

# Pender County Planning and Community Development

**Planning Division**  
805 S. Walker Street  
PO Box 1519  
Burgaw, NC 28425



Phone: 910-259-1202  
Fax: 910-259-1295  
[www.pendercountync.gov](http://www.pendercountync.gov)

## AGENDA

**Pender County Board of Adjustment Meeting**  
**May 7, 2014 9:00 a.m.**  
**Pender County Public Meeting Room**  
**805 S. Walker Street, Burgaw, North Carolina**

**Call to Order:** Chairman Ferrante

### Invocation:

**Roll Call:** Chairman Ferrante

Pender County Board of Adjustment Members:

Ferrante: \_\_\_\_\_ Pullen: \_\_\_\_\_ Newton: \_\_\_\_\_ Thompson: \_\_\_\_\_ Walton: \_\_\_\_\_

Alternates:

Godridge: \_\_\_\_\_ Peters: \_\_\_\_\_

### 1. Adoption of the Agenda:

2. **Adoption of the Minutes:** February 19, 2014

### 3. Public Comment:

*\*Public Hearing Opened\**

### 4. Variance:

Baseline Development, LLC applicant, on behalf of TCB Rocky Point, LLC, owner, is requesting a variance for the property located approximately 460' West of the intersection of US Highway 117 and Porters Lane Road in Rocky Point. The applicant is requesting relief from Section 7.4.4 Cross Access Corridors, of the Pender County Development Ordinance, which is a service drive between two or more contiguous sites providing direct access to properties and limiting travel on the public street system. Specifically, the applicant is requesting a variance to waive the requirement that their development install a cross access corridor linking to either of the two adjacent eastern commercial parcels. The subject property is zoned GB, General Business District and may be identified by Pender County PIN: 3235-63-9839-0000.

*\* Public Hearing Closed\**

### 5. Discussion Items:

a. BOA Members:

b. Planning Staff:

6. **Next Meeting:** June 18, 2014, as applicable

### 7. Adjournment:

**PLANNING STAFF REPORT**  
**Variance**

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**SUMMARY:**

**Hearing Date:** May 7, 2014  
**Applicant:** Rocky Point Development Group, LLC  
**Property Owner:** TCB Rocky Point, LLC  
**Case Number:** 11170

**Property Location and Description:** The subject property is located approximately 460' west of the intersection of US Highway 117 and Porters Lane Road in Rocky Point, and may be identified by Pender County PIN: 3235-63-9839-0000.

**Zoning District of Property:** The property is zoned GB, General Business District.

**Variance Requested:** Rocky Point Development Group, LLC applicant, on behalf of TCB Rocky Point, LLC, owner, is requesting a variance for the property located approximately 460' west of the intersection of US Highway 117 and Porters Lane Road in Rocky Point. The applicant is requesting relief from Section 7.4.4 Cross Access Corridors, of the Pender County Development Ordinance, which is a service drive between two or more contiguous sites providing direct access to properties and limiting travel on the public street system. Specifically, the applicant is requesting a variance to waive the requirement that their development install a cross access corridor linking to either of the two adjacent eastern commercial parcels. The subject property is zoned GB, General Business District and may be identified by Pender County PIN: 3235-63-9839-0000.

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**BACKGROUND AND DESCRIPTION OF VARIANCE:**

The subject property totals 3.58 acres and is currently vacant. The subject parcel B1-R2 (Exhibit 4) is bound to the east by two vacant and commercially zoned tracks in common ownership, to the west by a Church, and the southern boundary is bound by a commercially zoned parcel being utilized for stormwater management. The properties to the north include a number of residential and commercial properties, including the Rocky Point Volunteer Fire Department.

*Cross Access Corridor: A service drive between two or more contiguous sites providing direct access to properties and limiting travel on the public street system.*

As detailed on (Exhibit 3), the subject parcel has an ongoing development proposal for a 19,097 sq. ft Tractor Supply Store with 15,000 sq. ft of outdoor display area. In referencing (Exhibit 4), Family Dollar is currently being developed on Tract B2-R2 of the two adjacent eastern parcels. A formal application has not been submitted for the northern tract, Tract A-R2.

