
PIN: 46704547590000
- 13) Sethurahman, Muralitharan
Aramugadurai Geetha

850 Windy Falls Dr
Huntersville, NC 28078

Mailing address: 6010 Pipers Glen
Suwanee, GA 30024
PIN: 46704548530000

14) Grogan, Terrence
846 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704548560000

15) Kankipati, Nitvanand
Kankipati, Kavitha
842 Windy Falls Dr
Huntersville, NC 28078
Mailing address: 17323 Hampton Trace
Rd, Huntersville, NC 28078
PIN: 46704548580000

16) Salley, John
838 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704549500000

17) Woodley Wallace Farms, LLC
A NC LLC
Mailing address: 14842 Eastfield Rd
Huntersville, NC 28078
Physical address: 11201 Harris Rd
Huntersville, NC 28078
PIN: 46705510400000

18) Skybrook Signature Townhomes
Owners Association
852 Windy Falls Dr
Huntersville, NC 28078
Mailing address: PO Box 481349
Charlotte, NC 28269
PIN: 46704566400000

19) Frahm, Andrew D
Frahm, Leigh A
11214 Bridgewater Dr

Huntersville, NC 28078

Mailing address: 9412 Owls Nest Dr
Raleigh, NC 27613
PIN: 46704549290000

20) Carr, Monalita
11210 Bridgewater Dr
Huntersville, NC 28078
PIN: 46704549490000

21) Vecchio, Johnathan
Vecchio, Debra
11206 Bridgewater Dr
Huntersville, NC 28078
PIN: 46704640600000

22) Brown, Cecilia
11202 Bridgewater Dr
Huntersville, NC 28078
PIN: 46704640900000

23) HPA JV Borrower 2019-1 ATH
11198 Bridgewater Dr
Huntersville, NC 28078
Mailing address: 120 S Riverside Plz
Suite 2000
Chicago, IL 60605
PIN: 46704650200000

24) Whiteside, Megan
11194 Bridgewater Dr
Huntersville, NC 28078
PIN: 46704650500000

25) Subramaniam, Sudhakar
Kannan Shanthi
11190 Bridgewater Dr
Huntersville, NC 29078
Mailing address: 10119 Legolas Ln,
Charlotte, NC 28269
PIN: 46704650700000

26) Darren Kemp, William

11186 Bridgewater Dr.
Huntersville, NC 28078
PIN: 46704660000000

Wysowski, Richard
857 Windy Falls Dr
Huntersville, NC 28078

27) Shuck, Matthew William
833 Windy Falls Dr
Huntersville, NC 28078
Mailing address: Unit 101 Phoenix, AZ
85048
PIN: 46704559610000

Mailing address: 967 Upland Dr
Elmira, NY 14905
PIN: 46704557670000

28) Dawson, Sean
837 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704558690000

34) Hasan, Cheryl
883 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704556730000

29) Sharma, Ankit
Sharma, Garima
841 Windy Falls Dr
Huntersville, NC 28078
Mailing address: 10331 Lemmon Ave
NW, Concord, NC 28027
PIN: 46704558660000

35) Goetz, Vicki Ann'
887 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704556700000

30) Kasu Batsirai, Neliah
845 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704558640000

36) Sprangler, Tiffany
891 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704555780000

31) Jalgam, Sandhya Rani
Dornala, Shiva Kumar
849 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704558620000

37) Zotkin, Mikhail
Zotkin, Oxana
895 Windy Falls Dr
Huntersville, NC 28078
PIN: 46704555750000

32) White, Kenneth
White, Melissa
853 Windy Falls Dr
Huntersville, NC 28078
Mailing address: 10414 Summercrest Ct
Charlotte, NC 28269
PIN: 46704538600000

38) Gettinger, Zachary
Hopkins, Emily
112000 Green Spring Dr
Huntersville, NC 28078
PIN: 46704557520000

33) Wysowski, Janice

39) Luckett, Janice
11196 Green Spring Dr
Huntersville, NC 28078
PIN: 46704557820000

40) Price, William
11192 Green Spring Dr
Huntersville, NC 28078

Mailing address: 24044 Buckingham
Way PT, Charlotte, FL 33980
PIN: 46704567020000

41) Allen, Nicole
11188 Green Spring Dr
Huntersville, NC 28078
PIN: 46704567220000

42) Aurilia, Christy
Aurilia, Cheryl
11184 Green Spring Dr
Huntersville, NC 28078
Mailing address: 9894 Legolas Ln
Charlotte, NC 28269
PIN: 46704567520000

43) Hoose, Robert
11180 Green Spring Dr
Huntersville, NC 28078
PIN: 46704567720000

