

**LANCASTER COUNTY  
BOARD OF ZONING APPEALS**

**February 09, 2016  
6:30 PM  
ADMINISTRATIVE BUILDING  
ROOM 224**

Type of meeting: Board Of Zoning Appeals/Public Hearing      Facilitator: Planning Staff  
Secretary: Judy Barrineau

Please read: Agenda Packet  
Please bring: Agenda Packet

<b>Approve Agenda</b>	<b>Chairman</b>	
<b>Communications:</b>		
<b>Approve minutes – January 2016</b>	<b>Chairman</b>	
<b>Variance application of Robbie Branstrom. The applicant is requesting a variance from Chapter 2, Zoning Districts and Zoning Map, Section 2.1.5 Overlay Districts, Highway Corridor Overlay District of the Lancaster County Unified Development Ordinance regarding the parking requirements. Pgs. 1-19 BZA 016-004 Tax Map 13, Parcel 46.03</b>	<b>Nick Cauthen</b>	

**BOARD OF ZONING APPEALS - STATEMENT OF MATTER**

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**I. Facts**

A. General Information

*Proposal:* This is a variance application of Robbie Branstrom. The applicant is requesting a variance from Chapter 2 Zoning Districts and Zoning Map, Section 2.1.5 Overlay Districts, Highway Corridor Overlay District of the Lancaster County Unified Development Ordinance regarding the parking requirements.

*Location:* The subject property is located along the western side of Charlotte Highway at the intersection of Ridgeline Lane.

*Legal Description:* Tax Map 13, Parcel 46.03

*Zoning Classification:* PDD-9 (Food Lion/Cobblestone)

*Description of Plan:* The applicant is seeking to build a Taco Bell restaurant on the property. The applicant believes the Highway Corridor Overlay district would unreasonably restrict the property because the orientation of the lot requires the drive-thru lane to be on the interior side and parking on the exterior, consequently this would exceed the side yard parking maximum.

B. Site Information

*Site Description:* The property is 1.76 acres. The lot is currently vacant.

C. Vicinity Data

*Surrounding Conditions:* The surrounding property is zoned B-3 (General Commercial District), B-2 (Community Business District), and PDD-9. Food Lion Grocery Store is located to the north of the subject property and a hair salon is located to the south of the subject property. An Anytime Fitness facility has been granted approval by the Development Review Committee and is located adjacent to the west of the subject property.

D. Exhibits

1. Variance Application
2. Location Map
3. Lancaster County Tax Inquiry Sheet
4. Schematic Site Plan
5. Photo of the property
6. UDO – Highway Corridor Overlay District
7. Findings Required for Granting Variances
8. Findings Required for Granting Variances – Planning

**II. Findings**

Code Considerations: Section 2.1.5 Overlay Districts

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I agree that the facts and findings as stated above are true and correct.

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Applicant signature(s)

Date

**LANCASTER COUNTY BOARD OF ZONING APPEALS**  
**APPLICATION FORM #1**

**GENERAL INFORMATION**

Date Filed: 1-12-16 Application No: BZA 016-004

This form must be completed on a hearing on *appeal from action* of the Zoning Official, application for a *variance*, or application for a *special exception*. Entries must be printed or typed. If the application is on behalf of the property owner(s), all owners must sign. If the applicant is not an owner, the owner(s) must sign the Designation of Agent.