The applicant is requesting a variance to waive the requirement that their development install a cross access corridor linking to either of the two adjacent eastern commercial parcels, specifically, Section 7.4.4 Cross Access Corridors, of the Pender County Development Ordinance. As required, the cross access corridor is required to be 20' in width and provide ingress and egress between adjacent commercial developments. To date, the applicant will have three access points including two driveways onto Porters Lane Road and one cross access connection along the southern boundary which will connect to Food Lion and Arlington Lane.

In lieu of the cross access connection, the applicant has proposed constructing a 5' wide pedestrian pathway to connect the Tractor Supply Company parcel to the adjacent eastern properties. The applicant has addressed the four Variance criteria within their narrative, attached.

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**ZONING ADMINISTRATOR'S CONCLUSION:**

Staff's review of the applicant's proposal has determined that any pedestrian walkway should reasonably connect pedestrians to equivalent pedestrian routes on adjacent sites. The circulation should be unified and not reach a terminus at a point where a pedestrian may be unsafe or unable to safely traverse the terrain.

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**RELEVANT UDO PROVISIONS:**

**3.14 VARIANCE**

**3.14.1 Applicability**

- A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated in Section 3.14.7 of this Ordinance.

**7.4.4 Cross Access Corridors**

**A. Definition**

1) Cross access corridor are driveways constructed between adjoining properties to provide an alternative passageway to access adjoining developments without entering and exiting the roadway. These cross access corridors are intended to link parking areas on adjoining developments

**B. Applicability**

- 1) Cross access corridors shall be required for all nonresidential adjacent properties.
- 2) Cross access corridors are encouraged for all other developments.
- 3) The administrator may modify or waive these requirements of this Section if it can be proven that strict compliance would be impractical due to unique site conditions such as environmental concerns, safety concerns, extreme slope, or similar characteristics.

**C. Requirements**

- 1) Cross access corridors shall be designed to provide unified circulation and access between sites
- 2) The minimum width for a cross access corridor is 20 feet to accommodate two way travel.
- 3) Cross access corridors must be set at least 20 feet from any paved public roadway.

4) If a site is developed adjoining to an undeveloped parcel, it shall be designed so that its parking, access, and circulation are easily tied together to create a unified system at a later date. If the building site abuts an existing developed property, it shall tie into the abutting parking, access, and circulation to create a unified system when possible. This shall be accomplished by requiring the applicant to:

a) Construct a cross access future connection to the property line to allow for future connection or dedicate an easement of sufficient width to accommodate a future cross access corridor.

#### **D. Maintenance and Operation**

1) Where a cross access is developed, the owners/developers of the affected properties shall provide for mutually coordinated parking, access, and circulation systems, and shall provide design features as necessary to make it visually obvious that abutting properties shall be tied together for create a unified system.

2) In order to maintain a clear passage for emergency and non-emergency travel, no parking shall be allowed in a cross access corridor.

#### **3.14.7 Findings**

In granting any variance, the Board of Adjustment shall make the following findings:

A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;

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, 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 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.

B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

#### **3.14.9 Action by the Board of Adjustment**

A. Each decision shall be accompanied by a finding of fact by the Board of Adjustment which specifies the reasons for the decision.

B. A decision of the Board of Adjustment to approve a variance or reverse an interpretation requires an affirmative vote by four-fifths of the members present and voting.

C. The Board of Adjustment may approve the request, deny the request, or continue the request. In approving the variance, the Board of Adjustment may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with neighboring properties and will not alter the character of the neighborhood.

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**BOARD OF ADJUSTMENT: FINDING OF FACTS**

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does/does not** 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 conclusion is based on the following FINDINGS OF FACT:
2. It is the Board's CONCLUSION that the hardship **does/ does not** result from conditions that are peculiar to the property, such as location, size, 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. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board's CONCLUSION that the hardship **did/ 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 granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board's CONCLUSION that the requested variance **is/ is not** consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT:

**Board Action:**

**Motion:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

**Approved:** \_\_\_\_\_ **Denied:** \_\_\_\_\_ **Unanimous:** \_\_\_\_\_

**Ferrante:** \_\_\_\_\_ **Pullen:** \_\_\_\_\_ **Newton:** \_\_\_\_\_ **Thompson:** \_\_\_\_\_ **Alternates: Walton** \_\_\_\_\_

