

River Bend Board of Adjustment
January 4th, 2022
Town Hall
7:00 PM

Board Members present: Chairman Paige Ackiss, Vice Chair Patty Leonard, Chris Barta, Rick Fisher (ETJ Alternate), Kelly Forrest (ETJ Representative), Cinda Hill, Helmut Weisser

Board Members absent: None

Others present: Councilman Buddy Sheffield (Liaison to BOA), Town Manager Delane Jackson, Town Attorney Dave Baxter, Assistant Zoning Administrator Allison McCollum, and 16 members of the public

CALL TO ORDER

Chairman Paige Ackiss called the meeting to order at 7:00 PM on Tuesday, January 4th, 2022 at the River Bend Town Hall by first asking the individual board members to introduce themselves and then he introduced the Town staff present.

APPROVAL OF NOVEMBER 29TH, 2021 MEETING MINUTES

Vice Chair Patty Leonard made a motion to accept the minutes from the November 29th, 2021 meeting of the Board of Adjustment. Motion was seconded by Board Member Chris Barta and the motion carried unanimously.

EVIDENTIARY HEARING

Chairman Ackiss introduced the case. The Board of Adjustment assembled to conduct an evidentiary hearing and consider a special use permit to construct an equipment and tool rental business on Lot #4 in the Norbury Estate Commercial Park, submitted by Craig Moffat of Moffat Properties.

Chairman Ackiss explained the quasi-judicial nature of the case.

Chairman Ackiss swore in the following attendees as potential witnesses: Town Manager Delane Jackson, Assistant Zoning Administrator Allison McCollum, Craig Moffat (representing Moffat Properties), and Gary McCabe (representing Red Line Engineering).

Chairman Ackiss called for any necessary disclosures from the Board of Adjustment members. Chairman Ackiss disclosed that he had independently visited the site; there were no other disclosures.

Chairman Ackiss, asked if anyone present wished to establish standing in the hearing. No one responded.

Town Manager Delane Jackson presented 14 exhibits that Town staff had prepared as relevant materials for the case. (See attached.)

Gary McCabe and Craig Moffat presented a PowerPoint presentation to the Board and the other attendees present. (See attached.)

During the presentation, Board Member Helmut Weisser asked several questions about the use of machines operated by hydraulics, the use of diesel fuel, and the applicant's response to how leaks and spills would be mitigated and how those leaks and spills might impact the groundwater. The applicant stated that the equipment on site is maintained regularly and is typically no more than three years old, which cuts down on the potential for leaks. He stated that the diesel tank on site was constructed with double-walls and surrounded by bollards. Board Member Cinda Hill inquired about the types of equipment that would be located on the site for rent. The applicant stated that the equipment was primarily geared towards homeowners – wheelbarrows, drills – but there would also likely be trailers, small forklifts, small excavators, and the like. Board Member Cinda Hill also expressed concern about how the development would impact traffic flow on Highway 17. The applicant explained that the site plan was developed with a separate ingress and egress to help with safety and traffic flow. The applicant stated that they had consulted with NCDOT and a turn-lane was not required.

Board Member Leonard asked about how many employees the proposed business would have on site. The applicant estimated about twenty (20) employees.

Chairman Ackiss stated that items H-K on the agenda would be skipped as there were no other parties present. He moved to open the deliberation portion of the meeting and prefaced that by reminding the Board Members and those present that they needed to focus on the evidence that was presented at the hearing and that ten criteria needed to be considered separately before a final decision is made.

Chairman Ackiss asked if any board members had specific concerns or questions that they wanted to discuss. Board Member Cinda Hill again raised concerns about traffic flow on to US Highway 17 in and out of the proposed development. There was a very brief discussion among the Board, before Town Attorney David Baxter reminded the Board that no expert testimony had been presented beyond what the applicant provided. As no traffic expert had been called to testify, discussion of traffic impacts was speculative and could not be considered. No other issues were raised and Chairman Ackiss closed the evidentiary hearing at 8:22 PM.

DECISIONS

Following the testimony and discussion, the Board voted on the following motions:

1. Vice Chair Leonard moved that the proposed use will not affect adversely the general plans for the physical development of the Town as embodied in these regulations or in any plan or portion thereof adopted by the Planning Board and/or the Town Council. Board Member Barta seconded and the motion carried unanimously.
2. Vice Chair Leonard moved that the proposed use will not be contrary to the purposes stated in the Town's zoning regulations. Board Member Barta seconded and the motion carried unanimously.
3. Board Member Barta moved that the proposed use will not affect adversely the health and safety of residents and workers in the zoned area. Vice Chair Leonard seconded and the motion carried with four ayes. Board Members Weisser and Hill voted nay.
4. Vice Chair Leonard moved that the proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses. Board Member Kelly Forrest seconded and the motion carried unanimously.

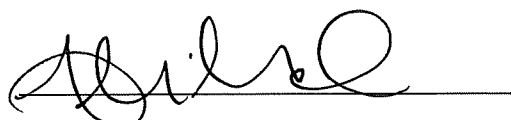
5. Board Member Barta moved that the proposed use will not be affected adversely by the existing uses. Board Member Forrest seconded and the motion carried unanimously.
6. Vice Chair Leonard moved that the proposed use will be placed on a lot of sufficient size to satisfy the space requirements of the use. Board Member Barta seconded and the motion carried unanimously.
7. Board Member Barta moved that the proposed use will not constitute a nuisance or hazard because of number of persons who will attend or use these facilities, vehicular movement, noise or fume generation, or type of physical activity. Board Member Forrest seconded and the motion carried with five ayes. Board Member Hill voted nay.
8. Vice Chair Leonard moved that the standards set forth for each particular use for which a permit may be granted have been met or will be met. Board Member Forrest seconded and the motion carried unanimously.
9. Board Member Chris Barta moved that the proposed use shall be subject to the minimum area, setback, and other dimensional requirements of the zoning district in which it will be located. Vice Chair Leonard seconded and the motion passed unanimously.
10. Board Member Christ Barta moved that the proposed use shall be subject to the off-street parking and service requirements of these regulations. Board Member Forrest seconded and the motion carried unanimously.

Following the approval of all ten required findings, the Board discussed any conditions that might be included with approval of the Special Use permit. The Board desired to adhere to the recommendation from the Planning Board that the applicant add to the existing 50 foot buffer zone with additional vegetation. Town Manager Delane Jackson explained that the applicant would still have to adhere to the buffering requirements detailed in §15.02.221 – presented during the hearing as Exhibit 14 – but that the Board could make more specific conditions that would limit the buffering materials, if they chose.

Board Member Barta moved that the Request for a special permit be approved as submitted with the following additional restrictions and standards necessary to protect the health and safety of workers and residents of the community, and to protect the value and use of property in the general neighborhood: the applicant must meet the requirements of §15.02.221 of the Town of River Bend Zoning Ordinance with vegetation only. Board Member Forrest seconded and the motion carried unanimously.

ADJOURNMENT

Board Member Chris Barta motioned to adjourn the meeting. Vice Chair Patty Leonard seconded the motion; it carried unanimously. The meeting adjourned at 8:40 PM.



Allison McCollum, Secretary



TOWN OF RIVER BEND

45 Shoreline Drive
River Bend, NC 28562

T 252.638.3870
F 252.638.2580

www.riverbendnc.org

APPLICATION FOR SPECIAL USE PERMIT

Applicant Information

Full Name: Craig Moffat T Date: 11/03/2021
First Last M.I.

Address: 701 Finger Lakes Drive
Street Address Apartment/Unit #

Wake Forest NC 27587
City State ZIP Code

Phone: (919) 669-7469 Email: cmoffat@moffatproperties.com

Request

I/We request a Special Use Permit to allow: Equipment Rental & Storage use on the subject property.
The Equipment Rental & Storage use is not currently covered in the UDO. As such, a Special
Use Permit is required to allow it. The property is appropriately zoned for the intended use.

1. Legal description of land: Lot 4 Norbury Estate Commercial Park
2. Is map/plat plan/drawing enclosed? YES NO
3. Land described is currently zoned: (R15, BD, etc.) Business District (BD)
4. Intended use of land: Equipment Rental & Storage
5. Will the proposed use adversely affect the health and safety of residents and/or workers in the zoned area?
 YES NO
6. Will the proposed use be detrimental to the use or development of adjacent properties?
 YES NO
7. Is the lot sufficient size to accommodate the proposed use?
 YES NO
8. Will the intended use create a nuisance or hazard for the adjacent property owners?
 YES NO
9. Will the proposed use adversely affect the value of adjacent properties?
 YES NO
10. Is a site plan enclosed?
 YES NO
11. Are architectural drawings enclosed?
 YES NO

12. Is an off-street parking plan enclosed?

YES

NO

13. Is the \$25 fee for Special Use Permits enclosed?

YES

NO

Additional Information

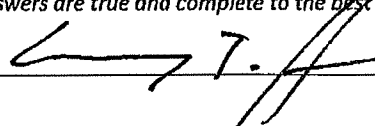
Please list any additional relevant information or further justification for the request.

The location of the property on US Hwy 17, adjacent to a fueling station, in a business park is ideal for an Equipment Rental & Storage facility. The UDO does not specifically address the Equipment Rental & Storage use. Therefore, a Special Use Permit is required. The adjacent neighborhood will be protected by an existing 50 ft perimeter buffer. No encroachments into the existing perimeter buffer are proposed at this time. The existing trees and vegetation are proposed to remain.

Signature

I certify that my answers are true and complete to the best of my knowledge.

Signature:



Date:

11.4.21



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River Bend, NC 28562

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
ATTN: River Bend Board of Adjustment
RE: Parcel #8-206-8004 – Sunbelt Rentals

On December 2nd, 2021 members of the Planning Board reviewed and discussed with Moffat Properties, LLC and Red Line Engineering their Special Use Permit application to develop a Sunbelt Rentals facility on Parcel #8-206-8004, located on US Highway 17, adjacent to the Shell gas station.

The Planning Board recommends granting the requested Special Use Permit with the condition that the developer adds evergreen vegetative buffering inside of the 50' buffer noted on the plat plan to add to the existing vegetative buffer.


A handwritten signature in black ink, appearing to read "Egon Lippert", is written over a horizontal line.

Egon Lippert
Chairman, Planning Board

 Board of Adjustment Public Hearing Special Use Application Sign Up Now For AlertsTown of
River Bend, NC Emergency Info

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Board of Adjustment Public Hearing

NOTICE OF PUBLIC HEARING

The Board of Adjustment (BOA) of the Town of River Bend has received a request from Moffat Properties to obtain a special use permit to construct a tool and equipment rental business in River Bend. The proposed site is located on US Highway 17 South, adjacent to the Shell gas station, is zoned Business District (BD), and is identified as Lot 4 in the Norbury Estate Commercial Park and has Craven County PIN: 8-206-8004. The request requires a quasi-judicial hearing, which is very similar to a court hearing. All testimony must be sworn and in person before the BOA. Comments called in and letters or written statements [such as petitions] cannot be entered into the record. Having first-hand testimony allows for cross-examination of all witnesses by the BOA and others in attendance. Testimony offered on the case should be from direct personal or professional knowledge, and focus on the ordinance-specified considerations of the BOA. The hearing will be held on January 4, 2022 at 7 p.m. at Town Hall, located at 45 Shoreline Drive, River Bend, NC. The application and maps may be reviewed at the Town of River Bend Zoning Department, 45 Shoreline Drive, between 8:00 AM and 4:00 PM, Monday through Friday or by visiting the town's website at www.riverbendnc.org and clicking on the "Special Use Application" tab.

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All classified ads are subject to the applicable rate card, copies of which are available from our Advertising Dept. All ads are subject to approval before publication. The New Bern Sun Journal reserves the right to edit, refuse, reject, classify or cancel any ad at any time. Errors must be reported in the first day of publication. The New Bern Sun Journal shall not be liable for any loss or expense that results from an error in or omission of an advertisement. No refunds for early cancellation or order.

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Acreage
New Bern Acreage for sale: 7.3 acres, mostly wooded, single wide mobile home in excellent condition. Springs Garden area. \$45K Firm. (252) 633-3024

Real Estate Rentals

PUBLISHER'S NOTICE
All real estate advertised herein is subject to the Federal Fair Housing Act, which makes it illegal to advertise any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or intention to make any such preference, limitation, or discrimination. We will not knowingly accept any advertising for real estate which is in violation of the law. All persons are hereby informed that all dwellings advertised are available on an equal opportunity basis.

