



Cabarrus County Government

Cabarrus County Planning and Zoning Commission
Tuesday, June 14, 2022 @ 6:30 p.m.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval of March 8, 2022, March 30, 2022, and April 12, 2022 meeting minutes
3. New Business Planning Board Function:
 - A. RZON2022-00001 – Request to rezone from Countryside Residential (CR) district to Office / Institutional (OI) district. Owner/Applicant is Gilwood Presbyterian Church. Address is 2993 Odell School Rd. (PIN: 4682-34-5893).
 - B. RZON2022-00002 – Request to rezone from Agriculture Open Space (AO) district to Office / Institutional (OI) district. Owner/Applicant is Cross of Christ. Address is 4500 Rimer Rd. (PIN: 5653-92-4591).
4. 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).
5. Legal Update
6. Director's Report
7. Adjourn



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Planning and Zoning Commission Minutes

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

Roll Call

Approval of Minutes

Approval of March 8, 2022, Planning and Zoning Commission Meeting Minutes

There being no corrections or additions to the minutes, Mr. Andrew Nance **MOTIONED, SECONDED** by Ms. Ingrid Nurse to **APPROVE** the March 8, 2022, meeting minutes. The vote was unanimous.

Approval of March 30, 2022, Planning and Zoning Commission Special Meeting Minutes

There being no corrections or additions to the minutes, Mr. Stephen Wise **MOTIONED, SECONDED** by Mr. Andrew Nance to **APPROVE** the March 30, 2022, meeting minutes. The vote was unanimous.

Approval of April 12, 2022, Planning and Zoning Commission Meeting Minutes

There being no corrections or additions to the minutes, Ms. Ingrid Nurse **MOTIONED, SECONDED** by Mr. Stephen Wise to **APPROVE** the April 12, 2022, meeting minutes. The vote was unanimous.

New Business:

The Chair introduced RZON2022-00001 – Request to rezone from Countryside Residential (CR) district to Office/Institutional (OI) district. Owner/Applicant is Gilwood Presbyterian Church. Address is 2993 Odell School Road. (PIN: 4682-34-5893-0000).

The Chair asked if any Board member had a conflict of interest, or any information related to the

case that needs to be disclosed at this time. There being none, he called on Ms. Sandy Howell to present the Staff report.

Ms. Sandy Howell, Planner, addressed the Board presenting the staff report. The subject property is currently occupied by Gilwood Presbyterian Church. The church has occupied the site since 1887.

To the north, east and west is residential, and to the south it is vacant. It does not have anything around it except for residential, it is all surrounded by CR. They have their own private well and septic.

The proposed rezoning is not consistent with the Northwest Cabarrus Area Plan. However, the subject property supports an existing religious institution which was constructed prior to county zoning.

The front portion of the property is located within the Coddle Creek WS-II watershed protected area. There are two requirements from the Ordinance concerning watersheds:

- All other residential and non-residential development shall not exceed twelve (12%) percent built-upon area for the site in addition to meeting the applicable minimum lot size, density, and zoning district requirements.
- Lots that were developed prior to the adoption of the watershed regulations, December 20, 1993, are considered grandfathered. In no case, however, shall the overall built-upon area for a property exceed the impervious or structural coverage allowed for the underlying zoning district.

Prior to 1993, they had coverage of 18,805 square feet within the watershed area. They have only added a little over 6,000 since then. So that brings them to the coverage of 14.79 percent. If they do not get rezoned, they only have 5.21 available in CR. If they rezone to OI, they will have 65.21 percent available to build upon within that watershed area. The rezoning will allow them to expand up to the 75 percent that is allowed in OI.

For both CR and OI zoning, the design standards for religious institutions with less than 351 seats have to front an arterial or collector road, which they do. They are on Odell School Road. The required setbacks of each zone shall be doubled in the residential districts. Right now, they already meet that standard.

The OI zoning district serves as a transitional district between residential and commercial districts. It is also the more appropriate district for institutional uses like a church.

The proposed zoning change to OI would provide greater flexibility for future use of the site, including allowing additional impervious area and additional signage to be permitted on the site.

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This is a conventional rezoning request, therefore all uses permitted in the OI zoning district would be allowed on the subject property if approved.

Ms. Howell would be happy to answer any questions and Mr. Matt Love is also here for comments or questions.

Mr. Matt Love, Session Member for Gilwood Presbyterian Church, and Representative for the Board of Trustees for the church property at 2293 Odell School Road, Concord, NC., addressed the Board.

He said we want to rezone because, eventually, we are going to upgrade our sign from a conventional outdated sign to an electronic sign. It was brought to our attention that to do that, we needed to be in Office Institutional.

The Chair opened the Public Hearing. There being no one to speak for or against the request, the Chair closed the Public Hearing.

The Chair asked if there were any questions for Applicant or Staff before we discuss it. There being none, the Chair opened the floor for discussion. He reminded the Board that they would need to establish findings to support the decision either way. He opened the floor for discussion.

Mr. Jeff Corley feels the church has existed since before the zoning was adopted on the property. Office Institutional (OI) is a more appropriate use for institutions such as a church. It has historically been used as a church campus and will allow them more flexibility on the site in the future.

Mr. Paxton said why it is not consistent with the Land Use Plan, he does believe it is in the public interest because when and if they do increase the signage, it certainly would be easier to enter and exit the parking lot. It would be beneficial to the public and it would decrease accidents in that area.

The Chair said the rezoning to OI will allow the church to have more flexibility with any future plans.

The Chair asked if there were any more discussion or if there was a motion.

Mr. Jeff Corley, **MOTIONED, SECONDED** by Mr. Charles Paxton to **APPROVE** RZON2022-00001 – Request to rezone from Countryside Residential (CR) district to Office/Institutional (OI) district. Owner/Applicant is Gilwood Presbyterian Church. Address is 2993 Odell School Road. (PIN: 4682-34-5893-0000). The vote was unanimous.

Consistency Statement:

Mr. Jeff Corley said the rezoning is reasonable and in the public interest based on the existing

use of the property having existed before the zoning was adopted, as well as the OI being a more appropriate zoning based on the use of the property as a church. Historically this has been used as a church and this will allow them more flexibility in the future to develop their campus under a more appropriate zoning. Even though it is not consistent with the Land Use Plan, it is a permitted use in the CR district and in the proposed OI district with OI being more appropriate for Institutional.

Mr. Stephen Wise, **MOTIONED, SECONDED** by Mr. Andrew Nance to **APPROVE** the Consistency Statement. The vote was unanimous.

The Chair introduced RZON2022-00002 – Request to rezone from Agriculture Open Space (AO) district to Office/Institutional (OI) district. The Owner/Applicant is Cross of Christ. Address is 4500 Rimer Road (PIN:5653-92-4591).

The Chair asked if any Board member had a conflict of interest, or any information related to the case that needs to be disclosed at this time? There being none, he called on Ms. Sandy Howell to present the Staff report.

Ms. Sandy Howell, Planner, addressed the Board presenting the staff report. The subject property is currently occupied by the Cross of Christ Lutheran Church. The church has occupied the site since 1882, well before zoning was originally adopted.

She said this one is a little bit different. To the north is agricultural, to the east and west is residential and to the south it is commercial. There is also a fire department nearby and Cruse's Meat. The surrounding zoning is all AO.

The proposed rezoning is not consistent with the Eastern Area Plan. However, the subject property supports an existing religious institution which was constructed prior to county zoning. The property currently has a residential zoning designation. Rezoning from AO to OI would bring the site into better compliance with the ordinance. There are two standards:

- Front on an arterial or collector road.

She said it does do this, it fronts on Rimer Road which is a major thoroughfare.

- The required setbacks of each zone shall be doubled in residential districts.

Currently the site does not conform to the double setback requirement. Rezoning to OI will bring the site into compliance.

The current impervious coverage is currently over the maximum for AO zoning. Rezoning to OI will bring the site into compliance and enable the applicant to expand.

The subject property is located within the Dutch Buffalo WS-II watershed protected area and it is 100 percent covered.

She said there are two excerpts from the Ordinance concerning watersheds.

- Residential and non-residential development shall not exceed twelve (12%) percent.
- Lots that were developed prior to the adoption of the watershed regulations on December 20, 1993, are considered grandfathered lots. In no case, however, shall the overall built-upon area for a property exceed the impervious or structural coverage allowed for the underlying zoning district.

She said this one is a little bit different as well for AO because it allows 15 percent. Right now, their coverage is 24 percent, but prior to 1993, they had 109,719 square feet. They have only added about 275 square feet since 1993. Almost all of the impervious coverage was developed prior to December 1993.

Rezoning would allow the current institutional use to expand up to 75 percent impervious coverage in the OI district. The OI zoning district serves as a transitional district between residential and commercial districts. It is also the more appropriate district for institutional uses, like churches.

The proposed zoning change to OI would provide greater flexibility for future use of the site, including allowing additional impervious area and additional signage to be permitted on the site.

This is a conventional rezoning request; therefore, all uses permitted in the OI zoning district would be allowed on the subject property if approved.

The Chair asked if there were any questions for Staff. There being none he called on the applicant.

Mr. James Bailey, 6000 Emanuel Road, Rockwell, NC., addressed the Board. The request is for a change in the signage. It is actually going to sit in the same footprint that our current sign does. We are going to move it over to digital signage.

He said one of the things, if you are familiar with the Rimer community, is that there is not a lot up there. So, our site is often used for community events, and we think this will be a better service to the community to change the signage out. As it currently stands, it is an old sign and that is the request tonight.

The Chair asked if there were any questions for Staff or the Applicant. There being none he opened the Public hearing. There being no one to speak for or against, he closed the Public Hearing.

The Chair said the Board needs to discuss the proposed request and come up with our motion to approve or deny and to establish our findings and consistency statement. He opened the floor for discussion.

Mr. Paxton would support a motion that we approve this rezoning. He thinks it is in the public interest even though it is not consistent with the Area Plan because it is obviously a gathering place for the community. Anytime something is easily identifiable and convenient would be a desirable situation.

Mr. Corley said the church has obviously existed on this property for a long, long time. He believes since the 1800's, which was clearly before we were implementing zoning in this county. There are some improvements to bring it into better compliance under OI and he believes it is important and it will provide them more flexibility for improvements on the site under the OI designation.

Mr. Stephen Wise agrees with both of those statements. It is a great community out in that area and a sign like that is a great enhancement. He has a project in that area, so he knows, and he agrees with that 100 percent for a church.

The Chair said there is a motion on the floor to approve the rezoning, based upon the fact that it existed prior to zoning, it is a church and fits the requested rezoning and brings it into better compliance and it is transitional.

Mr. Jeff Corley, **MOTIONED, SECONDED** by Mr. Stephen Wise to **APPROVE** RZON2022-00002 – Request to rezone from Agriculture Open Space (A0) district to Office/Institutional (OI) district. The vote was unanimous.

Consistency Statement:

Mr. Jeff Corley said the rezoning is reasonable and in the public interest even though it does not meet the Eastern Area Plan. The use of this property is consistent with the requested OI. The church use has existed since before zoning was adopted. The change to OI brings better compliance with the Ordinance and will allow the continued use on the property as well as allowing for more flexibility to continue that use into the future.

Mr. Jeff Corley, **MOTIONED, SECONDED** by Mr. Paxton **to APPROVE** the consistency statement. The vote was unanimous.

Old Business Board of Adjustment Function:

Mr. Corley said, he was not present at the last meeting when this case was first presented.

He read an Affidavit that he has signed stating that he has fully prepared to participate in the discussion and vote on this matter. He has studied and reviewed the material concerning this

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application contained in the agenda packet and has listened to the recording of the Commission meeting of April 12, 2022, relating to this application. Because of his preparation, he feels that he is qualified to consider and vote on this application. (See signed Affidavit attached)

The Chair said since this is a continuation of our last meeting, the rules of procedure were established, and the same rules apply that were read at the last meeting. He said if there are any questions about the rules, we can certainly go over them. He asked if there was a motion to adopt the rules as said previously.

Mr. Charles Paxton, **MOTIONED, SECONDED** by Mr. Jeff Corley to adopt the rules of procedures. The vote was unanimous.

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 were any Board members that have any conflicts of interest, or any information related to the case that needs to be disclosed at this time.

The Chair said anyone wishing to speak on this case or testify during the public hearing for this case must be sworn in. If you wish to speak, we need to have a completed blue card. Provide it to the Clerk.

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

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-CU at the time. The site was developed using the standards in place at the 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.

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 Site Plan included in the packet)

The applicant is also seeking for relief from the required perimeter landscape buffer in Chapter 9, Table 4.

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, pool decking and a six-foot walking trail.

The applicant is also requesting relief from the required eight-foot-wide perimeter parking area buffer in Chapter 9 Section 9.5, for the six-foot walking trail.

The subject property is currently occupied by an indoor recreation facility. The main building is approximately 28,000 square feet in size. He said you see in the site plan that it clarifies that it is actually 27,850 square feet and it sits in the center of the property. Parking areas surround the main building on 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 from Charlotte Water also straddles the eastern property line.

The subject property is surrounded by residential uses and a wireless telecommunication tower to the north.

The subject property is currently zoned Office Institutional-Conditional Use (OI-CU). The zoning district is restricted to indoor recreational facilities and office uses only.

The subject property is currently surrounded by LDR zoning to the east, Huntersville Rural Residential to the north and west, OI and City of Charlotte Single Family to the south.

The current development proposal is classified under the Swim Club line item listed in Table 3-8 and the definition in Chapter 2 (Definition provided in the Staff Report).

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 by right, based on certain standards.

He placed those standards right underneath that statement. More specifically, applicable here, is

Section 7-3.59, that says that 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.

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 as shown on the proposed site plan: (he showed it on the screen) basically anything out side of this they are asking variances for and that includes

- Existing facility
- Existing and proposed parking areas
- Proposed walking trail
- Proposed outdoor pools
- Proposed playground
- Proposed accessory buildings
- Proposed picnic area
- 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 it is the owner's intention to develop the open and available land surrounding the existing structure on the property. The rules for buffering have changed and surrounding properties have developed since the time the property was initially developed. Requirements have increased, making development of the remainder of the property extremely difficult, if not impossible.

The application states that if the variance is not granted, the property will be limited to the existing structure and parking area. The setback/buffering rules limit the property to indoor use only, leaving large areas that could be used to amenitize the site vacant.

The application states that the site is of a unique shape and was developed prior to the imposition of more restrictive setback and buffering requirements.

The applicant contends that granting the variance will not cause any threat to the surrounding

community. The use and proposed outdoor pool expansion are community-centered uses. The applicant has proposed reductions in the required width of the perimeter buffer of Table 4. (see page EX1.0 on the site plan)

- 12 feet along the eastern property line
- 22 feet along the eastern portion of the northern property line

Mr. Collins said what is listed on the site plan says 23 feet, and it says 22. He will let the applicant clear that up. He is not sure what the actual encroachment is, it is either going to be 22 or 23 along the eastern portion of the northern property line. (he showed on the site plan)

They will also be requesting:

- 16 feet along the western portion of the northern property line,
- 6 feet along the northern portion of the western property line, and
- 12 feet along the southwestern property line.

The applicant further contends that these reductions are reasonable and provide more buffering to the site than what exists today and what was required when the property was initially developed. The proposed site additions and amenities will be screened, and the outdoor pool areas will be fenced.

The applicant contends that if the required 51-foot buffers are imposed, the proposed improvements would not be possible, and the site will be limited to only providing indoor amenities. Therefore, the applicant is requesting relief from Table 9-4.

Allow relief from the eight-foot width requirement of the parking area perimeter landscape buffer of Section 9-5 for encroachments by the walking path. Encroachments include:

- encroachments of approximately six and a half and eight feet into the buffer of the northeastern portion of the parking area,
- an encroachment of approximately five feet into the buffer of the southeastern portion of the parking area, and
- an encroachment of approximately eight feet into the buffer of the southwestern portion of the parking area.

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 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 of grading within the easement (along the eastern property line) is needed.

Mr. Collins wants to mention that at the last meeting the parking requirements came up. He did look that up and they are required between 103 and 196 parking spaces. They are proposing 120, so they are within the range.

The Chair asked if there were any questions for Mr. Collins.

Mr. Corley is trying to reconcile the way this site plan is presented specifically on EX1.0. Just so he is clear, we are not reducing the buffer width, we are allowing specific encroachments into the buffers, is that correct?

Mr. Collins said that is right. He thinks the applicant was kind of looking at it as, we are proposing to stay this far away from the property line. But yes, it is encroachments into it.

Mr. Paxton said at the previous meeting, the Board had some concerns. Have they been addressed from that plan to this plan?

Mr. Collins said yes, they have pulled a lot of stuff in. There was a wall on the southeastern side. He said he looked at their presentation and they will go through all of the changes.

The Chair asked if there were any questions for Staff. There being none he called on the applicant.

Mr. David Murray, Attorney, 1901 Roxborough Road, Suite 120, Charlotte, NC 28211., addressed the Board. He appreciates the Board having him here tonight. He represents the owner and the applicant. Like Mr. Corley, he was not at the last hearing, and he also listened to the recording to try to catch up so that he could come here and talk intelligently tonight about what this plan is.

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He said it has been ten years since he has had a zoning case in Cabarrus County. He has been practicing for 14 years, he does eminent domain and land use. Thanks for having me back, it has been a decade, but he is glad to be back again.

As we have already covered, there are three variances here that we are requesting tonight from the setbacks, the landscape buffer, and the perimeter parking buffer area.

He wants to appreciate and recognize Staff. He appreciates your presentation, and we would adopt that into our presentation also.

He said prior to construction, the setbacks and buffers were less, and a lot of what has happened at this property is there has been development by Huntersville that has grown up next to it, and so that is what has triggered a lot of these new increased buffers and setbacks that would be applied to this property under the outdoor uses that we are proposing today.

He said this is a picture of the Plat, this is our Exhibit 1. This is actually the Plat from 2005, showing the buffers that existed on this property prior to construction of the swimming facility. On the western side he believes it is about 32 feet, on the northern and eastern side it was about 16 feet. When this property went through rezoning for the development that exist today, those were the buffers that applied.

So, you can see the building, because it was only proposed as an indoor facility, was put right dead center in the middle of the property, and although as we will get into it, it appears that there were some future plans to use it for outdoor. At the time that this was built, it was just an indoor facility.

So, just touched on under the old code is when this was developed. In 2012, he believes that Mr. Collins confirmed with us that the current use that we are looking at for the outdoor uses along with indoor is swim club, tennis club and country club. That is kind of the best thing that we fit under. He does not think we are going to be confused as country club but that is the closest under the Zoning Ordinance that we fit. With that comes the 200-foot setback in the increased buffers.

My clients purchased this property in 2016. When they purchased the property, they were actually provided a prospectus about this property and at that time the owners that sold the property advertised this as a great place to have outdoor uses and outdoor pools.

At the hearing in April, Ms. Henson testified, as shown on the slide here that she worked at this location since February 2008. She said she worked for the Billings and was aware of the Billings goals and plans to build an outdoor facility. The Billings are the previous owners of this facility.

The next exhibit is Exhibit 3, this is actually the Prospectus that they received, that his clients that are now seeking the variance received. It says that there is no outdoor pool at the present time, but there is room on the premises to build one. So, there was a lot of outdoor space and there is as it exists today a lot of outdoor space which is why we are here.

On another page: great opportunities for this development, build an outdoor pool, there is ample room on the premises to build an outdoor pool which would be a huge revenue booster. So, when this property was sold to my clients, they were expecting and anticipating, that in the future they might expand and have an outdoor pool use.

And so, now we get here for the necessity of this Variance request, and that is a couple reasons: the Cabarrus County use rules have changed, buffer and setbacks requirements have also changed for outdoor recreation type uses as we have talked about, and the surrounding development approved by the Town of Huntersville has grown up around this property which triggers some increased buffers under the County code. Covid as testified by Mr. Minier at the last meeting, Covid has changed things. So, an indoor facility relying 100 percent on an indoor facility is tough. So, to have outdoor uses is a benefit to the community as well as the operator of the location. Then, the unique shape of the property, coupled with the existing fact that the building is plopped right in the middle of the site, makes trying to fit outdoor uses into this site more difficult and that is why we are here for a Variance.

He said at the previous hearing, which was in April, there were a lot of question from this Board that were unanswered and so part of his job here tonight is to answer those questions and that is where we are going to start.

He said this is the previous plan (showed the plan). As you can see in the previous plan, the pool was on the western side of the building. There was berm that would be used for some outdoor seating. On the southwestern side there was basically no planting along a splashpad in an outdoor area. The eastern side was used primarily for parking. There were concerns and there were questions from this Board.

When he was retained, the first thing that he did was listen to the hearing and make a list of those concerns and talked to his property owners and say how are we going to rework this site, because it needs to be reworked. Variances are for the least amount of allowance under the Ordinance, not that we expand as far as possible and eliminate the buffers. We need to incorporate and keep as much of the buffer as possible. We are going to have to squeeze the site, and so that is what we have done.

He said the updated Plan, which is in the Board materials, increases those planting areas and pulls any of the accessory structures completely out of the buffer areas. So, in the prior plan, these accessory structures are physically within the buffer and in the updated plan those structures have been moved to the western side of the building and the pool has been shifted to the northern side of the building. Basically, everything has moved clockwise a bit on this site. Parking has shifted over clockwise, it shifted downwards, more towards the front. So, the parking is on the eastern side, in the front of the site. As opposed to having some of the accessory uses on the front of the site, we now have those on the western part of the site and on the rear part of the site. So, the building itself provides a bit of physical screen there from some of those other uses, the accessory uses that are going to be placed outside.

The other piece of the puzzle that was really important for this type of use was the walking path. The walking path in the previous plan was right along the property line, especially on the western side, which he does not believe that rezoning has been approved by Huntersville yet.

However, there is a rezoning, and you can see it shown on our plan to reflect some higher density single family development, (the Skybrook next phase) next to this property, and so, there was some concern about having this walking trail right along that property line and as you can see it ran close to the property line on the eastern side also.

In the updated plan, the walking trail has been moved internally, and so yes, there is some area where the walking trail does go into the buffer on the southwestern side, a little bit on this northern edge here, because of the easement into the cell phone tower and then also on the eastern side. However, the physical planting buffer requirements will be met under this plan. So, there is no impact to those physical planting requirements because of a walking trail. That has now been pulled internally, it is behind. Once all of this is planted and it grows up, you will not be able to see it, and so that flows a lot better when we are trying to keep the buffer established and the plant areas establish, having the walking trail behind is even better for the operation of this site.

One other thing that you will notice, is the request for encroachment or reduction of the buffer on the due west side of this property is gone. Because the buffer is fully complied with on the western side of this property now, which is where there is going to be some new single-family houses under Huntersville ETJ he thinks, he is not sure where their city limits are on that side. So, there is no reduction on this side of the property in our updated request.