**Peters:** \_\_\_\_\_ **Godridge** \_\_\_\_\_

## APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA	Date	
Application Fee	\$ 250.00	Receipt No.	
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	Rocky Point Development Group, LLC	Owner's Name:	TCB Rocky Point, LLC
Applicant's Address:	165 W New York Ave #200	Owner's Address:	1121-E Military Cutoff Rd
City, State, & Zip	Southern Pines, NC 28387	City, State, & Zip	Wilmington, NC 28405
Phone Number:	910-695-3694	Phone Number:	910-239-5580
Legal relationship of applicant to land owner: NONE			
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	per Pendle County GIS 3235-63-9839-0000	Total property acreage:	3.58
Zoning Classification:	GB	Variance Size:	
Variance Location & Address	1965 us highway 117		
Describe Variance and amount or type requested:	Requested variance to Pendle County UDO to section 7.4.4 cross access corridors.		
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature	<i>William C Lovette</i>	Date:	4.17.14
Owner's Signature		Date:	
<b>NOTICE TO APPLICANT:</b>			
<ol style="list-style-type: none"> <li>1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements.</li> <li>2. All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval.</li> <li>3. An application for a variance shall be submitted in accordance with application requirements.</li> <li>4. Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage.</li> <li>5. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.</li> <li>6. Applicant must also submit the information described in the Variance Checklist provided below.</li> <li>7. Applicant or agent authorized in writing must attend the public hearing.</li> <li>8. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.</li> </ol>			
<b>OFFICE USE ONLY</b>			
<input checked="" type="checkbox"/> VA Fees \$250	Total Fee Calculation \$		
Payment Method :	Cash : <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input checked="" type="checkbox"/> Check # 5073
Application received by:	<i>[Signature]</i>	Date:	4-24-14
Application completeness approved by:	<i>[Signature]</i>	Date:	4-24-14
Date scheduled for public hearing:			5-7-14

### Variance Checklist

<input checked="" type="checkbox"/>	Signed application form
<input checked="" type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete--the list maybe compiled from the public PC terminal in the Pender County Tax Office).
<input checked="" type="checkbox"/>	One business size envelope legibly addressed with <b>first class</b> postage for each of the adjacent property owners on the above list.
<input checked="" type="checkbox"/>	<b>Variance Description:</b> Written description of the Variance requested, meeting the four identified findings for variance approval described on page 1 of this application and in the Pender County Unified Development Ordinance (Section 3.14.7.A.).
<input checked="" type="checkbox"/>	<p><b>Project Map(s)</b>—Applicant shall supply 15 (11"x17") project maps at a readable scale, clearly showing the following (as applicable):</p> <p style="text-align: center;"><i>Per ed McCarty - site plan Attached</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Property Location</li> <li><input type="checkbox"/> Building Separation Distances</li> <li><input type="checkbox"/> Dimensions of Property</li> <li><input type="checkbox"/> Proposed Building Height</li> <li><input type="checkbox"/> Building Distances From Property Lines (Front, Sides, Rear)</li> <li><input type="checkbox"/> Location of All Existing Utilities On-Site</li> <li><input type="checkbox"/> Existing Structures</li> <li><input type="checkbox"/> Acreage of Property</li> <li><input type="checkbox"/> Any Proposed Structures</li> <li><input type="checkbox"/> Additional Information Pertinent to the Variance Request (Pictures, Other Permits, etc.)</li> </ul>
<p><b>RETURN COMPLETED APPLICATION TO:</b>  Pender County  Planning &amp; Community Development  P.O. Box 1519  Burgaw, NC 28425</p>	

# ROCKY POINT DEVELOPMENT GROUP

155 WEST NEW YORK AVENUE, SUITE 200  
SOUTHERN PINES, NC 28387

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April 17, 2014

To: Pender County Planning & Community Development

Rocky Point Development Group, LLC respectfully requests that the Pender County Board of Adjustment grant a variance to section 7.4.4 *Cross Access Corridors* of the Pender County Unified Development Ordinance (UDO) for a 3.38 acre parcel located on Porter's Lane in Rocky Point, N.C. UDO Section 7.4.4 requires the construction of driveways "between adjoining properties to provide an alternative passageway to access adjoining developments without entering and exiting the roadway."