Single Family Rentals
NEW 3 BEDROOM, 2 BATH - NEW VISION PARK. No pets. NO Section 8. \$800 per month. (252)670-1229.

Automotive Wheels
best deal for you...

CAR INSURANCE BEST PRICES IN TOWN!
GRADY & GRADY
(252)430-5433
3330 Nause Blvd., New Bern
NON-OWNER INSURANCE
Moped/Scooter Insurance

SELL IT BUY IT FIND IT

Notice To Creditors

NOTICE TO CREDITORS
NORTH CAROLINA, CRAVEN COUNTY
All persons, firms and corporations having claims against the Estate of WILFRED G. BUTLER, File No: 21-E-471, deceased, of Craven County, NC, are notified to present the same to the personal representative listed below on or before March 20, 2022, or this notice will be pleaded in bar of recovery. All debtors of the said estate are asked to make immediate payment.
This 20th day of December, 2021.
Anna C. Malo, Executor of the Estate of Wilfred G. Butler
c/o Ernest C. Richardson, III
503 Pollock St.
New Bern, NC 28542
Dec. 20, 27, Jan. 3, 10 (adv) 6663663

NOTICE TO CREDITORS

NOTICE TO CREDITORS
NORTH CAROLINA, CRAVEN COUNTY
All persons, firms and corporations having claims against the Estate of John William Spellman, a/o John William Spellman, Jr., deceased, of Craven County, N.C., are notified to present the same to the personal representative listed below on or before March 13, 2022, or this notice will be pleaded in bar of recovery. All debtors of the said estate are asked to make immediate payment.
This 13th day of December, 2021.
John Thomas Spellman, Executor of the Estate of John William Spellman, a/o John William Spellman, Jr., deceased, CO
Pat Leigh Pittman, Attorney for Dunn, Pittman, Skinner & Cushman, PLLC
P. O. Drawer 1389
New Bern, NC 28543
6631172 12/13, 12/20, 12/27, 1/3

NOTICE OF FORECLOSURE SALE

NOTICE OF FORECLOSURE SALE
NORTH CAROLINA, CRAVEN COUNTY
Under and by virtue of a Power of Sale contained in that certain Deed of Trust executed by Edith S. Spencer, dated March 3, 2018, recorded on March 9, 2018 in Book 3529, Page 273 of the Craven County Public Registry conveying certain real property in Craven County to FNC Title Services, LLC, Trustee, for the benefit of Mortgage Electronic Registration Systems Inc., as nominee for American Advisors Group. Default having been made of the note thereby secured by the said Deed of Trust and the undersigned, having been substituted as Trustee in said Deed of Trust, and the holder of the note evidencing said default having directed that the Deed of Trust be foreclosed, the undersigned Substitute Trustee will offer for sale at the courthouse door of the county courthouse where the property is located, or the usual and customary location of the county courthouse for conducting the sale on January 3, 2022 at 1:00 PM, and will sell to the highest bidder for cash the following described property situated in Craven County, North Carolina, to wit: THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF CRAVEN, STATE OF NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; A CERTAIN TRACT OR PARCEL OF LAND, LYING AND BEING SITUATE IN NUMBER EIGHT TOWNSHIP, CRAVEN COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL THAT CERTAIN LOT OR PARCEL OF LAND LYING

Notice To Creditors

NORTH CAROLINA CRAVEN COUNTY NOTICE TO CREDITORS:

All persons, firms and corporations having claims against the Estate of Roland Ebon Hill, Jr., deceased, of Craven County, N.C., are notified to present the same to the personal representative listed below on or before March 20, 2022, or this notice will be pleaded in bar of recovery. All debtors of the said estate are asked to make immediate payment.
This 20th day of December, 2021.
Debra Hill Register, Executrix of the Estate of Roland Ebon Hill, Jr., deceased, C/O Bill Ward & Kirby Smith, P.A.
PO Box 893
New Bern, NC 28543
December 20, 27, 2021, January 3, 10, 2022 6662553

NOTICE OF PUBLIC HEARING

The Board of Adjustment (BOA) of the Town of River Bend has received a request from Maffat Properties to obtain a special use permit to construct a tool and equipment rental business in River Bend. The proposed site is located on US Highway 17 South, adjacent to the Shell gas station, is zoned Business District (BD), and is identified as Lot 4 in the Norbury Estate Commercial Park and has Craven County PIN: 8-206-0004. The request requires a quasi-judicial hearing, which is very similar to a court hearing. All testimony must be sworn and in person before the BOA. Comments called in and letters or written statements (such as petitions) cannot be entered into the record. Having first-hand testimony allows for cross-examination of all witnesses by the BOA and others in attendance. Testimony offered on the case should be from direct personal or professional knowledge, and focus on the ordinance-specified considerations of the BOA. The hearing will be held on January 4, 2022 at 7 p.m. at Town Hall, located at 45 Shoreline Drive, River Bend, NC. The application and maps may be reviewed at the Town of River Bend Zoning Department, 45 Shoreline Drive, between 8:00 AM and 4:00 PM, Monday through Friday or by visiting the town's website at www.riverbendnc.org and clicking on the "Special Use Application" tab.
852914 12/20, 12/27

NOTICE OF FORECLOSURE SALE

Under and by virtue of the power of sale contained in a certain Deed of Trust made by Susan Waddell and Luther L. Waddell (PRESENT RECORD OWNER(S); Luther Waddell and Susan G. Waddell) to Atty. William Walt Pettit, Trustee(s), dated January 9, 2008, and recorded in Book No. 2682, at Page 557 in Craven County Registry, North Carolina. The Deed of Trust was modified by the following: A Loan Modification recorded on August 25, 2011, in Book No. 3021, at Page 591A Loan Modification recorded on April 6, 2016, in Book No. 3427, at Page 162 A Loan Modification recorded on September 8, 2017, in Book No. 3513, at Page 536, default having been made in the payment of the promissory note secured by the said Deed of Trust and the undersigned, Substitute Trustee Services, Inc. having been substituted as Trustee in said Deed of Trust by an instrument duly recorded in the Office of the Register of Deeds Craven County, North Carolina and the holder of the note evidencing said indebtedness having directed that the Deed of Trust be foreclosed, the undersigned Substitute Trustee will offer



**TOWN OF RIVER BEND**45 Shoreline Drive
River Bend, NC 28562T 252.638.3870
F 252.638.2580www.riverbendnc.org

Dear Property Owner:

The River Bend Board of Adjustment (BOA) will hold a public hearing on Tuesday, January 4th, 2021 at 7:00 PM in the Council Chambers, 45 Shoreline Drive, on the following request:

To issue a special use permit for the construction of an equipment rental business. The subject site is located on US Highway 17 South, adjacent to the Shell gas station, is zoned Business District (BD), and is identified as Lot 4 in the Norbury Estate Commercial Park with Craven County PIN: 8-206-8004. The lot is shown on the attached map.

This is a quasi-judicial hearing, very similar to a court hearing. All testimony must be sworn and in person before the BOA. Comments called in and letters or written statements [such as petitions] cannot be entered into the record. Having first-hand testimony allows for cross-examination of all witnesses by the BOA and others in attendance. Testimony offered on the case should be from direct personal or professional knowledge, and focus on the ordinance-specified considerations of the BOA. If several people have testimony to offer, it is suggested they coordinate their efforts to avoid repetition. Action may be taken by the BOA following the public hearing.

The applications and maps may be reviewed at the Town of River Bend Zoning Department, 45 Shoreline Drive, between 8:00 AM and 4:00 PM, Monday through Friday.

All decisions of the Board of Adjustment are subject to appeal to Superior Court within 30 days after the aggrieved party receives the BOA's written decision. An appeal to the BOA action must be filed pursuant to procedures noted in the North Carolina General Statutes. Anyone wishing to receive a copy of the written decision on this case must file a written request with the Zoning staff at or before the hearing.

If you have questions, please contact me between 8:00 AM and 4:00 PM, Monday through Friday at 252-638-3870, via email at manager@riverbendnc.org, or visit our website at <http://www.riverbendnc.org>.

Sincerely,

Delane Jackson, Town Manager

§ 15.02.124 DISTRICT USE REGULATIONS.

For convenience in the administration of this chapter, there hereby is established and made a part of this chapter the following schedule of district use regulations.

SCHEDULE OF DISTRICT USE REGULATIONS									
KEY: P – Use permitted by right SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board Blank/Unlisted – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Accessory Building	P	P	P	P	SU	SU	SU	P	
Adult Day Care					P	P	P		G
Bakery, Retail						P	P		G
Financial Services						P	P		G
Barber Shop/Beauty Shop						P	P		G
Boats and Trailer Sales						SU	SU		G
Cabinet, Woodworking or Upholstery Shops						P	P		G
Child Day Care						SU			
Churches	SU	SU	SU	SU	P	SU	SU		E
Clubs and Lounges, Private					P	SU	SU		F
Clothing Store						P	P		G
Computer Sales and Service						P	P		G

SCHEDULE OF DISTRICT USE REGULATIONS

KEY:

P – Use permitted by right

SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board

Blank/Unlisted – Prohibited use

Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Dairy Bar and Ice Cream Parlors						P	P		G
Drug Store						P	P		F
Dry Cleaners/Drop Off/Pick Up Only						P	P		G
Dwellings, Single-Family	P	P	P	P		SU			A
Dwellings, 2-Family				P		SU			A
Dwellings, Multi-Family				P		SU			A
Fire Department Buildings	SU	SU	SU	SU	SU	SU	SU		F
Fitness Center						P	P		G
Florists/Gift Shop						P	P		G
Furniture Store						P	P		G
Golf Course	SU	SU	SU	SU	P	SU	SU		F
Grocery Store						P	P		G
Hardware Sales						P	P		G
Home Occupations	P	P	P		P				G

SCHEDULE OF DISTRICT USE REGULATIONS

KEY:

P – Use permitted by right

SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board

Blank/Unlisted – Prohibited use

Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Jewelry and Watch Repair						P	P		G
Libraries	SU	SU	SU	SU		P	P		G
Marina						P			G
Nursing Home and Rest Home					P				G
Office for Business, Professional and Personal Services						P	P		G
Pet Shops (excluding Veterinary Services)						P	P		G
Pharmacy						P	P		G
Photo Shop/Supply						P	P		G
Police Station	SU	SU	SU	SU	SU	SU	SU		F
Public Enterprise**	SU	SU	SU	SU		SU	SU		F
Public Utility	SU	SU	SU	SU	SU	SU	SU		F
Restaurants					P	P	P		F
Schools	SU	SU	SU	SU	SU				F
Service Station						SU	SU		J

SCHEDULE OF DISTRICT USE REGULATIONS

KEY:

P – Use permitted by right

SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board

Blank/Unlisted – Prohibited use

Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Shoe Sales and Repair						P	P		G
Sporting Goods Sales						P	P		G
Storage Rental Units/Areas						P	P		G
Travel Agency						P	P		G
Utility Tanks, Pumps, Electrical Substations & Related Services	SU	SU	SU	SU	SU	SU	SU	SU	
Wholesale and/or Retail Janitorial Sales & Services						SU	SU		F
Youth Center					P	P	P		G

*Parking code described in §15.02.080

** As defined by G.S. § 160A-311

Penalty, see § 1.01.999

Amended 11/18/10

PRIVILEGED & CONFIDENTIAL
ATTORNEY WORK PRODUCT - ATTORNEY/CLIENT PRIVILEGE

November 29, 2021

Town of River Bend
Board of Adjustment
c/o Chairperson
45 Shoreline Drive
New Bern, North Carolina 28562

Re: Application of Schedule of District Use Regulations to Unlisted Uses
Our File: 67667.02

Dear Chairperson:

I have been asked by the Town of River Bend (“Town”) to prepare an opinion letter to you regarding the application of the Schedule of District Use Regulations (“Use Table”) contained in the Zoning section of the Town’s Code of Ordinances to uses of property that are not expressly listed in the Use Table. For example, if a company wanted to build a hospital and applied to the Town for a Zoning Permit, how would the Use Table be used to analyze whether the requested use is allowed, since “hospital” is not a listed use?