One of the other questions, and he thinks Mr. Collins has already dealt with it, was about parking. That question was unanswered at the previous hearing, now it has been answered. This site data chart is actually on the plan that has been submitted for approval this evening, and 103 spaces would be required, and we are providing 120. That is to allow some additional space for employees during shifts so that we do not have employees taking up too much of our parking on the site.

The second question was about drainage. He said Mr. Wong is here tonight, he testified at the hearing, and so we can adopt his testimony from the last hearing also. Mr. Wong confirmed with me today and I have put this on the plan, that he has spoken with NCDNR, and no underground detention is needed on this site because the impervious is less than 24 percent, so it is considered low density by NCDNR. There would be no outstanding drainage question of how that could affect the development and orientation of uses and improvements of this site.

Those appear to be two of the main questions the Board had, and this chart is also on our plan. Those are two major updates, in addition to the physical and layout updates to our plan that we have.

He said with regard to the 200-foot setback, obviously would be very impressive to this property.

It would totally prohibit any new use or development of this property and so there really is not much else to say about that. The setback is very extreme if it is applied to this property.

With regard to the perimeter landscape buffers, what we focused on based upon comments from this Board was getting any of the accessory use structures out of the buffer. So, they are all gone, there are no accessory use structures within the buffer.

(Shows the buffer on plan)

He said one of the unique things about this site that goes to the hardships, is that it has nonparallel property lines, and even this property line slants in just a little bit on the east compared to the west. The rear property line slants in towards the building. So, the building was built almost on a north, south, east, west, coordinate but it does not line up with the rear property line, and so the rear property line shifts in a little bit. By shifting the pool to the rear, we do not have any issue with the pool actually being in the buffer, but the pool deck area to give enough space, a small portion of the pool deck area that is paved will be within that buffer area.

Then on the northeastern corner, to get the walking trail around the end of the parking, the buffer juts out just a little bit more and so it is 23 feet in that area. It actually, kind of jogs out a little bit in the northeastern corner and then comes back in as it goes true north. This area right here, why you see a gap in the buffer, is because that is the cell tower easement. There would not be any planting there because that has to be kept open and provide access to the cell phone tower. Then again, the walking trail has been shifted to the back of the planting buffer on the eastern side.

He said these encroachments into the buffer are all paved. They are all at grade and so physically, there are no building structures within the buffer now, unlike in the previous plan. These are just at grade, paved areas for walking. There is maybe one or two parking spaces maybe, in this northern area with the connector to the cell tower and then a portion of the pool deck. There would also be some fence, but the fence is really for safety purposes because the fence surrounds the pool and outdoor areas which would be required by code to have fencing around the pool areas. So, with regard to the buffer reduction, it is all at grade paving areas, no more structures.

He said and then with regard to the perimeter parking area buffer, we kind of have this unique situation where we have buffers up against buffers or we have a buffer against parking, and then we have an additional buffer at the property line. So, it is almost like we have double levels of buffers because of parking. Parking is going to be screened and it is going to be buffered by the existing perimeter buffer. Just in case he did not say it before, we are going to meet the standard for planting within the buffers even if there are encroachments. You can see on this plan the buffer plantings shown here are the buffer plantings that would be required under code. So, even if there is some encroachment from this walking trail, it does not impact our ability to meet the planting standards and planting requirements under the ordinance.

As you can see here, we are going to meet all on the eastern portion of this site. We are going to

meet all of the planting requirements for the 51-foot buffer, but we have this unique situation where we also having parking. The parking also requires an additional eight-foot buffer which we can meet the planting for that also. But, in order to shift the walking trail back from the property line and beyond the planting area, the walking trail best location is to be adjacent to the parking and that does impact some of the buffer planting. However, we will be able to compromise in other areas, beyond the walking trail we can include more plantings.

The planting requirements can be met, but this is the area that he notes in his comments where we have this unique double buffer situation, where we have buffer up against buffer. In the front here, we have buffer up against buffer and on the side, we have buffer against buffer, so there is no place where there is going to be an open obvious gap where there would not be buffering along the parking buffer and the perimeter buffer. They are going to back up to each other and provide really kind of a double buffer for this site.

Mr. Murray said when he gets into variance cases, he always like to review the variance standards, come straight out of statute. He also prepared a proposed finding and conclusion for the Board that he would like to pass up.

On the variance standards here, it is important to recognize what the statute says, and it says the Board of Adjustment shall vary any of portions of the Zoning Ordinance upon a showing of all of the following. So, the first step is showing of evidence on unnecessary hardship. The second is a showing of evidence on conditions peculiar to the property; meaning things related to the land. Third is that it is not a self-created hardship, so it is not a result of actions taken by the applicant or the property owner. However, buying property with knowledge that in the future you may need a variance cannot be held against an applicant.

Finally, is really kind of what we call the balancing test, which is that it is consistent with the intent of the Ordinance such that public safety is secured and substantial justice is achieved. So, it is the balancing between reducing the requirements of the Ordinance versus the property owners right to free use of their property. As zoning ordinances are in derogation of the free use of property, the last step is that balancing test.

He said for the unnecessary hardship piece of the puzzle, the 200-foot setback would totally eliminate any development on this site if it is applied. The buffer requirements have increased on the site more than what they would have been at the time that this was developed. This site was developed when it was just an indoor facility. He thinks his clients would agree, and he would agree, that if you were starting from scratch, you might be able to organize this site a little bit differently and have maybe the building a little bit closer and have everything organized a little bit differently. But the existing physical limitations on the site, with the building being in the middle of the site, with the unique lot lines, and the unique lot shape, all are parts of and create the unnecessary hardship on this site, and then also the portion about the unique circumstances with the double buffer with parking and perimeter buffer.

The hardship runs with the land. This is not personal to this applicant, anyone who purchases this

property and owns this property that wants to make use of the outdoor areas is going to have to come before this Board for a variance. The hardship is directly related to the unique shape of the lot, the location given that there are residential uses adjacent to this site that caused increase buffers and setbacks, the size of the lot because the required setback almost totally covers the lot, as well as the current zoning use setback and buffer requirements just were not in existence when this site was originally developed.

No self-created hardship, the applicants did not create a hardship here. We did not do something without a permit and come back and asking for forgiveness. This is the first step in the puzzle to do this the right way, is to get the variance. They are just seeking to make the reasonable highest and best use of the existing facility, which is to use those unused outdoor areas.

The last step is the securing public safety and substantial justice portion. The intent of the ordinance here, by having buffers and screening, is to screen residential uses and we are meeting those standards. The reason for the setback reduction, as he has said, is obvious since nothing outdoor can be developed with that in place. The buffer reduction or encroachment is only to allow certain paved at grade uses to be within that buffer, structures are out.

The most intensive outdoor structure, the Olympic pool, is positioned to the rear. We have looked at the Huntersville proposed plan, and he believes it shows common area to the north of this property. He thinks someone on this Board actually asked about shifting it to the rear. That is closest to the least intensive residential use that is proposed for adjacent uses to this site.

Finally, for safety questions and concerns, having a fence around the pool area is solely for safety purposes, and to meet code. He said Mr. Minier pointed this out to him, that right now, because there are no walking trails, people use the parking lots for walking areas. So, having this walking trail increases safety by not having people walking in the parking lots. Now, they will have an actual trail to walk around instead of going in areas where people are parking and driving.

In conclusion, Mr. Murray submits to the Board that they have presented evidence and met the standards under the code and under the statute for granting these variances that have been requested. He is happy to answer any questions the Board may have. Mr. Wong is our Landscape Architect, and he is here to answer any questions about site orientation. Again, we would request that you would grant the variance. If you have any recommendations, suggestions, or any questions, he is happy to answer those at this time.

He said the only thing he does because this is Quasi-Judicial, is typically have his landowner or applicant come up and testify on the record that they are adopting his presentation as if it were their own. He does not know if there is any opposition tonight, but typically he has that put on the record. He asked Mr. Minier to come forward.

Mr. Mark Minier, 11202 Harris Road, Huntersville, NC 28078, addressed the Board.

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Mr. Murray said to Mr. Minier, you have reviewed the power point, the application that has been submitted and you have heard my testimony and presentation. Can you confirm to the Board that you fully adopt that as if it were your own?

Mr. Minier said I do.

Mr. Murray said if there are any questions, he will be happy to answer.

The Chair asked if there were any questions for the applicant. He does have a question on the landscaping. Obviously, there is existing landscape and there is proposed. When you talk about meeting the standard, are you going to increase what is there? Because what is there is pretty much not anything, it has been there 15 years or more.

Mr. Auggie Wong, CES Group Engineers, 3525 Whitehall Park Drive, Charlotte, NC addressed the Board stating that if you look at the plan, on the western side there is a field of trees, existing trees, it is part of the southwestern side, there is few existing, so we are going to keep some of that. There is a few on the eastern side of the property and that is about it. What you see there is what we will provide based on the code and also what the buffer requires for that area.

Mr. Jeff Corley said for clarification, the parking perimeter landscape buffer, the landscaping requirements i.e., the actual vegetation will still be met. That is correct?

Mr. Wong said yes, we will still meet that. Because of the way the trail goes we would have to make sure that it fits on the side where we plant those.

Mr. Stephen Wise said can we revisit the water situation one more time. He knows that on that one page that the underground retention is not required. But, what about above ground, there is no kind of retention system shown here that he could tell.

Mr. Wong said he spoke with Mr. Jim Farkas, NCDNR, in charge of this area. I talked with him, and we had several discussions and he looked at the code. Mr. Wong believes it is in your packet that included some of the discussion that we had.

He said based on the calculation, if you are below 24 percent, it is considered low density, above that it is high density. High density requires a lot more detention ponds and things like that. In a low density, you have a vegetative swell, but you still have to make sure that the flow goes to the vegetative swell, but you will not have a detention pond.

The Chair said he is confused. He said in you presentation you said 7.55 acres but, on your plan, you are showing 5.5 acres. He said go to page 19 in your packet.

Mr. Corley said the math is more of the question. So, we have taken the difference of proposed and existing, and we are adding a quarter of acre. He asked if that was correct.

The Chair thinks so.

Mr. Corley said it does not jive. How in the world are we at 7 percent impervious percentage? He said help him understand how that is even close to possible.

Mr. Wong said so, if you look at the calculation, the proposed impervious is 2.44 acres, existing impervious is 2.19, so that gives you gives you 0.25 acres. Take that amount, divide by 3.31, which is the total acres minus the impervious. That is the calculation that NCDNR used to calculate whether it is a low density or whether it is a high density. We discussed that with Mr. Farkas, and we gave him the numbers and he said yes, your calculation is correct, you are in the low density, you are below 24 percent. So, the threshold is 24 percent.

The Chair said are you saying it is below 24 percent of the new impervious or 24 percent of the total impervious?

Mr. Wong said the total impervious.

The Chair said because you are already over 24 percent impervious for the entire site before you do anything, that is the confusing part. Your existing impervious is 41.6 percent.

Mr. Wong said they do not consider a swimming pool as impervious. According to Mr. Farkas, it is a holding. So, all you do is look at the other areas. You are increasing a little bit.

The Chair said the County Resident Stormwater expert is not here.

Mr. Murray said this does still have to go through plan review, and so those drainage issues would have to be dealt with.

Mr. Corley said future processes will. His concern is that really no underground would assumingly be there.

Mr. Murray said it would have to be considered being underground.

The Chair said the applicant is assuming if they have to do detention to get the variance approved, it is at their own risk that their site may have to change. But then you are stuck with the variance and if you need to change it you are back here again, and it may not be favorable.

Mr. Murray said right, but he thinks we would have to be underground.

Mr. Wong said if we need to, we can be underground but like he said, we discussed it with Mr. Farkas, and obviously we can always go back and look at the numbers. But based on the calculations that we gave him, we are under that 24 percent which is a vegetative swell.

The Chair said to put you on the spot, in the event that you have to do anything like that, would it

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be within the buffer? Do you have any idea where you might have to propose that? He knows you said underground but, if you are going to do a vegetative swell, he does not know where you are going to put that.

Mr. Wong said we would have to figure where it is the lowest point. In this particular case, it is at the northern area of the property.

Mr. Corley said thinks theoretically, he could probably do vegetative conveyances within the buffer.

Mr. Murray said that is correct.

The Chair asked if there were any questions for the applicant. There being none he opened the Public Hearing. There being no one to speak for or against the Public Hearing he closed the Public Hearing. He asked if there were any questions for the applicant or staff before we begin discussion.

Mr. Corley said to Mr. Collins, the future right of way, you stated that they are aware of that possibility but there is nothing site plan driven to address.

Mr. Collins believes they included that in site plan. He asked the applicant in the audience and the applicant said yes from the audience.

Mr. Corley said so any vegetation that is existing or proposed is outside that?

Mr. Collins said yes.

Mr. Chris Pinto is wondering which way the lay of land was, it goes from the street back?

The Chair assumes that is correct, from the road to the back toward the cell tower.

Mr. Pinto said so, if they were to have to have something underground it would be under the pool deck and it would go out the back?

The Chair said or the parking.

Mr. Pinto said throwing everything else out, if they had to put the retention underneath that would be the place to go.

The Chair said unless the County's Ordinance allows the swell in the vegetative buffer.

Mr. Pinto thinks it is a pretty good plan to deal with the overflow of water. The said you don't know what's going to come off those other houses and how everything is going to flow to them, they could be handling more water than they are producing.

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 he thinks the easiest way is to go through them separately, instead of all together because they are each unique. Due to the current number on the Board, a Variance requires 80 percent, which tonight would be six of seven. We can add conditions of approval, we can request trade-offs, we can approve some but not all of the request and we can approve without any type of trade-offs. He opened the floor for discussion.

Mr. Jeff Corley said one more question for Mr. Collins. He said from a practical standpoint, we are being asked to approve variances for a project that today cannot be built, right?

Mr. Collins said right.

Mr. Corley said if we approve these variances and the project does not get rezoned or falls apart, those variances are going to continue in perpetuity for the specific use?

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Mr. Collins said yes, for the specific use.

Mr. Corley said that is extremely helpful, thank you.

The Chair commended the Applicant for making changes per some of the comments you received. The plan is a lot closer to meeting the intent of the Ordinance. We will see if anyone has any issues or comments.

Mr. Paxton said do you want to go through the four now or have more discussion?

The Chair said it is however we want to do it.

Mr. Corley suggests, unless our Legal folks think differently, it is laid out in our materials to specifically go one setback variance at a time, but his thought would be, unless there are specific discussions from Board members on specific ones that they have issues with, if that does not exist, it may be easier as Mr. Paxton said, to go through the four items on all of them at once rather than breaking up each individual variances. Is there a problem with doing it that way?

Mr. Richard Koch, County Attorney said you can do it either way.

The Chair said the only thing he may see with that is a snag that everything may not come through.

Mr. Corley said either way.

The Chair said we can try it.

The Chair said Item 1 is for the relief from the 200-foot setback requirement of Section 7.3.59.

Mr. Corley thinks the evidence does show that that 200-foot setback would cover nearly the entire property, and pretty much prohibit any reasonable use.

The Chair with that said, the variance if approved, would stick with the swim club. He thinks that protects the property around it and it would be limited to the swim club. He does not think there would be any issue. He said they cannot use the property for anything else, other than what is there.

The Chair asked if everyone concurred, the consensus of the Board concurred.

The Chair said the hardships result from conditions that are peculiar to the property, such as size, location, or topography.

Mr. Corley thinks the evidence does show that there has been a lot of contributing factors, with

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changing in zoning, changing in ordinances, specifically across county line changes in zoning, which the applicant really had no control over, that have contributed to the requirements of that 200-foot setback.

The Chair asked if anyone had anything else. There being none he asked if all were in agreeance. They all were in agreeance.

The Chair said the hardship resulting from actions taken by the applicant or the property owner. He said the applicant alluded to this in his presentation, and Legal gave him a head nod that purchasing property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as self-created. He thinks that one is pretty cut and dry.

The Chair said the variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Mr. Corley said the applicant has stated that they are still going to meet the actual landscape planting requirements. They are working around an existing building that is not exactly square to the site, he thinks had presented some challenges. He thinks they have made a general bona fide effort to comply with the ordinance, with a few exceptions.

The Chair said noted that the applicant noted that all the accessory structures had been moved outside the buffer in attempt to try to pull everything tighter to the center.

The Chair asked if they were all in agreeance. The consensus of the Board was yes. He asked if there were a motion to approve the relief from the 200-foot setback requirement.

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Charles Paxton to **APPROVE** the variance request for the relief from the 200-foot setback requirement. The vote was unanimous.

The Chair said Item 2 is landscape buffer requirements – perimeter and landscape and parking lot landscape trail encroachments.

He this one we might need to break down a little bit because it is quite extensive. Probably for clarity for Staff we probably should do it per the property line. Let's start off with the Eastern property, which would the right side along the easement with Charlotte Water.

The applicant has requested encroachments into 51-foot level 2 buffer, the parking area encroaches 7 feet it the buffer and the walking trails encroaches 12 feet into the buffer.

The Chair said going back to those four items:

The unnecessary hardship would result in strict application of the ordinance.

He said as far as the parking, he thinks we are really talking minimal, they cannot really move it over any more. The walking trail, he is okay with that encroaching. He liked that they pulled it back from the property line to help facilitate a larger landscape area, as opposed to chopping it all up.

Mr. Corley said, just to add for the record, the parking standards layout, sizing of traffic lanes, sizing of parking spaces, and when you are working with a peculiar, shaped lot, with an existing building already in the middle, the need to expand parking. He really does not see a vision how meeting those geometric standards, how they could physically put the spaces they are needing and wanting and still squeeze it in that upper corner.

The Chair said that probably ties to number two, size, topography, location. We have already established number 3 about knowledge of the property when they purchased it, existing circumstance. He said number 4, granting variance is consistent with the spirit, purpose, and intent. He thinks they have already established that.

He said the thing that keeps through him off is the plan says requested buffer and we are asking for an encroachment. He would like to clean that language up. He would rather say encroachment because he would rather keep the buffer and just allow encroachments.

The Chair said the northern property line, six-foot walking trail encroaches 23 feet, proposed paved parking encroaches 17 feet which includes the two parking spaces and the drive on the easement for the cell tower and the deck for the pool encroaches 17 feet into the required buffer.

Mr. Corley said his brain really wants to get that pool deck out of there. But really when he compares it to the previous site plan, he thinks it is a tremendous improvement getting those buildings and accessory structures out of the buffer. He thinks there is substantial progress that was made by this Board and the Applicant. He is supportive of that, given where we started.

The Chair asked if there were questions or comments on the northern property. There being none he moved on to discuss the western property.

The western property the proposed decking near the splash pad encroaches in six feet into the required buffer.

Mr. Corley thinks this is a situation where this unique lot lines, when you offset all of those angled lot lines you end up with really a significant encroachment into the site. The fact that they have been able to design this with a very minimal encroachment, he thinks is good.

The other thing that he takes note of is the gravel lot to the east. He knows we are not really talking about the east yet, but there is a significant amount of space that is used today that will be transitioned from gravel to buffer. He thinks it is a significant improvement on that site.

There being no more comments or questions the Chair moved to the southwestern property line.

The proposed walking trail encroaches twelve feet into the required buffer and the proposed parking encroaches six feet into the required buffer.

The Chair said it is the same situation we had on the eastern side. There really is nowhere for them to move anything to meet anything.

Mr. Corley thinks some of the encroachment there is geometric in nature. He thinks they made some of those radiuses as tight as they could make it. Again, working around an existing driveway that we know is not likely to be allowed to move. You have an existing building that is unlikely to move. He thinks again, they have done a very good job at minimizing the potential impact.

The Chair said next we have the parking area buffer encroachments. There are encroachments of approximately six and a half and eight feet into the buffer of the northeastern portion of the parking area. He said that again is because the property is not parallel to the opposite side, it kind of slants in. The southeastern portion is five feet into the buffer of the parking area. Again, the existing conditions and the lay of the property. The southwestern portion is an eight feet encroachment.

The Chair asked if anyone had anything to add or anything they would like to see. Please remember this will go back for a rezoning and we still have the site plan. The applicant has stated that they will meet the required landscape buffers. They are just asking for a change on the parking buffer.

We have stated that there will be encroachment into the buffer, not reduction of buffer on landscaping. We have also stated that the pool deck and the splash pad deck would encroach very minimal. There is no other way to work around it.

The Chair asked if there were any discussion on Item #2. We need to vote on landscape buffer relief requirement. The parking and buffer encroachments along with the walking trail encroachments. He asked if there were a motion.

Mr. Corley said will make a motion and he will read just for clarity. He knows that it has come up that we are allowing encroachments and not reduction in the buffer.

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Charles Paxton to **APPROVE** the request for relief from the perimeter landscape buffer with requirements to allow encroachments into the perimeter landscape buffer as outlined in the Staff report and shown on the site plan and to allow parking lot landscape buffer encroachments as discussed in the Staff report and shown on the site plan. The vote was unanimous.

Mr. Koch said the document that was handed out by Mr. Murray, that the Board received a copy of had a bunch of findings of fact that he was giving you that he thought was based on the evidence. He asked if anyone have any problem with any of those that was listed in there? You

kind of covered a lot of them in your discussion and in your vote. Since they are laid out in that order he wanted to see if there were any members of the Commission that found that they were not accurate or supported by your decision.

The Chair asked everyone to glance over those to make sure there were no issues. There were no comments about the document submitted by Mr. Murray.

Mr. David Goldberg reminded the Board to look at the conditions that are being recommended by Staff and if you wanted those included as well.

The Chair asked if there was a motion to approve the conditions recommended by staff in the report. The Chair read the following conditions recommended by Staff.

- 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 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 of grading within the easement (along the eastern property line) is needed.

Mr. Koch said just say that the approval of these variances is conditioned based on these conditions, they are a part of the approval.

Mr. Charles Paxton **MOTIONED, SECONDED** by Mr. Jeff Corley, to **APPROVE** the variances based on the conditions recommended by Staff. The vote was unanimous.

Legal Update

Mr. David Goldberg addressed the Board giving a follow up and a status update on the previous Arstark case. Today you approved the minutes for that and then we are going to be using that. Because of the nature of the case, because of what we predict to happen going forward, we will be spending a lot of time helping you work on the Findings of Fact and Conclusions of Law in a much more granular way than you would normally be accustomed to, so that is how that is proceeding. He would expect to see those in the July meeting.

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With that said, Mr. Pinto if you want to mention what you have seen, or he can tell a little bit. Essentially, there has been an incident where Ms. Arstark has been contacting the spouse of one of the members of the Board, and the spouse's employer and saying rather derogatory remarks on that regard. If you have had similar experiences do not hesitate to reach out to us.

We are looking at all of our options to discourage that as much as possible. You all do not get paid nearly enough to have to deal with that. But as always if you are contacted by any party involved, especially in a Quasi-Judicial proceeding like an Appeal. Please notify Ms. Morris, me, or Mr. Koch as soon as possible and we can work through options and next steps and take appropriate actions. If you see things on social media or anything like that.

