



REQUEST FOR BOARD ACTION

ITEM NO. 12.

DATE OF MEETING: January 22, 2013

REQUESTED BY: Ashley Moncado, Planner II, Planning & Community Development

SHORT TITLE: Public Hearing and Resolution Requesting Approval of a Special Use Permit (SUP) for the Operation of a Sweepstakes Center, Located at 13493 NC Highway 210, Rocky Point.

BACKGROUND: Springer-Eubank Company, Inc., applicant, on behalf of CENEMA, Inc., owner is requesting approval of a Special Use Permit for the operation of a sweepstakes center. The property is located at 13493 NC Highway 210, Rocky Point, and may be identified as Pender County PIN 3235-82-5923-0000. The property is zoned GB, General Business, and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; Sweepstakes Centers are permitted via Special Use Permit 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.

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: January 22, 2013
Applicant: Springer-Eubank Company Inc.
Property Owner: CENEMA Inc.
Case Number: 10832

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 13493 NC Highway 210 in Rocky Point and is identified by Pender County PIN 3235-82-5923-0000. There is one tract associated with this request totaling 3.18 acres.

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

PROJECT BACKGROUND:

This SUP request is an effort to rectify a code violation. After receiving a complaint on 9/12/12, Pender County Code Enforcement Officer conducted a site visit on 9/15/12 and observed 10 machines in place, constituting a "Sweepstakes Center" use as defined above. An informational letter was sent to the property owner on 9/17/12, and followed up with a First Notice of Violation on 10/12/12 and a Second Notice of Violation on 11/13/12. After responding to inquiries from the business and property owners, Planning Staff received a completed SUP application package on 11/26/12.

PROJECT DESCRIPTION:

Springer-Eubank Company Inc., applicant, on behalf of CENEMA Inc., owner, is requesting approval of a Special Use Permit for the operation of a Sweepstakes Center within an existing commercial convenience store located at 13493 NC Highway 210, Rocky Point, within the Phoenix Travel Center.

The applicant is proposing the Sweepstakes Center use in addition to the existing gas station and convenience store located on site. Section 5.2.11.I of the Pender County Unified Development Ordinance specifies.

The proposed hours of operation abide by Section 5.3.11.I.4, Sweepstakes Center of the Pender County Unified Development Ordinance, Monday to Saturday from 9:00 am to 12:00 am and Sunday from 12:00 pm to 10:00 pm. The applicant proposes two to five on site employees.

Section 5.3.11.I of the Pender County Unified Development Ordinance sets forth specific use standards for Sweepstakes Centers. This SUP requests has been evaluated for compliance and is in conformance

with the hours of operation and neighboring use setback requirements. Items 5, 6, and 7 will be reviewed during the Site Development review process.

- 1) *Sweepstakes centers shall be permitted in accordance with Section 5.2.3, Table of Permitted Uses.*
- 2) *All new sweepstakes centers and additions or alterations to existing sweepstakes centers must be in accordance with this Ordinance.*
- 3) *Sweepstakes Centers shall be located a minimum distance of 500 feet, measured in a straight line in any direction from the closest point of the building or unit of the proposed business to the property line of any of the following:*
 - a) *Religious Organizations as defined by NAICS code 813110*
 - b) *A public or private school and family child care home or child care center with an active license with the State of North Carolina*
 - c) *A public park, playground, public library, or private cemetery*
 - d) *Drinking Places (Alcoholic Beverages) as defined by NAICS code 722410*
 - e) *Adult and Sexually Oriented Businesses*
 - f) *Any other approved sweepstakes center*
- 4) *Hours of operation shall be limited Monday to Saturday from 9:00 a.m. to 12:00 midnight and on Sunday from 12:00 noon to 10:00 p.m.*
- 5) *All food or beverage to be served or distributed by the establishment must meet the requirements of the Pender County Environmental Health Department.*
- 6) *Sweepstakes centers shall receive approval from the Pender County Fire Marshal prior to occupancy and must comply with annual review standards.*
- 7) *Sweepstakes centers must meet indoor recreation parking requirements as outlined in Section 7.10, Off Street Parking and Loading/Parking Requirements*
- 8) *All zoning and building permits issued after June 18, 2012 for all sweepstakes centers shall be subject to an annual review and inspection (from the date of approval) to ensure compliance with this Ordinance.*