The Town’s Use Table is contained in Section 15.02.124 of the Town’s Code of Ordinances. The Used Table described which land uses in each zoning district are prohibited, allowed as a matter of right, or require a special use permit. The Use Table contains language that indicates (1) if the use is unlisted it is prohibited and (2) if the use is listed but there is a blank in the corresponding column for the district, then it is prohibited in that district. The first scenario of unlisted uses has been the cause of much litigation in North Carolina. The second scenario is generally permissible and will not be the focus of this opinion.

North Carolina Courts generally favor the unrestricted use of private property, free from government intervention. Accordingly, North Carolina Courts have applied this rule in construing local government land use regulations, specifically dealing with permitted use tables. *See Land v. Village of Wesley Chapel*, 697 S.E.2d 458 (N.C. Ct. App. 2010). Courts have traditionally struck down zoning actions that deny the right of a property owner to use his or her property for a use that is not expressly listed in the table of permitted uses. *See id.*; *see also Byrd v. Franklin County*, 765 S.E.2d 805 (N.C. Ct. App. 2014) (Hunter, R. dissenting), *rev’d by*, 778 S.E.2d 268 (N.C. 2015) (per curiam) (adopting reasoning contained in the dissent). Instead, the Courts have held that local governments must analyze whether an unlisted use is permissible by finding the listed use that is closest to the use being applied for and regulate that use in accordance with the regulations applicable to the listed use. *Id.*

In my hospital example above, based on the analysis used by the Courts, the “Nursing Home and Rest Home” use is likely the closest listed use to a hospital. The Town would analyze

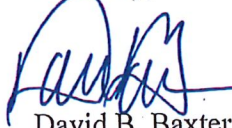
River Bend Board of Adjustment
Chairperson
November 29, 2021
Page 2

the request for a zoning permit as if the applicant had applied to use the property for a nursing home or rest home, which is only permitted as a matter of right in the Institutional District (ID).

Based on the foregoing, I recommend any unlisted use applied for be analyzed in accordance with the framework outlined in North Carolina case law that I have summarized above. Additionally, I recommend that the Town's Code of Ordinances be amended to include procedural provisions specifically addressing unlisted uses. Additionally, I recommend that the Use Table be reviewed annually by the Planning Board with recommendations given to the Town Council for adding additional uses, if any. This will help ensure that the listed uses in the Use Table reflect current trends in uses that are not currently being regulated by the Town.

This legal opinion is rendered in the name of, Sumrell Sugg, P.A. and may be relied upon by you as an opinion of counsel before any Court or any state or federal administrative agency. Please review this opinion and let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "David B. Baxter, Jr.", with a stylized flourish at the end.

David B. Baxter, Jr.
Town Attorney

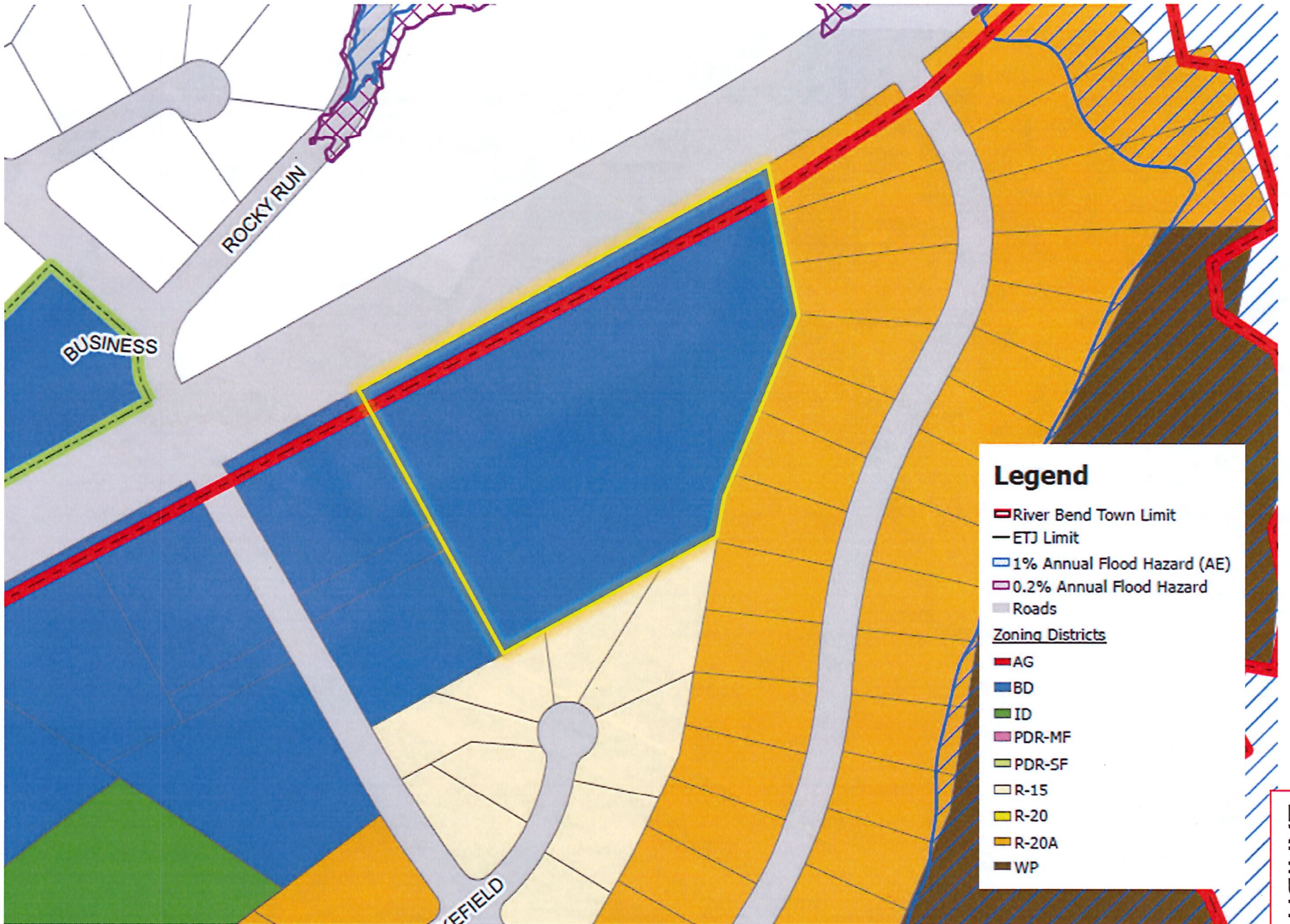


Craven County GIS

Craven County does NOT warrant the information shown on this map and should be used ONLY for tax assessment purposes. Printed on December 21, 2021 at 10:55:46 AM

1 inch = 140 feet

EXHIBIT 09



Legend

- River Bend Town Limit
- ETJ Limit
- 1% Annual Flood Hazard (AE)
- 0.2% Annual Flood Hazard
- Roads

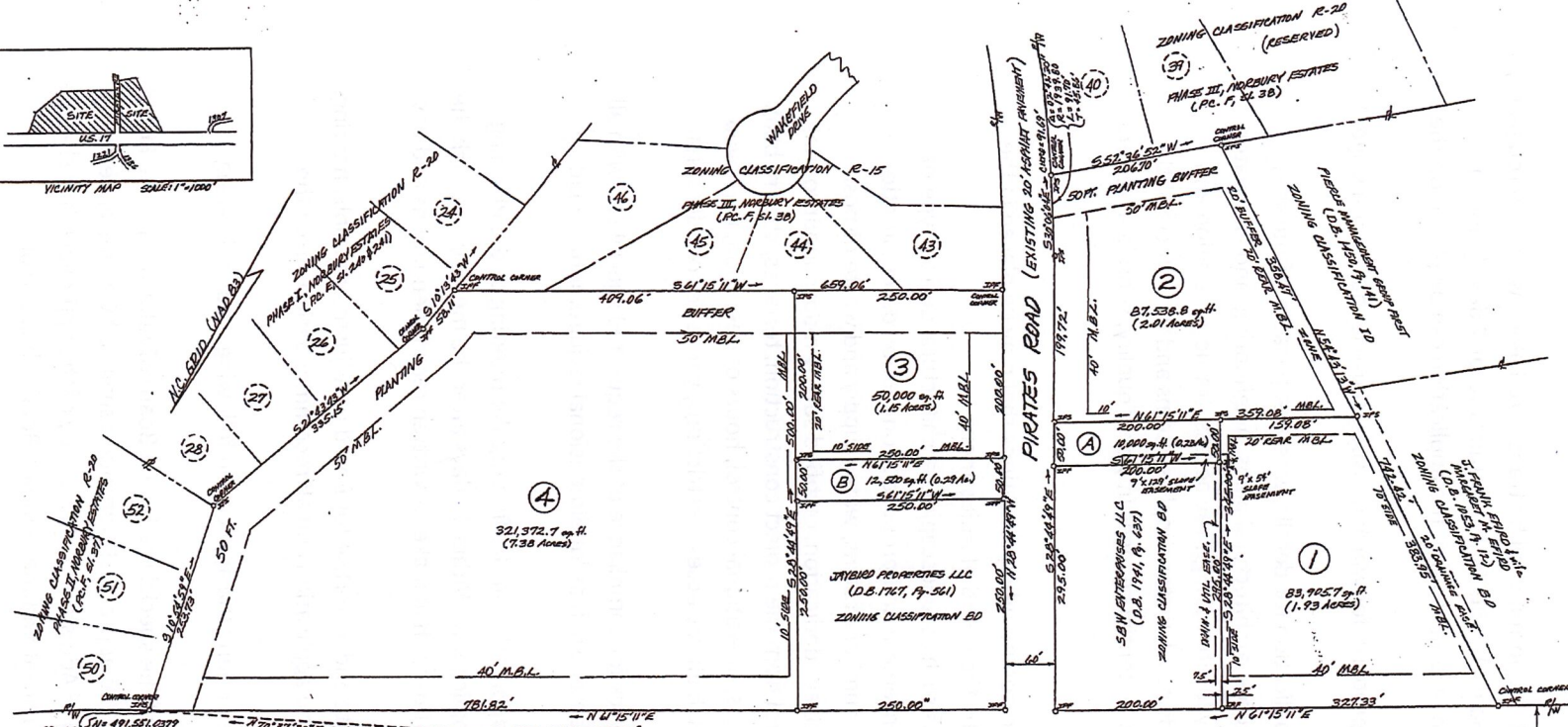
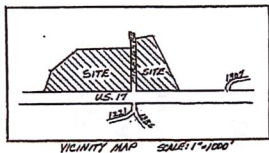
Zoning Districts

- AG
- BD
- ID
- PDR-MF
- PDR-SF
- R-15
- R-20
- R-20A
- WP

G.175.E

G.175.E

EXHIBIT 11



U.S. 17 (EXISTING DIVIDED DUAL 24' LANES)
N 14°15'11"E 781.82'
N 14°15'11"E 250.00'

- NOTES: 1. I.P.F. = IRON PIPE OR PIN FOUND
2. I.P.S. = IRON PIPE SET
3. --- = PROPERTY LINE NOT SURVEYED AS PART OF THIS SUBDIVISION.

CERTIFICATE OF OWNERSHIP AND ACKNOWLEDGMENT:
I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON WHICH IS LOCATED WITHIN THE JURISDICTIONAL AREA OF THE TOWN OF RIVER BEND AND I HEREBY AGREE TO THIS PLAN OF SUBDIVISION WITH MY PRIOR CONSENT ESTABLISHED BY ANY BUILDING ORDINANCES, AND I HEREBY AGREE TO ALL COVENANTS, EASEMENTS, AND OTHER SITES AND EASEMENTS TO BE MADE OR PROVIDED FOR AS NOTED.

CERTIFICATE OF APPROVAL BY THE PLANNING BOARD:
THE PLANNING BOARD OF THE TOWN OF RIVER BEND HEREBY RECOMMENDS TO THE TOWN COUNCIL APPROVAL OF THE FINAL PLAT FOR THE NORBURY ESTATES COMMERCIAL PARK SUBDIVISION.

CERTIFICATE OF APPROVAL FOR RECORDING:
I HEREBY CERTIFY THAT THE SUBDIVISION PLAN SHOWN HEREON HAS BEEN FOUND TO CONFORM WITH THE SUBDIVISION REGULATIONS FOR THE TOWN OF RIVER BEND, NORTH CAROLINA, AND THAT THIS PLAN HAS BEEN APPROVED BY THE TOWN COUNCIL FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF CRAVEN COUNTY.