**THE APPLICANT HEREBY APPEALS (indicate one):**

- ( ) From action of Zoning Officials as stated on Form 2
- For a variance as stated on Form 3
- ( ) For a special exception as stated on Form 4

Applicant(s) Print:

Name: Robbie Branstrom Address: 1111 Metropolitan Ave Ste 702  
Charlotte, NC 28204

Telephone: 704-578-3111 Work: 704-206-8328

Interest: development of Tailor Bell Owner(s): \_\_\_\_\_

Other: \_\_\_\_\_

Owner(s) If other than applicant: Chip Nisbet

Address: \_\_\_\_\_ Telephone: 917-986-6276

Work: \_\_\_\_\_ Other Information: \_\_\_\_\_

**PROPERTY INFORMATION**

Property address: 8119 Charlotte Hwy  
Fort Mill, SC 29707 intersection of 821 & Ridgeline

Lot Area/Acres: 1.76 Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_

0013-00-046-03

Tax Map #: 78319 Plat Book: 2003 Page: 0627

Lot Size or Dimension: 1.764 Ac Zoning Classification: NCEM

Use of Surrounding Properties: adjacent to a food use shopping center



**Designation Agent (complete only if owner is not applicant)**

I (we) hereby appoint the person(s) named as applicant(s) as my (our) agent to represent me (us) in this application.

Date: \_\_\_\_\_ [Signature]

\_\_\_\_\_  
Owner(s) Signature(s)



I (we) the undersigned hereby state and understand that while this application will be carefully reviewed and considered, all burden of proof rests within the applicant subject to application request. All incorrect or falsified information or documentation will cause application to be null and void.

I (we) certify that the information in this application and all other forms are true to content.

Date: 11/9/14 Applicant Signature(s) [Signature]

LANCASTER COUNTY BOARD OF ZONING APPEALS

VARIANCE APPLICATION - FORM #3

Date Filed: 1-12-16 Application No. BZA-016-004

1. Applicant(s) hereby appeals to the Lancaster County Board of Zoning Appeals for a variance from the strict application to the property described in the General Information (Form #1) of the following provisions of the Lancaster County Unified Development Ordinance: 2.15 of appendix BCH so that a zoning permit may be issued or permission granted to allow the use of the property described as follows: the development of a Taco Bell

for which a permit or permission has been denied by the zoning official on the grounds that the proposal would not comply with the specific requirements of the cited section(s) of the Lancaster County Unified Development Ordinance.

(2) The application of the ordinance will result in unnecessary hardship and the standards for a variance as set by South Carolina Law and the Lancaster County Unified Development Ordinance are met by the following facts:

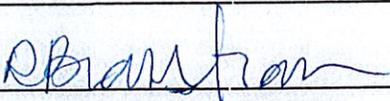
- a) There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: The orientation of this lot requires the drive thru lane to be on the interior side and parking on exterior. consequently, the parking is on the side yard exceeding 45'.
- b) These conditions do not generally apply to other property in the vicinity as shown by: There are similar businesses with drive-thrus in the immediate corridor. For example the Bojangles located at 9785 Charlotte Hwy. We are zoned by right for a
- c) Because of these conditions, the application of the Lancaster County Unified Development Ordinance to the particular piece of property would prohibit or unreasonably restrict the utilization of the property as follows: It precludes the development of a restaurant with a drive-thru.

drive-thru but for a drive-thru <sup>window</sup> to be feasible and be on the drivers side <sup>window</sup> plan requires side parking. Because the site fact there is more hardship on us due to the orientation of lot. The Bojangles at 621 an Collins had the same issue but received permission to have side parking fronting Collins

d) The granting of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be compromised by the granting of the variance for the following reasons: there are existing drive thru restaurants on this corridor. Based on the way the lot is positioned it requires additional side yard parking.

The following documents are hereby submitted in support of this application: site plan

Date: 1/11/14



Applicant signature(s)

Upon completion of your Application, sign the statement below, and return it along with your application by the due date. A copy of this acknowledgment will be attached with your application for our records.

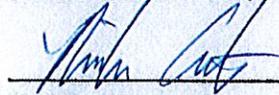
I, Robbie Branstrom, have signed that I am aware of the Zoning Board of Appeals hearing date.

February 9th, 2016 (Hearing Date)

I understand that I will be asked to speak on behalf of my request and that I, or a representative will need to be in attendance. If for some reason I or a representative will not be able to attend the scheduled meeting, I must request a deferral to another date, or withdraw my application, if I do not want my application considered by the Zoning Board of Appeals.

