



## REQUEST FOR BOARD ACTION

ITEM NO. 19.

**DATE OF MEETING:** December 12, 2011

**REQUESTED BY:** Benjamin Andrea, Planner II, Planning & Community Development

**SHORT TITLE:** Resolution to Approve a Special Use Permit (SUP) for the Operation of a Sweepstakes Center.

**BACKGROUND:** 777 Incorporated, applicant, on behalf of Management by JNJ, LLC, owner, is requesting approval of a Special Use Permit (SUP) for the operation of a Sweepstakes Center at 21758 US Highway 17, Hampstead. The property may be identified as Pender County PIN 4215-44-6382-0000 and is currently zoned GB, General Business, and internet sweepstakes businesses are permitted via SUP in the GB zoning district.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider the approval of a Special Use Permit for a Sweepstakes Center.

**RESOLUTION**

**NOW, THEREFORE BE IT RESOLVED** by the Pender County Board of Commissioners that:

the Board hereby (approved, modified, denied) a special use permit for a sweepstakes center, as described herein. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Brown \_\_\_ Rivenbark \_\_\_ Tate \_\_\_ Ward \_\_\_ Williams \_\_\_

\_\_\_\_\_  
Chairman 12/12/2011  
Date

\_\_\_\_\_  
ATTEST Date

**PLANNING STAFF REPORT**  
**Special Use Permit**

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**SUMMARY:**

**Hearing Date:** December 12, 2011

**Applicant:** 777 Incorporated

**Property Owner:** Management by JNJ, LLC

**Case Number:** 10343

**Land Use Proposed:** The applicant is requesting the approval of a Special Use Permit (SUP) for the operation of a Sweepstakes Center, as defined in the Pender County UDO:

*SWEEPSTAKES CENTER: A business enterprise, whether principal or accessory, where persons may play games on on-site machines/terminals/computers that reveal the results of sweepstakes or similar contests associated with the on-site purchase of internet time, phone time, office supply or other retail good; and where redeemable cash sweepstakes awards (government issued coins and bills in hand) in amounts of \$10.00 or more may be received. This definition does not apply to any game or process prohibited by N.C.G.S. §§ 14-304 through 14-309 or to any game regulated by the North Carolina Education Lottery Commission.*

**Property Record Number and Location:** The subject property is located at 21758 US Highway 17, Hampstead and is identified by Pender County PIN 4215-44-6382-0000.

**Zoning District of Property:** The property is currently zoned GB, General Business, and sweepstakes centers are permitted via SUP in the GB zoning district.

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**PROJECT DESCRIPTION:**

Diana Dang, DBA 777 Incorporated, applicant, on behalf of Management by JNJ, LLC, owner, is requesting approval of a Special Use Permit for the operation of a Sweepstakes Center within an existing 1500 square ft. commercial building at 21758 US Highway 17, Hampstead, also known as Topsail Landing Plaza. The applicant has indicated that the business would include the sweepstakes center use, as well as ancillary general merchandise sales, which is permitted by-right in the General Business zoning district. The applicant has indicated that the hours of operation will be 7 days per week from 9am until 2am with a normal customer load of 10 to 15 customers; additionally, there will be typically one but no more than two employees on site at any time. Other than minor interior building upfit, no additional development is proposed.

The subject site is adjacent to an existing bar, now or formerly known as Ultra Classic Bar and Billiards. The subject site has existing, direct access to US Highway 17.

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**EVALUATION:**

- A. **Public Notifications:** Advertisements for the proposal have been placed in the *Topsail Voice* and *The Pender Post*. Adjacent property owners were notified by first class mail.
- B. **Basis for Granting SUP:** See attachment A for approval procedures (§3.12.3 of Unified Development Ordinance) and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. **Unified Development Ordinance Compliance:** The property is currently zoned GB, General Business, and sweepstakes centers are permitted in the GB zoning district by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses.
- D. **2005 CAMA Land Use Plan Compliance:** The subject property is currently classified as Rural Area. The proposed use is consistent with this classification, as the CAMA Land Use Plan states that Rural Areas provide limited job-creating activities.
- E. **2010 Comprehensive Land Use Plan Compliance:** The subject property is currently classified within a Mixed Use area. The proposed land use is consistent with the *2010 Comprehensive Land Use Plan* as the plan states that Mixed Use areas should concentrate a mix of uses including commercial, office, institutional, and medium to high density residential uses. The SUP request also is supported by Goal 7A.1 of the 2010 Land Use Plan:

*Goal 1A.1.5 – The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.*

Additionally, the SUP request does not conflict with any goals and policies in the 2010 LUP.