CERTIFICATE OF SURVEY AND ACCURACY:
I, EDWARD S. LATHAM, CERTIFY THAT THIS PLAT WAS DRAWN BY ME FROM AN ACtual SURVEY MADE BY ME IN ACCORDANCE WITH THE PROVISIONS OF G.S. 17-30 AND I HEREBY AGREE TO THIS PLAN OF SUBDIVISION WITH MY PRIOR CONSENT ESTABLISHED BY ANY BUILDING ORDINANCES, AND I HEREBY AGREE TO ALL COVENANTS, EASEMENTS, AND OTHER SITES AND EASEMENTS TO BE MADE OR PROVIDED FOR AS NOTED.

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Final Plat for Norbury Estates Commercial Park
River Bend, N.C.
No. 8 TOWNSHIP
SCALE: 1" = 100'
DATE OF SURVEY: JANUARY 22, 2003
DATE OF PLAT: AUGUST 14, 2003

STATE OF NORTH CAROLINA
COUNTY OF CRAVEN
Filed for Registration at 11:37 AM on 08/14/03
This is the day of August 2003
Becky Thompson, Deputy
Becky Thompson, Deputy
Becky Thompson, Deputy

§ 15.02.122 REVIEW AND APPROVAL OF SPECIAL USES.

- A.
 - 1. The application forms for a special use permit shall be transferred along with required plans, plats and the like to the Planning Board by the Zoning Administrator 7 days before a regularly scheduled Planning Board meeting so that the application can be placed on the Board's agenda.
 - 2. At this meeting, the owner of the property for which the special use is sought or his agent shall appear.
- B. The Planning Board shall review the application for details, where applicable, of the site, situation, existing and proposed structures, architectural plans, neighboring land and water uses, proposed parking areas, driveway locations, highway access, traffic generation and circulation potential, drainage, waste disposal, water supply systems and the effects of the proposed use, structure, operation and potential changes in water quality, shoreland cover, natural beauty and wildlife habitat.
- C.
 - 1. The Planning Board shall consider recommending conditions that may be placed in the granting of the special use permit by the Board of Adjustment.
 - 2. These conditions may include items such as landscaping, architectural design, type of construction, construction commencement and proposed completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, performance standards, street dedication, certified survey maps, floodproofing, ground cover, sedimentation control from the project construction, terraces, stream bank protection, planting of buffer screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, yard sizes or additional parking.
- D. In addition, the Planning Board shall check for compliance of the requested special use with all other relevant provisions of this subchapter, such as lot dimensional requirements, building heights, parking and loading standards.
- E. The Planning Board shall consider the application at the first regular meeting of the Planning Board after receiving the completed application. Within 45 days after the meeting at which the application is considered, the Planning Board shall make its written recommendations and pass them on to the Board of Adjustment.
- F. The Zoning Administrator shall set a date and advertise for Board of Adjustment public hearing. The Board of Adjustment shall review the application and all recommendations from the Planning Board.
- G. The Board of Adjustment shall approve or deny the application following a public hearing provided for in division (F) above.
- H. After approval or conditional approval of the special use by the Board of Adjustment, the Board shall notify the Zoning Administrator of the approval. Notification shall be by a written letter signed by the Chairperson of the Board of Adjustment, and a copy of the approval letter shall be forwarded to the special use permit applicant and the Planning Board Chairperson.

Applicant/landowner must give written consent to conditions related to the special use permit to ensure enforceability.

I.

1. Rejection of an application for a special use permit shall be recorded in the minutes of the Board of Adjustment meeting during which the decision was made.
2. Notification of the rejection or denial of an application for a special use permit shall be a letter signed by the Chairperson of the Board of Adjustment.
3. The letter shall state reasons for denial and reference the specific sections or paragraphs in this chapter that would be violated if the special use were granted.
4. The denial letter shall be forwarded to the applicant by certified or registered mail and copies of the letter shall be forwarded to the Chairperson of the Planning Board and the Zoning Administrator.
5. One copy shall be retained in the files of the Board of Adjustment.

Penalty, see § 1.01.999

§ 15.02.120 GENERAL REGULATIONS.

- A. Permission may be granted by the Board of Adjustment for the establishment of uses listed as special uses (SU) in the district use regulation tables in this subchapter, after Planning Board review and recommendations and after a public hearing held by the Board of Adjustment. And further, that the Board of Adjustment finds that:
1. The proposed use does not affect adversely the general plans for the physical development of the town as embodied in these regulations or in any plan or portion thereof adopted by the Planning Board and/or the Town Council;
 2. The proposed use will not be contrary to the purposes stated in these regulations;
 3. The proposed use will not affect adversely the health and safety of residents and workers in the zoned area;
 4. The proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses;
 5. The proposed use will not be affected adversely by the existing uses;
 6. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of the use;
 7. The proposed use will not constitute a nuisance or hazard because of number of persons who will attend or use these facilities, vehicular movement, noise or fume generation or type of physical activity;
 8. The standards set forth for each particular use for which a permit may be granted have been or will be met;
 9. The proposed use shall be subject to the minimum area, setback and other dimensional requirements of the zoning district in which it will be located; and
 10. The proposed use shall be subject to the off-street parking and service requirements of these regulations.
- B. The Board of Adjustment shall impose or require any additional restrictions and standards as may be necessary to protect the health and safety of workers and residents of the community, and to protect the value and use of property in the general neighborhood.
- C. Whenever the Board of Adjustment shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions or restrictions upon which the permit was granted are not being complied with, the Board shall rescind and revoke the permit after giving due notice to all parties concerned.
- D. If construction of a use authorized by a special use permit does not begin within 6 months of the time the permit is issued, the permit shall be revoked.

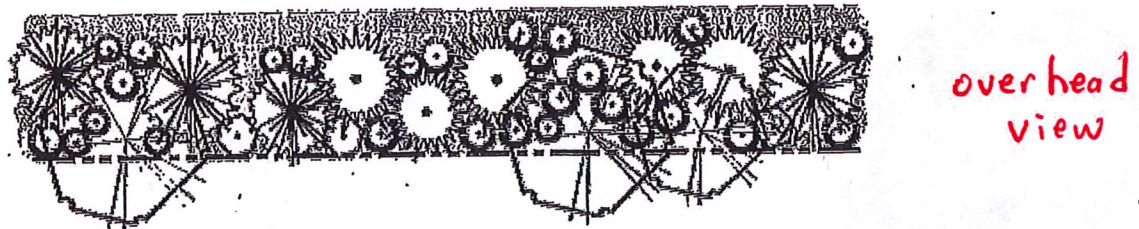
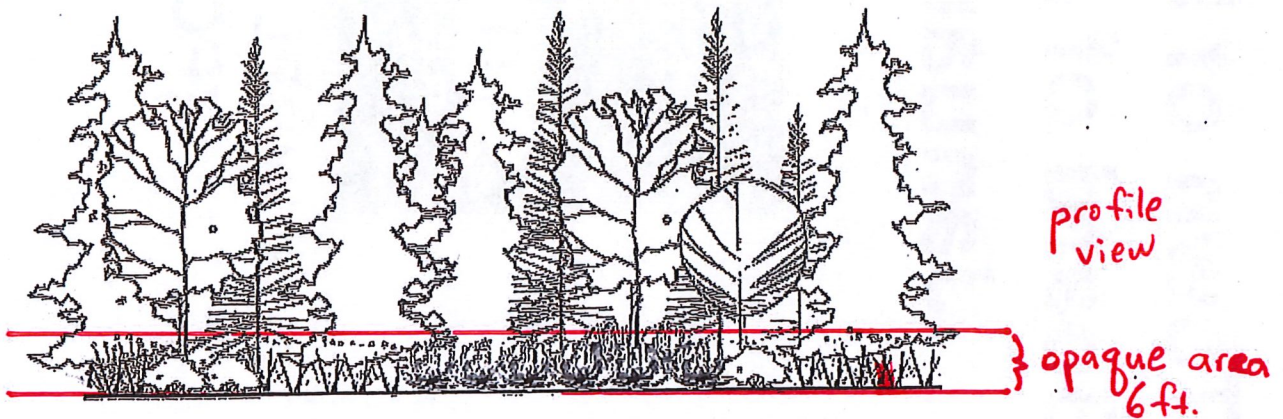
Penalty, see § 1.01.999

§ 15.02.221 DESCRIPTION OF BUFFERS.

The following three basic types of buffers are hereby established and are used as the basis for the table of buffering requirements as set forth in § 15.02.222.

A. Opaque buffer, type A.

1. A buffer that is opaque from the ground to a height of at least 6 feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque buffer is intended to exclude completely all visual contact between uses and to create a strong impression of special separation. The opaque buffer may be composed of a wall, fence, planted earth berm, planted vegetation, existing vegetation or any combination thereof.
2. For every linear 100 feet, or fraction thereof, the buffer shall consist of an average of three canopy type trees, each with a minimum caliper of 2 inches. The trees in 5 years shall reach a height of at least 20 feet and shall have an average canopy spread of 15 feet.
3. The opaque portion of the buffer must be opaque in all seasons of the year. If shrubbery is used, the shrubbery shall be evergreen plant materials and be spaced to provide a solid buffer in 2 years.
4. If fences or walls are used, the fences or walls shall be masonry, wood, metal or other suitable materials (not to include chain-link fencing) and shall have architectural character and be of substantial materials.



OPAQUE BUFFER – TYPE A



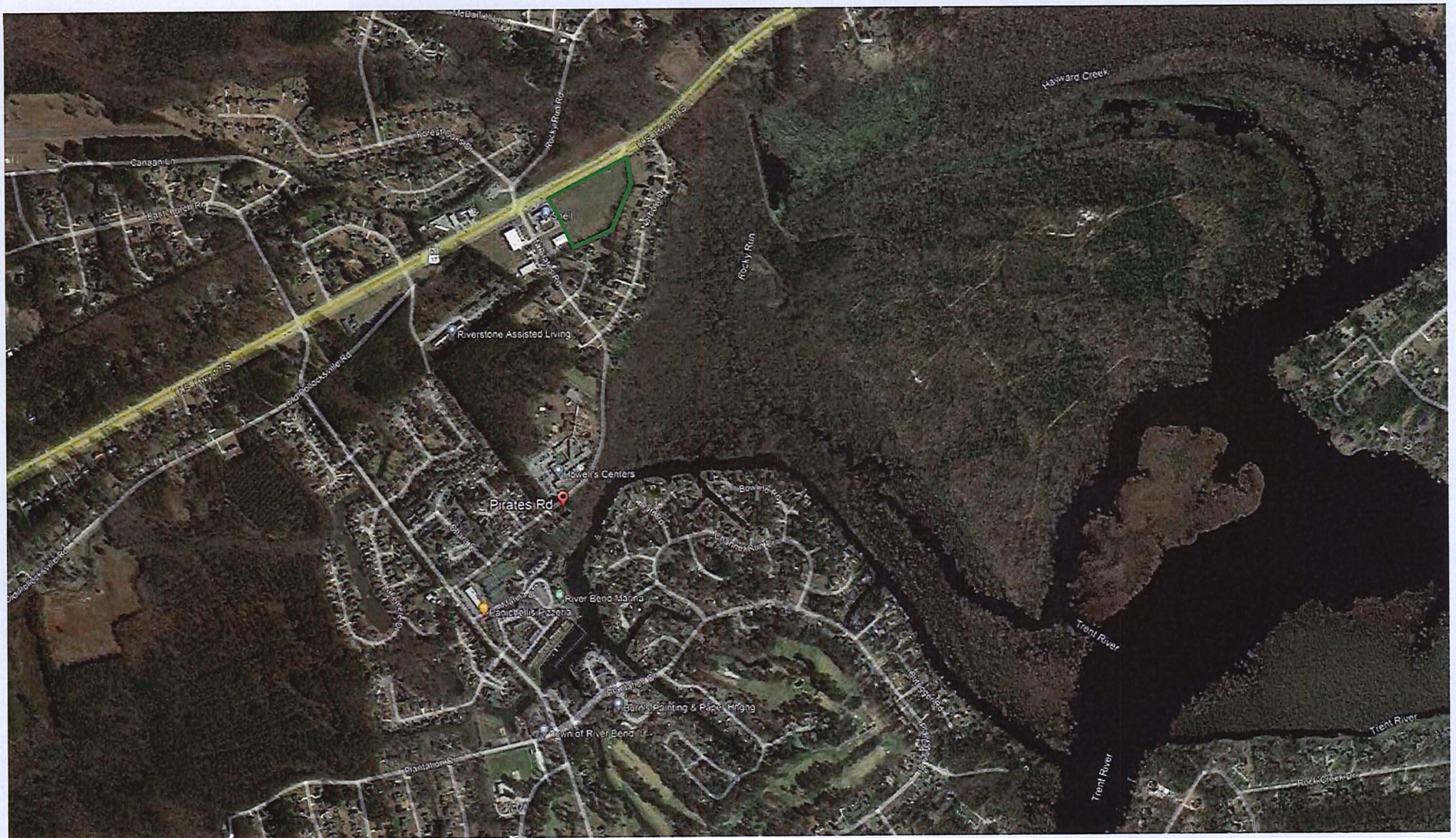
Town of River Bend Board of Adjustment January 4, 2022