I acknowledge that failure to attend the meeting does not result in my application being automatically deferred to the next month. The zoning Board of Appeals will still hold the hearing on my request and can take any form of action, including denial. Should my request be denied, I will not be permitted to resubmit the request to the Zoning Board of Appeals for a period of six months, unless conditions have changed substantially and the Zoning Board of Appeals votes unanimously to rehear the matter.

 1/19/16  
(Property owner / Applicant's signature) (Date)

 1/19/16  
(Staff's Signature) (Date)



Walter Olin Nisbet, III and Marian McGowan Nisbet mentioned unto the said ~~WON/MA~~ Family Limited Partnership, its Successors and Assigns forever and Grantor does hereby bind itself and its Successors and Assigns, to warrant and forever defend all and singular the said premises unto the ~~Walter Olin Nisbet, III and Marian McGowan Nisbet~~ said ~~WON/MA~~ Family Limited Partnership, its Successors and Assigns, against it and its Successors and Assigns and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

IN WITNESS WHEREOF, Indian Land-F.L., LLC has caused these presents to be executed in its name by Vincent G. Watkins its Manager this 15th day of December in the year of our Lord two thousand three and in the two hundred and twenty-eighth year of Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered  
in the presence of

INDIAN LAND-F.L., LLC

William B. Kulp

BY: [Signature]

Manager

[Signature]

STATE OF NORTH CAROLINA )  
  )  
COUNTY OF MECKLENBURG )

Personally appeared before me the undersigned witness and made oath that he saw the within named Indian Land-F.L., LLC by Vincent G. Watkins, Manager sign, seal and as its act and deed, deliver the within written Deed for the uses and purposes therein mentioned; and that he with the other witness witnessed the execution thereof.

[Signature]

SWORN to before me this

15th day of December, 2003.

William B. Kulp (L.S.)  
Notary Public for North Carolina  
My Commission Expires: 7/7/07

RECORDED THIS 17th DAY

OF December, 2003

IN BOOK 0 PAGE 11-01

[Signature]

Auditor, Lancaster County, S. C.

PROPERTY DESCRIPTION

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND LYING, BEING AND SITUATE ON U. S. HIGHWAY 521 IN INDIAN LAND TOWNSHIP, LANCASTER COUNTY, SOUTH CAROLINA AND BEING MORE PARTICULARLY SHOWN AND DESCRIBED AS LOT 3, CONTAINING 1.764 ACRES, MORE OR LESS, ON PLAT ENTITLED SUBDIVISION SURVEY OF A PORTION OF LANDS OF INDIAN LAND INVESTORS, LLC, DATED NOVEMBER 3, 2003 AND RECORDED IN PLAT BOOK 2003 AT PAGE 627 IN THE OFFICE OF THE REGISTER OF DEEDS FOR LANCASTER COUNTY, SOUTH CAROLINA.

(WON.PFD/WON/3)

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

)  
)  
)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. Property located at Lot 3, U. S. Highway 521, bearing Lancaster County, Tax Map Number \_\_\_\_\_, was transferred by Indian Land-F.L., LLC to WON/MMN Family Limited Partnership on December 15<sup>th</sup>, 2003.

The transaction was (Check One):

an arm's length real property transaction and the sales price paid or to be paid in money or money's worth was \$ 555,000.00 \*.

not an arm's length real property transaction and the fair market value of the property is \$ \_\_\_\_\_ \*.

The above transaction is exempt, or partially exempt, from the recording fee as set forth in S. C. Code Ann. Section 12-24-10 et seq. because the deed is (See Back of Affidavit):

As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:

I further understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to before me this

15<sup>th</sup> day of December, 2003.