- F. **Existing Land Use in Area:** The existing land use in the immediate area surround the project site consists of largely of commercial uses, including within the shopping center and the adjacent parcels. Some single family residential use occurs across US Highway 17 from the subject parcel.
- G. **Site Access Conditions:** The property has direct access to US Highway 17 via an existing driveway.
- H. **Conditions To Consider In Issuing the Special Use Permit For This Project:**
  - 1. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
  - 2. Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 12 months.
  - 3. A separate permit must be obtained for any proposed signs in accordance with Article 9 of the Pender County Unified Development Ordinance.
  - 4. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
  - 5. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit

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**TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:**

**Cape Fear Council of Governments RPO**

*No response.*

**Four County Electric Company**

*TRC email deleted without being read.*

**NC DENR Division of Coastal Management**

*No comment.*

**NC DENR Division of Forestry**

*No response.*

**NC DENR Division of Land Resources**

*No response.*

**NC DENR Division of Waste Management**

*No comment.*

**NC DENR Division of Water Quality**

*No response.*

**NC DOT Division of Highways**

*No comment.*

**NC DOT Transportation Planning Branch**

*No response.*

**NC Office of State Archaeology**

*TRC email deleted without being read.*

**NC Wildlife Resources Commission**

*No response.*

**Pender County Emergency Management**

*No response.*

**Pender County Environmental Health**

*No response.*

**Pender County Fire Marshall**

*No response.*

**Pender County Parks and Recreation**

*No issues/concerns noted with request.*

**Pender County Permitting/Floodplain Administrator**

*No response.*

**Pender County Public Library**

*No response.*

**Pender County Public Utilities**

*No comment.*

**Pender County Schools**

*No response.*

**Pender County Sheriff's Department**

*The Sherriff's Department indicated that enforcement of potentially unlawful sweepstakes center businesses is pending the disposition of multiple court cases.*