The site is being developed as a location for a 19,097 square foot Tractor Supply Company (TSC) retail store. Tractor Supply is a national retailer that requires strict adherence to a site layout template for store orientation and size and location of customer parking, drive aisles and outdoor display areas. The County and the State also have requirements for parking spaces, storm water system design, setbacks, etc. A site plan has been developed which accommodates all of these requirements (see Exhibit A). This plan shows the location of three proposed ingress/egress points to the Tractor Supply site, two to the north of the property accessing Porter's Lane and one to the south accessing Arlington Avenue and the Food Lion shopping area (Food Lion, Advance Auto Parts, Hardees, etc.). Arlington Avenue is currently a dirt path which will be improved to a fully paved driveway with direct access to NC Highway 117. The east property line of the TSC parcel borders two parcels, one that is under construction for a Family Dollar Store and one that is an area reserved for future development (Tract A). The Family Dollar parcel has direct access to NC Highway 117 and Tract A has direct access to Porter's Lane via a shared access driveway which also connects to the Family Dollar parcel. The mouth of the eastern most TSC access driveway on to Porter's Lane is approximately 75 feet from the mouth of the shared access driveway for Tract A and the Family Dollar. Porter's Lane is a paved, secondary road which runs west from NC Highway 117 for approximately 0.5 miles where it becomes a dirt road serving very low density rural areas. The road is currently a lightly travelled (180 vehicles/day according to NCDOT AADT 2012 data) with no increase in traffic over the past 10 years.

We request that the Board waive the requirement for the cross access driveway between the TSC parcel and Tract A for the following reasons:

1. Because of the multiple access points to the TSC parcel and the other adjacent commercial parcels, the traffic flow between the TSC parcel and Tract A will be limited. This traffic can enter and exit each parcel by using the driveways to Porter's Lane with minimal disruption to traffic flow on Porter's Lane. The movement out one driveway and into the other creates no additional traffic at the intersection of Porter's Lane and NC Highway 117.
2. The requirements for storm water basins, display areas and drive aisles would require the cross access driveway to be located in close proximity to Porter's Lane. This would create a potential traffic safety risk. Traffic entering and exiting the parcels on to Porter's Lane could be in conflict with traffic using the cross access driveway.

# ROCKY POINT DEVELOPMENT GROUP

155 WEST NEW YORK AVENUE, SUITE 200  
SOUTHERN PINES, NC 28387

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3. In order to create the south access to the TSC parcel from Arlington Avenue and the Food Lion retail area, a cross access easement must be granted by Food Lion. The condition imposed by Food Lion for granting this easement was that there can be no cross access to the Family Dollar parcel (direct or indirect) through the TSC parcel. The cross access driveway between TSC and Tract A would violate this condition and Food Lion would refuse to grant an easement for the south access. We believe the south access is far more important to the County than the cross access between TSC and Tract A. The south access will receive much more traffic which otherwise would have to travel on NC Highway 117 to move between Food Lion and TSC. TSC will not locate on the proposed parcel without the cross access to Food Lion and Arlington. Additionally, the cross access easement with Food Lion will provide legal access to Arlington Avenue for the residents on multiple parcels located at the end of this drive who have no other legal access to NC Highway 117 or Porter's Lane. These residents have been using the unpaved Arlington Avenue for many years with no clearly defined legal right of access.
4. Rocky Point Development Group, LLC proposes the installation of a pedestrian walkway (See Exhibit B) between the TSC and Tract A parcels in lieu of the cross access driveway. This walkway would encourage customers to move between the stores on foot and potentially reduce vehicle congestion within the TSC and Family Dollar retail area and on Porter's Lane.