44) Berry, Raina
852 Skybrook Falls Dr
Huntersville, NC 28078
PIN: 46704567580000

45) Talton, Joseph
Talton, Lindsey

848 Skybrook Falls Dr
Huntersville, NC 28078

Mailing address: 4401 Brookwood Dr
Charlotte, NC 28078
PIN: 46704568400000

46) Delgrasso, Christine
844 Skybrook Falls Dr
Huntersville, NC 28078
Mailing address: 608 N Oak Dr
Huntersville, NC 28078
PIN: 46704568430000

47) Golden, Michael
840 Skybrook Falls Dr
Huntersville, NC 28078
PIN: 46704568550000

48) Billings, Steven
Billings, Myra
14647 Eastfield Rd
Huntersville, NC 28078
PIN: 46703589660000

49) Myra's Dream
14647 Eastfield Rd
Huntersville, NC 28078
PIN: 46704602880000

Evolution Recreation & Aquatics

11202 Harris Road,
Huntersville, NC 28078

Comments received so far from door-to-door meeting with the immediate neighbors.

- 1) Will it increase my HOA fees? – Windy Falls Drive Townhome
- 2) Opening of car door during early morning in parking lot? – Windy Falls Drive Townhome
- 3) I have no opposition to the setback variance and fully support it – Raina Berry, 852 Skybrook Falls Drive

Exhibit H

Property Views

Overhead view of subject property, looking north



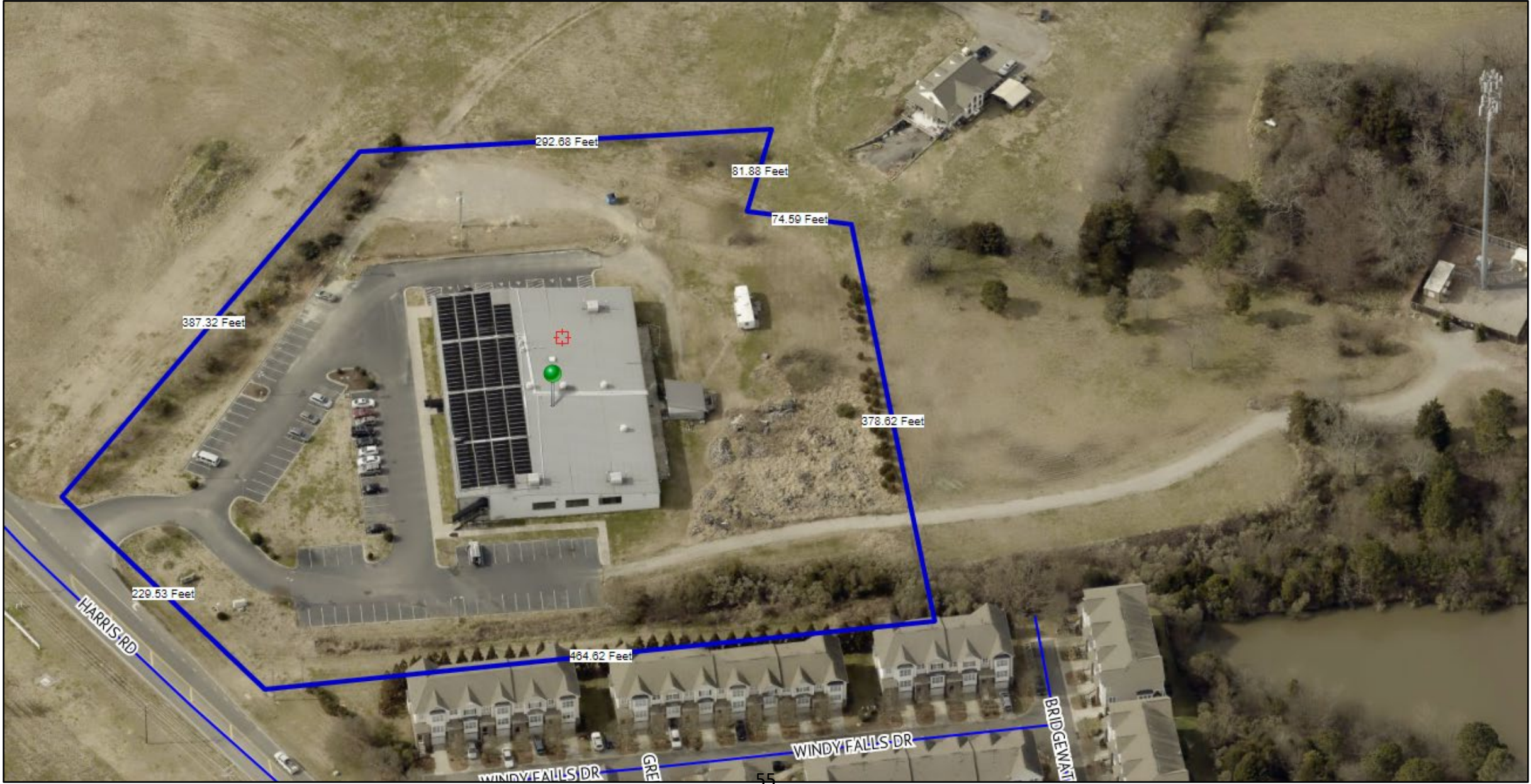
Overhead view of subject property, looking east