**Pender County Soil and Water Conservation District**

*No issues/concerns noted with request.*

**Progress Energy Corporation**

*No response.*

**US Army Corps of Engineers**

*No response.*

**Wilmington Metropolitan Planning Organization**

*No comment as the proposal is outside of the WMPO planning area.*



**Applicant:**  
777 Incorporated

**Owner:**  
Management by  
JNJ, LLC

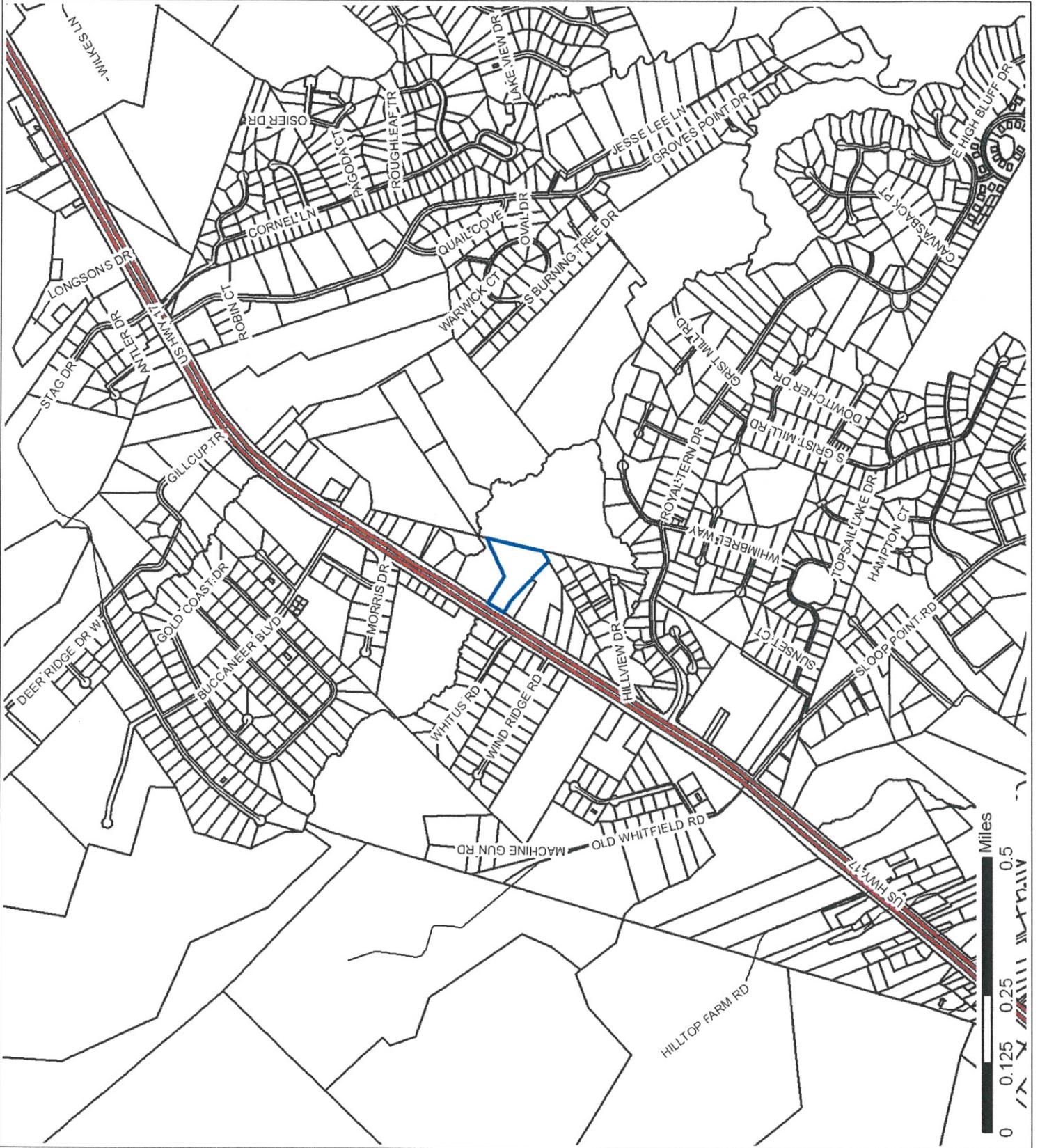
**Special Use Permit**

**Case 10343**

 Subject Property



**Vicinity Map**





**Applicant:**  
777 Incorporated

**Owner:**  
Management by  
JNJ, LLC

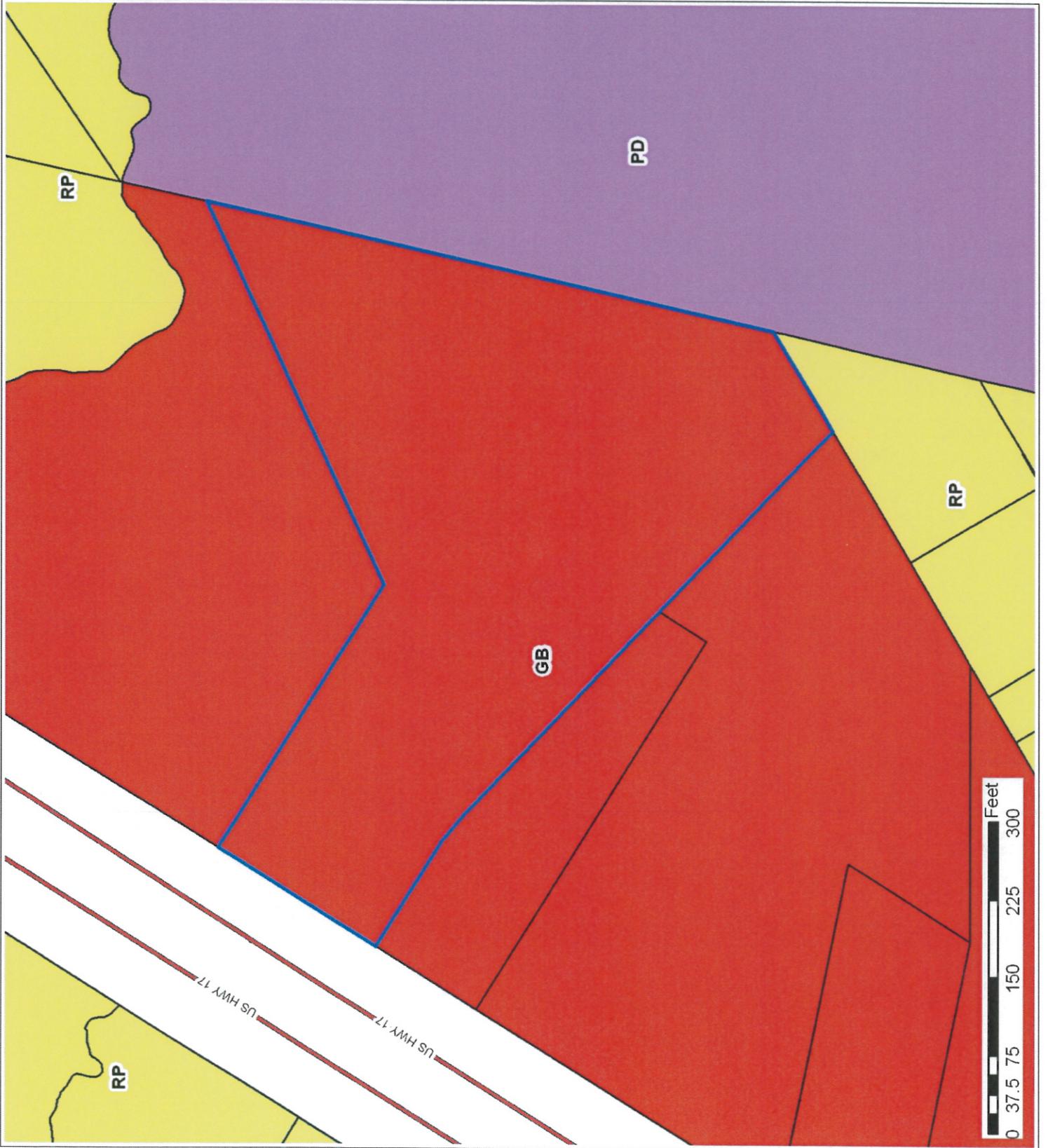
**Special Use Permit**

**Case 10343**

-  Subject Property
-  Zoning Classification
-  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:**  
777 Incorporated