In summary, we believe that the requested variance is consistent with the spirit, purpose, and intent of the Pender County Unified Development Ordinance in the following ways:

- As stated above, the cross access between TSC and Tract A could cause traffic conflicts and a potential safety hazard.
- With the three planned access drives for the TSC parcel, customer traffic will be dispersed enough to not cause congestion on Porter's Lane or NC Highway 117.
- The proposed pedestrian cross access walkway will accommodate the Pender County UDO goal of using alternatives to private automobiles.
- The elimination of the requirement for the cross access between TSC and Tract A will allow the TSC project to move forward, including the construction of the south access to the Food Lion shopping area and improvements to Arlington Avenue. The Arlington Avenue improvements will attract additional businesses to the available parcels adjacent to Food Lion and provide legal access to State highways for the residents and St. Mathews Baptist Church located at the end of Arlington Avenue. The end result of this orderly development will be a more attractive, economically vibrant commercial area with increased employment and tax base for the County.

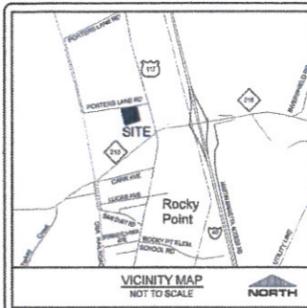
We look forward to the opportunity to meet with The Board of Adjustments to appeal for the variance that would make this development possible.

Sincerely,

William C Ronalter  
Manager and Member

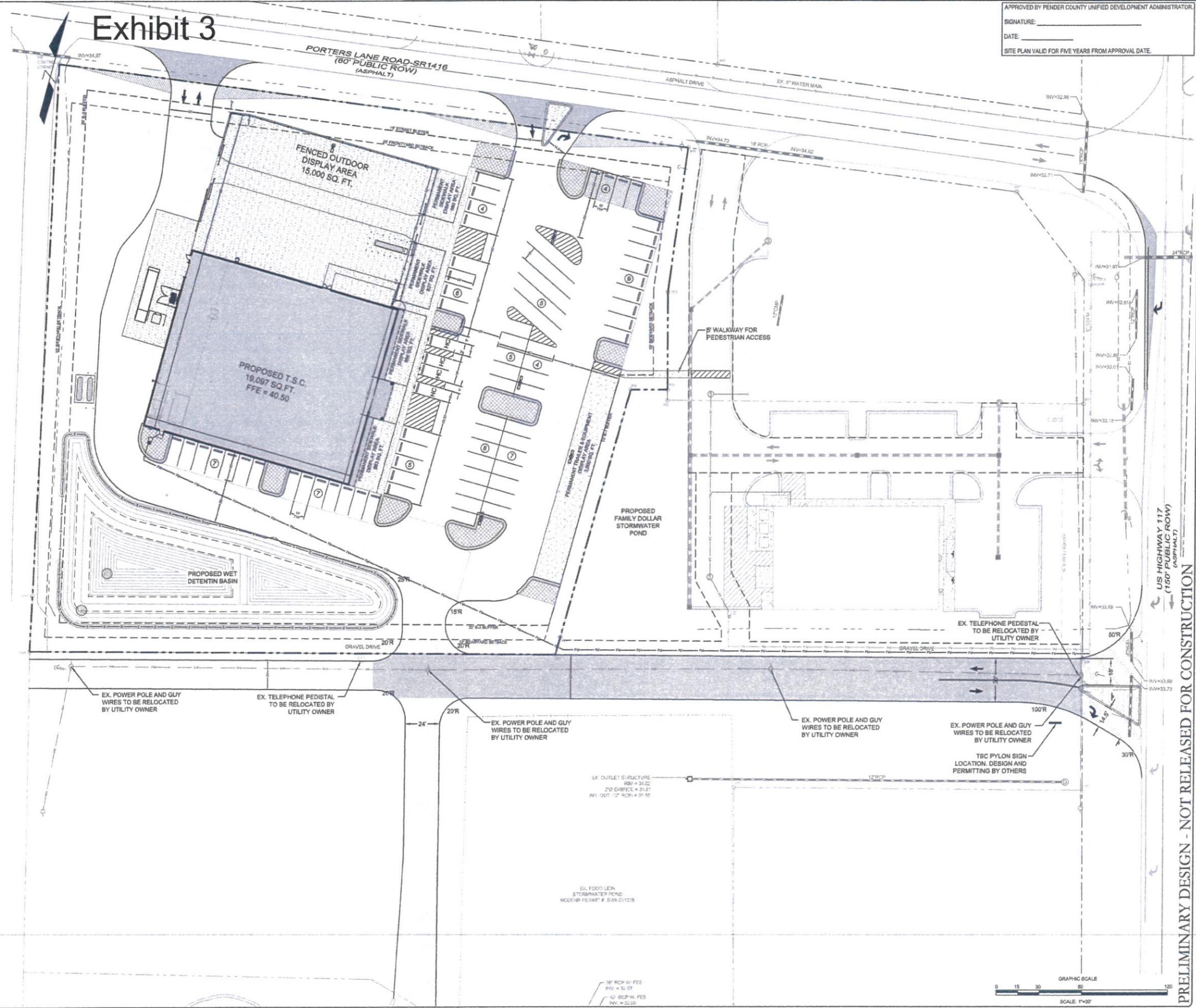
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Phone: (910) 695-3694  
Fax: (910) 695-3603