Prior to the issuance of final zoning approval, a site development plan must be submitted and approved in accordance with applicable provisions of the Pender County Unified Development Ordinance. In addition, all other applicable permits and approvals must be obtained including inspections and health department regulation compliance.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
MISCELLANEOUS USES											
Sweepstakes Center							SD		SD	SD	

EVALUATION:

- A. **Public Notifications:** Advertisements for the proposal have been placed in the *Pender-Topsail Post & Voice*. 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. **2010 Comprehensive Land Use Plan Compliance:** The subject property is classified as Office/Institutional/Commercial in the *2010 Comprehensive Land Use Plan*. Office/Institutional/Commercial (OIC) areas are designated at key locations, typically along major

highways and at major intersections, within the County. The purpose of the OIC land use classification is to encourage more efficient and attractive development, integration of commercial uses with other land uses, and to discourage unsightly and inefficient strip commercial development. Strip commercial development (characterized by non-related business development with numerous road-cuts and no interconnectivity) detracts from community appearance and has significant negative impacts on both road capacity and traffic safety.

The SUP request is supported by goals and policies within the *2010 Comprehensive 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.

E. Existing Land Use in Area: Properties to the east, south, and west include low density commercial uses. The property located immediately north of the site include agricultural uses.

F. Site Access Conditions: The property has direct access to NC Highway 210 via an existing driveway.

G. 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, specifically use standards outlined in Section 5.3.11.I, Sweepstakes Centers.
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 applicant shall meet all other local, state and federal regulations.
6. Pender County may pursue voiding the Special Use Permit if it is found to be in violation of North Carolina General Statute § 14 -306.4, Electronic Machines and Devices for Sweepstakes Prohibited.
7. 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

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 ___ McCoy ___ Tate ___ Ward ___ Williams ___

Chairman 1/22/13

Date

ATTEST 1/22/13
Date

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

No response

Four County Electric Company

No response

NC DENR Division of Coastal Management

No issues/concerns noted with request.

NC DENR Division of Forestry

No response

NC DENR Division of Land Resources

No response

NC DENR Division of Waste Management

No response

NC DENR Division of Water Quality

No response

NC DOT Division of Highways

No response

NC DOT Transportation Planning Branch

No response

NC Office of State Archaeology

No response

NC Wildlife Resources Commission

No response

Pender County Building Inspections

Additional electrical outlets will require a permit and inspection.

Pender County Emergency Management

No response

Pender County Environmental Health

No issues/concerns noted with request.

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 issues/concerns noted with request.

Pender County Schools

No response

Pender County Sheriff's Department

No response

Pender County Soil and Water Conservation District

No response

Progress Energy Corporation

No response

US Army Corps of Engineers

No response

Wilmington Metropolitan Planning Organization

No response

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 <u>10832</u>	Date	<u>11/24/2012</u>
Application Fee	\$ <u>300.⁰⁰</u>	Receipt No.	<u>122087</u>
Pre-Application Conference		Hearing Date	<u>1/22/2013</u>

SECTION 1: APPLICANT INFORMATION

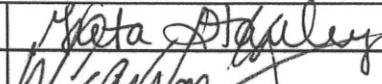
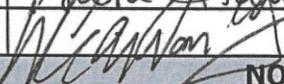
Applicant's Name:	Springer-Eubank Co Inc. DBA Phoenix Travel Center	Owner's Name:	CENAMA, INC
Applicant's Address:	123 Shipyard Blvd.	Owner's Address:	123 Shipyard Blvd.
City, State, & Zip	Wilmington, NC 28412	City, State, & Zip	Wilmington, NC 28412
Phone Number:	(910) 343-1991	Phone Number:	(910) 343-1991