Monica A. Leque (L.S.)  
Notary Public for SC  
My Commission Expires: 1-21-08

Purchaser Legal Representative  
of the Purchaser, or other  
Responsible Person Connected  
with the Transaction

\* The fee is based on the real property's value. Value means the realty's fair market value. In arm's length real property transactions, this value is the sales price to be paid in money or money's worth (e.g. stocks, personal property, other realty, forgiveness of debt, mortgages assumed or placed on the realty as a result of the transaction). However, a deduction is allowed from this value for the amount of any lien or encumbrance existing on land, tenement, or realty before the transfer and remaining on it after the transfer.

STATE OF North Carolina  
COUNTY OF Mecklenburg

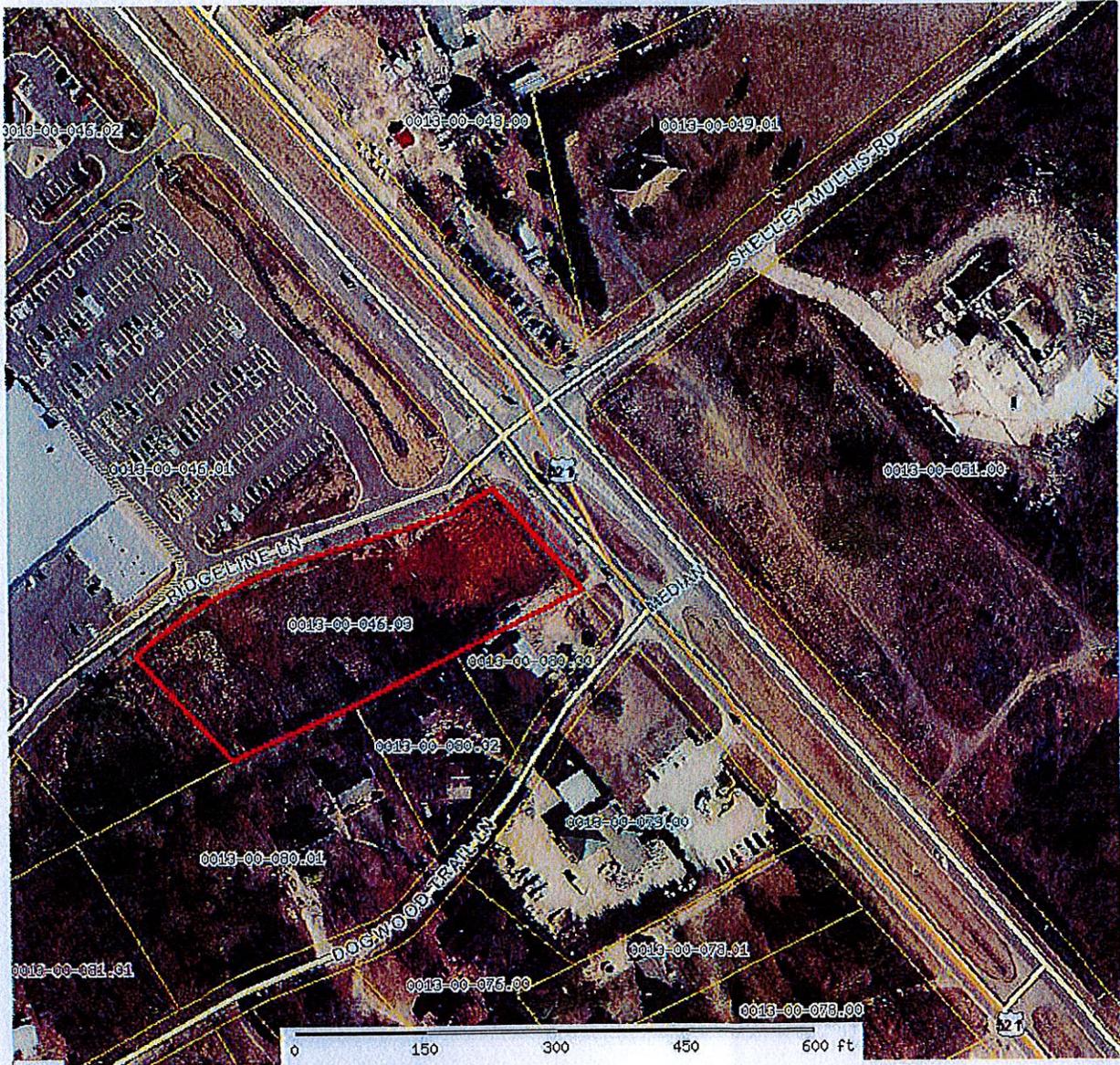
Personally appeared before me Wright UZZELL (Witness #1) who being duly sworn deposes and says that he/she saw the within named BRANCH BANKING AND TRUST COMPANY, a national banking company by its Vice president sign, seal and as its duly authorized act and deed, deliver the foregoing instrument for the uses and purposes therein mentioned, and that he/she with Joyce M. Benton (Witness #2) subscribed above, witnessed the execution thereof.