He said this case is on going in the sense that we still have to vote on the Findings and Conclusions, and they say it is going to go to court, and the court may send it back here for further work for some reason. So, it is not done until it is done. He just wants to make the Board aware of that.

The Chair said what is the status, is there a Stop Work order?

Mr. Goldberg said right now, we are in a holding pattern. The decision is not official until the Board approves the Findings and Conclusion order. At that point there is a 30-day clock to appeal and that is when it is kind of off to the races.

Usually, the Granting Orders are pretty straight forward. We can start to work on that the moment we walk out of here. The volume of information, how important the testimony was. We really wanted to wait for the minutes. The minutes took an appropriate amount of time. He said if there are any issues, please do not hesitate to reach out. He said refrain from discussing this because it is not done yet.

Mr. Stephen Wise asked when he thinks it will go to court.

Mr. Goldberg said we will come back in July, and hopefully we will have that Order ready for the Board to review and vote on. She will have 30 days to file in Superior Court for an Appeal. We will start moving on it pretty quickly. It is not de novo, it is a review of your decision, so it is a paper review. They will have to do a lot of work on the front end to find a reason why the Board decision should not be upheld, based on the record presented. There should not be any new evidence, testimony, a jury, or anything like that. It is a paper review. We are going to try to keep that moving as quickly as humanly possible.

Mr. Charles Paxton asked what would lead to it coming back to the Board.

Mr. Goldberg said it can be a situation where if the Judge found that the decision was not adequately supported. If they thought you did not consider certain evidence that was on the record. If he looked at it and said well, this is a humongous defense right here and you did not

say a thing about it, whether it is in oral testimony or some evidence of the record or if it were the Findings of Fact.

He said the way to look at it is the Findings of Fact and Conclusion of the Law are like the safe guard. That is as if something was just completely skipped over, we can make sure that that is considered, and made very clear that it was considered at one point. That is when they could kick back and say okay, you should reconsider your decision based on, maybe a different ruling of the law perhaps. I think you read the Ordinance wrong, redo your decision based on of my reading of the Ordinance. Or it could be I do not think you considered these facts properly. But all in all, it would be highly differential toward, especially your fact finding, that will be questioned. The Judge does have the ability to interpret the law and tell you how to interpret the law and you have may have to adjust your decision based off of that. He said you can do that back and forth ten times if it is necessary.

Mr. Koch said even if there is evidence to support both sides, which there was it in that case. The Judge cannot substitute his judgment you had for the facts. If it something in the rule of law, they can look at it differently, but not on the facts. The facts have been decided by this Board. Just because there might have been some fact that favored her, they cannot just decide to change on that issue.

Mr. Goldberg said you were the ones in here hearing the testimony and weighing the creditability of the witnesses and evaluating the record. The Judge is going to be highly differential, he has too. But when it comes to interpretation of the law, Judges get to decided what the law is and can tell you what the law is, so that could change it sometimes. If there were procedural defects of some sort, they could send it back and have us fix the procedural defects. It is very rare where the Judge would kind of come back and say the appeal is reversed. Most of the time it is going to be at least a chance to recover. That is why he says this is still a very active case in that regard, and we expect that to go on for some quite some time.

Mr. Goldberg introduced his intern, Michael Whitfield.

No Directors Report

Planning and Zoning Commission
Minutes
June 14, 2022

There being no further discussion, Mr. Stephen Wise **MOTIONED, SECONDED** by Mr. Andrew Nance to adjourn the meeting at 8:34 p.m. The vote was unanimous.

APPROVED BY:

Mr. Adam Dagenhart

SUBMITTED BY:


Arlena B. Roberts 

ATTEST BY:

Susie Morris, Planning and Zoning Manager

FILED
CABARRUS COUNTY NC
WAYNE NIXON
REGISTER OF DEEDS

FILED Jul 13, 2022
AT 11:16 am
BOOK 16112
START PAGE 0009
END PAGE 0013
INSTRUMENT # 21833
EXCISE TAX \$0.00

TMF

SCANNED AND RETURNED

Prepared by: Richard M. Koch,
Cabarrus County Attorney

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

CABARRUS COUNTY PLANNING
AND ZONING COMMISSION
BOARD OF ADJUSTMENT
VARN 2022-00001
PIN 4670-45-1661

In re

EVOLUTION RECREATION & AQUATICS)	ORDER GRANTING
VARIANCES APPLICATION)	VARIANCE
)	

THIS MATTER came before the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment, on April 12, 2022 and June 14, 2022 on the application of Evolution Recreation & Aquatics and Ethan & Austin Properties LLC (Owner) (collectively "Evolution") for three variances on the "Property" of Evolution located at 11202 Harris Road, Huntersville, Cabarrus County, North Carolina and designated PIN 4670-45-1661.

Notice was given to Evolution and to adjacent property owners as required by law.

Six Board members were able to hear this variance application on April 12, 2022. On June 14, 2022, seven Board members heard the balance of the case. A public hearing was held on both dates. All of the witnesses were duly sworn and documents were received in evidence. There was one witness in opposition to the variance application on April 12, 2022 but none on June 14, 2022.

After hearing and receiving the evidence, the Board makes the following

FINDINGS OF FACT

1. The Property is in the Office Institutional-Special Use (OI-SU) zoning district and is approximately 5.501 acres in size.
2. The existing use 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.
3. Under the current Cabarrus County Development Ordinance (CCDO), the current use would be considered swim club, tennis club, country club ("Swim Club").
4. Evolution proposes to add outdoor amenities and features to the Property that are an extension of the current Swim Club use. Proposed improvements and features include additional parking areas, playground, swimming pools and a walking trail.
5. Per CCDO section 7-3(59) (c), there must be a 200-foot setback from any accessory structure, swimming pool, tennis court, parking area or any amenity area and any adjacent residentially-zoned property.
6. Chapter 9, Table 4 of the CCDO requires perimeter landscape buffers for properties according to their acreage and classification, in this case, 51 feet.
7. Chapter 9, Section 9-5 of the CCDO requires a perimeter parking buffer area.
8. Prior to construction of the swimming facility on the Property, the setbacks and buffers were substantially less than those that would be required for an outdoor facility today.
9. As development has come to the Property and surrounded it under Huntersville zoning, the buffers and setbacks have increased.
10. At the time of development of the Property, the current zoning use, setback and buffer requirements were not in place and could not have been contemplated by anyone developing this Property.
11. The witness in opposition to the application at the April 12, 2022 hearing was the attorney for the former owners of the Property who also own the adjacent residentially-zoned property. When they sold this Property to the present owners, they advertised it is capable of being developed for outdoor activities, including a swimming pool, and such former owners had contemplated building such a facility themselves on the Property.

12. Based on comments made by Board members at the April 12, 2022 hearing, Evolution reworked its site plan and variance requests for the June 14, 2022 hearing and hired a lawyer to present their revised requests.
13. The 200-foot setback nearly covers the entire Property as shown on the plan. The parking buffer is effectively a double buffer for the parking area that can be achieved in a location not immediately adjacent to the parking.
14. The hardship with reference to this Property is not personal to Evolution or any applicant. The Property has a unique shape with slanting lot lines.
15. The intent of the CCDO is to provide for organized development and in this case to buffer and screen residential uses.
16. The setback reduction is needed to allow new development since nothing can be developed with it in place.
17. The buffer reduction is only to allow certain paved areas to exist within the required buffer areas, such as walking paths. The buffers are not reduced to allow accessory buildings.
18. The most intensive outdoor structure, the Olympic pool, is positioned to the rear of the existing building adjacent to the proposed open space which will be furthest from the surrounding residential development.
19. Planting buffers along the most heavily dense residential uses on the west and east sides of the Property remains intact except for the walking trail positioned at the back of the buffering.
20. The fencing around the pool areas is for safety reasons and is required by code.
21. Evolution's revised plan reduced the impact on the buffers, rearranged the accessory uses, rearranged parking spaces and removed accessory structures from the buffer. It also identified the parking counts and provided the drainage/impervious calculations.
22. The requested 3 variances are 1) relief from the 200-foot setback, 2) relief from the 51-foot perimeter landscape buffer and 3) relief from the perimeter parking area buffer, pursuant to the revised site plan.

Based on the foregoing Findings of Fact, the Board makes the following


CONCLUSIONS OF LAW

1. This matter is properly before the Board, and the Board adopts and incorporates by reference the above Findings of Fact.
2. Evolution provided substantial, material and competent evidence to support each of the three variance requests.
3. Unnecessary hardship would result from the strict application of the CCDO. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the Property.
4. 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.
5. 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.
6. The requested variances are consistent with the spirit, purpose, and intent of the CCDO, such that public safety is secured, and substantial justice is achieved.

Based on the foregoing Findings of Fact and Conclusions of Law, the Cabarrus County Planning and Zoning Commission sitting as the Board of Adjustment hereby grants the three variances consistent with the site plan presented at the June 14, 2022 hearing. The votes by the Board on each variance were unanimous. The special conditions for approval of the variance are attached as Exhibit A and incorporated by reference. This variance Order shall run with the land with reference to the Property and shall be recorded in the Cabarrus County Public Registry.

This ⁴12 day of July, 2022, *nunc pro tunc* to June 14, 2022.


Adam Dagenhart
Chair
Cabarrus County Board of Adjustment

ATTEST:

Arlena Roberts,
Clerk to the Board of Adjustment

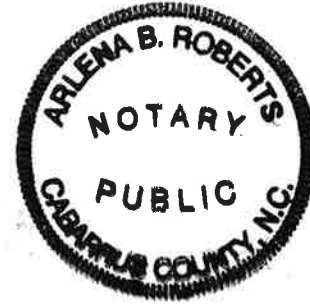
STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

I, Arlena B. Roberts, a Notary Public in and for the said State and County do hereby certify that Adam Dagenhart as Chair of the Cabarrus County Board of Adjustment personally appeared before me this day and acknowledged the due execution of the foregoing Order.

Witness my hand and notarial seal,
this 12th day of July, 2022.

Arlena B. Roberts
Notary Public

My Commission Expires: March 21, 2027



**EXHIBIT A
CONDITIONS**

1. The Applicant must record the granting order, stating restrictions applicable conditions of approval, with the deed of the Property.
2. The Applicant must submit a site plan, along with the subsequent rezoning request, that complies with this granting order.
3. Approved variances must be reflected on site plan submittals moving forward. Any changes thereto would require review and approval from the Board of Adjustment.
4. The Applicant must provide the pool plans to the Cabarrus Health Alliance for review and approval prior to construction.
5. The Applicant must provide plans to Charlotte Water for review and approval prior to construction if grading within the easement (along the eastern property line) is needed.

Account No. 00163230-6606

Bill to:

Jessica Berkowitz
Evolution Recreation and Aquatics
Ethan and Austin Properties, LLC
11202 Harris Road
Huntersville NC 28078

Recording Fees for Granting Order for Variance VARN2022-00001 - \$26.00
Advertising fees for Variance and Rezoning - \$396.14

Amount Due: \$422.14

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
6/6/2022

Staff Use Only:
Approved: _____
Denied: _____
Tabled: _____

Petition: RZON2022-00001 Rezoning

Applicant Information:	Gilwood Presbyterian Church Matthew Love, Trustee 2993 Odell School Road Concord, NC 28027
Owner Information:	Gilwood Presbyterian Church Matthew Love, Trustee 2993 Odell School Road Concord, NC 28027
Existing Zoning:	CR (Countryside Residential)
Proposed Zoning:	OI (Office/Institutional)
Existing Permitted Uses:	All uses permitted in the CR zoning district are permitted on the subject property.
Proposed Uses:	All uses allowed in OI zoning district.
Parcel ID Numbers:	4682-34-5893
Property Addresses:	2993 Odell School Road
Area in Acres:	± 11.08 ac
Site Description:	The subject property is currently occupied by Gilwood Presbyterian Church. The church has occupied the site since 1887, well before zoning was originally adopted.
Adjacent Land Use:	North: Residential East: Residential South: Vacant West: Residential
Surrounding Zoning:	North: CR (Countryside Residential) East: CR (Countryside Residential) South: CR (Countryside Residential) West: CR (Countryside Residential)
Utility Service Provider:	Currently, the subject property is served by private well and septic.

Exhibits

EXHIBIT A – Staff Report
EXHIBIT B – Application
EXHIBIT C – Property Deed
EXHIBIT D – Property Maps
EXHIBIT E – Adjacent Property Owner & Property Owner Letters
EXHIBIT F – Neighborhood Meeting Information
EXHIBIT G – Use Comparison Table

Intent of Zoning Districts

PROPOSED DISTRICT: OFFICE/INSTITUTIONAL (OI)

This district is intended to accommodate relatively low intensity office and institutional uses at intensities complementary to residential land use. This district serves as a transitional district between residential land uses and higher intensity non-residential land uses.

RATIONALE

This district is used to provide for low intensity office and institutional uses that can be complementary to adjacent residential land use. This district features employment options and essential services which require a moderate number of average daily trips. These uses will have a minimum impact on the surrounding area because these trips will generally occur during regular church business hours, thus, not competing with residential traffic at peak hours. This district should be located adjacent to residential districts or in areas where its use would serve as a transition between residential land uses and higher intensity non-residential land uses. Higher intensity non-residential land uses may include commercial districts, light industrial or mixed use districts. When bordering residential districts or residential developments, care should be taken to assure natural or manmade buffering and architectural compatibility so that the nonresidential activities are not a nuisance to residential use.

EXISTING DISTRICT: COUNTRYSIDE RESIDENTIAL

Lands in this district have a strong rural, pastoral feel. Natural environmental elements such as tree lines, small ponds, rock formations, and manmade elements such as pasture fencing are to be retained, if at all possible. Although the area is capable of handling higher densities of development, development is kept at very low overall densities. Development includes only the standard single family detached dwelling.

RATIONALE

This land use district was created as a direct result of the County's systematic area planning process. As a reaction to the growth of the past decade (as much as 80% in some townships) many residents are anxious to see their areas retain the appeal that inspired the resident to make his or her original investment. This district helps implement a growth management philosophy before the fact, rather than after. In summary, the principle purpose of this district is to provide some land area in the County for a permanent country, rural residential life style.

Agency Review Comments

Planning Review:

Staff Report, Sandy Howell, Planner, Cabarrus County

NCDOT Review:

We have no issues with the proposed, as long as any proposed expansions and/or addition meets all local ordinances, not in the right of way, not in any sight distance and it stays on premise.

Marc Morgan, NCDOT

Fire Marshal Review:

No comments, Matthew Hopkins, County Fire Marshal

EMS Review:

No comments. Justin Brines, Cabarrus County EMS Director

Sheriff's Office Review:

No comments. Ray Gilleland, Cabarrus County Sheriff's Lieutenant

Health Alliance Review:

No comments. Chrystal Swinger, Cabarrus Health Alliance

Land Use Plan Analysis

The subject property is located within the boundary of the Northwest Cabarrus Land Use Plan (Plan) and is designated medium density residential. The residential designation of the Plan emphasizes a strong rural, pastoral feel. Natural environmental elements should be retained if at all possible. In these areas density will be kept very low. Development will include standard single family detached dwellings, other more intense forms of residential settlement such as townhouses are permitted as long as site sensitive design occurs. Cluster development standards are required.

Although the recommendation of the Plan is for residential uses, the subject property is currently developed with a religious institution, Gilwood Presbyterian Church, which has occupied the site since 1887, well before zoning was adopted. The rationale of the OI district states that the OI district is for low intensity office and institutional uses that can be complementary to adjacent residential land use.

Conclusions

- The proposed rezoning is not consistent with the Northwest Cabarrus Area Plan. However, the subject property supports an existing religious institution which was constructed prior to county zoning. The property currently has a residential zoning designation of CR. Rezoning from CR to OI would not affect ordinance compliance.
- The front portion of the subject property is located within the Coddle Creek WS-II watershed protected area. The following requirements may affect future development of the site. Rezoning would allow the current institutional use to expand up to the 75% impervious coverage (OI requirement) rather than the 20% (CR requirement) within the watershed protected area.
 - All other residential and non-residential development shall not exceed twelve (12%) percent built-upon area for the site in addition to meeting the applicable minimum lot size, density, and zoning district requirements.
 - Lots that were developed prior to the adoption of the watershed regulations on December 20, 1993 are considered grandfathered lots. Built-upon area, for purposes of complying with the Watershed Overlay Zone standards, shall be determined by using additions to the site occurring after the adoption date of this section of the ordinance. Historical survey data, Cabarrus County Geographic Information Systems data and land records data shall be used to determine the base built-upon area for Watershed Overlay Zone compliance and for permitting purposes. In no case, however, shall the overall built-upon area for a property exceed the impervious or structural coverage allowed for the underlying zoning district.

	Current Zoning CR	Proposed Zoning OI	Site Conditions
Minimum Lot Size	2 acres conventional	10,000 sq ft	± 11.08 ac (170,772.95 sq ft in watershed)
Density	.50 max units/acre		Church, Parsonage, Accessory Structure, Playground, Cemetery
Impervious Coverage	20%	75%	25,260.91 sq ft within watershed area
Impervious Coverage prior to 12/20/93			18,805.31 sq ft within watershed area
Impervious Coverage Added after 12/20/93			6,455.78 sq ft within watershed area
Protected Watershed Impervious Coverage	12%	12%	Coverage minus pre 12/20/93 built upon area = 3.78% Total Current Coverage in watershed area = 14.79% (5.21% available in CR and 65.21% in OI)

- A church is considered a religious institution and is classified in the institutional, civic and public uses category. Institutional uses are permitted in residential zoning districts if supplemental design and development standards are met. These standards are determined based on seating capacity and zoning designation. If the seating capacity is 350 or less, additional design standards must be met. A special use permit is required in residential districts where the proposed total seating capacity is 351 or more. Gilwood Presbyterian Church has a seating capacity of 350 or less and is therefore permitted based on additional design standards being met. A Special Use Permit is not required.
- For both CR and OI zoning jurisdictions design standards for religious institutions with less than 351 seats include the following:
 - Front on an arterial or collector road
 - The current site fronts on Odell School Road which is a major thoroughfare.
 - The required setbacks of each zone shall be doubled in residential districts.
 - Currently the site meets the double setback requirement.
- The OI zoning district serves as a transitional district between residential and commercial districts. It is also the more appropriate district for institutional uses, like churches and schools.
- The proposed zoning change to OI would provide greater flexibility for future use of the site, including allowing additional impervious area and additional signage to be permitted on the site.

This is a conventional rezoning request, therefore all uses permitted in the OI zoning district would be allowed on the subject property if approved. The Planning and Zoning Commission should consider all of the information provided and determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County.



CABARRUS COUNTY REZONING APPLICATION

STAFF USE ONLY:

Application/Accela#: RZON 2022-00001

Reviewed by: SDWH

Date: 5/16/2022

Amount Paid: 830.00

INSTRUCTIONS/PROCEDURES:

1. Schedule a pre-application meeting with Staff to discuss the procedures and requirements for a zoning map amendment request.
2. Submit a complete application for an amendment to the official zoning map 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 or area of the property to be considered for rezoning.
 - Any additional documents essential for the application to be considered complete. (Determined as part of the pre-application meeting)
3. Submit cash, check, or money order made payable to Cabarrus County.
 - Fees: Residential rezoning request 1 acre or less = \$400.00
 - Residential rezoning request greater than 1 acre = \$400.00 *plus* \$15 per acre
 - Non-residential rezoning request = \$650.00 *plus* \$15 acre
 - (Plus, cost of advertising and engineering fees if applicable)
 - (if a 3rd submittal is required, an additional review fee will be assessed)

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 PM that day for consideration on the next available agenda.

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 rezoning request and the map amendment process.
2. Submit a complete application with the appropriate fees to the Cabarrus County Planning Division.

Staff will review your complete application, 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 rezoning.

Meeting Information: Meetings are held the second Tuesday of each month at 6:30 PM in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE.

Expedited Vote: A vote of $\frac{3}{4}$ or more of the members of the Planning and Zoning Commission is considered an Expedited Vote and will constitute a final decision. If approval or denial of a rezoning request is by a vote of less than $\frac{3}{4}$ of the members, or if an appeal of the decision is filed within 15 days of the date of the decision, the application will automatically be forwarded to the Board of Commissioners for final consideration at a *de novo* hearing.

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

SUBJECT PROPERTY INFORMATION:

Street Address 2993 Odell School Rd

PIN(s) (10 digit #) 4682--34--5893

Deed Reference Book 2894 Page 287

Township # 10

DESCRIPTION OF SUBJECT PROPERTY:

Size (square feet or acres) 11.08 Acre

Street Frontage (feet) 480 ft.

Current Land Use of Property Non-Residential Religious

Surrounding Land Use North Residential

South Residential

East Vacant

West Residential

REQUEST:

Change Zoning From CR To OI

Purpose for Request:

The purpose for this request is for a zoning district more fitting of the current use and its future endeavors. Also, the church also plans to incorporate signage which is allowed in the OI district.

PROPERTY 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 proving its need rests with the below named petitioner(s).

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

PROPERTY OWNER

AGENT/APPLICANT

Matt Love

NAME

Matt Love

NAME

2993 Odell School Rd

ADDRESS

2993 Odell School Rd

ADDRESS

Concord, NC 28027

CITY, STATE, ZIP CODE

Concord NC 28027

CITY, STATE, ZIP CODE

704-361-8979

PHONE NUMBER

704 361-8979

PHONE NUMBER

FAX NUMBER

FAX NUMBER

tmlove@cabarruscounty.us

E-MAIL ADDRESS

tmlove@cabarruscounty.us

E-MAIL ADDRESS

Signature of Property Owner:

Matt Love

Date:

5-5-2022

Signature of Property Agent/Applicant:

Matt Love

Date:

5-5-2022

LAND USE PLAN CONSISTENCY STATEMENT

Describe how the proposed rezoning meets the land use plan(s) for the subject parcel(s):

The subject property is located within the Northwest Cabarrus County Small Area Plan. Although the recommendation of the Plan is for residential uses, the request is for a zoning district more fitting of the current use.

UTILITY SERVICE:

Water Supply X Well or Service Provider _____

Wastewater Treatment X Septic Tank(s) or Service Provider _____

Gilwood Presbyterian Church



Planning and Development Department
Cabarrus County
65 Church St. SE, Concord, NC 28025
P.O. Box 707, Concord, NC 28026

June 3, 2022

Dear Members of the Planning and Development Department,

Gilwood Presbyterian Church has authorized Matt Love to act on the church's behalf to apply for a change in zoning. Matt is an active ruling elder and a member of the Session of the church. He is also Vice-president of the church's Board of Trustees.