**Owner:**  
Management by  
JNJ, LLC

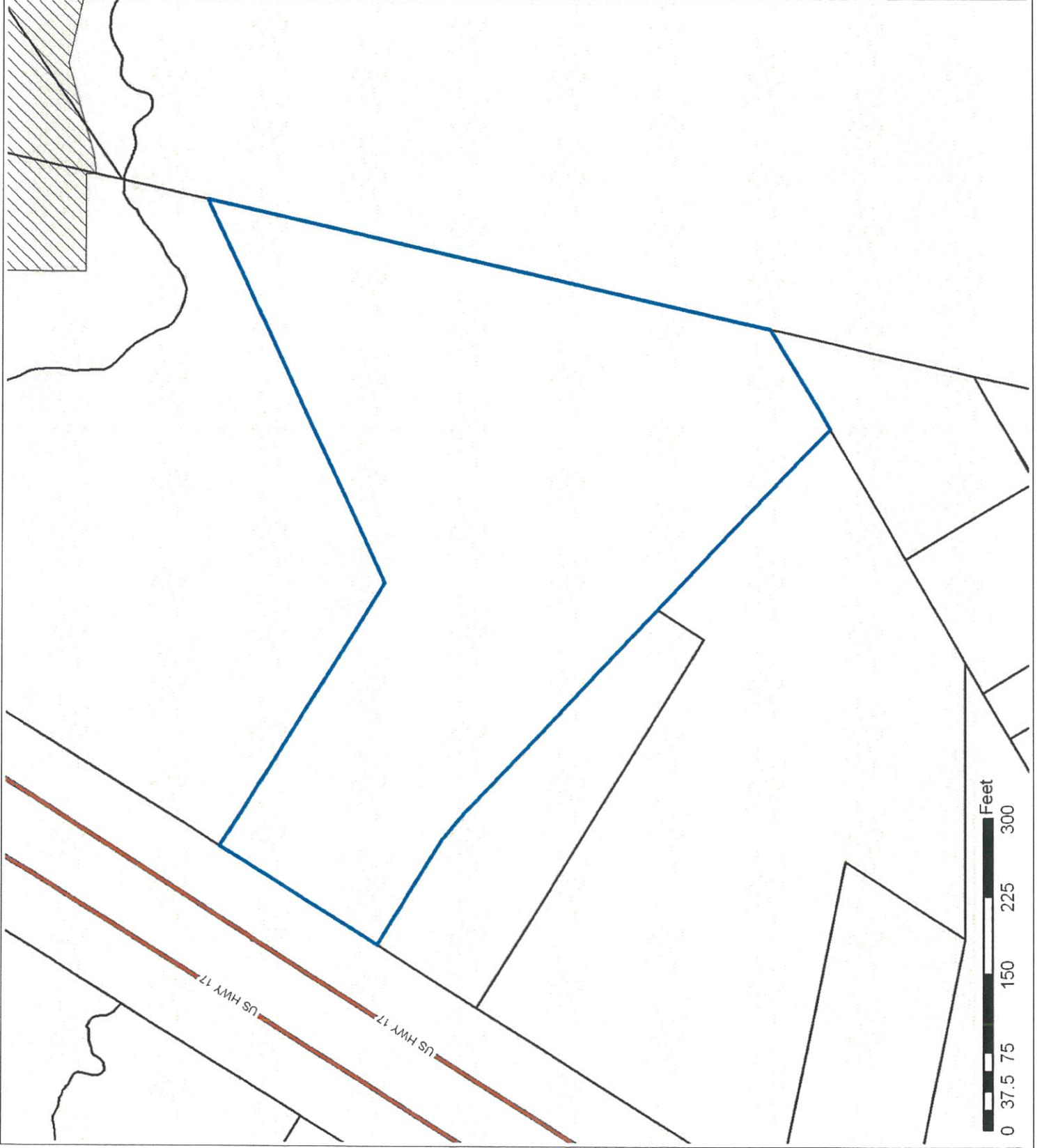
**Special Use Permit**

**Case 10343**

-  Subject Property
-  Conservation Area I
-  Conservation Area II
-  Rural Areas
-  Rural Clusters
-  Transition Areas
-  Urban Growth Areas