Wright Uzzell  
Witness #1

Sworn to before me this 11<sup>th</sup>  
day of December, 2003.  
Lillian D. Laddy  
Notary Public of Mecklenburg City (State) NC  
My commission Expires June 23, 2006

[NOTARY SEAL]





Lancaster County Assessor			
Parcel: 0013-00-046.03 Acres: 1.76			
Name:	NISBET WALTER OLIN III NISBET MARIAN MC	Land Value	\$632,800.00
Site:	CHARLOTTE HWY	Improvement Value	\$0.00
Sale:	\$555,000 on 12-2003 Vacant= Qual=9R	Accessory Value	\$0.00
Mail:	401 HERMITAGE RD CHARLOTTE, NC 28207-0000	Total Value	\$632,800.00



The Lancaster County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER LANCASTER COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

Date printed: 01/19/16 : 10:49:38

Indexed By  Parcel ID  Card #

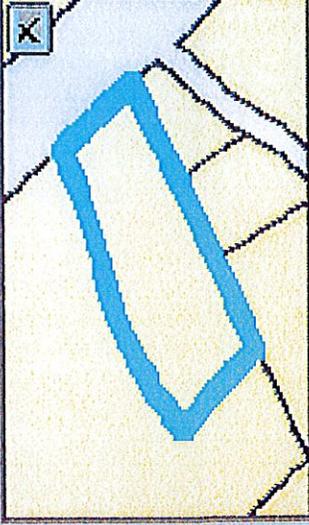
Add Mod Del Save Cancel

**Parcel ID: 0013-00-046.03** Card: 1/1  
 Account: 78319 District: 01 - County  
 Sticker #: Ent. Parcel Area: 1.764 - AC  
 Location: CHARLOTTE HWY Indian Land Neigh: 01B - 01B Own Type:  
 Land Use: NCOM - Comm  
 Owner #1: NISBET, WALTER OLIN III