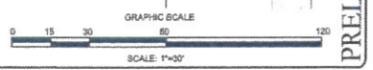


# Exhibit 3

APPROVED BY FENDER COUNTY UNIFIED DEVELOPMENT ADMINISTRATOR  
 SIGNATURE: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 SITE PLAN VALID FOR FIVE YEARS FROM APPROVAL DATE.



- LEGEND**
- - - - - EXISTING PROPERTY LINE
  - - - - - EXISTING EASEMENT
  - ▨ PROPOSED CONCRETE SIDEWALK
  - ▨ PROPOSED BUILDING FOOTPRINT
  - ▨ PROPOSED BUFFER AREAS
  - ▨ PROPOSED INTERNAL LANDSCAPE AREA
  - X EXISTING TREE TO BE REMOVED
  - WET WETLAND LINE
  - IRON PIPE FOUND
  - IRON ROD FOUND
  - CONCRETE MONUMENT
  - TELEPHONE PEDESTAL
  - TRANSFORMER PEDESTAL (PAD)
  - EXISTING WATER MAIN
  - EXISTING SANITARY SEWER MAIN
  - EXISTING OVER-HEAD ELECTRIC
  - EXISTING UTILITY TO BE RELOCATED OR DEMOLISHED
  - 3R \* PROPOSED RADIUS AT FACE OF CURB OR EDGE OF PAVEMENT IF THERE IS NO CURB
  - ▨ PROPOSED HEAVY DUTY ASPHALT



REVISIONS:  
1. REVIEWER/CLIENT COMMENTS

CLIENT INFORMATION:  
 ROCKY POINT DEVELOPMENT GROUP, LLC  
 155 WEST NEW YORK AVE., SUITE 200  
 SOUTHERN PINES, NC

PARAMOUNT ENGINEERS, INC.  
 WILMINGTON, NC FAYETTEVILLE, NC  
 5911 Oleander Drive, Suite 201  
 Wilmington, North Carolina 28403  
 (910) 791-6707 (C) (910) 791-6700 (F)  
 NC License #: C-2846

OVERALL SITE PLAN  
 TRACTOR SUPPLY COMPANY, ROCKY POINT, NC  
 US HIGHWAY 117 SOUTH  
 ROCKY POINT TOWNSHIP  
 FENDER COUNTY, NORTH CAROLINA

PROJECT STATUS:  
 PRELIMINARY LAYOUT  
 RELEASED FOR COMMENT

DRAWING INFORMATION:  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 SCALE: 1"=30'