Sincerely,

Tracy Bridgers
Clerk of Session
Gilwood Presbyterian Church

Prepared by and Mail to After Recording:
 Rosenman & Collin LLP
 Suite 3601
 101 South Tryon Street
 Charlotte, NC 28280-0008
 Attention: Cindy Christ

JAN 15 12 04 PM '00

LINDA F. MCABEE
 REGISTER OF DEEDS
 CABARRUS COUNTY

NORTH CAROLINA

COUNTY OF CABARRUS

AMENDMENT OF
 RIGHT-OF-WAY AGREEMENT

THIS AMENDMENT OF RIGHT-OF-WAY AGREEMENT, made as of the 13th day of May, 2000 by Mae M. Goodnight (widow) and Ronald Lynn Goodnight (unmarried) (collectively hereinafter referred to as "Goodnight"), Jean A. Johnson (widow) and William Timothy Johnson and wife, Shawne Marie Johnson (collectively hereinafter referred to as "Johnson"), and Gilwood Presbyterian Church, Inc., a North Carolina corporation (hereinafter referred to as "Gilwood");

WITNESSETH:

WHEREAS, a RIGHT-OF-WAY AGREEMENT (hereinafter referred to as the "ROW Agreement") was executed by Goodnight on or about April 11, 1999 and was recorded in the Register of Deeds office for Cabarrus County at Book 2514, Page 263; and

WHEREAS, Goodnight and Gilwood have exchanged deminimis parcels of land along their joint boundary; and

WHEREAS, the ROW Agreement referenced the joint boundary between Goodnight and Gilwood for part of the easement description; and

WHEREAS, Goodnight, Johnson, and Gilwood now desire that Gilwood should have access to and use of the right-of-way conveyed by the ROW Agreement.

NOW, THEREFORE, the undersigned, for valuable consideration in hand paid, the receipt of which is hereby acknowledged, agree as follows:

1. The right-of-way description contained in the ROW Agreement is deleted therefrom and the description attached hereto as Exhibit "A" is substituted in its place and stead (the "Right-of-Way");
2. Goodnight and Johnson hereby grant, bargain, sell and convey to Gilwood, its heirs, successors and assigns, a permanent, nonexclusive easement over and across that portion of the Right-of-Way that lies between Odell School Road (SR# 1601) and the Gate (hereinafter defined) in the fence between Goodnight's and Gilwood's properties (the "Easement Area") for the purposes set forth in the ROW Agreement as hereby amended;
3. Gilwood's use of the easement shall be limited to maintenance of all of Gilwood's property which shall include, but not limited to, the digging of graves and the movement of Gilwood's personal property;
4. Gilwood shall have access between the Easement Area and Gilwood's property by way of an existing gate in the fence (the "Gate"), said fence being referenced in condition number 3 of the ROW Agreement;
5. Gilwood is to keep the Gate padlocked at all times and Gilwood shall solely control all access or use of the Gate;
6. Maintenance of the Gate shall be the sole responsibility of Gilwood, its heirs, successors and assigns and any damage to the fence caused by Gilwood shall be repaired by Gilwood;
7. Any damage caused to the fence by trees or limbs shall be repaired by the party upon whose property the tree existed immediately prior to the damage occurring;

* 8. Conditions number 1 and 2 of the ROW Agreement are hereby deleted in as much as they (a) restrict the use of the right-of-way by William Timothy Johnson or any house built on the land owned by William Timothy Johnson as of the date of the execution of this Amendment and (b) require or prohibit William Timothy Johnson and his descendants from improving the right-of-way; and

9. Goodnight represents, warrants and covenants that it is seized of the Easement Area in fee simple and has the right to grant, bargain, sell and convey the easement described herein; that the Easement Area is free from any lien, judgement, or encumbrance, and that it warrants the title to the Easement Area against any claim of anyone whatsoever, except others using the Easement Area for the purposes set forth in the ROW Agreement as amended.

Except as specifically amended by this Amendment, the ROW Agreement shall remain in full force and effect and is incorporated in this Amendment as if fully set forth herein.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have duly executed or have caused this instrument to be duly executed under seal as of the day and year first above written.

Mae M. Goodnight
(Attorney-in-Fact) by: Ronald Lynn Goodnight (SEAL)
MAE M. GOODNIGHT

Ronald Lynn Goodnight (SEAL)
RONALD LYNN GOODNIGHT

Jean A. Johnson (SEAL)
JEAN A. JOHNSON

William Timothy Johnson (SEAL)
WILLIAM TIMOTHY JOHNSON

Stawne Marie Johnson (SEAL)

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NORTH CAROLINA
CABARRUS COUNTY

I, Barbara J. Smith, a Notary Public for Cabarrus
County, North Carolina, do hereby acknowledge that Mac M. Goodnight personally appeared before
me this day and acknowledged the due execution of the foregoing instrument. Ronald Lynn Goodnight,
Attorney In Fact For

This the 13th day of May, 2000.

Barbara J. Smith
Notary Public



My Commission Expires: November 2, 2002

NORTH CAROLINA
CABARRUS COUNTY

I, Barbara J. Smith, a Notary Public for Cabarrus
County, North Carolina, do hereby acknowledge that Ronald Lynn Goodnight personally appeared
before me this day and acknowledged the due execution of the foregoing instrument.

This the 13th day of May, 2000.

Barbara J. Smith
Notary Public



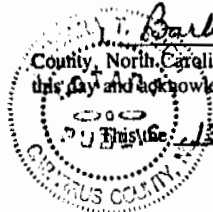
My Commission Expires: November 2, 2002

NORTH CAROLINA
CABARRUS COUNTY

I, Barbara J. Smith, a Notary Public for Cabarrus
County, North Carolina, do hereby acknowledge that Jean A. Johnson personally appeared before me
this day and acknowledged the due execution of the foregoing instrument.

This the 13th day of May, 2000.

Barbara J. Smith
Notary Public



My Commission Expires: November 2, 2002

NORTH CAROLINA
CABARRUS COUNTY

I, Barbara J. Smith, a Notary Public for Cabarrus
County, North Carolina, do hereby acknowledge that William Timothy Johnson and _____
personally appeared before me this day and acknowledged the due execution
of the foregoing instrument.

This the 13th day of May, 2000.

Barbara J. Smith
Notary Public



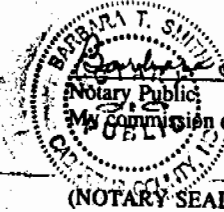
My Commission Expires: November 2, 2002

STATE OF NORTH CAROLINA

COUNTY OF Calhoun

I, a Notary Public of the County and State aforesaid, certify that Shawna Marie Johnson personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 13th day of May, 2000.

 Barbara T. Smith
Notary Public
My commission expires: November 2, 2002
(NOTARY SEAL)

NORTH CAROLINA

CABARRUS COUNTY

I, Barbara T. Smith, Notary Public, do hereby certify that Ronald Lynn Goodnight, attorney-in-fact for Mae M. Goodnight, personally appeared before me this day, and being by me duly sworn, says that (s)he executed the foregoing and annexed instrument for and in behalf of the said Mae M. Goodnight, and that his/her authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded at Book 2766, Page 143 in the office of the Register of Deeds for Cabarrus County, North Carolina on the 14th day of January, 2000, and that this instrument was executed under and by virtue of the authority given by said instrument granting him/her power of attorney.

I do further certify that the said Ronald Lynn Goodnight acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said Mae M. Goodnight.

Witness my hand and seal, this the 13th day of May, 2000.



Barbara T. Smith
Barbara T. Smith
Notary Public

My commission expires: November 2, 2002

NORTH CAROLINA - CABARRUS COUNTY

The foregoing (or annexed) certificate(s) of

Barbara T. Smith, a notary public,
(are) certified to be correct. This the 15th day of June, 2000.

LINDA E. McABEE, REGISTER OF DEEDS

Linda E. McAbree Acting Deputy

EXHIBIT A

COMMENCING at NCGS "Gilwood" (N 624,955.24', E 1,484,213.48'); thence S 15° 39' 07" W 237.43' to a 2 ½-inch pipe; thence S 72° 48' 03" E 125.53' to a computed point in the center line of Odell School Road (SR# 1601), the point and place of BEGINNING; thence along the centerline of Odell School Road along an arc to the left (Radius = 6,509.33', Tangent = 24.99', Chord Length = 49.97', Bearing = S 08° 10' 52" E, and Delta = 00° 26' 24") a distance of 49.97'; thence N 72° 38' 59" W 139.92' to a computed point; thence S 89° 01' 35" W 319.97' to a computed point; thence S 83° 11' 26" W 295.32' to a computed point; thence S 81° 03' 30" W 569.22' to a computed point; thence N 19° 54' 36" W 192.96' to a computed point; thence N 36° 48' 02" E 108.00' to a set 5/8-inch rebar; thence N 34° 49' 13" W 248.09' to a 5/8-inch rebar; thence N 39° 30' 12" W 156.17' to a 5/8-inch rebar in the new line of William Timothy Johnson; thence along William Timothy Johnson's line N 34° 20' 14" E 305.32' to a 5/8-inch rebar; thence S 55° 24' 38" E 45.00' to a computed point; thence S 34° 20' 14" W 270.96' to a computed point; thence S 39° 52' 49" E 109.11' to a computed point; thence S 34° 49' 13" E 250.27 feet to a computed point; thence N 36° 48' 02" E 129.85' to a computed point; thence S 55° 24' 38" E 45.03' to a computed point; thence S 36° 48' 02" W 262.72' to a stone; thence S 19° 54' 36" E 131.56' to a 2 ½-inch pipe; thence N 81° 03' 30" E 531.63' to a 2 ½-inch pipe; thence N 83° 11' 26" E 298.48' to a 5/8-inch rebar; thence N 89° 01' 35" E 329.71' to a 2 ½-inch pipe; thence S 72° 48' 03" E 125.53' to the point and place of BEGINNING.

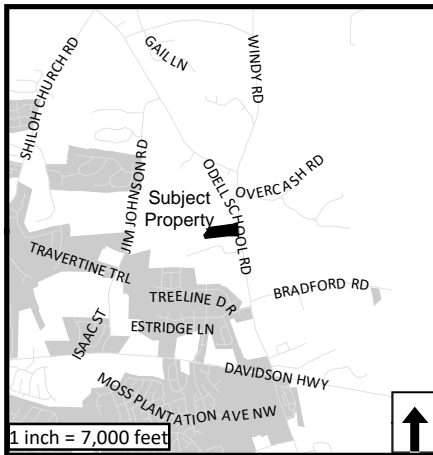
This description is based on a survey by Meridian Land Company dated June 4, 1999 (job number 99285) and the RIGHT-OF-WAY AGREEMENT between Mae M. Goodnight, Ronald Lynn Goodnight, Jean A. Johnson, and William Timothy Johnson dated on or about April 11, 1999.

Northwestern Planning Area Aerial Map



Applicant: Matthew Love, Trustee
Owner: Gilwood Presbyterian
Case: RZON2022-00001
Address: 2993 Odell School Road
Purpose: CR to OI
PINs: 4682-34-5893

- Cabarrus County
- Municipal District
- Tax Parcels



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.

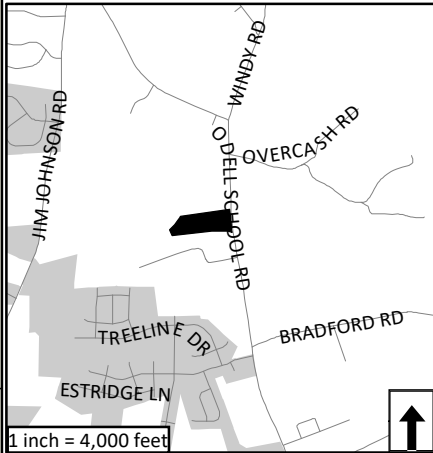
Map Prepared by Cabarrus County Planning & Development - May 2022



Northwestern Planning Area Existing Zoning

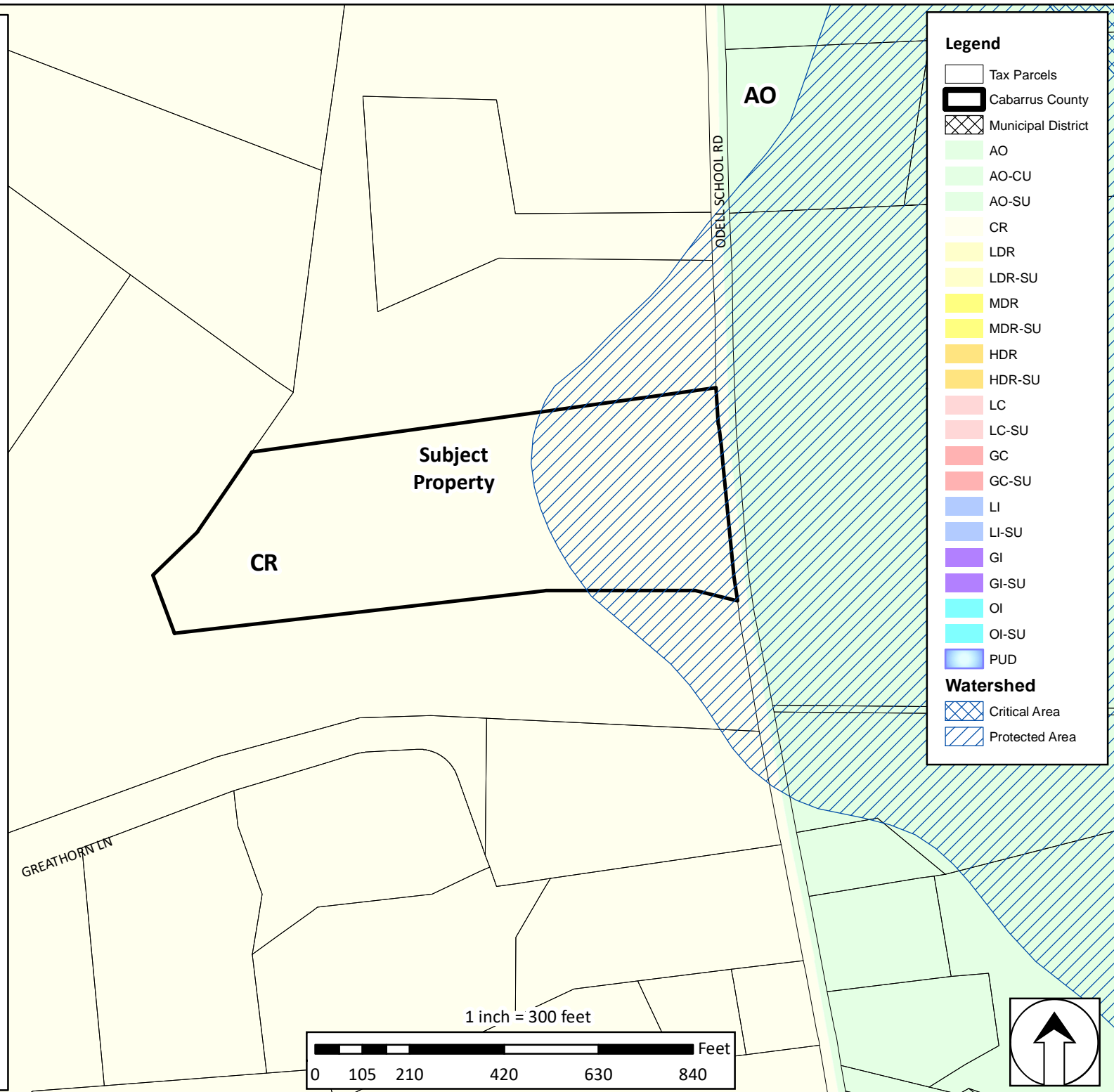


Applicant: Matthew Love, Trustee
 Owner: Gilwood Presbyterian
 Case: RZON2022-00001
 Address: 2993 Odell School Rd
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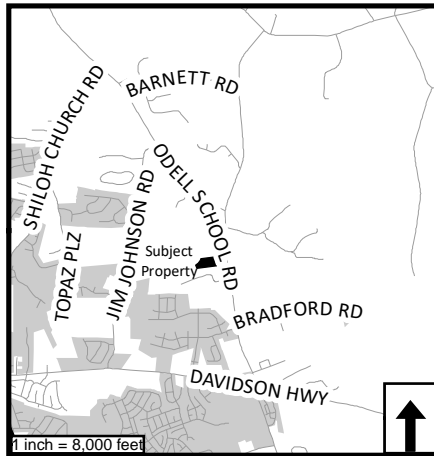
Map Prepared by Cabarrus County Planning & Development - May 2022



Northwestern Planning Area Future Land Use

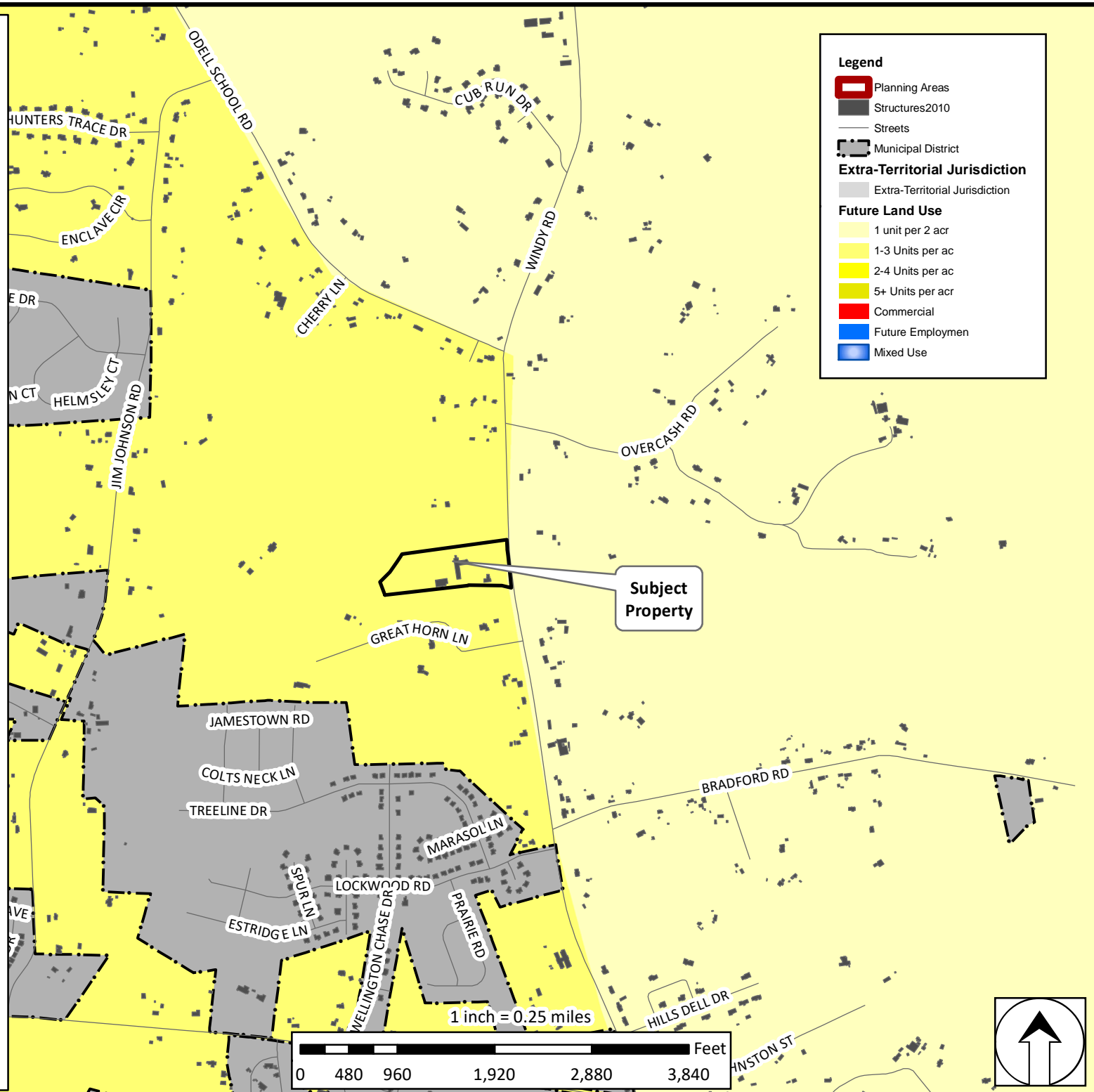


Applicant: Matthew Love, Trustee
 Owner: Gilwood Presbyterian
 Case: RZON2022-00001
 Address: 2993 Odell School Rd
 Purpose: CR to OI
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Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, 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 - May 2022



Property Owners list

Owner	Address	City	State	Zip	Parcel
Gilwood Presbyterian Church	2993 Odell School Rd	Concord	NC	28027	4682-34-5893
Kenneth Seaford	9250 Mt Olive Rd	Mt. Pleasant	NC	28124	4682-44-6755
					4682-35-7855
Ronald Goodnight	2929 Odell School Rd	Concord	NC	28027	4682-24-7584
					4682-24-7584
Oscar & Scotty Williams	9230 Greathorn Ln	Concord	NC	28027	4682-34-9266
Ricky & Pamela Seaford	3155 Odell School Rd	Concord	NC	28027	4682-35-5666



Cabarrus County Government – Planning and Development Department

May 25, 2022

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, June 14, 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 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about the rezoning request, I encourage you to attend this meeting.

Petitioner	Gilwood Presbyterian
Petition Number	RZON2022-00001
Property Location	2993 Odell School Rd
Parcel ID Number	4682-34-5893
Existing Zoning	Countryside Residential (CR)
Proposed Zoning Map Change	Office/Institutional (OI)

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,

A handwritten signature in black ink, appearing to read "Sandy Howell", written over a large, stylized circular flourish.

Sandy Howell, CZO

Planner

Cabarrus County Planning and Development

704.920.2181



Cabarrus County Government – Planning and Development Department

May 25, 2022

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for property **adjacent** to yours. The specifics of the request are listed below. The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, June 14, 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 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about the rezoning, I encourage you to attend this meeting.

Petitioner	Gilwood Presbyterian
Petition Number	RZON2022-00001
Property Location	2993 Odell School Rd
Parcel ID Number	4682-34-5893
Existing Zoning	Countryside Residential (CR)
Proposed Zoning Map Change	Office/Institutional (OI)

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,

A handwritten signature in cursive script that reads "Sandy Howell".

Sandy Howell, CZO

Planner

Cabarrus County Planning and Development

704.920.2181

April 5, 2022

To: Neighboring Property owners

From: Matt Love, Session Member and Board of Trustee

Gilwood Presbyterian Church

2293 Odell School Road

Concord NC 28027

704 361-8979

slabbymatty@gmail.com

Hey Neighbors,

I am writing this letter to inform you that I, on the behalf of Gilwood Presbyterian Church at 2993 Odell School Road has requested the church's property to be rezoned from CR (Countryside Residential) to OI (Office- Intuitional). We are requesting the rezoning of this property to update our sign to a more modern electronic sign. In order to install a electronic sign, our property must be rezoned. The session has voted, discussed and approved moving forward with this and we are sending out this letter to inform you of our request. If there is any questions or concerns, you can reach me at 704 361-8979 or you can email me at slabbymatty@gmail.com or Tracy Bridgers, the Clerk of the Session at gilwoodclerk@gmail.com. Please contact me no later than May 5, 2022.