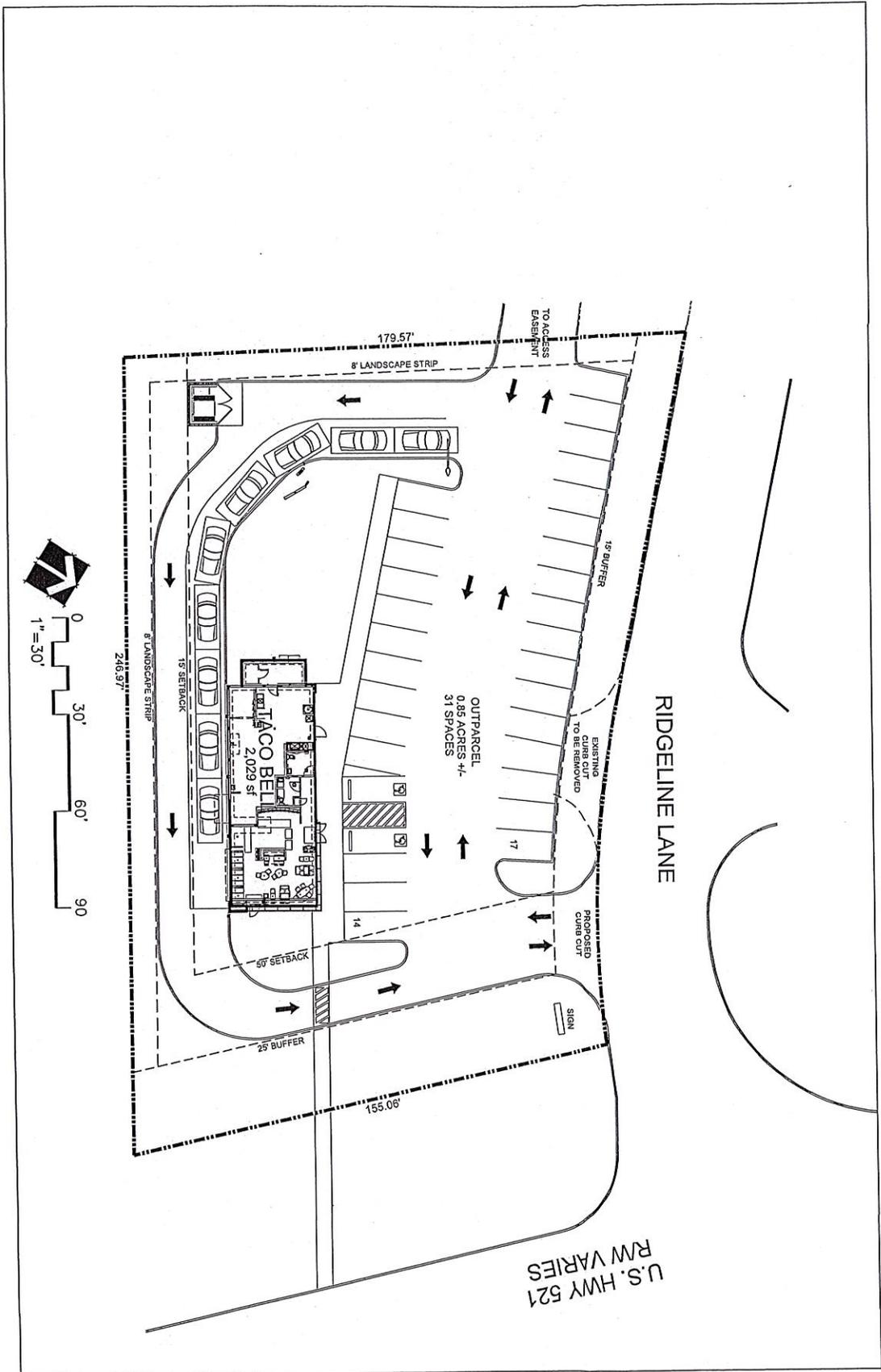
Market Adj Value	Current	Year 2014	Legal Description
Calc. Land Area:	1.760		
Full Market Value:	632,800	632,800	
Building Value:			
Y and Items:			
Land Value:	632,800	632,800	
Total Value:	37,968	37,968	
Assessed Value:	632,800	632,800	Reval / Market
Capped Total			

**Sales Information**  
 Grantor: INDIAN LAND - FL INC Validity: 9R  
 Sale Price: 555,000  
 Sale Date: 12/15/2003 Sold Vacant: No  
 Legal Ref: 0220-0029