Legal relationship of applicant to land owner: Tenant

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	3235-82-5923-0000	Total property acreage:	3.81
Zoning Classification:	Commercial	Acreage to be disturbed:	∅
Project Address :	13493 NC HWY 210, Rocky Point, NC 28457	NAICS Code:	
Description of Project Location:	Phoenix Travel Center		
Describe activities to be undertaken on project site:	Sweepstakes games added to Convenience store		

SECTION 3: SIGNATURES

Applicant's Signature		Date:	<u>11/19/12</u>
Owner's Signature		Date:	<u>11/19/12</u>

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"/> General/ Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input type="checkbox"/> Tower over 75 Feet/ Fees \$500 <input type="checkbox"/> Minor Revisions / Fees \$100 <input type="checkbox"/> Mining Fees \$750				Total Fee Calculation: \$ <u>300.00</u>	
				Application#: <u>1832</u>	
				Date of Hearing: <u>1/22/2013</u>	
Attachments Included with Application: (Please include # of copies)					
CD /other digital version	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports <input type="checkbox"/> Y <input type="checkbox"/> N
Payment Method:	Cash : <input type="checkbox"/> \$ _____		Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		Check: <input checked="" type="checkbox"/> Check # <u>106030</u>
Application received by:		<u>Ashley M. Mercado</u>			Date: <u>11/26/12</u>
Application completeness approved by:		<u>Ashley M. Mercado</u>			Date: <u>11/26/12</u>

Special Use Permit Checklist

<input checked="" type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<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)
<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"/>	Project Narrative--Written description of the project (max of 3 pages) including the following: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Location of the project and type of access to project site <input checked="" type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. <input checked="" type="checkbox"/> Description of all construction activities to be undertaken on the site <input checked="" type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers <input checked="" type="checkbox"/> List of all state and federal permits that will be required for the project <input checked="" 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.
<input checked="" type="checkbox"/>	Project Map(s)--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"> <input checked="" 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. <input checked="" type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road. <input checked="" type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property. <input checked="" type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries. <input checked="" 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. <input checked="" 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. <u>N/A</u> <input checked="" type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO) <input checked="" type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO) <u>N/A</u> <input checked="" type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO) <u>N/A</u> <input checked="" type="checkbox"/> Pedestrian walks, area lighting and flood lighting. <u>N/A</u> <input checked="" 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 & known or designated wetlands on the site. <u>N/A</u> <input checked="" type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site. <u>N/A</u> <input checked="" type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted. <input checked="" type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.
RETURN COMPLETED APPLICATION TO: Pender County Planning & Community Development P.O. Box 1519 Burgaw, NC 28425	

Project Narrative

The requested Special Use Permit for Sweepstakes machines is for the Phoenix Travel Center located at 13493 NC Hwy 210, Rocky Point, NC 28457. The sweepstakes machines are located in the existing store location within previously vacant space therefore no additional construction is necessary. Existing store utilities will cover the sweepstakes area of the store.

The convenience store is open 24 hours per day, 7 days per week and open to the general public, however the hours of operation for the Sweepstakes area will follow the guidelines of the Pender County Special Use Permit. Employees who are working in the convenience store will also be responsible for covering the sweepstakes activities. Employee coverage ranges from two to five employees depending upon the shift and day of the week.

To operate the sweepstakes machines, there is not any state or federal permits required, only the Pender County Special Use permit that relates to this application.

The addition of the sweepstakes machines to the location will not result in any negative impacts for the community as many of the customers are already customers for the Phoenix Travel Center and are already on the premises.