Thanks so much!

Matt Love

PERMITTED USE TABLE		
"P" - Permitted, "C" – Conditional, "PBS" – Permitted Based on Standards		
	CR	OI
RESIDENTIAL USES		
Family Care Home	P	
Group Care Facility		P
Manufactured Home, Single Section or Mobile Home, Multi-Section	Permitted in Residential Districts, Manufactured Home Overlay District Required – see Chapter 4	
Manufactured Home Park (8-4, 14)		
Single Family Detached Residential	P	
AGRICULTURAL USES		
Agriculture, Including Livestock (7-3,2A)	P	
Agriculture Excluding Livestock	P	
Agritourism, Accessory to Agriculture	P	
Barn, Greenhouse, as Primary Structure (7-3, 7)	PBS	
Dairy Processing	P	
Livestock Sales	P	
Nursery, Greenhouse	P	
Scientific Research and Development, Accessory to Agriculture (7-3, 52)	PBS	
ACCESSORY USES		
Accessory Dwelling Unit (7-3,1)	PBS	
Accessory Building, (7-3, 1)	PBS	PBS
Automated Teller Machine (7-3, 6, b)		PBS
Community Garden, as Accessory Use (7-3, 13)	PBS	PBS
Ethanol Fuel Production, Residential District, Private Use Only (7-3, 20)	PBS	
Home Occupation, General (7-3, 27)	PBS	
Home Occupation, Rural (7-3, 28)	PBS	
Ice Production, Dispensing, Accessory to Convenience Store (7-3, 30)	PBS	
Ice Production, Dispensing, Accessory to Gas Station (7-3, 29)	PBS	
Kennel, Private (7-3, 31)	PBS	
Swimming Pool, Accessory to Single Family Residential (7-3,1)	PBS	
Trail Head, Accessory (7-3, 63)	PBS	PBS
Wind Energy Facility, Accessory Use, On Site Use Only (7-3, 66)	PBS	
COMMERCIAL, RETAIL AND OFFICE USES		
Animal Hospital (8-4, 39)	SU	
Auction House (7-3, 3)	PBS	
Bank, Financial Institution, Automated Teller Machine (7-3, 6)		PBS
Banquet Hall		P
Barber, Beauty, Tanning, Nail or Skin Care Salon		P
Bed and Breakfast (7-3, 8)	PBS	
Catering Service (7-3, 9)		PBS
Convenience Store with Petroleum Sales (7-3, 14)	PBS	
Convenience Store without Petroleum Sales (7-3, 15)	PBS	
Country Club with Golf Course (7-3, 16)	PBS	PBS
Crematorium		P
Day Camp, Summer Camp, Civic Group Camp Facility (8-4, 10)	SU	

Duplex, Commercial Use, Individual Lots (7-3, 19)		PBS
Farmer's Market		P
Funeral Home		P
Gas Service Station (7-3,23)	PBS	
Golf Course, Public or Private (7-3, 24)	PBS	PBS
Kennel, Commercial (8-4, 37)	SU	
Nursery, Daycare Center (7-3, 35)	PBS	PBS
Office professional, 30,000 Square Feet or Less		P
Parking Lot, Parking Garage, Commercial or Private		P
Printing and Reprographic Facility		P
Reception Facilities (8-4, 21)	SU	
Recreational Facility, Indoor (7-3, 39)		PBS
Recreational Facility, Outdoor (8-4, 22)	SU	SU
Recreational Therapy Facility, Rural Setting (8-4, 23)	SU	
Recyclable Materials Drop Off (7-3, 41)	PBS	PBS
Restaurant, Excluding Drive-thru (7-3, 47)	PBS	
Sawmill (7-3, 51)	PBS	
Scientific Research and Development (7-3, 53)		PBS
Shooting Range, with Outdoor Target Practice (8-4, 30)	SU	
Sports and Recreation Instruction or Camp (8-4, 31)	SU	
Stables, Commercial (7-3, 58)	PBS	
Swim Club, Tennis Club, Country Club (7-3, 59)	PBS	PBS
Veterinarian (8-4, 37)	SU	
Wellness Retreat, Wellness Spa (8-4, 38)	SU	
Wireless Telecommunications Services (8-4, 36)	SU	SU
Wireless Telecommunications Services, Stealth Antennae, 65 Feet or Less (8-4, 36)	P	P
Wireless Telecommunications Services – Co-location (7-3, 67)	PBS	PBS
INSTITUTIONAL, CIVIC AND PUBLIC USES		
Animal Shelter (8-4, 37)	SU	
Cemetery (7-3, 10)	PBS	
Civic Organization Facility (7-3,11)	PBS	P
College, University (8-4, 6)	SU	
College, University		P
Communications Tower, 911 Communications Tower (8-4, 7)	SU	SU
Convention Center Facility (8-4, 8)		SU
Elementary, Middle and High Schools (8-4,11)	SU	SU
Hospital, Ambulatory Surgical Care Facility		P
Public Cultural Facility (7-3, 38)	PBS	P
Public Service Facility (8-4, 17)	SU	SU
Public Use Facility (8-4, 18)	SU	
Public Use Facility		P
Recreational Trail, Greenway or Blueway, Connector (7-3, 40)	PBS	PBS
Religious Institution with Total Seating Capacity 351 or More (8-4, 24)	SU	SU
Religious Institution with Total Seating Capacity 350 or Less (7-3, 42)	PBS	PBS
Religious Institution with School (8-4, 25)	SU	SU
Rest Home, Convalescent Home with 10 Beds or Less (7-3, 46)	PBS	PBS

Rest Home, Convalescent Home with More Than 10 Beds (8-4, 26)	SU	SU
Trade and Vocational Schools (8-4, 33)		SU
Trail Head, Primary Use Site (7-3, 64)	PBS	PBS
INDUSTRIAL		
Landfill, Demolition, Less Than One Acre (7-3, 32)	PBS	
Multimedia Production and Distribution Complex (8-4, 15)	SU	
Slaughter House, Meat Packing (8-4, 32)	SU	
TEMPORARY USES		
Auction, Estate or Asset Liquidation	PBS	PBS
Auction, Livestock	PBS	
Dumpsters, Commercial Waste Containers	PBS	PBS
FEMA Trailers, Natural Disaster or Significant Weather Event	PBS	PBS
Mobile Personal Storage Unit, Vacate or Occupy Premise	PBS	PBS
Mobile Personal Storage Unit, Renovation	PBS	PBS
Seasonal Sale of Agriculture Products, Includes Christmas Trees and Pumpkins		PBS
Temporary Residence in Mobile Home During Construction of New Home, Same Site	PBS	
Temporary Tent or Temporary Structure, Including Cell on Wheels		PBS

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
6/6/2022

Staff Use Only:
Approved: _____
Denied: _____
Tabled: _____

Petition: RZON2021-00002 Rezoning

Applicant Information:	Cross of Christ Lutheran Church James N. Bailey, Trustee 6000 Emanuel Rd. Rockwell, NC 28138
Owner Information:	Cross of Christ Lutheran Church Clyde Drye, Trustee 6050 Kluttz Rd. Concord, NC 28025
Existing Zoning:	AO (Agricultural/Open Space)
Proposed Zoning:	OI (Office Institutional)
Existing Permitted Uses:	All uses permitted in the AO zoning district are permitted on the subject property.
Proposed Uses:	All uses permitted in OI zoning district.
Parcel ID Numbers:	5653-92-4591
Property Addresses:	4500 Rimer Rd.
Area in Acres:	± 10.48 ac
Site Description:	The subject property is currently occupied by Cross of Christ Lutheran Church. The church has occupied the site since 1882, well before zoning was originally adopted.
Adjacent Land Use:	North: Agricultural East: Residential South: Commercial West: Residential
Surrounding Zoning:	North: AO (Agricultural/Open Space) East: AO (Agricultural/Open Space) South: AO (Agricultural/Open Space) West: AO (Agricultural/Open Space)
Utility Service Provider:	Currently, the subject property is served by private well and septic.

Exhibits

EXHIBIT A – Staff Report
EXHIBIT B – Application
EXHIBIT C – Property Deed
EXHIBIT D – Property Maps
EXHIBIT E – Adjacent Property Owner & Property Owner Letters
EXHIBIT F – Neighborhood Meeting Information
EXHIBIT G – Use Comparison Table

Intent of Zoning Districts

PROPOSED DISTRICT: OFFICE/INSTITUTIONAL (OI)

This district is intended to accommodate relatively low intensity office and institutional uses at intensities complementary to residential land use. This district serves as a transitional district between residential land uses and higher intensity non-residential land uses.

RATIONALE

This district is used to provide for low intensity office and institutional uses that can be complementary to adjacent residential land use. This district features employment options and essential services which require a moderate number of average daily trips. These uses will have a minimum impact on the surrounding area because these trips will generally occur during regular church business hours, thus, not competing with residential traffic at peak hours. This district should be located adjacent to residential districts or in areas where its use would serve as a transition between residential land uses and higher intensity non-residential land uses. Higher intensity non-residential land uses may include commercial districts, light industrial or mixed use districts. When bordering residential districts or residential developments, care should be taken to assure natural or manmade buffering and architectural compatibility so that the nonresidential activities are not a nuisance to residential use.

EXISTING DISTRICT: AGRICULTURAL/OPEN SPACE (AO)

This district is comprised mostly of lands usually found on the eastern side of the County which, due to physical characteristics such as soil type, topography, etc., should remain agrarian. To a lesser degree, these are also those lands which are conducive to providing recreationally oriented open space. These land areas should remain the farmland and undeveloped/forested land of the County. Public utilities will not be planned for these areas. Consequently, residential uses that support those working and/or owning the land, home occupations allied with existing residences, and very limited business endeavors are envisioned as complementary to the area. In sum, the primary activity of these lands is agricultural - housing and business are typically related to, and supportive of, the practice of modern day agriculture. It is not, however, improbable that a small hamlet type settlement might evolve in this zoning district. As to those areas constituting open space, manmade uses must take care to enhance and not detract from the essential character of the area.

RATIONALE

Cabarrus County, due largely to its proximity to the Charlotte-Mecklenburg metropolitan area, is in a growth mode which will, in all probability, continue. While the issue of farmland preservation may ultimately be more driven by market economics, it still behooves policy makers to prudently attempt farmland preservation. Less a matter of market economics is the concept of retaining unspoiled, undeveloped lands for future generations to enjoy.

Agency Review Comments

Planning Review:

Staff Report, Sandy Howell, Planner, Cabarrus County

NCDOT Review:

We have no issues with the proposed, as long as any proposed expansions and/or addition meets all local ordinances, not in the right of way, not in any sight distance and it stays on premise.

Marc Morgan, NCDOT

Fire Marshal Review:

No comments, Matthew Hopkins, County Fire Marshal

EMS Review:

No comments. Justin Brines, Cabarrus County EMS Director

Sheriff's Office Review:

No comments. Ray Gilleland, Cabarrus County Sheriff's Lieutenant

Health Alliance Review:

No comments. Chrystal Swinger, Cabarrus Health Alliance

Land Use Plan Analysis

The subject property is located within the boundary of the Eastern Land Use Plan (Plan) and is planned for Agricultural/Open Space uses. The Agricultural/Open Space district of the Plan emphasizes a strong rural, pastoral feel. Compared to more rapidly developing areas of the County, eastern Cabarrus County is a sparsely developed and predominately rural residential and agricultural area.

Although the recommendation of the Plan is for residential uses, the subject property is currently developed with a religious institution, Cross of Christ Lutheran, which has been in existence since 1882, well before zoning was adopted. The rationale of the OI district states that the OI district is for low intensity office and institutional uses that can be complementary to adjacent residential land use.

Conclusions

- The proposed rezoning is not consistent with the Eastern Area Plan. However, the subject property supports an existing religious institution which was constructed prior to county zoning. The property currently has a residential zoning designation. Rezoning from AO to OI would bring the site into better compliance with the ordinance. The design standards for religious institutions with less than 351 seats include two standards:
 - Front on an arterial or collector road
 - The current site fronts on Rimer Road which is a major thoroughfare.
 - The required setbacks of each zone shall be doubled in residential districts.
 - Currently the site does not conform to the double setback requirement. Rezoning to OI will bring the site into compliance.
- The current impervious coverage is currently over the maximum for AO zoning. Rezoning to OI will bring the site into compliance and enable the applicant to expand.
- The subject property is located within the Dutch Buffalo WS-II watershed protected area. The following requirements may affect future development of the site. Rezoning would allow the current institutional use to expand up to the 75% impervious coverage (OI requirement) rather than the 15% (AO requirement) within the watershed protected area.
 - All other residential and non-residential development shall not exceed twelve (12%) percent built-upon area for the site in addition to meeting the applicable minimum lot size, density, and zoning district requirements.
 - Lots that were developed prior to the adoption of the watershed regulations on December 20, 1993 are considered grandfathered lots. Built-upon area, for purposes of complying with the Watershed Overlay Zone standards, shall be determined by using additions to the site occurring after the adoption date of this section of the ordinance. Historical survey data, Cabarrus County Geographic Information Systems data and land records data shall be used to determine the base built-upon area for Watershed Overlay Zone compliance and for permitting purposes. In no case, however, shall the overall built-upon area for a property exceed the impervious or structural coverage allowed for the underlying zoning district.

	Current Zoning AO	Proposed Zoning OI	Site Conditions
Minimum Lot Size	3 acres conventional	10,000 sq ft	± 10.48 acres (100% in the watershed area)
Density	.33 max units/acre		Church, Accessory Structures, Playground, Cemetery, Sports Area
Impervious Coverage	15%	75%	109,995.82 sq ft
Impervious Coverage prior to 12/20/93			109,719.34 sq ft
Impervious Coverage Added after 12/20/93			276.48 sq ft
Protected Watershed Impervious Coverage	12%	12%	Total Current Coverage in watershed area = 24% (0% available in AO and 51% in OI)

- A church is considered a religious institution and is classified in the institutional, civic and public uses category. Institutional uses are permitted in residential zoning districts if supplemental design and development standards are met. These standards are determined based on seating capacity and zoning designation. If the seating capacity is 350 or less, additional design standards must be met. A special use permit is required in residential districts where the proposed total seating capacity is 351 or more. Cross of Christ Church has a seating capacity of 350 or less and is therefore permitted based on additional design standards being met. A Special Use Permit is not required.
- The OI zoning district serves as a transitional district between residential and commercial districts. It is also the more appropriate district for institutional uses, like churches and schools.
- The proposed zoning change to OI would provide greater flexibility for future use of the site, including allowing additional impervious area and additional signage to be permitted on the site.

This is a conventional rezoning request, therefore all uses permitted in the OI zoning district would be allowed on the subject property if approved. The Planning and Zoning Commission should consider all of the information provided and determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County.



CABARRUS COUNTY REZONING APPLICATION

STAFF USE ONLY:

Application/Accela#: RZON 2022-00002

Reviewed by: SDUTH

Date: 5/6/2022

Amount Paid: 807.50

INSTRUCTIONS/PROCEDURES:

1. Schedule a pre-application meeting with Staff to discuss the procedures and requirements for a zoning map amendment request.
2. Submit a complete application for an amendment to the official zoning map 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 or area of the property to be considered for rezoning.
 - Any additional documents essential for the application to be considered complete. (Determined as part of the pre-application meeting)
3. Submit cash, check, or money order made payable to Cabarrus County.
 - Fees: Residential rezoning request 1 acre or less = \$400.00
 - Residential rezoning request greater than 1 acre = \$400.00 *plus* \$15 per acre
 - Non-residential rezoning request = \$650.00 *plus* \$15 acre
 - (Plus, cost of advertising and engineering fees if applicable)
 - (if a 3rd submittal is required, an additional review fee will be assessed)

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 PM that day for consideration on the next available agenda.

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 rezoning request and the map amendment process.
2. Submit a complete application with the appropriate fees to the Cabarrus County Planning Division.

Staff will review your complete application, 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 rezoning.

Meeting Information: Meetings are held the second Tuesday of each month at 6:30 PM in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE.

Expedited Vote: A vote of $\frac{3}{4}$ or more of the members of the Planning and Zoning Commission is considered an Expedited Vote and will constitute a final decision. If approval or denial of a rezoning request is by a vote of less than $\frac{3}{4}$ of the members, or if an appeal of the decision is filed within 15 days of the date of the decision, the application will automatically be forwarded to the Board of Commissioners for final consideration at a *de novo* hearing.

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

SUBJECT PROPERTY INFORMATION:

Street Address 4500 Rimer Rd Concord, N.C. 28025
PIN(s) (10 digit #) 5653-92-4591; _____
Deed Reference Book 13011 Page 0042
Township # 10

DESCRIPTION OF SUBJECT PROPERTY:

Size (square feet or acres) 10.48
Street Frontage (feet) 504
Current Land Use of Property Religious
Surrounding Land Use North Agricultural
South Residential
East Commercial
West Residential

REQUEST:

Change Zoning From A0 To OI

Purpose for Request:

The purpose for this request is for an improvement
in the church's signage which will accomodate
a digital sign utilizing the same footprint.

LAND USE PLAN CONSISTENCY STATEMENT

Describe how the proposed rezoning meets the land use plan(s) for the subject parcel(s):

This change will not change the current land use plan. The use will remain as religious institution and will only change the plan by enhancing current services.

UTILITY SERVICE:

Water Supply ☒ Well or ___Service Provider___

Wastewater Treatment ☒ Septic Tank(s) or ___Service Provider___

PROPERTY 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 proving its need rests with the below named petitioner(s).

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

PROPERTY OWNER

AGENT/APPLICANT

CLYDE DYE
NAME

James N. Bailey
NAME

6050 KURTZ RD
ADDRESS

6000 Emanuel Rd.
ADDRESS

Concord NC 28025
CITY, STATE, ZIP CODE

Rockwell, N.C. 28138
CITY, STATE, ZIP CODE

980-521-9164
PHONE NUMBER

980-521-8346
PHONE NUMBER

N/A
FAX NUMBER

FAX NUMBER

RUSTY DYE @ RIMER MOTOR .COM
E-MAIL ADDRESS

lawrn1972@gmail.com
E-MAIL ADDRESS

Signature of Property Owner: CLYDE DYE Date: 5-4-2022

Signature of Property Agent/Applicant: James N. Bailey Date: 5-4-2022

FILED
CABARRUS COUNTY NC
WAYNE NIXON
REGISTER OF DEEDS

FILED May 23, 2018
AT 03:02 pm
BOOK 13011
START PAGE 0042
END PAGE 0044
INSTRUMENT # 12134
EXCISE TAX \$0.00

MWN

SCANNED AND RETURNED

Tax Parcel No.: 6-6-12.00 & 6-7-31.00

This instrument prepared by: David C. Williams, Esq.

Excise Tax: \$0.00

NORTH CAROLINA

WARRANTY DEED

CABARRUS COUNTY

THIS DEED made this 23 day of May, 2018, by Clyde Morrison Drye and Larry Wayne Furr, Trustees of Prosperity Lutheran Church a/k/a Cross of Christ Lutheran Church ("Grantor"), to Cross of Christ Lutheran Church, Concord, a North Carolina Non-profit corporation ("Grantee"), whose address is 4500 Rimer Road, Concord, North Carolina 28025.

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

W I T N E S S E T H : -

That the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does bargain, sell, and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in No. Six (6) Township, Cabarrus County, North Carolina, and more particularly described as follows:

All real property owned in the name of the Trustees of Prosperity Lutheran Church or in the name of the Trustees of Cross of Christ Lutheran Church located in Cabarrus County, North Carolina, including but not limited to the following parcels:

1. That certain parcel located on the west side of Rimer Road, consisting of 0.9 acres more or less, having PIN Number 5653-82-9652-0000, and being known as the Parsonage Tract.
2. That certain parcel located on the east side of Rimer Road and the south side of Kluttz Road, consisting of 10.48 acres more or less, having PIN Number 5653-92-4591-0000, and containing the Church's Sanctuary, cemetery and recreational areas.

The members of Prosperity Lutheran Church a/k/a Cross of Christ Lutheran Church incorporated the church on January 18, 2011 by filing Articles of Incorporation with the North Carolina Secretary of State. However, the property held by the members in the names of the Trustees of the Church was not transferred to the new corporate entity. The purpose of this Deed is to convey all the property previously owned in the name of the Trustees of Prosperity Lutheran Church a/k/a Cross of Christ Lutheran Church to the corporate entity Cross of Christ Lutheran Church, Concord.

Clyde Morrison Drye and Larry Wayne Furr were appointed as Trustees by the Church on May 6, 2018, for the purpose of transferring title out of the name of the Trustees and into the corporate entity.

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

The Grantor, in the capacity as Trustee, does hereby covenant that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. The title to the property hereinabove described is subject to the following exceptions:

All valid and existing rights of way, easements, and restrictions without reimposing the same.

[Remainder of Page Left Blank]

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, the day and year first above written.

Prosperity Lutheran Church
a/k/a Cross of Christ Lutheran Church

By: Clyde Morrison Drye (SEAL)
Clyde Morrison Drye, Trustee

By: Larry Wayne Furr (SEAL)
Larry Wayne Furr, Trustee

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

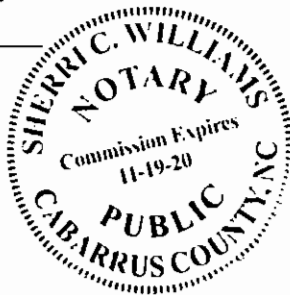
I certify that the following person personally appeared before me this day, each acknowledging to me that he signed the foregoing document for the purpose stated therein and in the capacity indicated: Clyde Morrison Drye and Larry Wayne Furr, Trustees.

Witness my hand and official stamp or seal, this the 23 day of May, 2018.

Sherri C. Williams
Notary Public
Name: Sherri C. Williams

My commission expires:



11-19-20

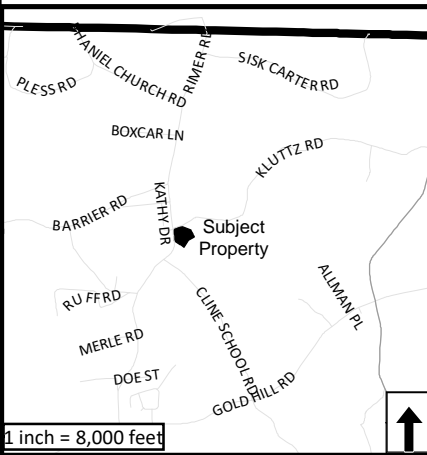


Eastern Planning Area Aerial Map



Applicant: James Bailey, Trustee
Owner: Cross of Christ Lutheran Church
Case: RZON2022-00002
Address: 4500 Rimer Road
Purpose: AO to OI
PINs: 5653-92-4591

-  CabarrusCounty
-  MunicipalDistrict
-  Tax Parcels



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.