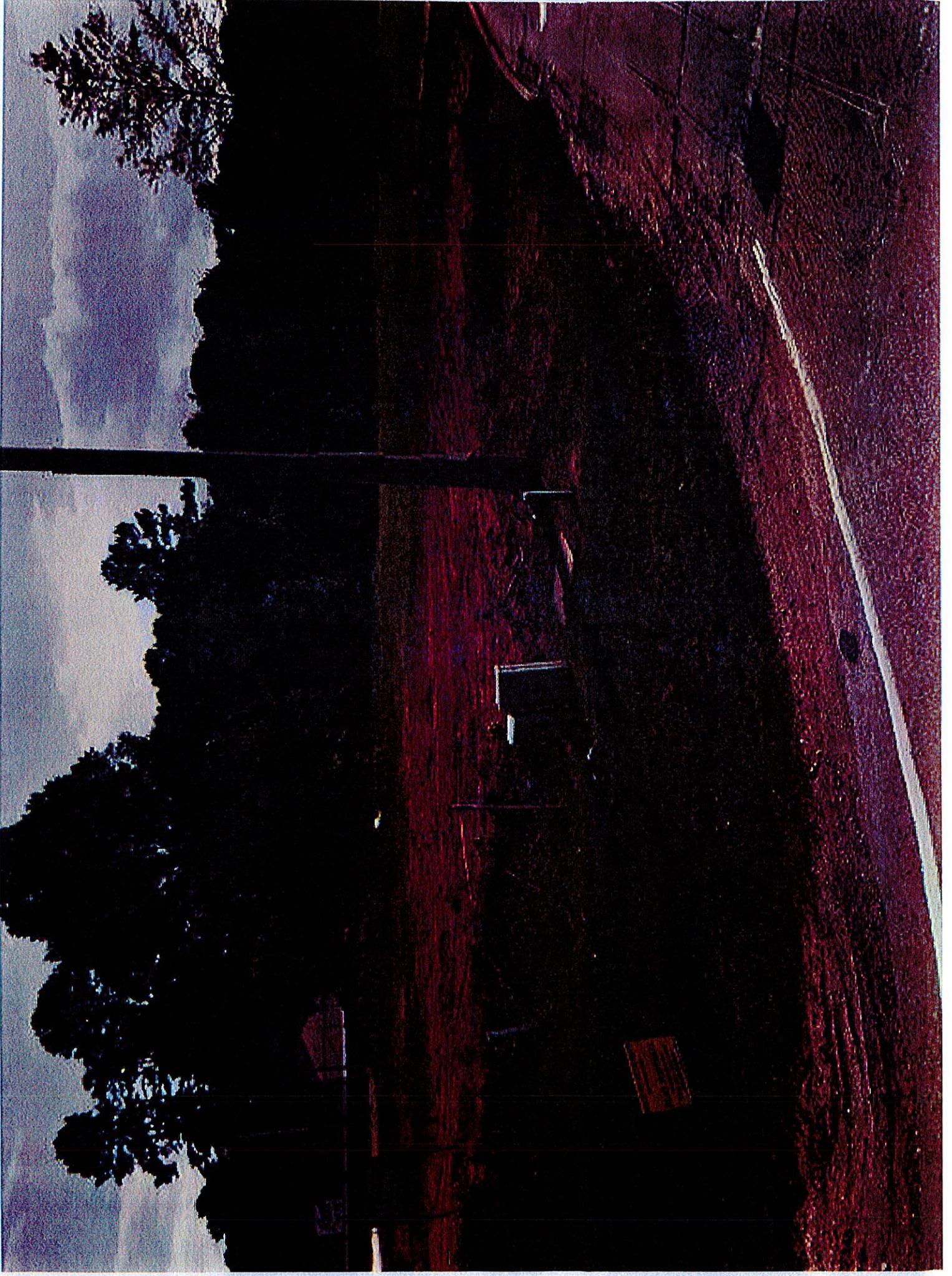
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<p><b>OUTPARCEL PLAN</b>  <b>HWY 521, S.C.</b>  <b>Schematic Site Plan</b></p>		<p><b>EVERGREEN DEVELOPMENT COMPANY, LLC</b></p>	<p><b>GOPO architecture</b>  <small>1111 Metropolitan Avenue        Suite 703, Charlotte, NC 28224        704.534.2787        gopofarchitecture.com</small></p>
<p>project # 1200308</p>	<p>date 12-17-15</p>	<p>sheet # SK-1</p>	