SUNBELT RENTALS
(PC1505)



Site Introduction



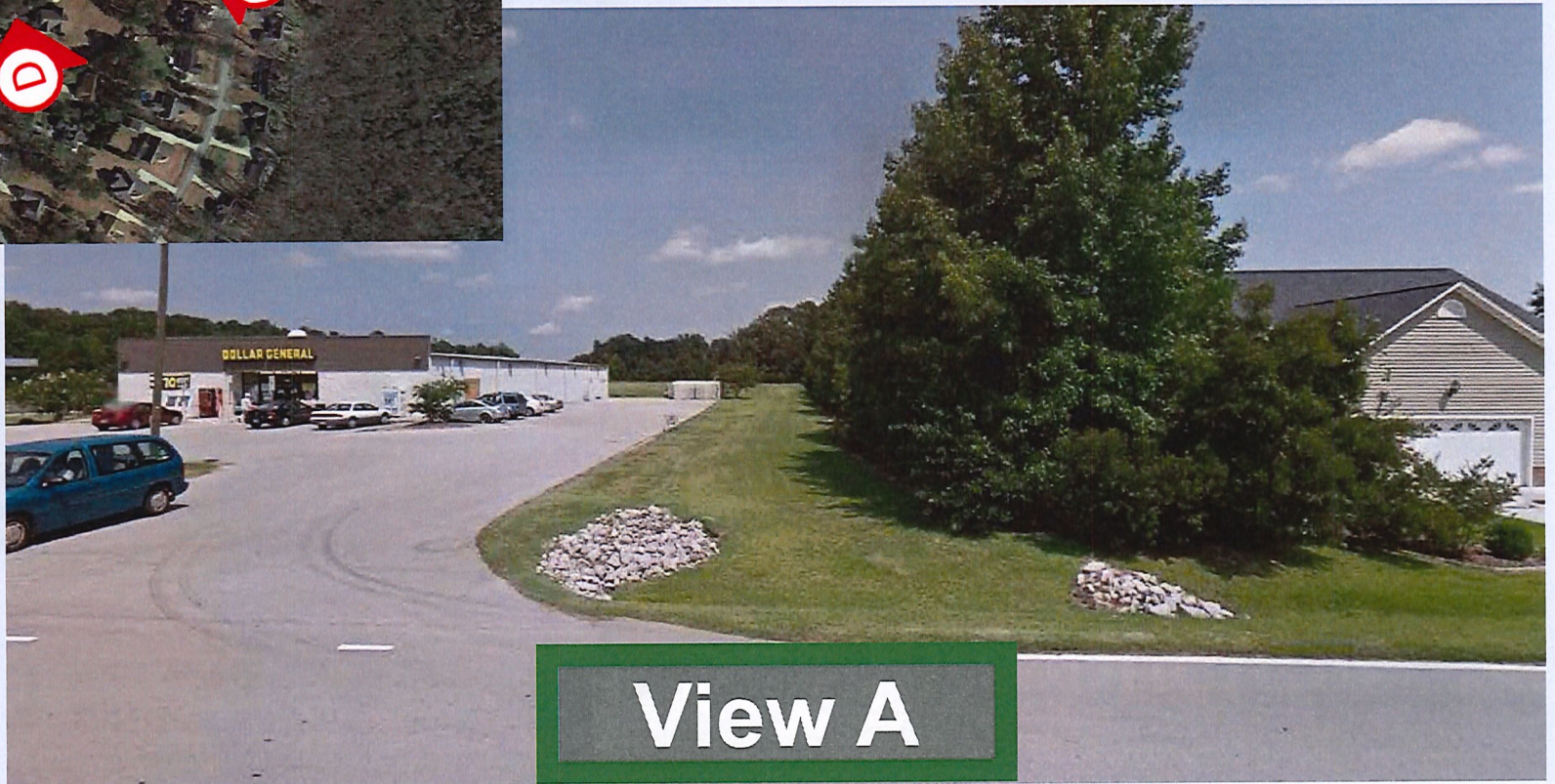
Site Introduction



Site Notes:

- Vacant 7.38 acres located near the intersection of Pirates Rd & US Hwy 17 S
- Zoned BD (Business District)