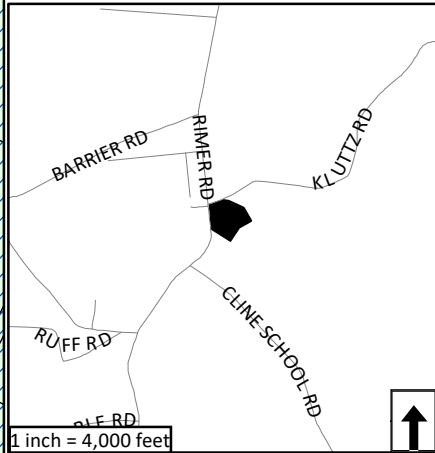
Map Prepared by Cabarrus County Planning & Development - May 2022



Eastern Planning Area Existing Zoning

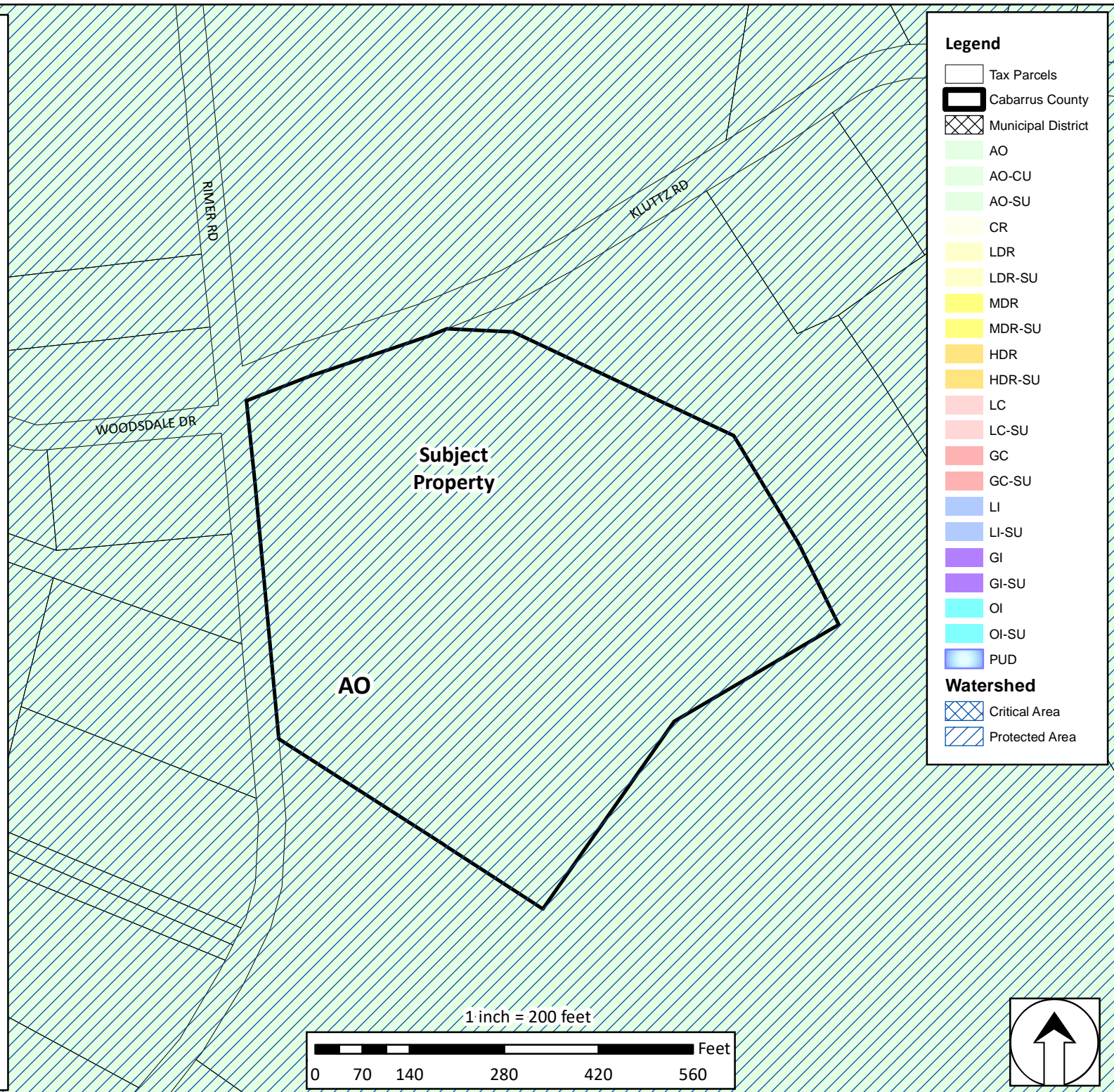


Applicant: James Bailey, Trustee
 Owner: Cross of Christ Lutheran
 Case: RZON2022-00002
 Address: 4500 Rimer Rd
 Purpose: AO to OI
 PINs: 5653-92-4591



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.

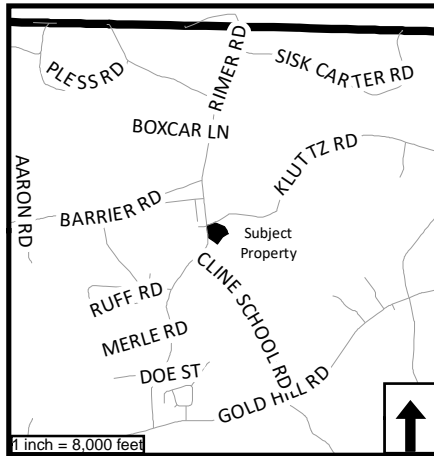
Map Prepared by Cabarrus County Planning & Development - May 2022



Eastern Planning Area Future Land Use

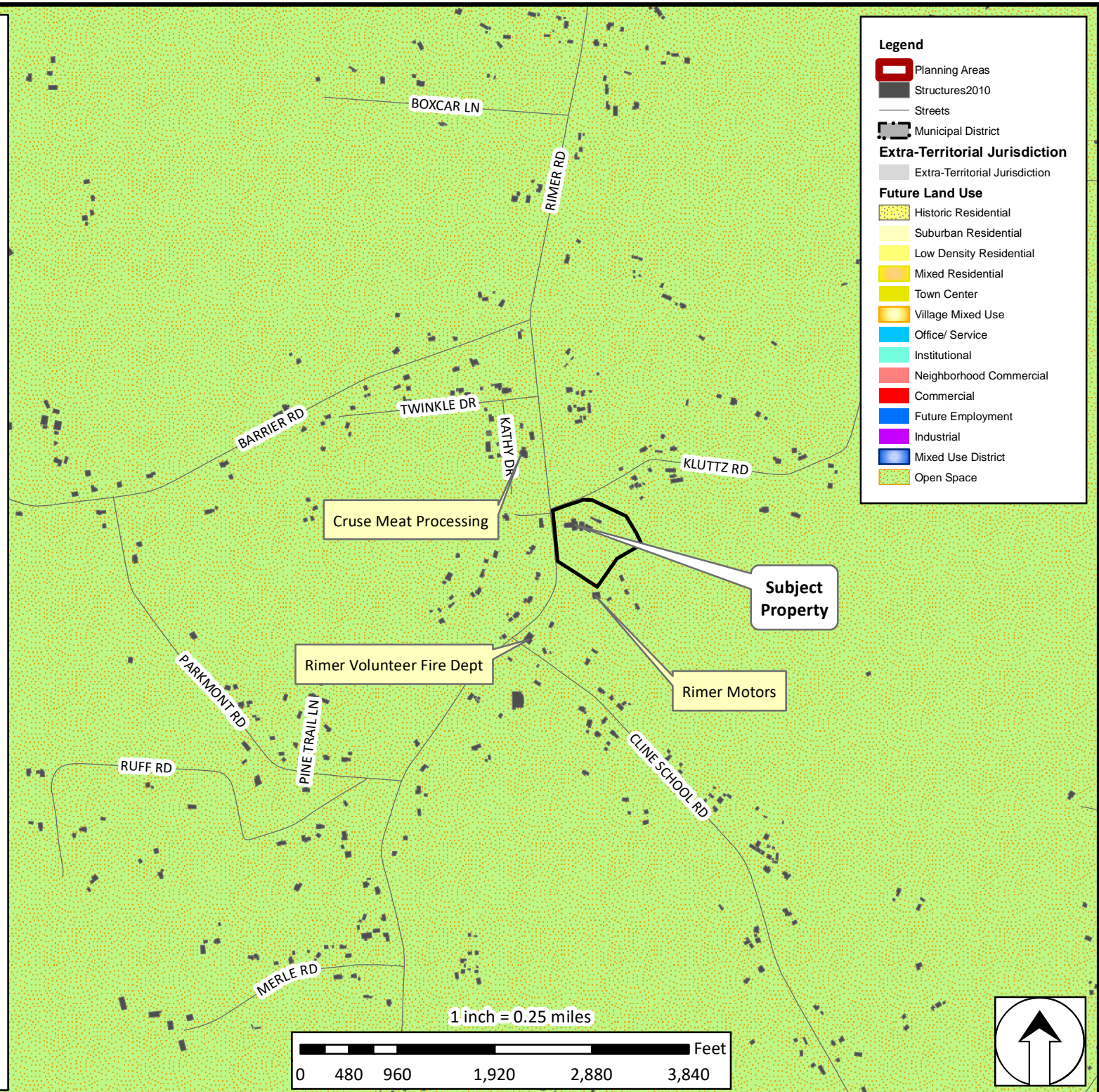


Applicant: James Bailey, Trustee
Owner: Cross of Christ Lutheran
Case: RZON2022-00002
Address: 4500 Rimer Rd
Purpose: AO to OI
PINs: 5653-92-4591



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 - May 2022



Property Owners list

Owner	Address	City	State	Zip	Parcel
Cross of Christ Lutheran	4500 Rimer Rd	Concord	NC	28025	5653-92-4591
Rimer Motors Inc	5895 Rimer Rd	Rockwell	NC	28138	5653-91-7800
Mark Cruse	6031 Kluttz Rd	Concord	NC	28025	5653-93-4301
Max Cruse	4643 Rimer Rd	Concord	NC	28025	5653-82-9802
John & Cheryl Aruda	4385 Rimer Rd	Concord	NC	28025	5653-82-9395



Cabarrus County Government – Planning and Development Department

October 18, 2021

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for your property. The specifics of the request are listed below. The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, June 14, 2021 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 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about the rezoning request, I encourage you to attend this meeting.

Petitioner	Cross of Christ Lutheran
Petition Number	RZON2022-00002
Property Location	4500 Rimer Rd
Parcel ID Number	5653-92-4591
Existing Zoning	Agricultural/Open Space (AO)
Proposed Zoning Map Change	Office/Institutional (OI)

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,

A handwritten signature in black ink, appearing to read "Sandy Howell".

Sandy Howell, CZO
Planner
Cabarrus County Planning and Development
704.920.2149



Cabarrus County Government – Planning and Development Department

May 25, 2022

Dear Property Owner:

A Zoning Map Amendment Petition has been filed in our office for property **adjacent** to yours. The specifics of the request are listed below. The Cabarrus County Planning and Zoning Board will consider this petition on Tuesday, June 14, 2021 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 28025. A Public Hearing will be conducted and public input will be allowed during that time. If you have any comments about the rezoning, I encourage you to attend this meeting.

Petitioner	Cross of Christ Lutheran
Petition Number	RZON2022-00002
Property Location	4500 Rimer Rd
Parcel ID Number	5653-92-4591
Existing Zoning	Agricultural/Open Space (AO)
Proposed Zoning Map Change	Office/Institutional (OI)

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,

A handwritten signature in cursive script that reads "Sandy Howell".

Sandy Howell, CZO
Planner
Cabarrus County Planning and Development
704.920.2149

Zoning Notes from Cross of Christ Rezoning Request

Requestor: Cross of Christ Lutheran Church

4500 Rimer Rd

Concord, N.C. 28025

May 5th, 2022 – I went to 4385 Rimer Rd to speak with John or Cheryl Aruda. They were not home but I did speak to someone house-sitting for them. I was advised they were out of town but would be back next week. I left a copy of a before and after photo of the signage (current and proposed) with my cell number.

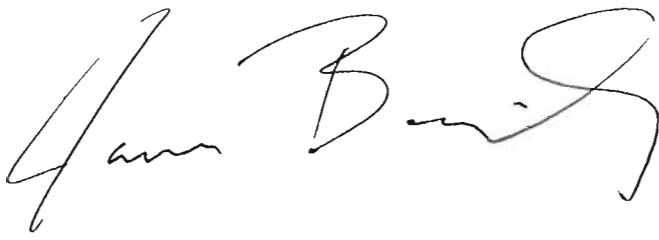
May 11th, 2022 – Mrs Cheryl Aruda contacted me back via telephone. I told her why I had stopped by their residence and I asked her if she or her husband had any issues with the new sign or any change in the zoning. She stated to me that she had no issues with any of it.

May 16th, 2022 – President of Church Council, Rusty Drye, spoke with Eddie Cruse, owner of Cruse Meat Processing and adjacent property owner at 4501 Rimer Rd and advised him of the upcoming zoning request. Mr. Cruse advised Mr. Drye that he was fine with the change.

Mr. Rusty Drye, owner of Rimer Motors, is also an adjacent property owner and is current President of Church Council. He is in support of the changes to zoning and to the sign change.

This completes the follow-up of all necessary contacts which are adjacent to the proposed change in zoning for sign replacement.

- One issue which I wanted to have addressed regarding the sign was if the sign would have a photosensor which allowed it to dim at night. I spoke with Kim Fisher of Casco Signs which is the vendor for this project. She stated to me that the sign will dim during nighttime hours which will reduce any chance of the sign being too bright and causing traffic issues.

A handwritten signature in black ink, appearing to read "James N. Bailey". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "Bailey".

Completed by:

James N. Bailey

Vice-President of Church Council, Cross of Christ Lutheran Church

6000 Emanuel Rd

Rockwell N.C. 28138

(980) 521-8346

PERMITTED USE TABLE		
“P” - Permitted, “C” – Conditional, “PBS” – Permitted Based on Standards		
	AO	OI
RESIDENTIAL USES		
Family Care Home	P	
Group Care Facility		P
Manufactured Home, Single Section or Mobile Home, Multi-Section	Permitted in Residential Districts, Manufactured Home Overlay District Required – see Chapter 4	
Manufactured Home Park (8-4, 14)		
Single Family Detached Residential	P	
AGRICULTURAL USES		
Agriculture, Including Livestock (7-3,2A)	P	
Agriculture Excluding Livestock	P	
Agritourism, Accessory to Agriculture	P	
Barn, Greenhouse, as Primary Structure (7-3, 7)	PBS	
Dairy Processing	P	
Hatchery	P	
Livestock Sales	P	
Nursery, Greenhouse	P	
Scientific Research and Development, Accessory to Agriculture (7-3, 52)	PBS	
ACCESSORY USES		
Accessory Dwelling Unit (7-3,1)	PBS	
Accessory Building, (7-3, 1)	PBS	PBS
Airstrip (8-4, 3)	SU	
Automated Teller Machine (7-3, 6, b)		PBS
Community Garden, as Accessory Use (7-3, 13)	PBS	PBS
Ethanol Fuel Production, Residential District, Private Use Only (7-3, 20)	PBS	
Home Occupation, General (7-3, 27)	PBS	
Home Occupation, Rural (7-3, 28)	PBS	
Ice Production, Dispensing, Accessory to Convenience Store (7-3, 30)	PBS	
Ice Production, Dispensing, Accessory to Gas Station (7-3, 29)	PBS	
Kennel, Private (7-3, 31)	PBS	
Swimming Pool, Accessory to Single Family Residential (7-3,1)	PBS	
Towing Service, Accessory to Automobile Repair (7-3, 60, a-c)	PBS	
Trail Head, Accessory (7-3, 63)	PBS	PBS
Wind Energy Facility, Accessory Use, On Site Use Only (7-3, 66)	PBS	
COMMERCIAL, RETAIL AND OFFICE USES		
Animal Hospital (8-4, 39)	SU	
Auction House (7-3, 3)	PBS	
Bank, Financial Institution, Automated Teller Machine (7-3, 6)		PBS
Banquet Hall		P
Barber, Beauty, Tanning, Nail or Skin Care Salon		P
Bed and Breakfast (7-3, 8)	PBS	
Catering Service (7-3, 9)		PBS
Contractor or Trade Shops (7-3,17)	PBS	
Convenience Store with Petroleum Sales (7-3, 14)	PBS	

Convenience Store without Petroleum Sales (7-3, 15)	PBS	
Country Club with Golf Course (7-3, 16)	PBS	PBS
Crematorium		P
Day Camp, Summer Camp, Civic Group Camp Facility (8-4, 10)	SU	
Duplex, Commercial Use, Individual Lots (7-3, 19)		PBS
Farmer's Market		P
Funeral Home		P
Gas Service Station (7-3,23)	PBS	
Golf Course, Public or Private (7-3, 24)	PBS	PBS
Kennel, Commercial (8-4, 37)	SU	
Nursery, Daycare Center (7-3, 35)	PBS	PBS
Office professional, 30,000 Square Feet or Less		P
Parking Lot, Parking Garage, Commercial or Private		P
Printing and Reprographic Facility		P
Race Shop, Race Team Complex (8-4, 19)	SU	
Reception Facilities (8-4, 21)	SU	
Recreational Facility, Indoor (7-3, 39)		PBS
Recreational Facility, Outdoor (8-4, 22)	SU	SU
Recreational Therapy Facility, Rural Setting (8-4, 23)	SU	
Recyclable Materials Drop Off (7-3, 41)	PBS	PBS
Repair Garage, Automobile (7-3, 43)	PBS	
Repair Shop, Farm Machinery (7-3, 44)	PBS	
Repair Shop, Small Engine (7-3, 45)	PBS	
Restaurant, Excluding Drive-thru (7-3, 47)	PBS	
Retail Sales, Neighborhood Market 1,000 Square Feet or Less (7-3, 49)	PBS	
Sawmill (7-3, 51)	PBS	
Scientific Research and Development (7-3, 53)		PBS
Shooting Range, with Outdoor Target Practice (8-4, 30)	SU	
Sports and Recreation Instruction or Camp (8-4, 31)	SU	
Stables, Commercial (7-3, 58)	P	
Swim Club, Tennis Club, Country Club (7-3, 59)	PBS	PBS
Towing Service, with Towed Vehicle Storage Yard, No Salvage or Part Sales (7-3, 61)	PBS	
Veterinarian (8-4, 37)	SU	
Wellness Retreat, Wellness Spa (8-4, 38)	SU	
Wireless Telecommunications Services (8-4, 36)	SU	SU
Wireless Telecommunications Services, Stealth Antennae, 65 Feet or Less (8-4, 36)	P	P
Wireless Telecommunications Services – Co-location (7-3, 67)	PBS	PBS
INSTITUTIONAL, CIVIC AND PUBLIC USES		
Animal Shelter (8-4, 37)	SU	
Cemetery (7-3, 10)	PBS	
Civic Organization Facility (7-3,11)	PBS	P
College, University (8-4, 6)	SU	
College, University		P
Communications Tower, 911 Communications Tower (7-3, 12)	PBS	
Communications Tower, 911 Communications Tower (8-4, 7)		SU

Convention Center Facility (8-4, 8)		SU
Correctional Facility (8-4, 9)	SU	
Elementary, Middle and High Schools (8-4,11)	SU	SU
Hospital, Ambulatory Surgical Care Facility		P
Public Cultural Facility (7-3, 38)	PBS	P
Public Service Facility (8-4, 17)	SU	SU
Public Use Facility (8-4, 18)	SU	
Public Use Facility		P
Recreational Trail, Greenway or Blueway, Connector (7-3, 40)	PBS	PBS
Religious Institution with Total Seating Capacity 351 or More (8-4, 24)	SU	SU
Religious Institution with Total Seating Capacity 350 or Less (7-3, 42)	PBS	PBS
Religious Institution with School (8-4, 25)	SU	SU
Rest Home, Convalescent Home with 10 Beds or Less (7-3, 46)	PBS	PBS
Rest Home, Convalescent Home with More Than 10 Beds (8-4, 26)	SU	SU
Trade and Vocational Schools (8-4, 33)	SU	SU
Trail Head, Primary Use Site (7-3, 64)	PBS	PBS
INDUSTRIAL		
Landfill, Demolition, Less Than One Acre (7-3, 32)	PBS	
Landfill, Demolition, One Acre or More (8-4, 13)	SU	
Landfill, Sanitary (8-4, 13)	SU	
Multimedia Production and Distribution Complex (8-4, 15)	SU	
Slaughter House, Meat Packing (8-4, 32)	SU	
TEMPORARY USES		
Auction, Estate or Asset Liquidation	PBS	PBS
Auction, Livestock	PBS	
Dumpsters, Commercial Waste Containers	PBS	PBS
FEMA Trailers, Natural Disaster or Significant Weather Event	PBS	PBS
Mobile Personal Storage Unit, Vacate or Occupy Premise	PBS	PBS
Mobile Personal Storage Unit, Renovation	PBS	PBS
Seasonal Sale of Agriculture Products, Includes Christmas Trees and Pumpkins		PBS
Temporary Dwelling for Large Construction Projects	PBS	
Temporary Residence in Mobile Home During Construction of New Home, Same Site	PBS	
Temporary Tent or Temporary Structure, Including Cell on Wheels		PBS

PLANNING STAFF REPORT
 CABARRUS COUNTY PLANNING AND ZONING COMMISSION
 06/14/2022

Staff Use Only:
 Approved: _____
 Denied: _____
 Tabled: _____

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 Site Plan)

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, pool decking and a six-foot walking trail. (See Site Plan)

Chapter 9 Section 9.5 Perimeter Parking Area Buffer

The applicant is also requesting relief from the required eight-foot width requirement of the perimeter parking area buffer for the six-foot walking trail.

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:	R (Town of Huntersville Rural Residential)
East:	LDR
South:	OI & R-3 (City of Charlotte Single Family)
West:	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. (Justin Brines, Deputy Chief EMS).