The Highway Corridor Overlay District is hereby established, and is subject to the following general provisions:

- a. *Purpose and Intent:* The Highway Corridor Overlay District is established to preserve and enhance corridors that serve as major gateways leading to, from and within Lancaster County. As both commercial and residential land uses exist along such corridors, there is a desire of the residents of Lancaster County to provide standards relative to connectivity, aesthetic appearance, and safety along major gateways. The land use recommendations and design requirements contained in this subsection are the result of a community-wide effort. As such, the intent of this district is to provide unified land development regulations that promote a sense of place and create consistency along significant corridors by improving the visual character of adjacent development.
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h. *Parking and Vehicular Access:*

1. *Off-street Parking:* For buildings fronting on the corridor, off-street surface parking shall be located primarily to the rear of the building it serves. Side yard parking is permissible and shall occupy no more than forty five percent (45%) of the principle corridor frontage line. The following shall also apply:
  - i. Side yard parking shall not be placed in an established side yard abutting an intersecting street;
  - ii. Where dimensions or topographical constraints of existing parcels restrict the location of off-street parking to the rear of the building it serves, the restrictions on side yard parking may be modified, on a case-by-case basis, by the Zoning Administrator;
  - iii. Uninterrupted areas of parking areas shall be limited in size. Parking areas with more than twenty (20) space[s] shall be broken by buildings and/or landscape features as outlined in item (k)(5) of this subsection (7); and
  - iv. Parking areas shall be designed to allow pedestrians to safely move from their vehicles to the building.

### **Finding Required for Granting Variance**

A variance may be granted by the Board of Zoning Appeals in an individual case of unnecessary hardship if the Board makes and explains in writing all of the following findings:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- b. These conditions do not generally apply to other property in the vicinity;
- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
- d. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by granting of the variance nor will the granting of a variance impair the purpose and intent of this Ordinance or the Comprehensive Plan.
- e. The Board shall not grant a variance the effect of which would not be to allow the establishment of a use not otherwise permitted in a zoning district, to extend a physically nonconforming use of land, or to change the district boundaries shown on the Official Zoning Map.

## Findings Required for Granting Variances

BZA-016-004

Lancaster County

Meeting Date: Tuesday, February 9<sup>th</sup>, 2016

A variance may be granted by the Board of Zoning Appeals in an individual case of unnecessary hardship if the Board makes and explains in writing all of the following findings:

- a. **There are extraordinary and exceptional conditions pertaining to the particular piece of property:** The orientation of this lot requires the drive thru lane to be on the interior side and parking on the exterior side. Consequently, parking on the side yard would exceed the 45% maximum.
- b. **These conditions do not generally apply to other property in the vicinity:** There are similar businesses with drive thru's in the immediate corridor. For example the Bojangles located at 9786 Charlotte Hwy. The property is zoned by right for a drive-thru but for a drive-thru to be feasible and be on the driver's side window the site plan requires side yard parking. Because of this fact there is more hardship on us due to the orientation of the lot. The Bojangles at 521 and Collins had the same issue but received permission to have side yard parking fronting Collins.
- c. **Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the Utilization of the property as follows:** It precludes the development of a restaurant with a drive-thru.
- d. **The authorization of a variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by granting of the variance nor will the granting of a variance impair the purpose and intent of this Ordinance or the Comprehensive Plan.** There are existing drive-thru restaurants on this corridor. Based on the way the lot is positioned it requires additional side yard parking.
- e. **The Board shall not grant a variance the effect of which would not be to allow the establishment of a use not otherwise permitted in a zoning district, to extend a physically non-conforming use of land, or to change the district boundaries shown on the Official Zoning Map:** This variance changes the zoning requirements of the property. There will be no extension of a physically non-conforming use of land nor will any district boundaries be changed.