Site Introduction



View A

Site Introduction



View B



Site Introduction



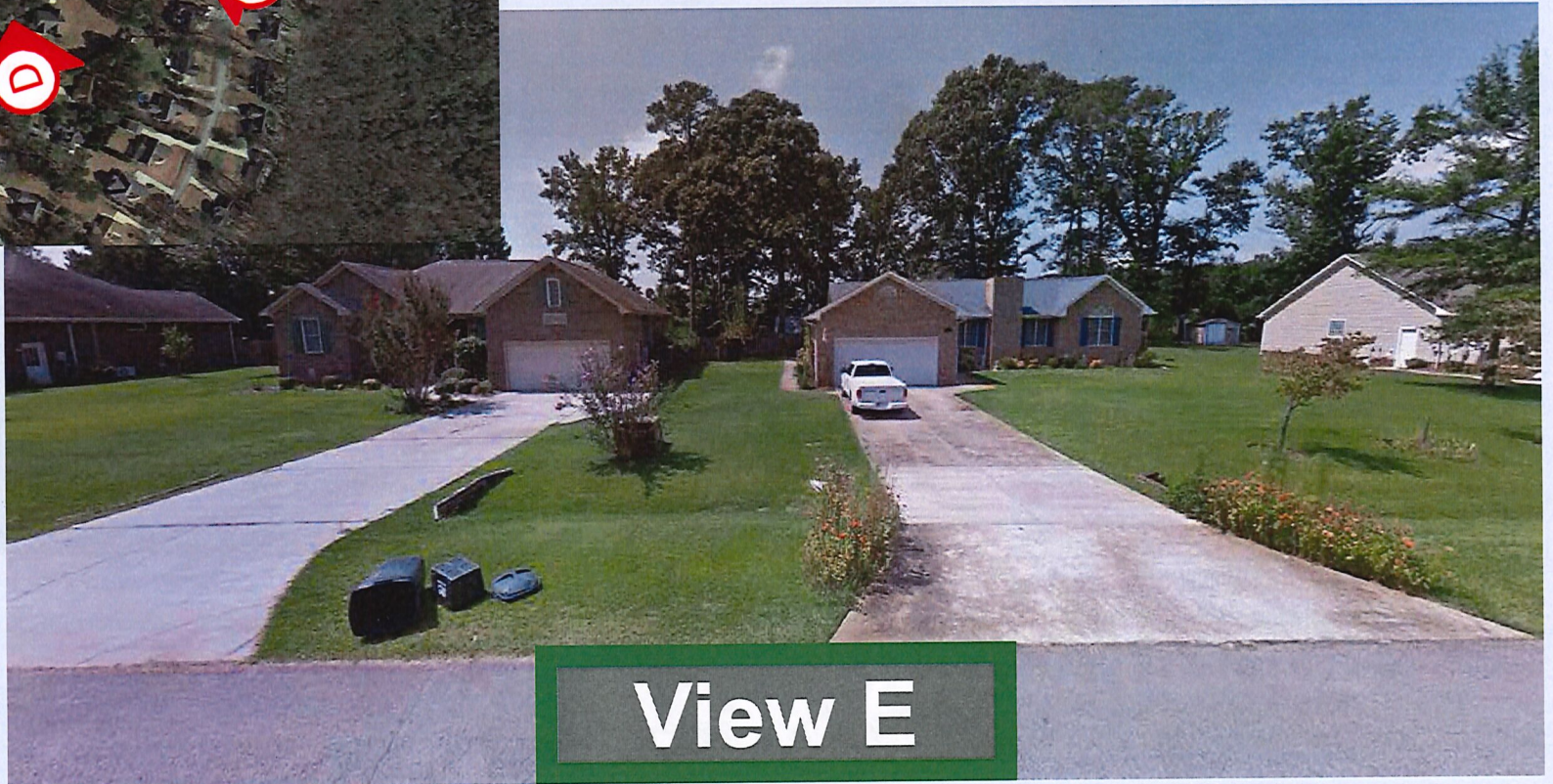
View C

Site Introduction



View D

Site Introduction



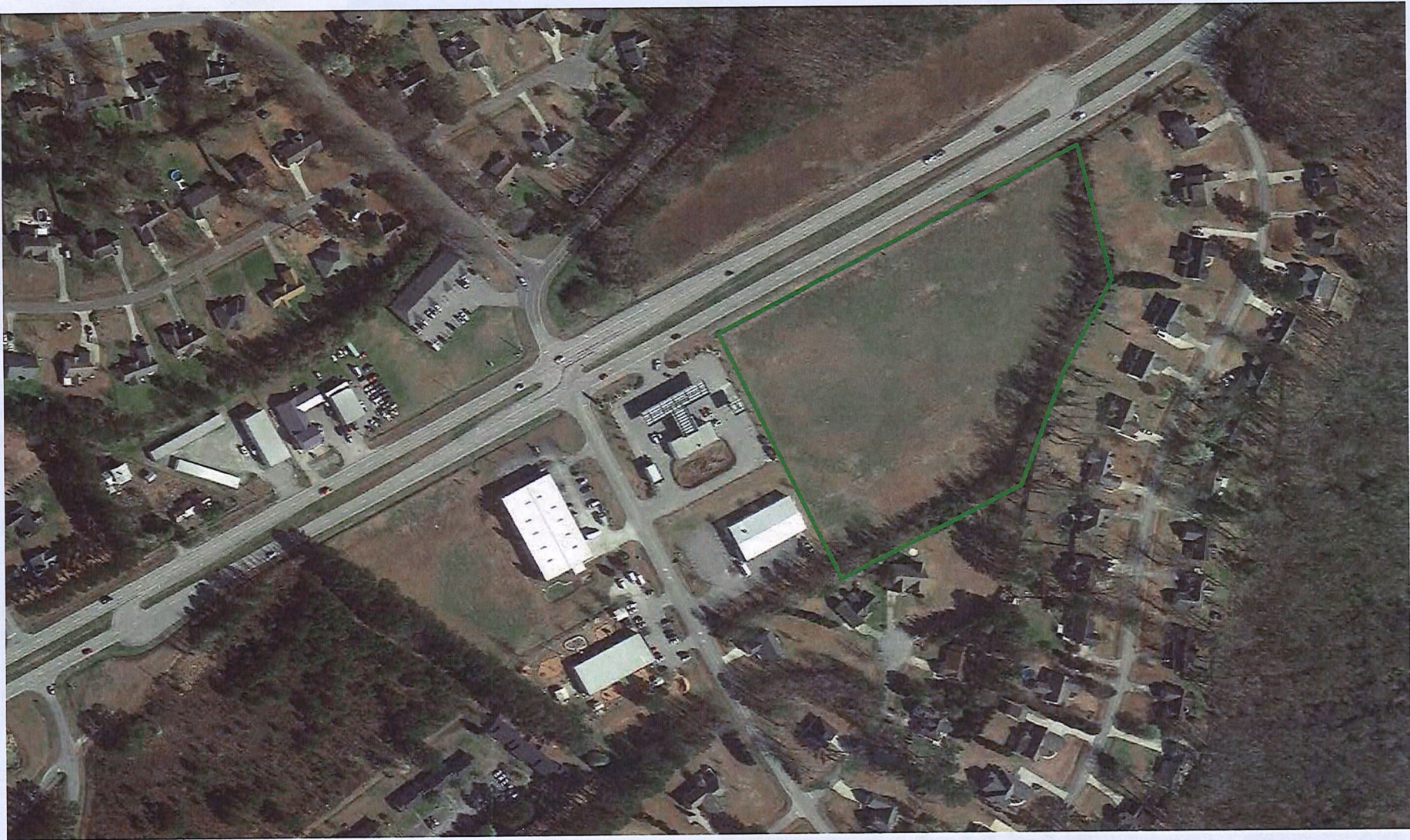
View E

Site Introduction

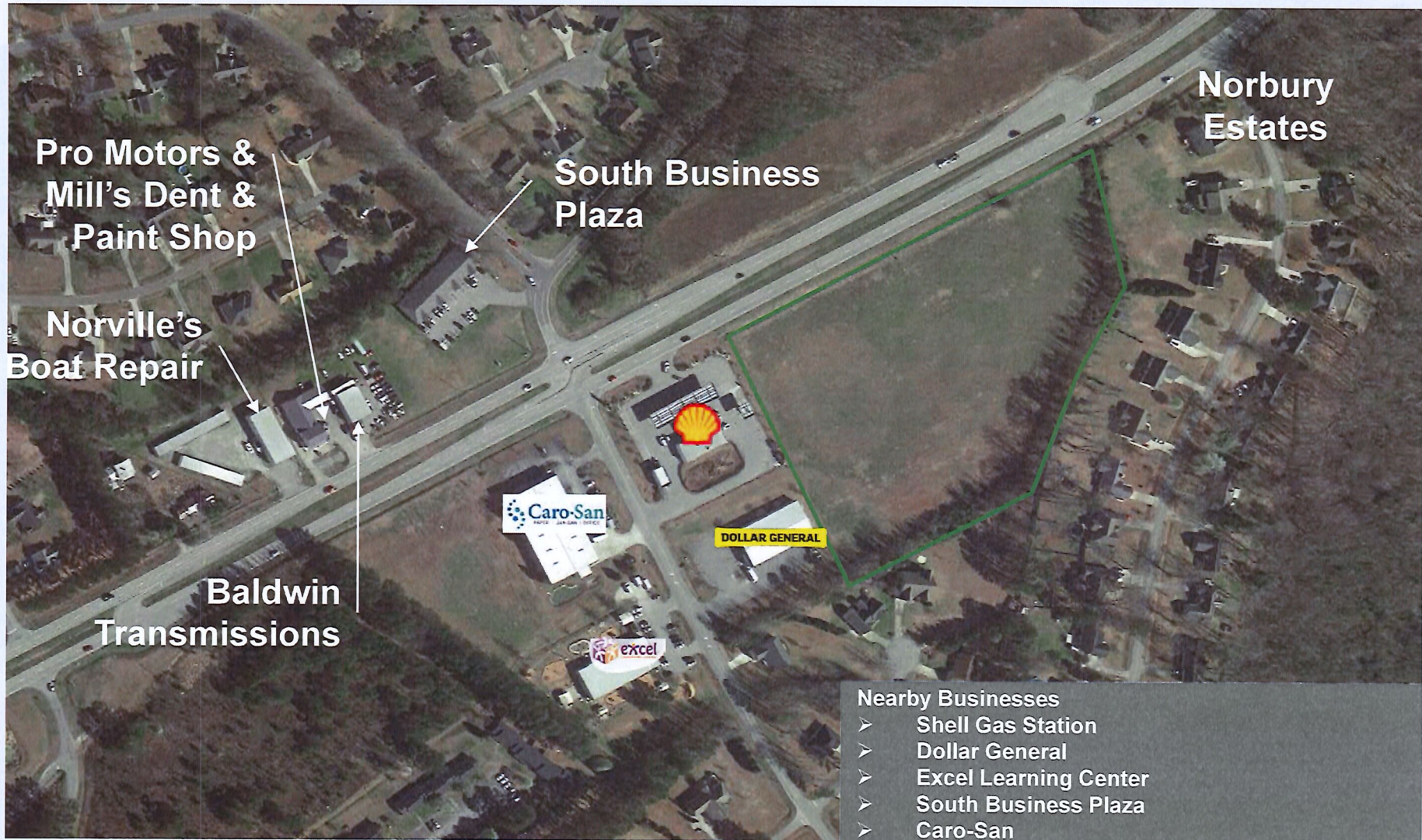


View F

Aerial View



Aerial View



- Nearby Businesses**
- Shell Gas Station
 - Dollar General
 - Excel Learning Center
 - South Business Plaza
 - Caro-San
 - Baldwin Transmissions
 - Pro Motors & Mill's Dent & Paint Shop
 - Norville's Boat Repair

Street Views



Looking Northeast on US Hwy 17 S

Google

Street Views



Looking Southwest on US Hwy 17 S

Google

Nearby Properties





Nearby Properties



**Baldwin Transmissions, Pro Motors, Mill's Dent & Paint Shop,
Norville's Boat Repair – Southwest Across US Hwy 17 S**



Nearby Properties



Caro-San Maintenance Supply
SW Corner of Intersection of Pirates Road and US Hwy 17 S

Nearby Properties



Shell Gas Station

NE Corner of Intersection of Pirates Road and US Hwy 17 S

Nearby Properties



What is Proposed?



SCALE: 1" = 80'
 80' 0 80'
 SCALE OF MAP MAY VARY
 DUE TO METHODS OF REPRODUCTION.



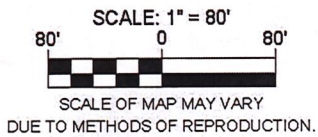
GENERAL TOOLS PC1505

- | # | SITE KEY |
|----|--|
| 1 | 50'X230' BUILDING |
| 2 | CHAINLINK SECURITY FENCE |
| 3 | PARKING (20 SPACES) |
| 4 | 5' SIDEWALK |
| 5 | 10' CONCRETE APRON |
| 6 | SWING GATE TO REAR |
| 7 | PERSONNEL GATE TO REAR |
| 8 | 2.43 ACRE GRAVEL YARD |
| 9 | APPROX. LOCATION & SIZE OF SCM |
| 10 | PROPOSED FUEL ISLAND |
| 11 | PLANT EVERGREEN TREES IN 50 FT BUFFER AS NEEDED TO SCREEN FROM ADJACENT RESIDENCES |



What is Proposed?

**Proposed Use:
Sunbelt Rentals
11,500 SF Building with
Outside Storage**



GENERAL TOOLS PC1505

- | # | SITE KEY |
|----|---|
| 1 | 50'X230' BUILDING |
| 2 | CHAINLINK SECURITY FENCE |
| 3 | PARKING (20 SPACES) |
| 4 | 5' SIDEWALK |
| 5 | 10' CONCRETE APRON |
| 6 | SWING GATE TO REAR |
| 7 | PERSONNEL GATE TO REAR |
| 8 | 2.43 ACRE GRAVEL YARD |
| 9 | APPROX. LOCATION & SIZE OF SCM |
| 10 | PROPOSED FUEL ISLAND |
| 11 | PLANT EVERGREEN TREES IN 50 FT BUFFER AS NEEDED TO SCREEN FROM ADJACENT RESIDENCES. |

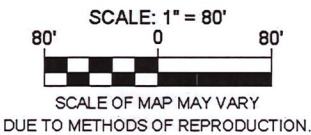


What is Proposed?



Hours of Operation:
 M-F 7am-5pm
 Sat – 7am – 12pm
 Sun – Closed

Lighting Standards:
 Full Cut-off
 Fixtures with 0.5
 ft/candle at
 property line



GENERAL TOOLS PC1505

- | | |
|----|--|
| # | SITE KEY |
| 1 | 50'X230' BUILDING |
| 2 | CHAINLINK SECURITY FENCE |
| 3 | PARKING (20 SPACES) |
| 4 | 5' SIDEWALK |
| 5 | 10' CONCRETE APRON |
| 6 | SWING GATE TO REAR |
| 7 | PERSONNEL GATE TO REAR |
| 8 | 2.43 ACRE GRAVEL YARD |
| 9 | APPROX. LOCATION & SIZE OF SCM |
| 10 | PROPOSED FUEL ISLAND |
| 11 | PLANT EVERGREEN TREES IN 50 FT BUFFER AS NEEDED TO SCREEN FROM ADJACENT RESIDENCES |





Why Are We Here?

§ 15.02.038 BUSINESS DISTRICTS.

<i>Use District</i>	<i>Designation</i>
BD	Established to allow commercial development for retailing of goods and services and to provide offices and personal services. All these businesses shall provide a pleasing appearance, ample parking, controlled traffic movement and suitable landscaping and controls over lighting and signs so as not to affect adversely any adjoining properties.
PD-BD	Planned Development- Business District Land to be developed with an intent to either sell or rent 2 or more completed buildings or separated portions of the same building. All provisions of §§ 15.02.135 et seq. shall apply.
The area of a Business District development not covered by building shall be illuminated after dark and until the last of the business close for the day. Direct illumination on non-business district property, including public highways, by business district area lighting is prohibited. Reduced intensity illumination for security purposes during non-business hours may be used and is encouraged. All provisions of §§ 15.02.135 et seq. shall apply.	

§ 15.02.043 PERMITTED USES FOR BUSINESS DISTRICTS.

Permitted uses for Business Districts:

- A. Commercial development for stores, personal services, banks, restaurants, social and business associations and offices; and
- B.
 - 1. Residential use in a business district is allowed as long as the use is incidental to the intended business use.
 - 2. Where more than 1 business is located on a property or within a structure, such as but not limited to, a strip mall or office complex, this residential allowance shall be applied to each individual business location within the property or structure.

The UDO for River Bend does not specifically address the “Equipment Rental Use”. As such, a Special Use Permit is required for the use to be allowed within any district. The Equipment Rental Use is best suited for the Business District. The proposed site is located along US Hwy 17, near a mixture of residential and commercial uses, which is ideal for an Equipment Rental facility.



Site Compliance

<i>Schedule of District Requirements</i>										
	R-20	R-20A	R-15	PDR-MF	PDR-SF	ID	BD	WP	AGR	PD-BD
Min. Lot Area (SF)	20,000	20,000	15,000	-	6,500	20,000	20,000	-	-	20,000
District Size	-	-	-	5 acres	10 acres	-	-	-	-	4 acres
Density	-	-	-	*	†	-	‡	-	-	‡
Min. Front Lot Line (FT)	90**	90**	85**	50††	50††	-	100	-	-	100
Min. Bldg. Set Back (FT)	30	30	30	25	25	40	40	-	-	40
Min. Side Yard (FT)										
Main Building	10	10	10	10	10	10	10	-	-	10
Accessory Building	5	5	5	5	5	-	-	-	-	-
Swimming Pool	10	10	10	-	-	10	-	-	-	-
Tennis Court	15	15	15	-	-	10	-	-	-	-
Min. Rear Yard (FT)										
Main Building	15	15	15	15	15	10	20	-	-	20
Accessory Building	10	10	10	10	10	-	-	-	-	-
Swimming Pool	10	10	10	-	-	10	-	-	-	-
Tennis Court	15	15	15	-	-	10	-	-	-	-
Accessory Building	PLEASE REFERENCE CHART IN §15.02.061									
Max. Lot Coverage by Bldg. (%)	24	24	24	24	30	24	24	-	-	24
Max. Height (FT)										
Main Building	34	34	34	34	34	34	34	-	-	34
Accessory Building	The lesser of 18 FT or one (1) story									
CAMA and FEMA setbacks, if applicable, take priority to Town designated setbacks.										
*Density – PDR-MF – No more than 6.5 dwelling units per acre. †Density – PDR-SF – No more than 4 dwelling units per acre. ‡Density – BD, PD-BD – Nor more than 4 business units per acre. **Min. Front Lot Line – R-20, R-20A, R-15 – 40 FT on cul-de-sac. ††Min. Front Lot Line – PDR-MF, PDR-SF – 25 FT on cul-de-sac.										