SEAL

C-2.0  
 PEI JOB#: 13207.PE

PRELIMINARY DESIGN - NOT RELEASED FOR CONSTRUCTION





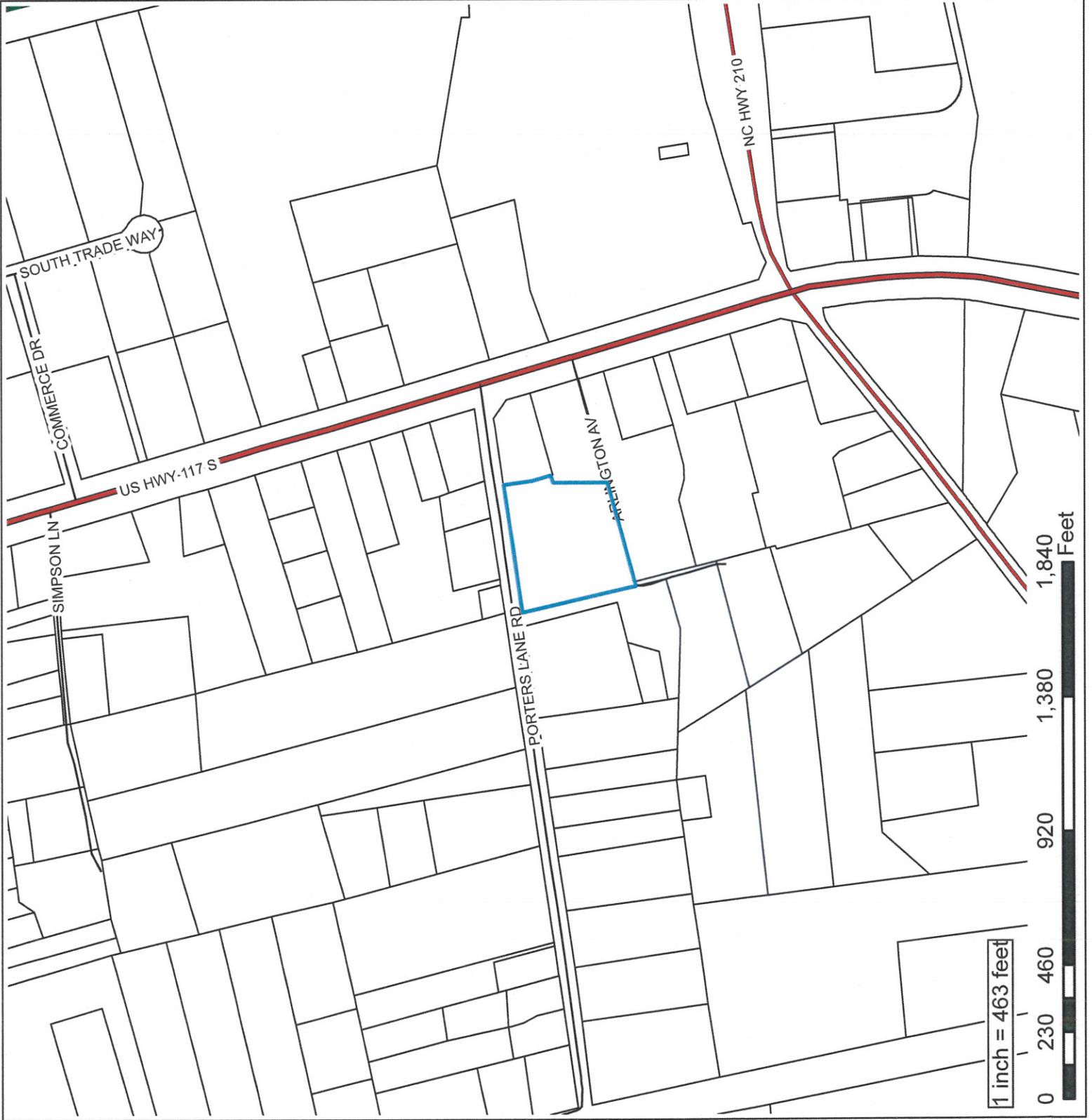
Applicant:  
Rocky Point Development Group, LLC