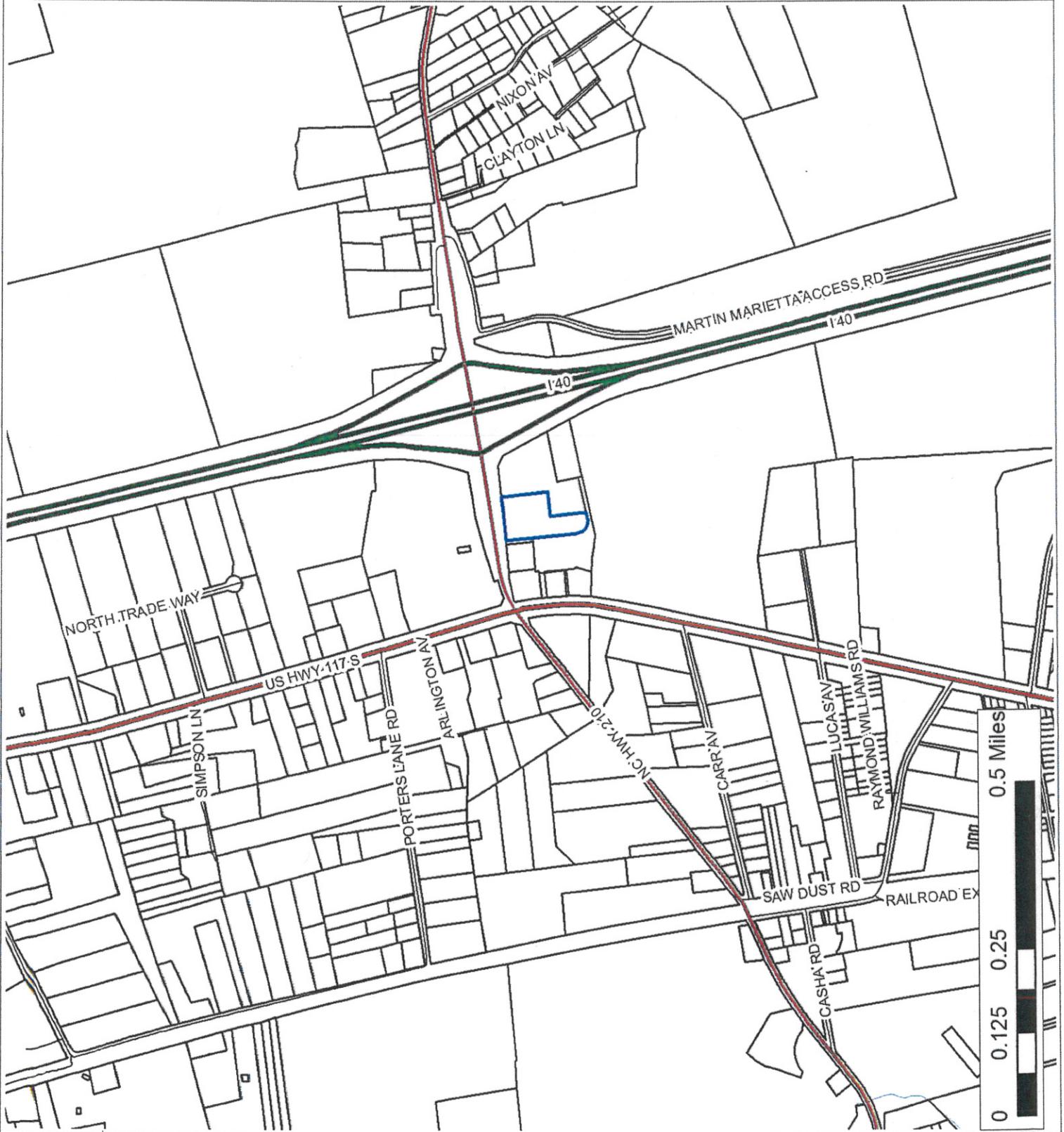
Applicant:
Springer-Eubank
Company Inc.

Owner:
CENAMA Inc.

**Special Use
Permit
10832**



VICINITY





Applicant:
Springer-Eubank
Company Inc.