Fire Review:

Variance Request Approved. Additional requirements may be required in site plan and building plans. (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. (Jeff Burleson, NCDOT)

Sherriff's Department Review:

No comments. (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. (Nick Stanziale, Interim Division Manager)

Zoning Review:

See staff report (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

- In any residential district, the minimum area shall be one (1) acre.*
 - Clubhouses shall meet the primary setbacks for the zoning district.*
 - 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.*
 - Lighting for amenity areas shall be designed such that it does not spill over onto adjacent properties.*
 - 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 as shown on the proposed site plan:
 - Existing facility
 - Existing and proposed parking areas
 - Proposed walking trail
 - Proposed outdoor pools
 - Proposed playground
 - Proposed accessory buildings
 - Proposed picnic area
 - 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 it is the owner's intention to develop the open and available land surrounding the existing structure on the property. The rules for buffering have changed and surrounding properties have developed since the time the property was initially developed. Requirements have increased, making development of the remainder of the property extremely difficult, if not impossible.
- The application states that if the variance is not granted, the property will be limited to the existing structure and parking area. The setback/buffering rules limit the property to indoor use only, leaving large areas that could be used to amenitize the site vacant.
- The application states that the site is of a unique shape and was developed prior to the imposition of more restrictive setback and buffering requirements.
- The applicant contends that granting the variance will not cause any threat to the surrounding community. The use and proposed outdoor pool expansion are community-centered uses. The applicant has proposed reductions in the required width of the perimeter buffer of:
 - 12 feet along the eastern property line,
 - 22 feet along the eastern portion of the northern property line,
 - 16 feet along the western portion of the northern property line,
 - 6 feet along the northern portion of the western property line, and
 - 12 feet along the southwestern property line.

The applicant further contends that these reductions are reasonable and provide more buffering to the site than what exists today and what was required when the property was initially developed. The proposed site additions and amenities will be screened, and the outdoor pool areas will be fenced.

- The applicant contends that if the required 51-foot (Level 2) buffers are imposed, the proposed improvements would not be possible, and the site will be limited to only providing indoor amenities. Therefore, the applicant is requesting relief from Table 9-4, the required perimeter landscape buffers, as follows:
 - Allow encroachments into the required 51-foot level 2 buffer along the **eastern** property line:
 - the proposed paved parking area encroaches 7 feet into the required buffer, and

- the proposed 6-foot walking trail encroaches 12 feet into the required buffer.
 - Allow encroachments into the required 51-foot level 2 buffer along the **northern** property line:
 - the proposed 6-foot walking trail encroaches 23 feet into the required buffer,
 - the proposed paved parking/driveway encroaches 17 feet into the required buffer, and
 - the decking for the proposed outdoor Olympic size pool encroaches 17 feet into the required buffer.
 - Allow encroachments into the required 51-foot level 2 buffer along the **western** property line:
 - the proposed decking near the splash pad encroaches six feet into the required buffer,
 - Allow encroachments into the required 51-foot level 2 buffer along the **southwestern** property line:
 - the proposed walking trail encroaches twelve feet into the required buffer, and
 - the proposed parking area encroaches six feet into the required buffer,
- Allow relief from the eight-foot width requirement of the parking area perimeter landscape buffer of Section 9-5 for encroachments by the walking path. Encroachments include:
 - encroachments of approximately six and a half and eight feet into the buffer of the northeastern portion of the parking area,
 - an encroachment of approximately five feet into the buffer of the southeastern portion of the parking area, and
 - an encroachment of approximately eight feet into the buffer of the southwestern portion of the parking area.
- 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 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.



**CABARRUS COUNTY
VARIANCE APPLICATION
REVISED 5/19/22**

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 (allow proposed structures in setback as shown on attached site plan))

Chapter 9, Table 4. Landscaping Buffering Requirement (allow reduced buffers as shown on attached site plan)

Section 9.5 - Parking Lot Area Landscape Buffer Requirements (relief to accommodate trail as shown on attached site plan)

2. Reason(s) for Seeking a Variance

The applicant's intention is to develop the open and available land surrounding the existing structure

on the property. However, since the time that the structure was originally developed, adjacent

properties in Huntersville have been developed/rezoned and Cabarrus screening and buffering rules have

increased, making development of the remainder property impossible.

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 a variance is not granted, the property will be strictly limited to the existing structure which is legally

non-conforming as a result of the imposition of a 200' setback from property lines. In addition, new

development and rezonings adjacent to the property in Huntersville have caused the imposition of

increased buffers on the property that were not in effect when the property was originally developed.

The setback/buffer rules limit the property to only indoor use leaving large outdoor areas vacant.

- 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 is of a unique shape, is located adjacent to Huntersville zoning which is different than Cabarrus

County's zoning rules, and was developed prior to the imposition of more pervasive setback and buffer

requirements than when the site was originally developed.

-
- 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 uses brought the more stringent setback and buffer requirements to the site which

caused several acres of the site being rendered undevelopable for outdoor uses related to the indoor pool

facility. When the site was originally developed and later marketed by the prior owners, who own the adjacent properties which are being sold for residential development, the land around the existing building was not restricted by the existing setback and buffer rules and the land was open for development expansion, including an outdoor pool which was advertised in the marketing materials.

-
-
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?)

Granting the variance will not cause any endangerment to the surrounding community. The use itself

and proposed outdoor pool expansion uses are community-centered uses. The requested buffer

reductions are reasonable and still provide substantially more buffering to the site than what was

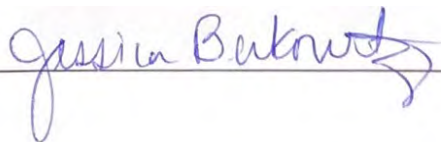
required when the property was originally developed. The proposed uses will be screened and the outdoor pool areas fenced. More parking than required is being proposed and provided.

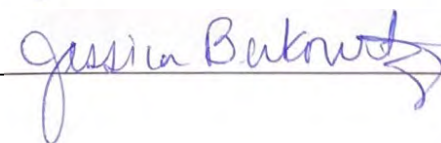
POSSIBLE CONDITIONS, SUGGESTED BY THE APPLICANT:

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.

The applicant is willing to discuss and consider fencing, landscaping or other suggestions made by the Board at the hearing.

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

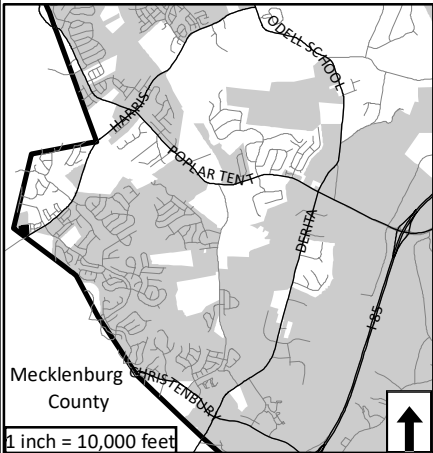
SIGNATURE OF OWNER:  DATE: 5/19/22

SIGNATURE OF APPLICANT:  DATE: 5/19/22

Western Planning Area
Existing Zoning

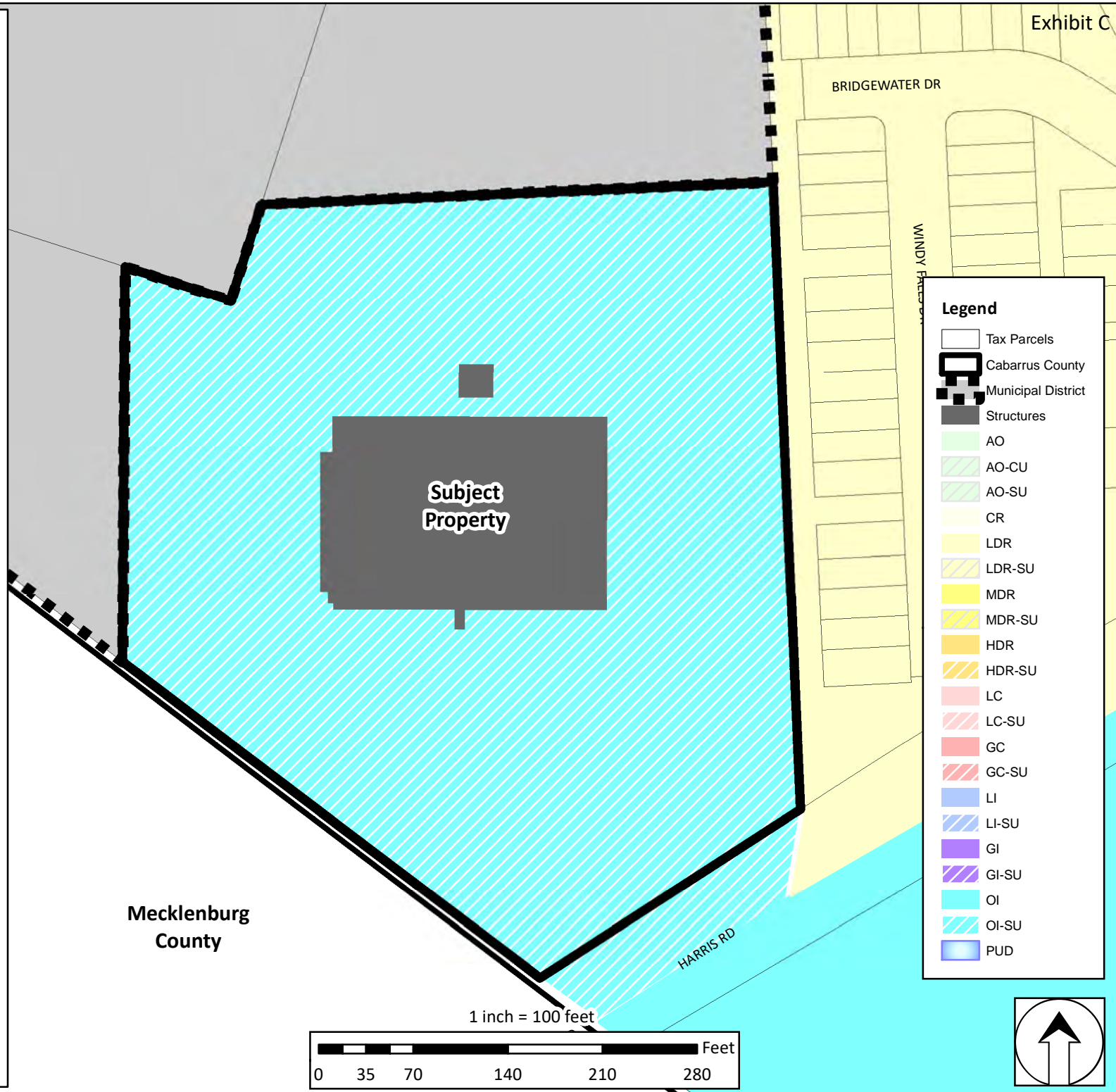


Applicant: Evolution Recreation & Aquatics
Owner: Ethan & Austin Properties LLC
Case: VARN2022-00001
Address: 11202 Harris Road
Purpose: Relief from setback requirements,
and landscape buffering requirements
PIN: 4670-45-1661



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

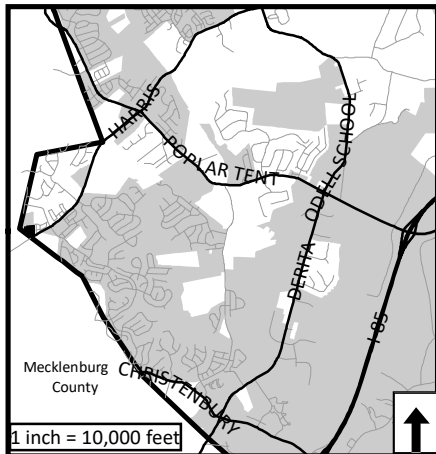
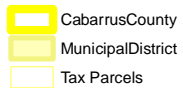


Legend	
	Tax Parcels
	Cabarrus County
	Municipal District
	Structures
	AO
	AO-CU
	AO-SU
	CR
	LDR
	LDR-SU
	MDR
	MDR-SU
	HDR
	HDR-SU
	LC
	LC-SU
	GC
	GC-SU
	LI
	LI-SU
	GI
	GI-SU
	OI
	OI-SU
	PUD

Western Planning Area Aerial Map

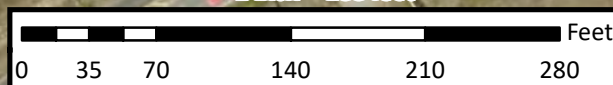


Applicant: Evolution Recreation & Aquatics
 Owner: Ethan & Austin Properties LLC
 Case: VARN2022-00001
 Address: 11202 Harris Road
 Purpose: Relief from setback requirements,
 and landscape buffering requirements
 PIN: 4670-45-1661



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.

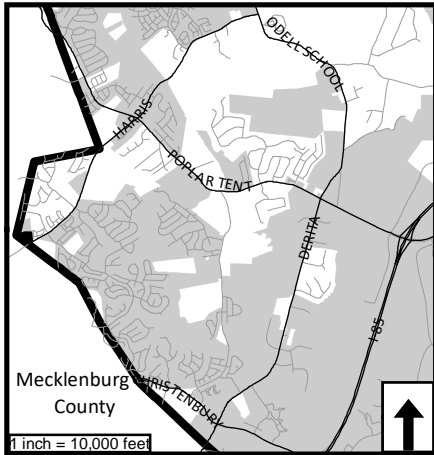
Map Prepared by Cabarrus County Planning & Development - April 2022



Western Planning Area Future Land Use



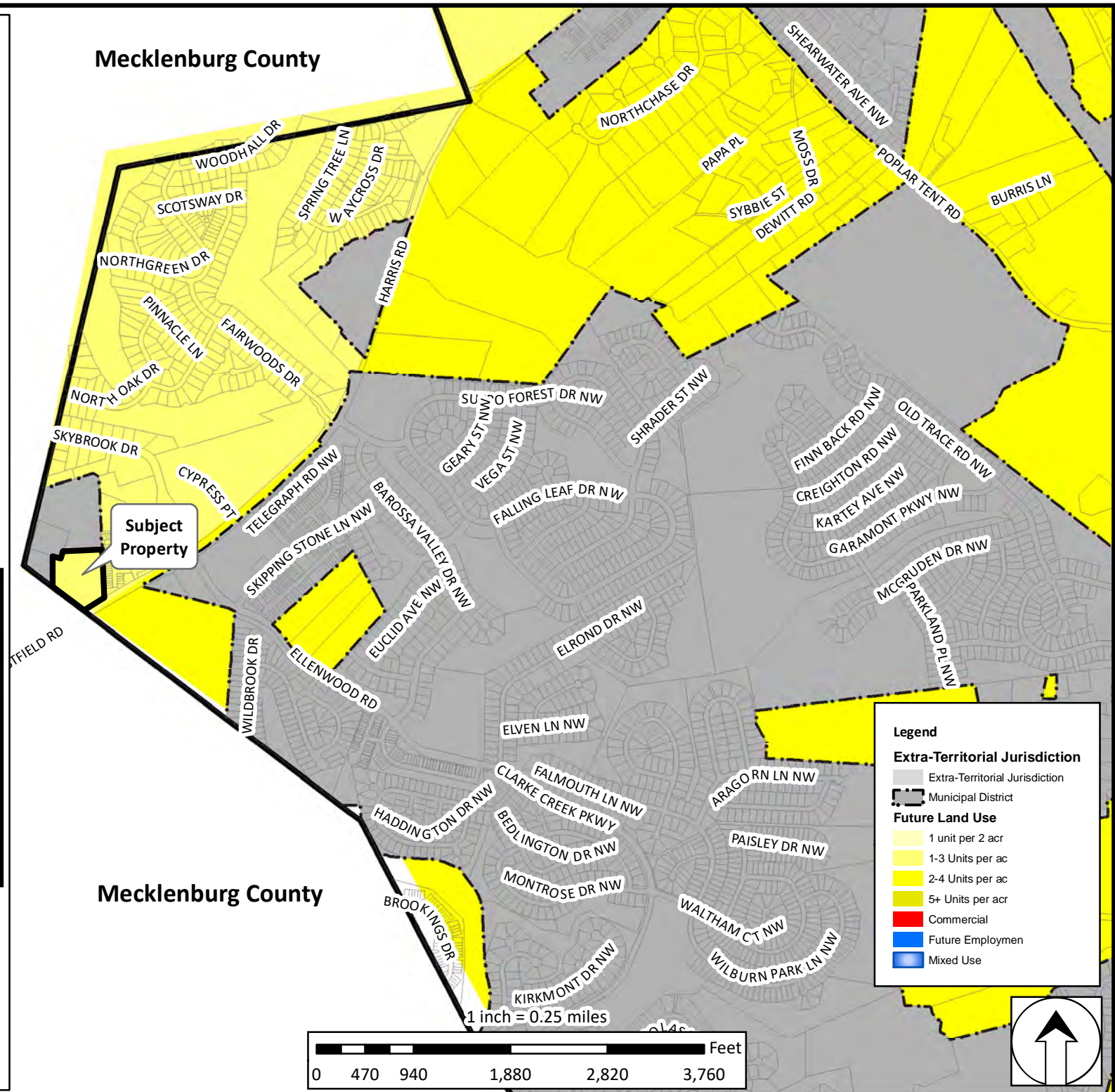
Applicant: Evolution Recreation & Aquatics
 Owner: Ethan & Austin Properties LLC
 Case: VARN2022-00001
 Address: 11202 Harris Road
 Purpose: Relief from setback requirements,
 and landscape buffering requirements
 PIN: 4670-45-1661



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





S:\ENGINEERING\PROJECTS\71719.0821 LA EVOLUTION AQUATICS AND ACTIVITY CENTER\DRAWINGS\ SHEETS\SITE PLAN\B.DWG. June 2, 2022 SHORNER

SITE DATA

PARKING REQUIRED PER CHAPT. 10, TABLE 10-6:

1 SPACE/ 300 SF GFA (27,850 SF/ 300=92.8)	93
1 SPACE/ EMPLOYEES PER SHIFT (10)	+10
	=103

PARKING PROVIDED:

EXISTING PARKING:	97
ADDITIONAL PARKING:	+23
TOTAL PROPOSED PARKING:	=120

TOTAL SITE AREA: (217,800) 5.50 AC

AREA OF IMPROVEMENTS: +/- 3.32 AC

EXIST. PERCENT IMPERVIOUS AREA:

2.19 AC / 5.26 AC = 41.6%

PROP. PERCENT IMPERVIOUS AREA:

2.44 AC / 5.50 AC = 44.36%

IMPERVIOUS PROJECT DENSITY:

PROP. IMPERVIOUS AREA: (106,079)	2.44 AC
EXIST. IMPERVIOUS AREA: (95,396)	-2.19 AC
DIFF. PROP. & EXIST. IMPERV.	=0.25 AC

TOTAL SITE AREA:	(217,800)	5.50 AC
EXIST. IMPERVIOUS AREA:	(95,396)	-2.19 AC
DIFF. TOTAL SITE & EXIST. IMPERV.		=3.31 AC

IMPERV. PROJ. DENSITY: 0.25/ 3.31=.0755 (7.55%)

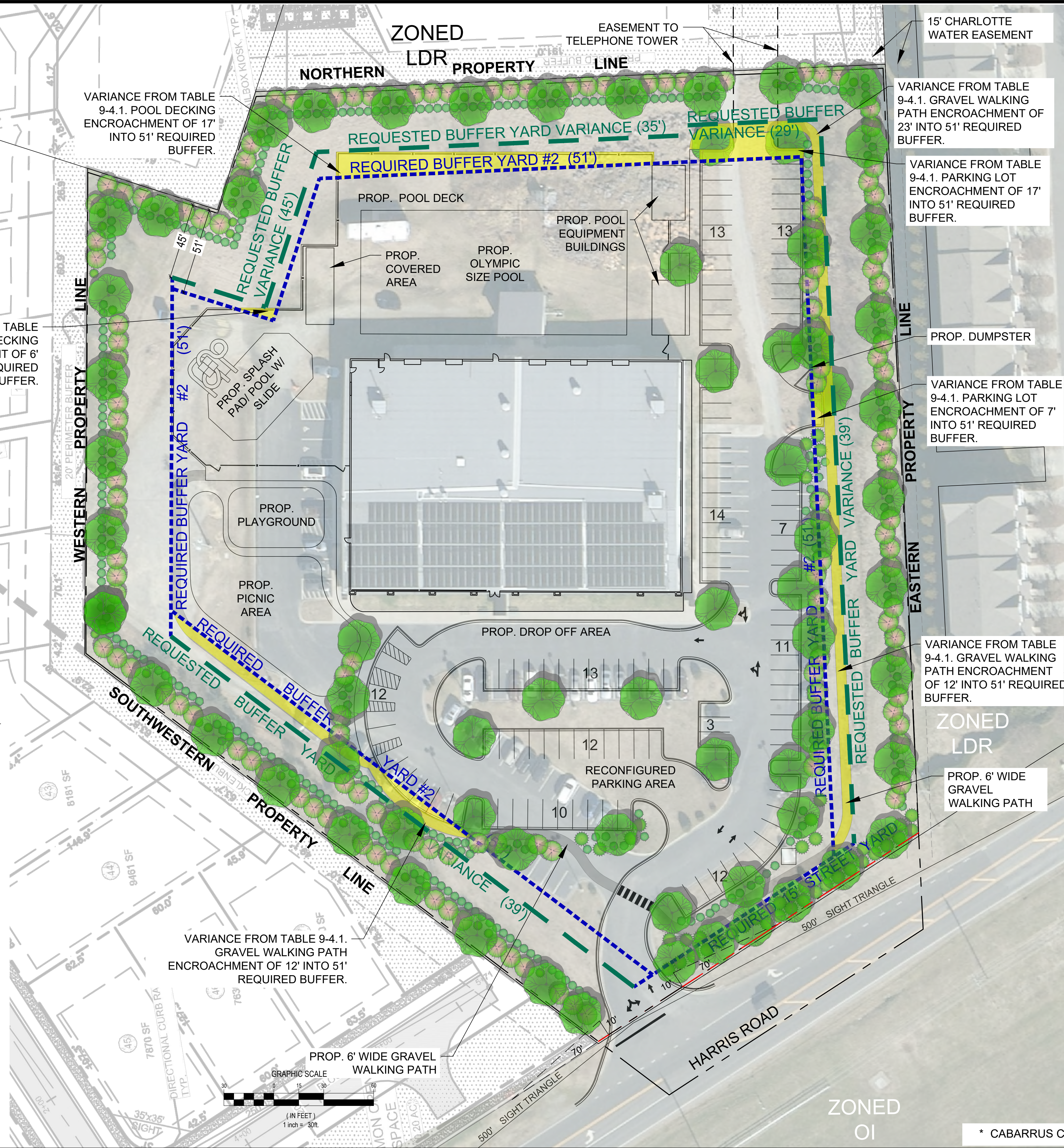


Exhibit D



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 201
HUNTERSVILLE, NC 28105
www.angelosarchitects.com

SEAL:

SUBMITTALS

DATE:	PURPOSE:
1/25/22	INITIAL SUBMITTAL
2/23/22	ADDRESSED COMMENTS
3/25/22	ADDRESSED COMMENTS
5/9/22	REVISED LAYOUT

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.	DATE:
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-