**CAMA Land Use**





**Applicant:**  
777 Incorporated

**Owner:**  
Management by  
JNJ, LLC

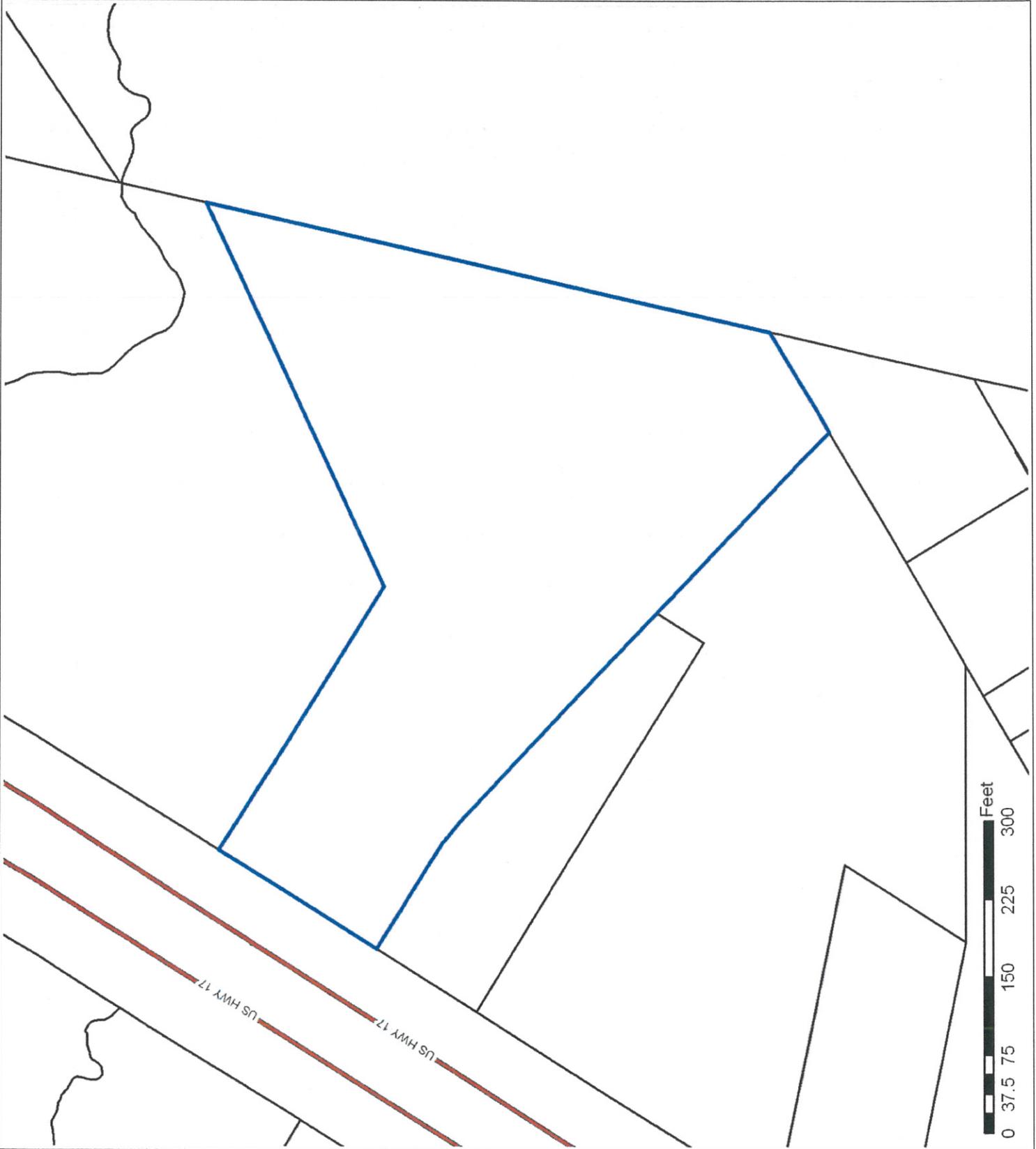
**Special Use Permit**

**Case 10343**

-  Subject Property
- 2010 Land Use Classification**
-  Conservation
-  Industrial
-  Mixed Use
-  Office, Institutional, Business
-  Rural Growth
-  Suburban Growth



**2010 LUP**





**Applicant:**  
777 Incorporated

**Owner:**  
Management by  
JNJ, LLC

**Special Use Permit**

**Case 10343**

 Subject Property



**2010 Aerial**



## **Attachment A**

### **3.12.3 Procedures for Reviewing Applications**

- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
- C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.
- D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.
- E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
- F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.
- G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:
  - 1. The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;
  - 2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
  - 3. The proposed use shall not constitute a nuisance or hazard;
  - 4. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
  - 5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
  - 6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
  - 7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
  - 8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

### **3.12.4 General Provisions Concerning Special Use Permits**

- B. Revocation - In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified.