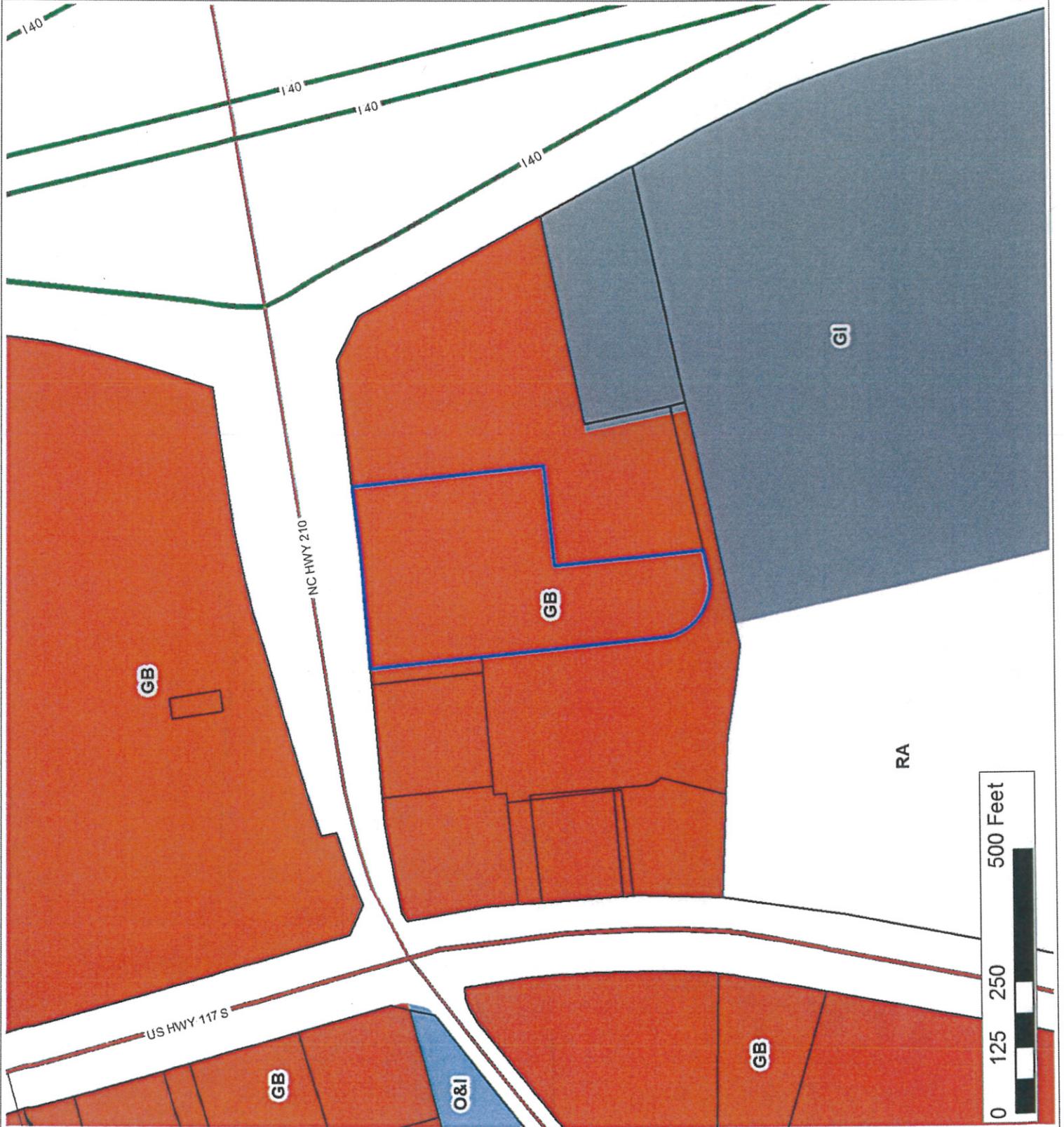
Owner:
CENAMA Inc.

**Special Use
Permit
10832**

- Subject Parcel
- 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:
Springer-Eubank
Company Inc.