Owner:  
TCB Rocky Point, LLC

Variance  
11170



VICINITY





Applicant:  
Rocky Point Development Group, LLC

Owner:  
TCB Rocky Point, LLC

Variance  
11170

**Legend**

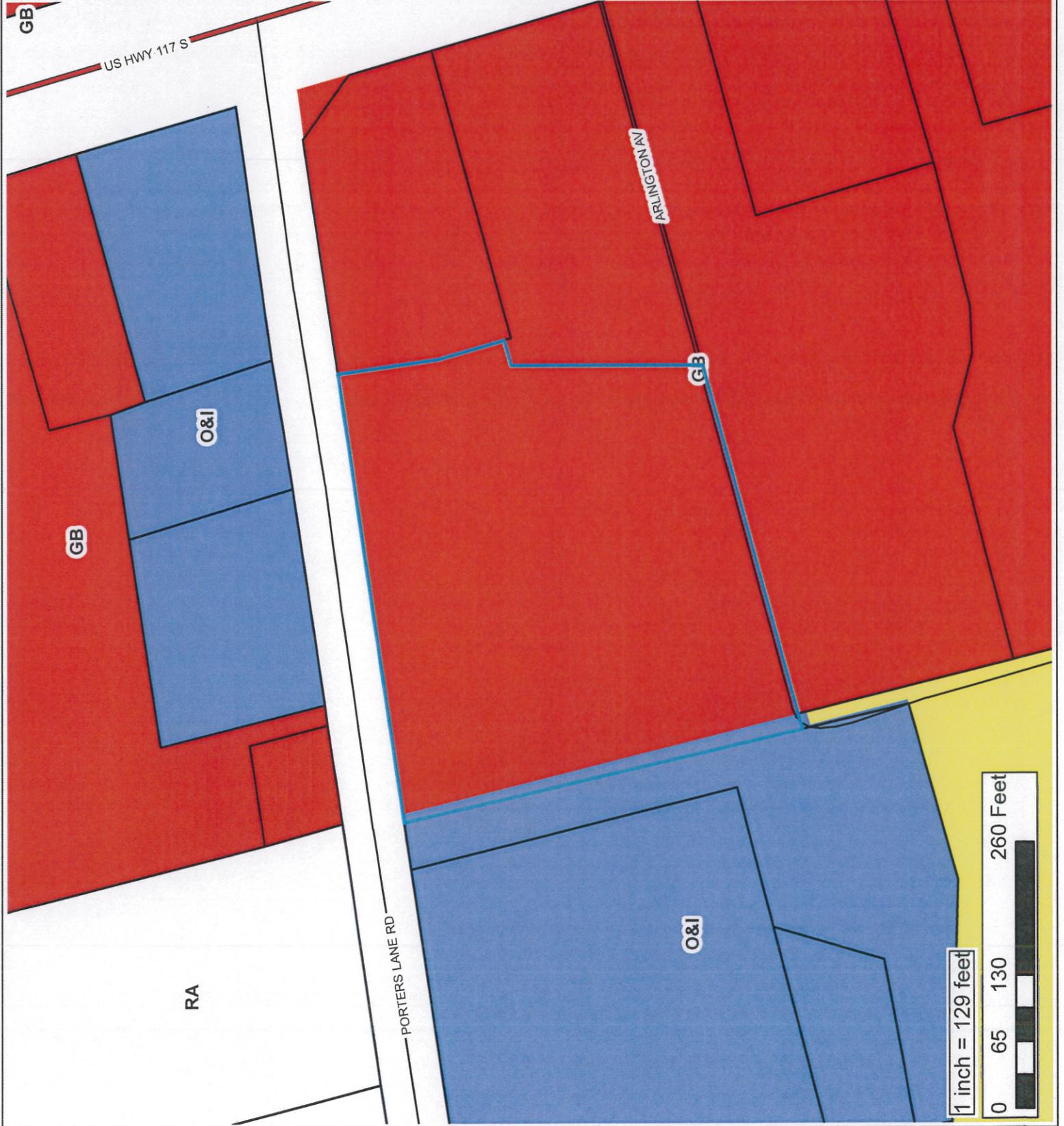
**Zoning Classification**

**UDO Zoning**

- General Business (GB)
- General Industrial (GI)
- Industrial Transition (IT)
- Office & Institutional (OI)
- Rural Agricultural (RA)
- Planned Development (PD)
- Residential Performance (RP)
- Environmental Conservation (EC)
- Incorporated Areas (INCORP)
- Manufactured Home Park (MH)
- Residential Mixed (MF)



**ZONING**





**Applicant:**  
Rocky Point Development  
Group, LLC

**Owner:**  
TCB Rocky Point, LLC

**Variance**  
11170



**2012 AERIAL**