## APPLICATION FOR SPECIAL USE PERMIT

### THIS SECTION FOR OFFICE USE

|                            |                  |              |                   |
|----------------------------|------------------|--------------|-------------------|
| Application No.            | SUP - 10343      | Date         | 10/18/2011        |
| Application Fee            | \$300            | Receipt No.  | 116658            |
| Pre-Application Conference | October 17, 2011 | Hearing Date | December 12, 2011 |

### SECTION 1: APPLICANT INFORMATION

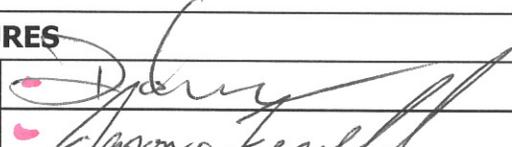
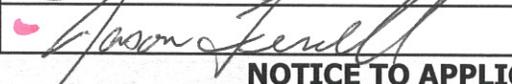
|                      |                        |                    |                       |
|----------------------|------------------------|--------------------|-----------------------|
| Applicant's Name:    | - 777 Incorporated Inc | Owner's Name:      | Management by JNJ LLC |
| Applicant's Address: | - 24200 Hwy 50         | Owner's Address:   | PO Box 1030           |
| City, State, & Zip   | - Maple Hill NC 28454  | City, State, & Zip | Hampstead, NC 28443   |
| Phone Number:        | - (910) 750-1707       | Phone Number:      | - 910-231-8149        |

Legal relationship of applicant to land owner: Tenant

### SECTION 2: PROJECT INFORMATION

|   |   |                          |             |
|---|---|--------------------------|-------------|
| Property Identification Number (PIN):                 | 4215-44-6382-0000   | Total property acreage:  | 5.0001      |
| Zoning Classification:                                | GB, General Business  | Acreage to be disturbed: | 0           |
| Project Address :                                     | 21758 US Highway 17   |                          | NAICS Code: |
| Description of Project Location:                      | North on US 17 past Hillview Drive, on right; Next to auto parts dealer |                          |             |
| Describe activities to be undertaken on project site: | Sweepstakes Center, misc retail   |                          |             |

### SECTION 3: SIGNATURES

|                       |   |       |          |
|-----------------------|---|-------|----------|
| Applicant's Signature |  | Date: | 10/17/11 |
| Owner's Signature     |  | Date: | 10-18-11 |

### NOTICE TO APPLICANT

1. Applicant must also submit the information described on the Special Use Checklist.
2. Applicant or agent authorized in writing must attend the public hearing.
3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing.
4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application
5. **Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing.**

| Office Use Only   |   |           |  |            |   |   |  |
|---|---|-----------|--|------------|---|---|--|
| <input checked="" type="checkbox"/> <b>General/</b> Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000<br><input type="checkbox"/> <b>Tower over 75 Feet/</b> Fees \$500<br><input type="checkbox"/> <b>Minor Revisions /</b> Fees \$100<br><input type="checkbox"/> <b>Mining</b> Fees \$750 |   |           |  |            | <b>Total Fee Calculation: \$300</b>                     |   |  |
|   |   |           |  |            | <b>Application#:</b>                                    |   |  |
|   |   |           |  |            | <b>Date of Hearing: December 12, 2011</b>               |   |  |
| Attachments Included with Application: (Please include # of copies)   |   |           |  |            |   |   |  |
| CD /other digital version   | <input type="checkbox"/> Y<br><input checked="" type="checkbox"/> N | Plan Sets | # of large   | # of 11X17 | Other documents/Reports                                 | <input type="checkbox"/> Y<br><input checked="" type="checkbox"/> N |  |
| <b>Payment Method:</b>  | <b>Cash :</b><br><input checked="" type="checkbox"/> \$ <u>300</u>  |           | <b>Credit Card:</b><br><input type="checkbox"/> Master Card<br><input type="checkbox"/> Visa |            | <b>Check:</b><br><input type="checkbox"/> Check # _____ |   |  |
| Application received by:  | <u>BEN ANDREA</u>   |           |  |            |   | Date: <u>10/18/11</u>   |  |
| Application completeness approved by:   | <u>[Signature]</u>  |           |  |            |   | Date: <u>10/18/11</u>   |  |