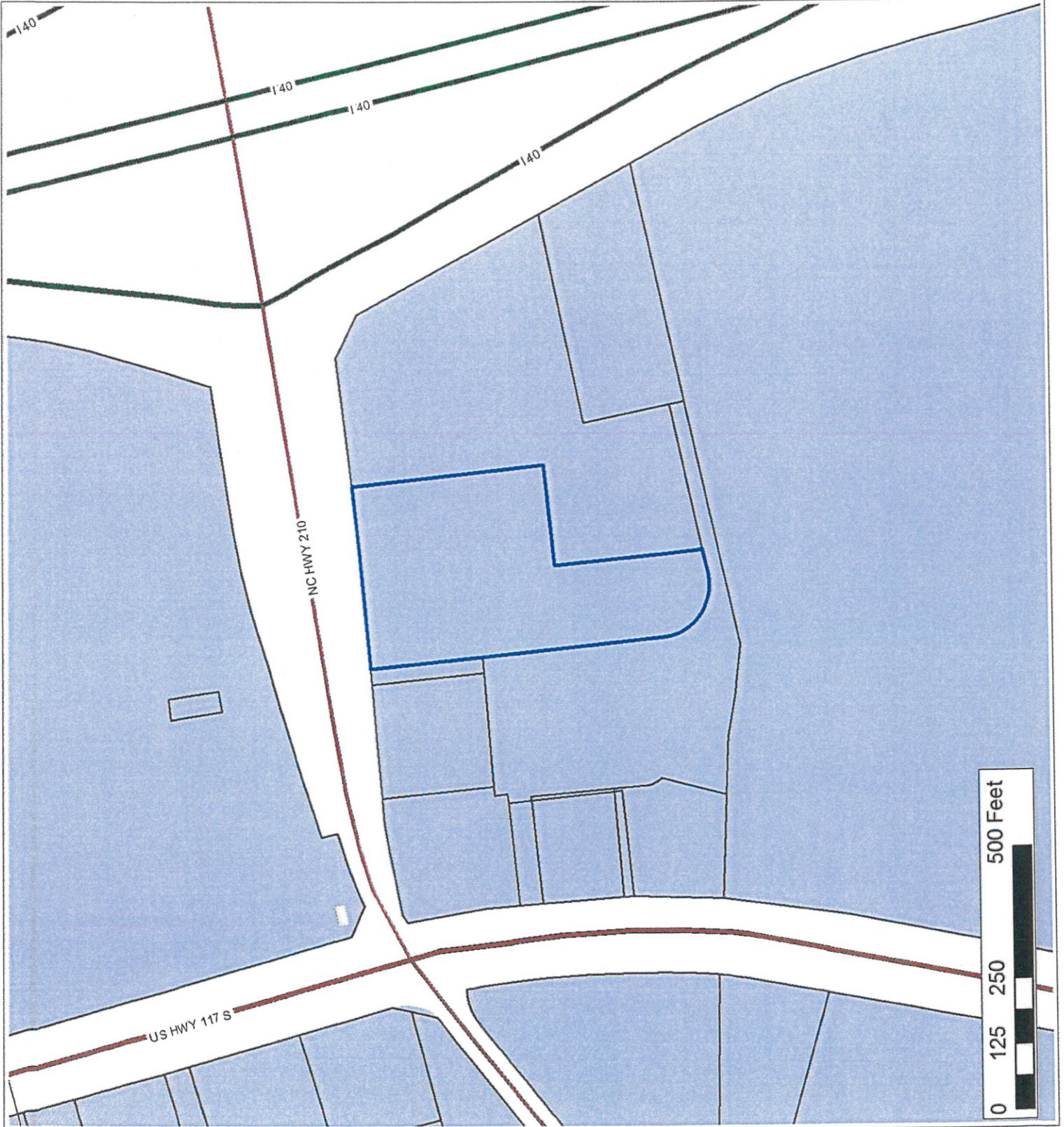
Owner:
CENAMA Inc.

**Special Use
Permit
10832**

2010 Land Use Classification



**LAND USE
CLASSIFICATION**





Applicant:
Springer-Eubank
Company Inc.

Owner:
CENAMA Inc.

**Special Use
Permit
10832**



2010 AERIAL