Penalty, see § 1.01.999

Amended 11/18/2021





Site Compliance

Schedule of District Requirements										
	R-20	R-20A	R-15	PDR-MF	PDR-SF	ID	BD	WP	AGR	PD-BD
Min. Lot Area (SF)	20,000	20,000	15,000	-	6,500	20,000	20,000	-	-	20,000
District Size	-	-	-	5 acres	10 acres	-	-	-	-	4 acres
Density	-	-	-	*	†	-	‡	-	-	‡
Min. Front Lot Line (FT)	90**	90**	85**	50††	50††	-	100	-	-	100
Min. Bldg. Set Back (FT)	30	30	30	25	25	40	40	-	-	40
Min. Side Yard (FT)										
Main Building	10	10	10	10	10	10	10	-	-	10
Accessory Building	5	5	5	5	5	-	-	-	-	-
Swimming Pool	10	10	10	-	-	10	-	-	-	-
Tennis Court	15	15	15	-	-	10	-	-	-	-
Min. Rear Yard (FT)										
Main Building	15	15	15	15	15	10	20	-	-	20
Accessory Building	10	10	10	10	10	-	-	-	-	-
Swimming Pool	10	10	10	-	-	10	-	-	-	-
Tennis Court	15	15	15	-	-	10	-	-	-	-
Accessory Building	PLEASE REFERENCE CHART IN §15.02.06 L									
Max. Lot Coverage by Bldg. (%)	24	24	24	24	30	24	24	-	-	24
Max. Height (FT)										
Main Building	34	34	34	34	34	34	34	-	-	34
Accessory Building	The lesser of 18 FT or one (1) story									
CAMA and FEMA setbacks, if applicable, take priority to Town designated setbacks.										
*Density – PDR-MF – No more than 6.5 dwelling units per acre. †Density – PDR-SF – No more than 4 dwelling units per acre. ‡Density – BD, PD-BD – Nor more than 4 business units per acre. **Min. Front Lot Line – R-20, R-20A, R-15 – 40 FT on cul-de-sac. ††Min. Front Lot Line – PDR-MF, PDR-SF – 25 FT on cul-de-sac.										

5.33 ac

468 ft

85 ft

195 ft

188 ft

5%

24 ft

The Proposed Special Use Site Plan meets all of the dimensional standards required by UDO Section 15.02.047 for Business District (BD)





MOFFAT
P R O P E R T I E S

§ 15.02.048 APPLICATION REQUIREMENTS FOR BUSINESS DISTRICT AREAS ZONED BD AND BD-PD IN HEAVILY TRAFFICKED AREAS.

A. General provisions.

1. The purpose of this section is to visually enhance and provide for the orderly development of business and commercial areas along the Highway 17 corridor that is adjacent to or within the town and its extraterritorial jurisdiction, and along Shoreline Drive from Highway 17 to the first intersection with Plantation Drive. A site plan review process regulates the development of structures and sites in a manner that considers the following concerns, and where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances, and to encourage architecturally and aesthetically integrated development in accordance with adopted architectural and site design guidelines. In addition, this section is designed to complement Article XXII of the City of New Bern's Code which outlines the architectural and aesthetic development of entrance corridors to the City of New Bern.
2. The principal areas of interest are:
 - a) Protection of property values;
 - b) The balancing of the landowner's rights to use his land, with the corresponding right of abutting and neighboring landowners to live without nuisances such as noise, smoke, fumes, odors, and glare of lights, visual pollution and the like;
 - c) The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
 - d) Applicant's efforts to integrate the proposed development into the existing landscape, or to create a new "image" streetscape through design features such as vegetative buffers, berms, roadside plantings and the retention of open space; and
 - e) The building setbacks, area and location of parking, architectural compatibility, and how these features harmonize with the surrounding developments and the natural landscape.

The rear of corner of the proposed building is over 230 ft away from the nearest residence.

Site Compliance

The Proposed Special Use Site Plan is consistent with the provisions and goals of UDO Section 15.02.048. The site has been designed such that the building, parking, stormwater control measures and utilities are located as far away from the existing residences as practicable and closest to the existing adjacent commercial uses.



Site Compliance

F. *Design guidelines and performance standards.*

1. The following are the design guidelines and performance standards.
2. Exceptions to these guidelines may be granted by the Board of Adjustment after reviewing the petition of the developer along with the recommendations of the Zoning Administrator.
 - a) Required standards.
 - (1) For those developments abutting Highway 17, entrance shall be from Pirates Road or Efird Boulevard. An exception may be granted for any single property not directly connected to Pirates Road or Efird Boulevard.
 - (2)
 - (a) For all developments, each development under single ownership shall be limited generally to 1 driveway access to provide both ingress and egress.
 - (b) In cases where it is determined by the Zoning Administrator that more than 1 driveway access would provide a more efficient circulation pattern within the development and would promote improved traffic safety, 1 additional driveway access may be permitted.
 - (3)
 - (a) Shared driveway access between 2 neighboring developments shall also be recommended as a suitable alternative to the above mentioned requirement.
 - (b) In these cases, it is recommended that the driveway midpoint be the property line between the 2 parcels.
 - (c) The driveway must meet standard specifications, and the estimated driveway volume will be the sum of the trip generation rate of both land uses in question.
 - (4) Those portions of the principal building visible from any street right-of-way shall be sheathed in materials such as wood siding, stone, stucco (drivet), brick or other masonry materials (excluding cinder block or regular concrete block). Metal facades may be used only with special permission of the Board of Adjustment upon recommendation of the Zoning Administrator.

To safely accommodate the equipment rental use, a separate entrance & exit is requested. This arrangement provides the safest and most efficient traffic patterns and circulation for a rental facility. The separate entrance & exit allows both tractor-trailers and passenger trucks with trailers to enter on one side of the site, load or unload and safely exit on the opposite side, reducing the amount of conflicting traffic movements onsite.

Two driveway accesses are requested, one entrance and one exit, to allow for safe truck and trailer maneuvering through the site. Access on US Hwy 17 is RIRO by default due to the existing median. NCDOT has preliminarily reviewed the proposed layout and expressed that they are not opposed to the separate entrance/exit as shown.

Building Compliance

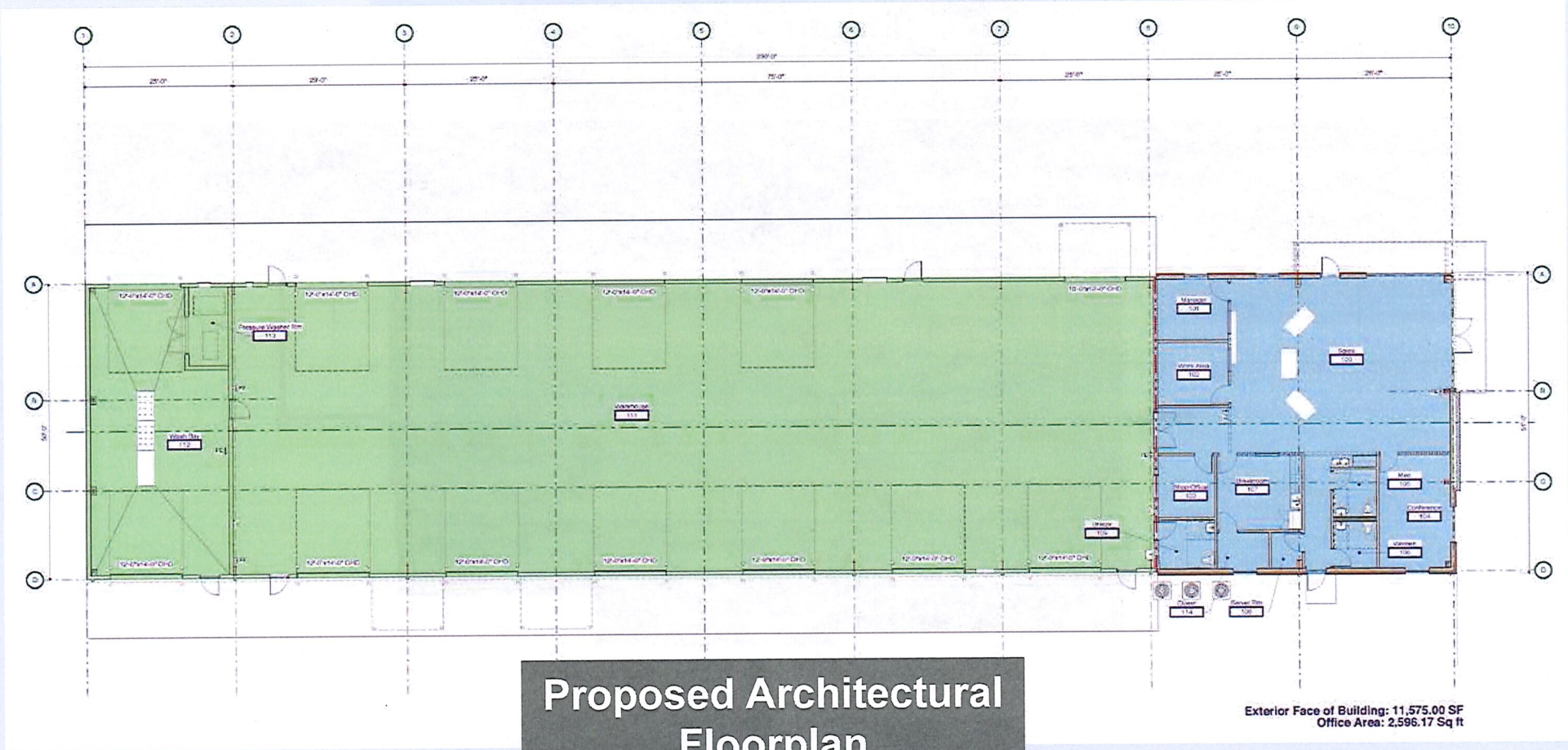
F. *Design guidelines and performance standards.*

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The proposed building uses a mixture of masonry, EIFS and CMU on the front facing façade and 50 ft down each side of the proposed building, along US Hwy 17, which is consistent with the materials requirements of UDO Section 15.02.048. The remainder of the building will be constructed with architectural metal panels along the side and rear of the building, which is in harmony with the surrounding commercial buildings.

- **All mechanical equipment and fuel island are located and screened from the public right of way to the maximum extent practical.**