### Special Use Permit Checklist

|  |  |
|--|--|
| <input checked="" type="checkbox"/>  | Signed Application Form (Both Applicant and Owner)   |
| <input checked="" type="checkbox"/>  | Application fee  |
| <input 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)   |
| <input checked="" type="checkbox"/>  | One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.  |
| <input checked="" type="checkbox"/>  | <b>Project Narrative</b> --Written description of the project ( <u>max of 3 pages</u> ) including the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Location of the project and type of access to project site <u>HWY 17</u></li> <li><input type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc.</li> <li><input type="checkbox"/> Description of all construction activities to be undertaken on the site</li> <li><input type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers <u>septic</u></li> <li><input type="checkbox"/> List of all state and federal permits that will be required for the project</li> <li><input type="checkbox"/> Describe any potential impacts the project will have on the community or adjacent properties such as traffic, noise, etc. and explain efforts to mitigate these impacts (<u>this item must be addressed by the applicant</u>). The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.</li> </ul>   |
| <input type="checkbox"/>   | <b>Project Map(s)</b> --Map or maps of the special use project site with boundaries of the project if less than the parcel boundaries. This map or maps shall be drawn to a <u>readable</u> scale. The scale shall be not more than 200' to the inch. The map shall display an accurate bar graph scale, date prepared, north arrow and the author of the map. This map(s) shall show the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Boundaries of the property upon which the special use will be located, the acreage in the property and project site, with a north arrow and bar graph.</li> <li><input type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road.</li> <li><input type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property.</li> <li><input type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries.</li> <li><input type="checkbox"/> Existing and proposed structures, other on-site improvements, and location of all activities associated with the use, location of well, septic tank, and/or other utilities.</li> <li><input type="checkbox"/> Boundary of all clearing, grading, and/or land disturbing activities on the site and the calculated acreage of all land disturbing activities on the site.</li> <li><input type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO)</li> <li><input type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO)</li> <li><input type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO)</li> <li><input type="checkbox"/> Pedestrian walks, area lighting and flood lighting.</li> <li><input type="checkbox"/> Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas &amp; known or designated wetlands on the site.</li> <li><input type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site.</li> <li><input type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted.</li> <li><input type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.</li> </ul> |
| <b>RETURN COMPLETED APPLICATION TO:</b><br>Pender County Planning & Community Development<br>P.O. Box 1519<br>Burgaw, NC 28425 |  |

**Project Narrative for : 777 Internet & Sweepstakes Café**

**Property Owner**

Management by JNJ LLC

**Owner Of the Business**

Diana Dang  
(Tenant of Unit)

**Project Location**

21758 US Hwy 17N  
Hampstead, NC 28443

**Current Use of the Building**

Napa Auto Parts, Ultra Classic Bar & Billiards

**Proposed Use**

Internet Sweepstakes Café and Retail Business

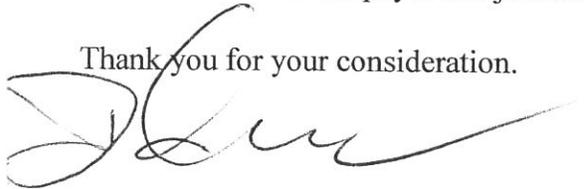
I am here to request a special use permit to operate this internet/ sweepstakes retail business at this location. Please be advised that we are seeking approval for the location of an internet/sweepstakes retail café.

- \* The location is at the existing Topsail Landing Plaza, 21758 US Hwy 17, Hampstead, NC.
- \* The hours of operations at this location will be Monday - Sunday 9am-2am
- \* The business location is requesting to occupy 1,500 sqft.
- \* The operation consists of internet, sweepstakes cafe, and general merchandise retail(handbags, computer parts, etc.,)
- \* The number of customer can vary with a norm of 10 to 15 person at any one time.
- \* The number of employees would be one person with possible 2 being present on the location.
- \* The constructions is kept to minimum since the site would only require some inside partitions along with elect., plumb., and mechanic work.

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- \* I would have applied for the proper documentation prior to operate this location.
- \* The impact on the area is minimal to the extend that traffic from an existing location had good site visibility with a traffic of Hwy 17.
- \* It appears that existing business have not had an adverse affect on the community.
- \* The generated tax revenue and jobs from a business of this type helps relieve the burden from individual tax payer and jobless and job seeking.

Thank you for your consideration.



777 Incorporated Inc,  
Diana Dang, Owner  
DBA 777 Internet & Sweepstakes Cafe