DRAWN BY: SNH	REVIEWED BY: SNH
CHECKED BY: ACW	ISSUED BY: ACW

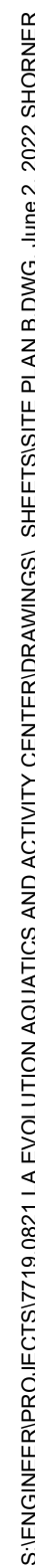
DRAWING TITLE:

CONCEPT PLAN
WITH CCDO*
REQUIREMENTS
(Chapt. 9 Table 4)

DRAWING NUMBER:

EX1.0

* CABARRUS COUNTY DEVELOPMENT ORDINANCE



<i>SUBMITTALS</i>	
DATE:	PURPOSE:
1/25/22	INITIAL SUBMITTAL
2/23/22	ADDRESSED COMMENTS
3/25/22	ADDRESSED COMMENTS
5/9/22	REVISED LAYOUT

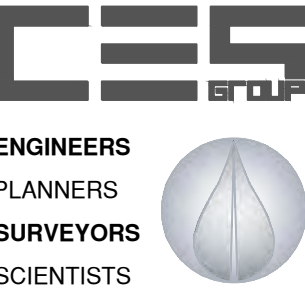
OWNER / DEVELOPER
ETHAN & AUSTIN PROPERTIES, LLC
17501 HUNTERSVILLE, CONCORD RD.
HUNTERSVILLE, NC 28078
954-234-9252

PROJECT DESCRIPTION

EVOLUTION RECREATION
AQUATICS
HUNTERSVILLE, NC
JANUARY 11, 2022

PROJECT NO:			7719.0821		
<u>DRAWING REVISIONS</u>					
NO:	REVISION DESC.				DATE
1	DIMS @ FIRE RD. & FENCE GATES 3/18/22				
-	-				-
-	-				-
-	-				-
-	-				-
-	-				-
-	-				-
DRAWN BY:		SNH	REVISED BY:		___
CHECKED BY:		ACW	ISSUED BY:		___
DRAWING TITLE:					
<p align="center"> CONCEPT PLAN WITH VARIANCE REQUEST (Section 7-3.59) </p>					

DRAWING NUMBER:
EX1.1



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



SEAL:

SUBMITTALS	
DATE:	PURPOSE:
1/25/22	INITIAL SUBMITTAL
2/23/22	ADDRESSED COMMENTS
3/25/22	ADDRESSED COMMENTS
5/9/22	REVISED LAYOUT

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

PROJECT DESCRIPTION:
EVOLUTION RECREATION & AQUATICS
HUNTERSVILLE, NC
JANUARY 11, 2022

PROJECT NO:
7719.0821

DRAWING REVISIONS		DATE:
NO.	REVISION DESC.	DATE:
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-

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

DRAWING TITLE:
PARKING LOT PLANTINGS VARIANCE (Section 9.5)

DRAWING NUMBER:

EX1.2



Perimeter Buffers					
Yard	Length *	Width	Required Trees (2 Shade Trees or 4 Ornamentals per 50')	Proposed Trees	Required Shrubs (10 shrubs per 50')
Eastern	460.17	51	19 Shade or 37 Ornamental	19	93
Northern	377.73	51	16 Shade or 31 Ornamental	16	76
Western	445.55 (289.02 + 74.65 + 81.88)	51	18 Shade or 36 Ornamental	18	90
Southwestern	366.19	51	15 Shade or 30 Ornamental	15	74

* measurements taken from the survey

Street Yard Buffer					
Yard	Length	Width	Required Trees (1 per 30')	Proposed Trees	Required Shrubs (1 per 50 SF **)
Harris Rd	230-42 DRIVEWAY=188	15	6	6	57

* tree shall reach a level of 6 feet within 3 years
** Square feet of planting area (length of yard x 15)

Parking Lot Perimeter Buffers					
Yard	Length *	Width	Required Trees (1 Canopy Tree or 2 Understorys per 20')	Proposed Trees	Required Shrubs (3 per 20)
Eastern	415.2	8	21 Canopy or 42 Understory	21	63
Southwestern	188.7	8	10 Canopy or 19 Understory	10	29
Southeastern	113.1	8	6 Canopy or 12 Understory	6	17

* measurement taken from site plan

Parking Lot Interior Landscaping			
Parking Spaces	Required Trees (1 per 16 spaces) *	Required Canopy or Shade	Required Evergreen
120	8	6	2

* At least 40% trees must be canopy or shade trees with a minimum caliper of 2 1/2" measured 6" above ground at the time of planting; understory trees must have a minimum caliper of 1 1/2" measured 6". Twenty-five percent of the trees located throughout the parking area must be evergreen.

KEY

CANOPY TREE

UNDERSTORY TREE

EVERGREEN SHRUB



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



ANGLO ARCHITECTS
ARCHITECTURAL, INTERIOR & CONSTRUCTION SERVICES
2225 PLANTATION CENTER DRIVE,
SUITE A, MATTHEWS, NC 28105
www.angloarchitects.com Tel: 704.844.8197

SEAL:

SUBMITTALS

DATE: PURPOSE:

1/25/22 INITIAL SUBMITTAL

2/23/22 ADDRESSED COMMENTS

3/25/22 ADDRESSED COMMENTS

5/9/22 REVISED LAYOUT

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. DATE:

1	ISSUED FOR PERMIT	1/25/22
2	REVISED LAYOUT	5/9/22
3	REVISED LAYOUT	5/9/22
4	REVISED LAYOUT	5/9/22
5	REVISED LAYOUT	5/9/22
6	REVISED LAYOUT	5/9/22
7	REVISED LAYOUT	5/9/22
8	REVISED LAYOUT	5/9/22
9	REVISED LAYOUT	5/9/22
10	REVISED LAYOUT	5/9/22

DRAWN BY: SNH

REVIEWED BY: ACW

CHECKED BY: ACW

ISSUED BY: ACW

DRAWING TITLE:

EXISTING AND

PROPOSED

IMPERVIOUS AREAS

DRAWING NUMBER:

EX1.3

SITE DATA

PARKING REQUIRED PER CHAPT. 10, TABLE 10-6:

1 SPACE/ 300 SF GFA (27,850 SF/ 300=92.8) 93

1 SPACE/ EMPLOYEES PER SHIFT (10) +10

=103

PARKING PROVIDED:

EXISTING PARKING: 97

ADDITIONAL PARKING: +23

TOTAL PROPOSED PARKING: =120

TOTAL SITE AREA: (217,800) 5.50 AC

AREA OF IMPROVEMENTS: +/- 3.32 AC

EXIST. PERCENT IMPERVIOUS AREA:

2.19 AC / 5.26 AC = 41.6%

PROP. PERCENT IMPERVIOUS AREA:

2.44 AC / 5.50 AC = 44.36%

IMPERVIOUS PROJECT DENSITY:

PROP. IMPERVIOUS AREA: (106,079) 2.44 AC

EXIST. IMPERVIOUS AREA: (95,396) -2.19 AC

DIFF. PROP. & EXIST. IMPERV. =0.25 AC

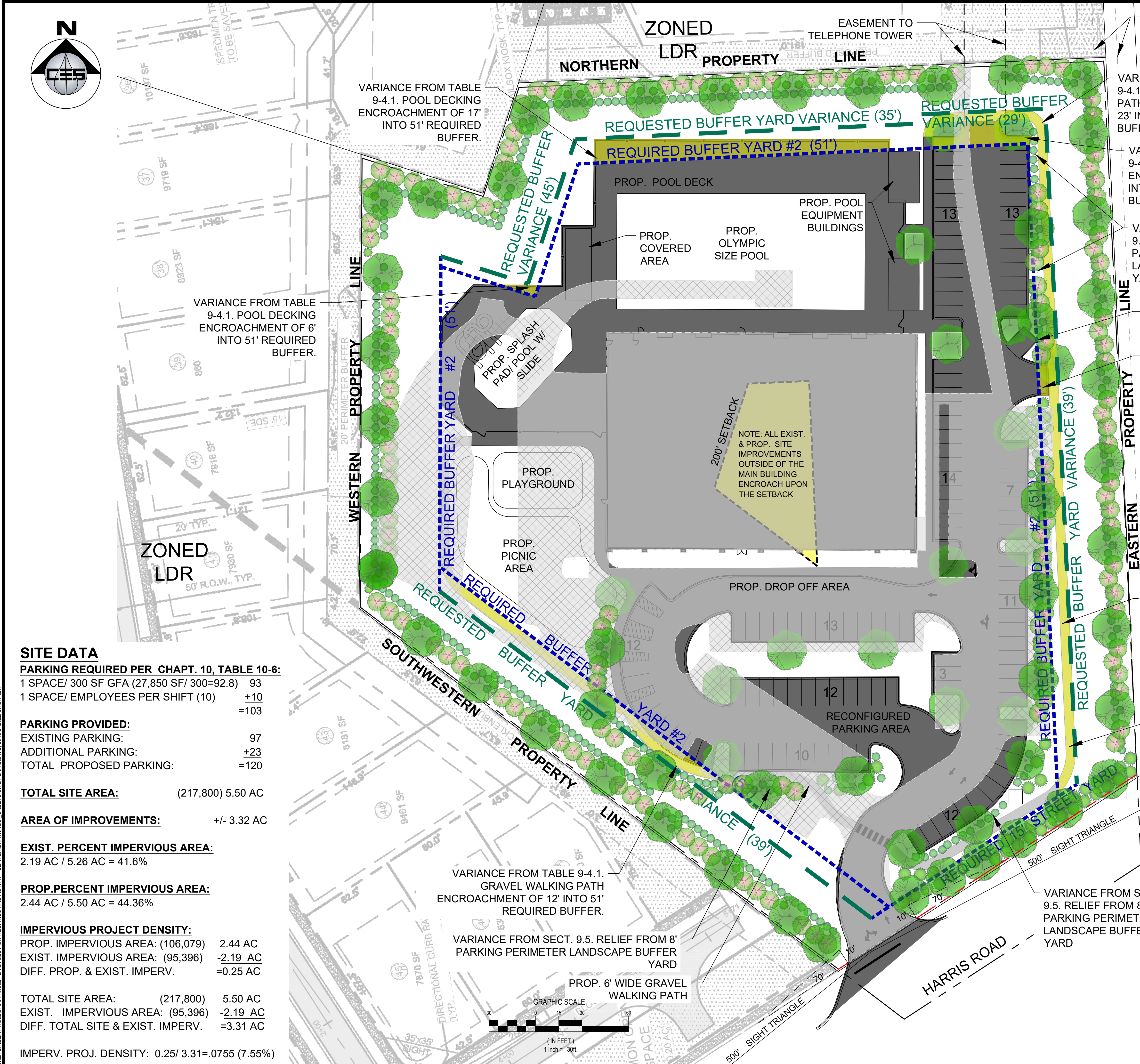
TOTAL SITE AREA: (217,800) 5.50 AC

EXIST. IMPERVIOUS AREA: (95,396) -2.19 AC

DIFF. TOTAL SITE & EXIST. IMPERV. =3.31 AC

IMPERV. PROJ. DENSITY: 0.25/ 3.31=0.755 (7.55%)

S:\ENGINEERING\7719.0821\LA EVOLUTION AQUATICS AND ACTIVITY CENTER\DRAWINGS\ SHEETS\SITE PLAN\B.DWG. June 2, 2022 SHORNER

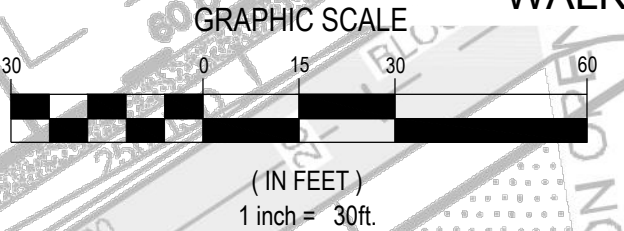


KEY

PROP. IMPERVIOUS

EXIST. IMPERVIOUS
TO BE REMOVED

EXIST. IMPERVIOUS



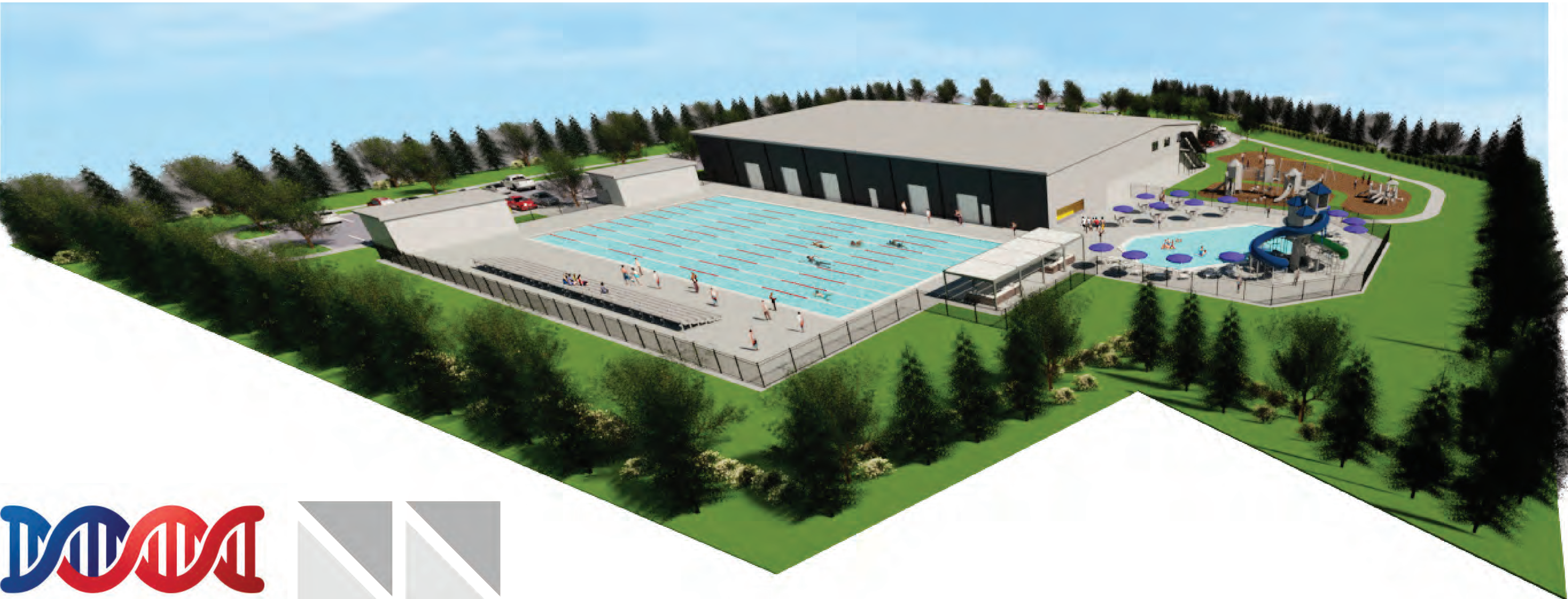


VIEW 1 - Playground, Picnic Area, Splash Pad & Cabana area

"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, Splash Pad and Cabana Area



VIEW 4 - Olympic Pool & Cabana Area

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



Cabarrus County Government – Planning and Development Department

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,

A handwritten signature in cursive script that reads "Phillip Collins".

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.



Cabarrus County Government – Planning and Development Department

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,

A handwritten signature in black ink that reads "Phillip Collins".

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

NO
TRUCK
TURN
AROUND

CABARRUS COUNTY
ZONING
NOTICE
VARN2022-00001
FOR DETAILS CALL
704-920-2141



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 REPORT
TO CABARRUS COUNTY PLANNING AND ZONING BOARD
6-16-05

Staff Use Only: Approved: ____
Denied: ____
Tabled: ____

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: 605-05-10

Date Filed: _____

Received By: _____

Amount Paid: _____

Approved - 90

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

11. Is this a request for a "Conditional Use" District? YES ~~NO~~ *yes - m. b. b. b.*
(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 CO5-05(R)
 Date Filed _____
 Expiration Date _____

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

District Number: _____
Date Filed: _____
Revised 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 LLC)
Steven G. Billings

Address

14647 Eastfield Rd
Huntersville, NC 28078

Phone

(704) 875-9495

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

Address

MYRA'S DREAM LLC (Myra W. Billings, owner)
~~14677~~ EASTFIELD RD. HUNTERVILLE NC 28075

Phone

(704) 875-9495 / (704) 201-4287

Fax

(704) 947-9687

Signature

Myra W. Billings

14. Agent (if any)

Address

YARBROUGH-WILLIAMS & HOULE, INC.

P.O. BOX 7007 CHARLOTTE, NC 28241

Phone

(704) 556-1990 EXT. 105

Fax

(704) 556-0505

Signature

Jerry

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)

-534 LINEAR FEET

-54 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 THOROUGH-FARE 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 A 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 *WIDTH OF YARD	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 *WIDTH OF YARD	25'	27'	30'	33'	36'	38'	41'	43'	46'	49'	51'	54'	57'	59'	62'	65'	67'	70'	72'	75'
*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 *WIDTH OF YARD	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:

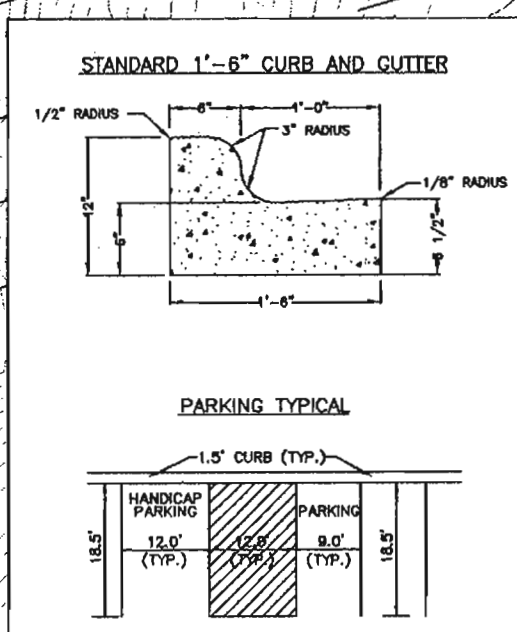
1) THE MINIMUM WIDTH OF A BUFFER MAY BE REDUCED BY 25 PERCENT IF A FENCE OR WALL IS CONSTRUCTED.

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.

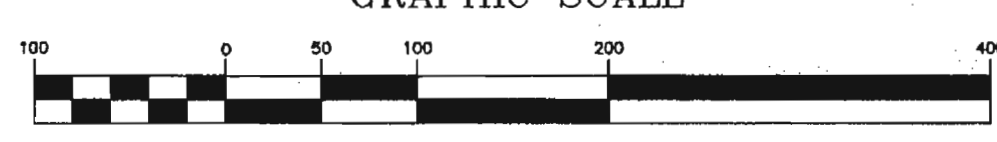
NOW OR FORMERLY
MYRA'S DREAM, LLC
DEED: 12597-214
ZONING: OPS

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 FPH" 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) S72-00-41E 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 N07-30-16E 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.

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

APPROVED
DATE 6/16/05
DRAWN BY JLN
CHECKED BY JEW

GRAPHIC SCALE



(IN FEET)

1 inch = 100 ft.

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
750 Windsor Oak Court Charlotte, NC 28273
704.556.1990 704.556.9500(fax)

PROJECT NO.

SCALE

1"=100'

DATE

4/20/05

DRAWN BY

JLN

CHECKED BY

JEW

DRAWING NO.

140-71

SHT 1 OF 1 SHTS



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

848 Skybrook Falls Dr
Huntersville, NC 28078

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

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

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

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

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

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

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

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

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

45) Talton, Joseph
Talton, Lindsey

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

Overhead view of subject property, looking north



Overhead view of subject property, looking east



Overhead view of subject property, looking south

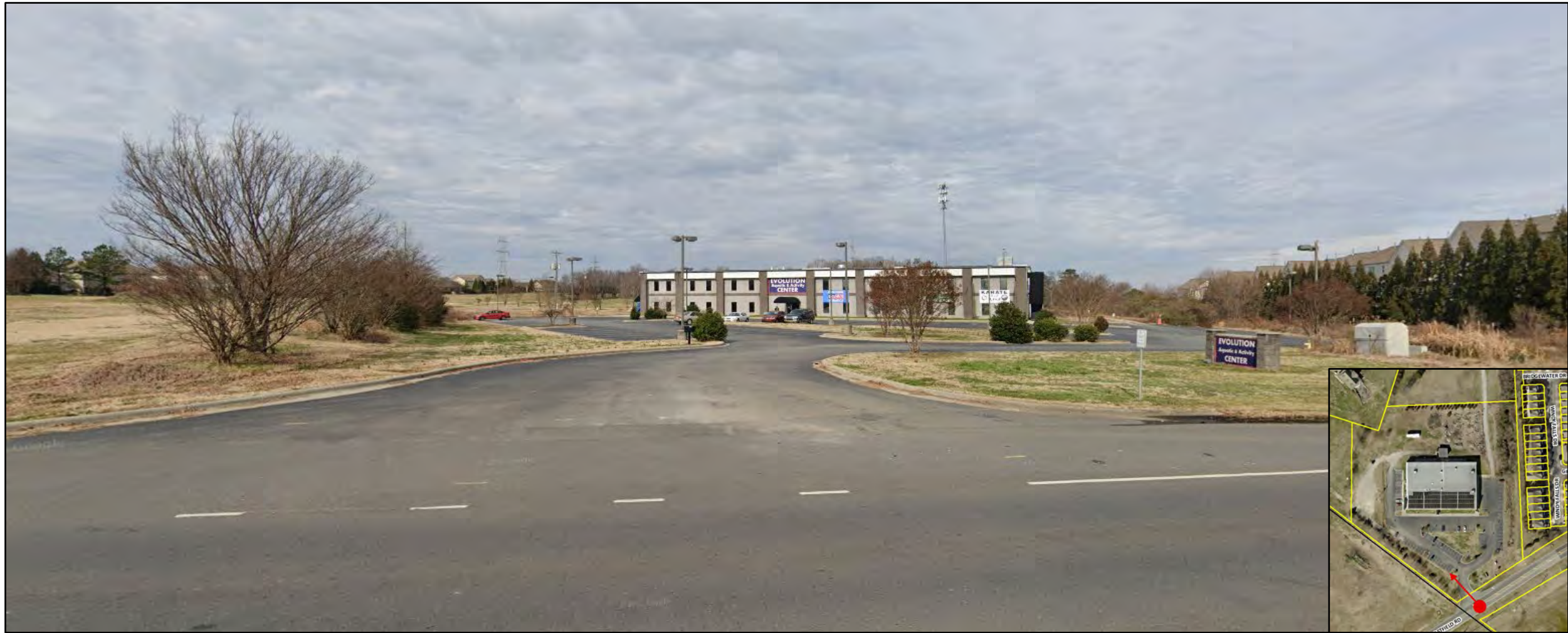


Source: Cabarrus County Pictometry

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



Source: Google Maps