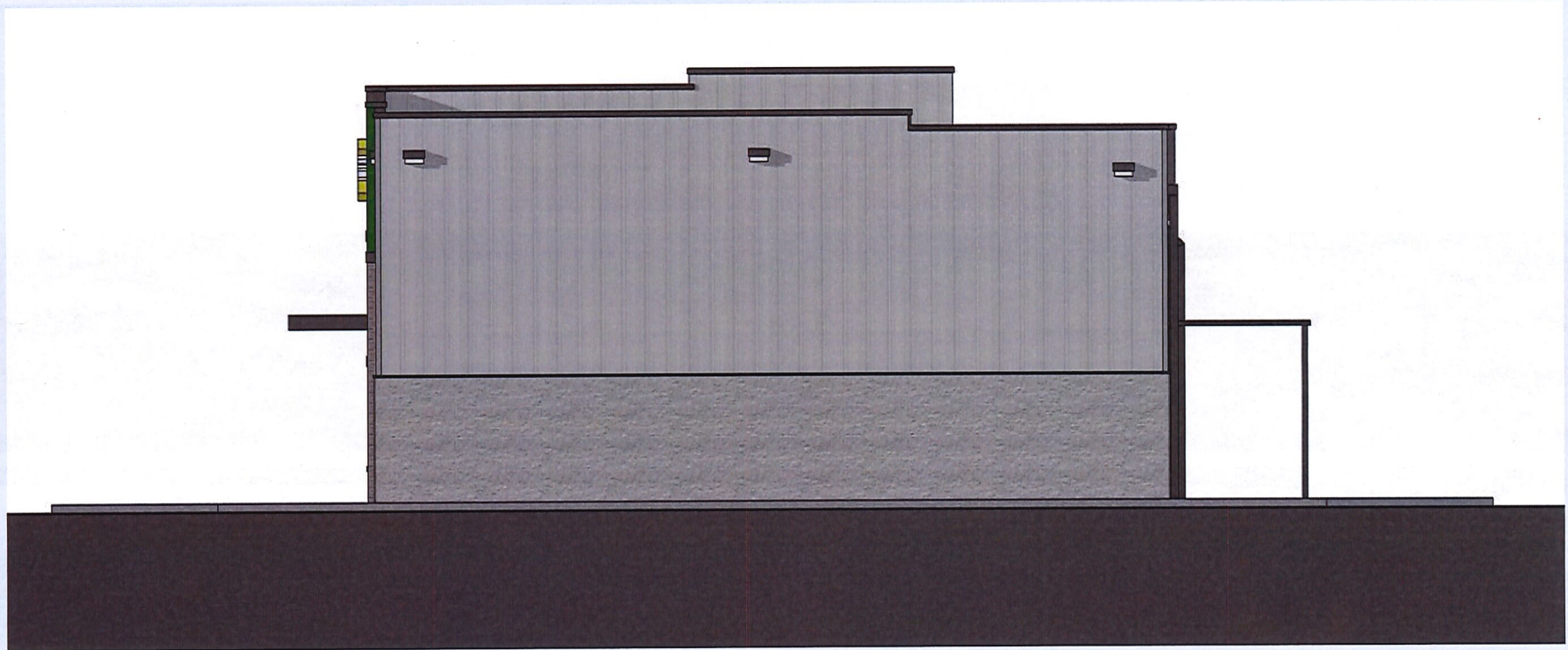
Architectural Floorplan



Architectural Elevations



Proposed Front
Building Elevation



Proposed Rear
Building Elevation



Architectural Elevations

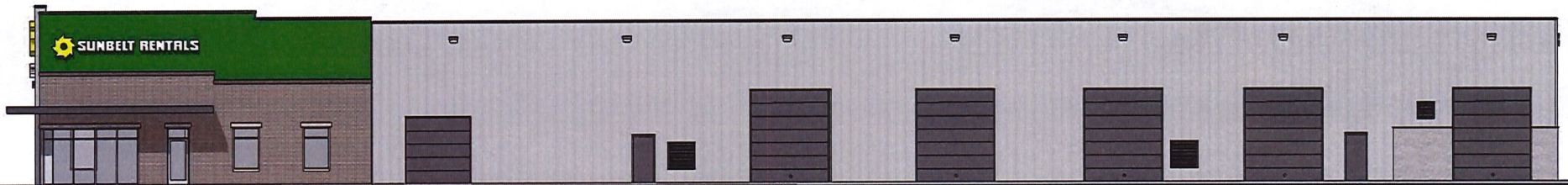


Proposed East
Building Elevation

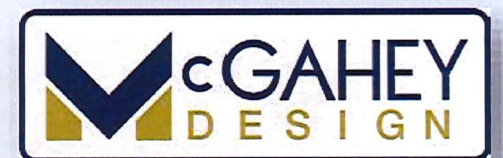




Architectural Elevations



Proposed West
Building Elevation

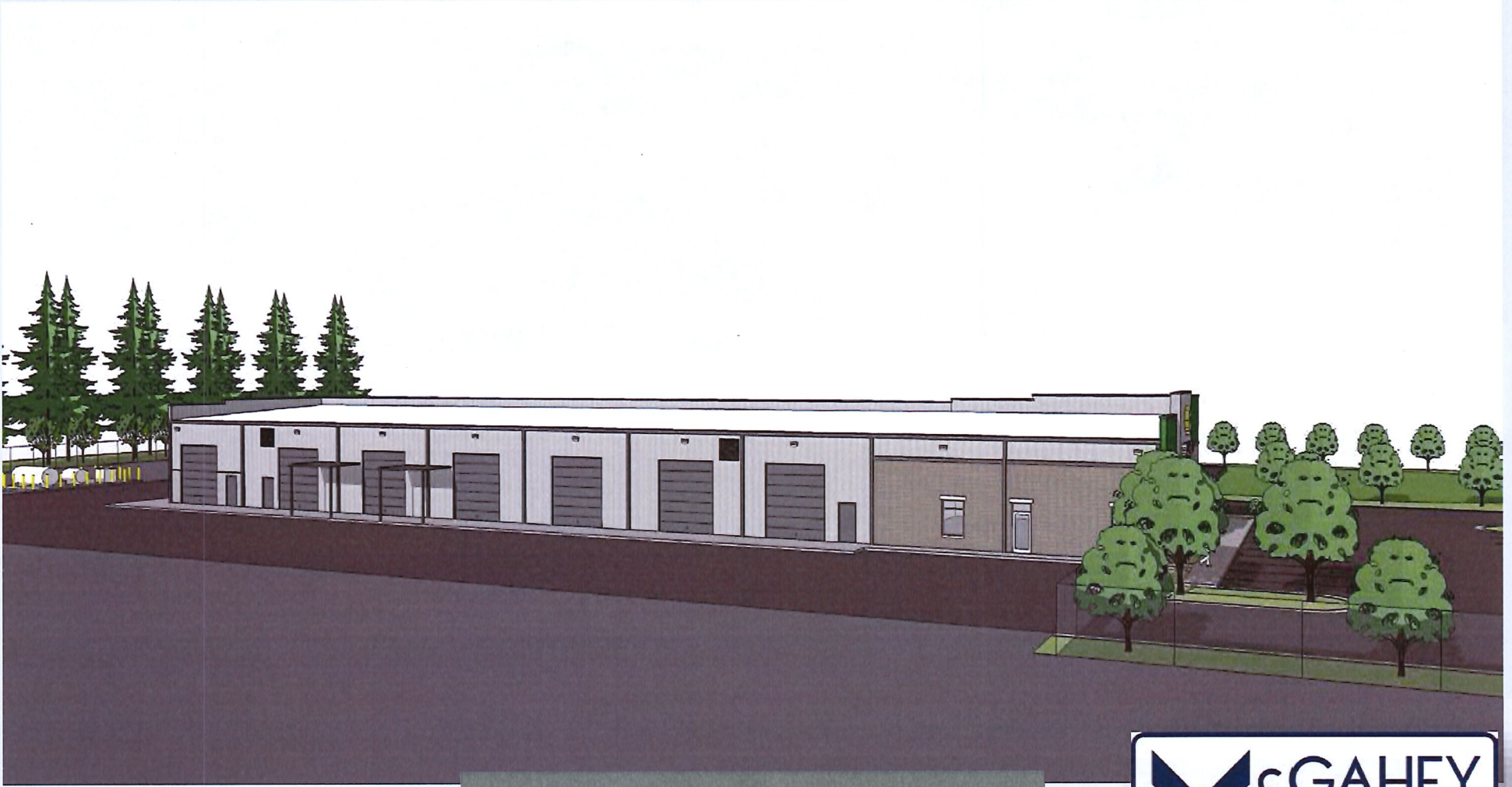




Proposed Building
Front View from US Hwy 17



Proposed Building
Side View from Shell Station



Proposed Building
Side View from East



Proposed Building
Side View from Rear

3D Model Views



Proposed Building
Aerial View from US Hwy 17

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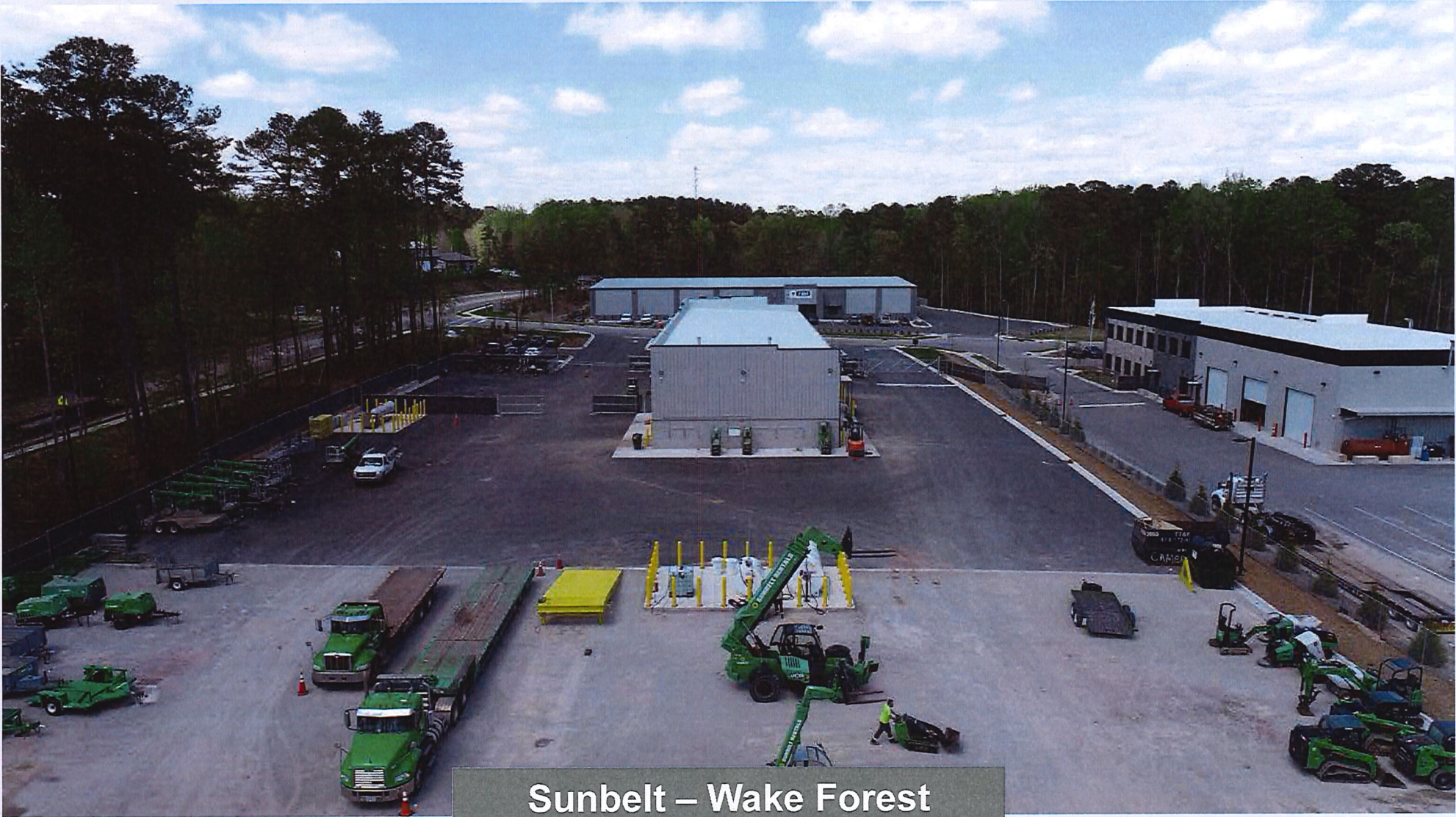
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20' Perimeter Buffer



Sunbelt – Wake Forest

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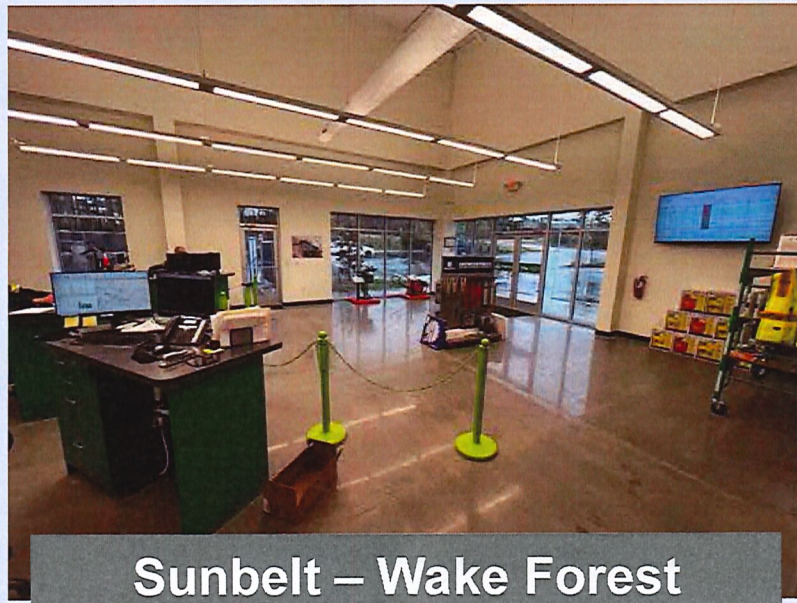
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20' Perimeter Buffer
Adjacent to Residential



Sunbelt – Clayton

Questions?



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