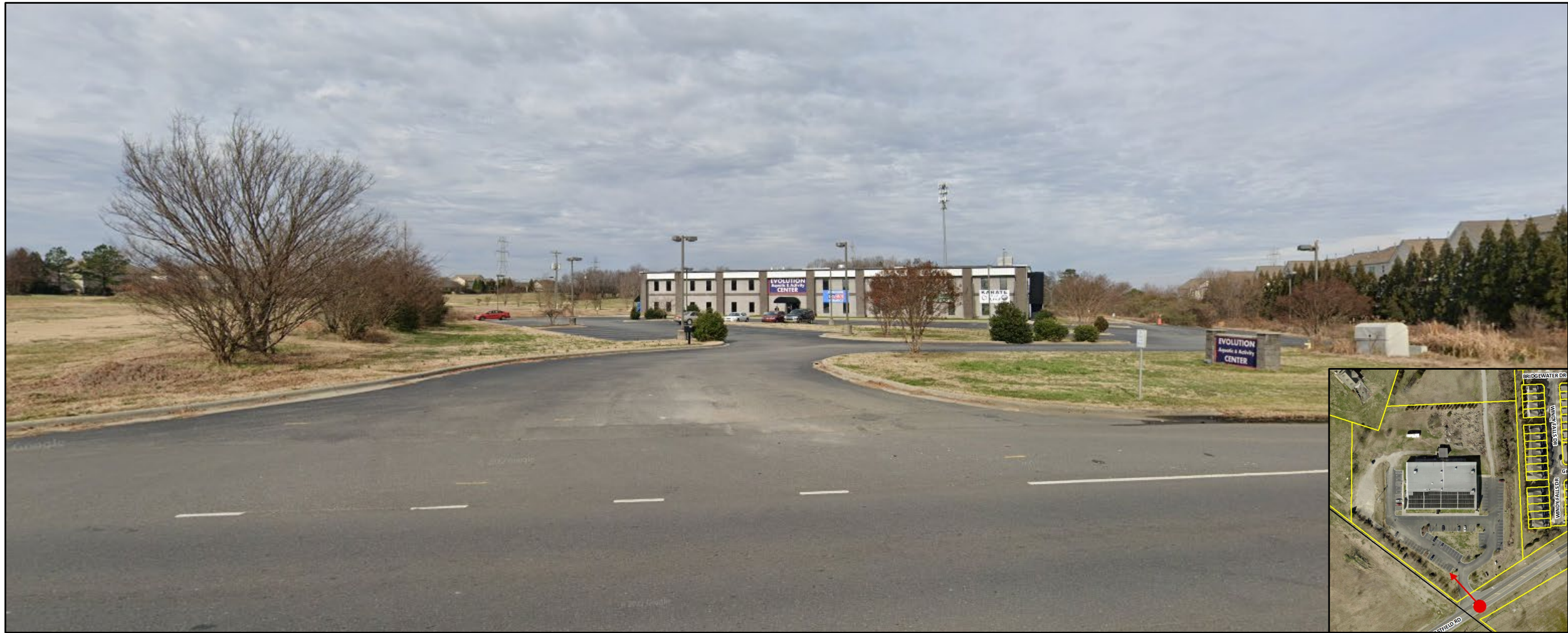
Overhead view of subject property, looking south



Overhead view of subject property, looking west



Northwesterly street level view of subject property (Entrance)

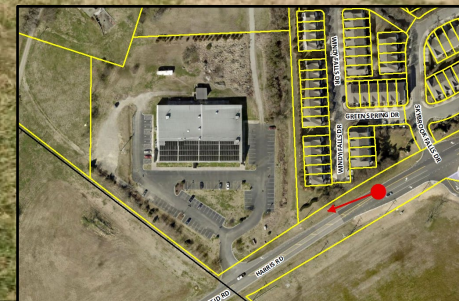


Source: Google Maps

Northeasterly street level view of subject property



Southwesterly street level view of subject property



Source: Google Maps

Northerly street level view of subject property, along eastern property line

