

COUNTY OF CLEVELAND, NORTH CAROLINA
AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

January 30, 2020

4:00 PM

Commissioner

Call to order and Establishment of a Quorum

Invocation and Pledge of Allegiance

Approval of Minutes

Minutes from the November 21, 2019 Board of Adjustment Meeting

Cases

Case 20-01: Request for a Conditional Use Permit to operate a Skills Game Promotion
Establishment at 5110 East Dixon Blvd

Miscellaneous Business

Adjournment

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Minutes

Department:

Agenda Title: Minutes from the November 21, 2019 Board of Adjustment Meeting

Agenda Summary:

Proposed Action:

ATTACHMENTS:

File Name	Description
<input type="checkbox"/> 11-21-2019_BOA_minutes.pdf	Minutes



MINUTES
CLEVELAND COUNTY BOARD OF ADJUSTMENT
Commission Chambers – County Administrative Building
311 East Marion St., Shelby, North Carolina
Regular Meeting - 4:00 p.m.
November 21, 2019

Members Present

Jeff Ward, Chairman
Joyce Coleman, Vice Chairman
Paul Aulbach

Members Absent

Bobby Watson
Doug Lawing
Tommy Brooks
Thomas Fletcher

Others Present

Chris Martin, Sr. Planner
Henry Earle, Planner
James Gibson
David Gibson
Marquita Walls
Rosie Moore
Virginia McClain

CALL TO ORDER AND ESTABLISH QUORUM

Chairman Ward called the meeting to order at 4:00 pm. He determined quorum was present.

PLEDGE OF ALLEGIANCE AND INVOCATION

Joyce Coleman led the Invocation and **Chairman Ward** led the Pledge of Allegiance.

APPROVAL OF OCTOBER 30, 2019 MINUTES

Paul Aulbach made a motion to approve the October 30, 2019 Minutes. It was seconded by Joyce Coleman and unanimously carried.

CASE #19-14 CONDITIONAL USE PERMIT: ADOLESCENT GROUP HOME

Applicant: Marquita Walls
Location: 1565 Long Branch Rd
Parcel #: 10489

Henry Earle was sworn in to present the case. Marquita Walls of the company Open Arms Management is the applicant. Group Homes are defined in the County Unified Development Ordinance (UDO) as a non-profit residential child care facility providing 24-hour care for no more than nine children total not including the operator or relatives residing in the home. The parcel is zoned Residential and this use is allowed in this zoning district with a Conditional Use Permit (CUP). The surrounding zoning is mostly Residential to the north and Industrial to the southeast. The UDO code requires that the Group Homes be at least one mile apart. There are no Group Homes within a mile (the closest one is 10.2 miles away). The site plan presented by the applicant shows the existing home they will use, and nothing will be different from the site plan. Mr. Earle has spoken with the adjoining Manufactured Home Park property owner and it is his understanding that the trailers are owned by the occupants. The applicant is not the owner of the

property, but there is an e-mail from the property owner stating that the owner Joy Salvador gives her permission for the property to be used for the Group Home.

Chairman Ward opened the Public Hearing at 4:10 pm.

Marquita Walls of 1840 Yellowstone in Gastonia was sworn in. She has worked with Group Homes for a while now. She has been approved by Partners for 52 beds in Cleveland County, and this is the first home in the County. There will be nine children eventually, but she will start out with four. They will be 6 to 18 years of age, but the need right now is for pre-teen. They will be all girls. It is a therapeutic program. Some are recovering from substance abuse, and they have to be at a certain level to be in the home. She has to have two staff members on site for every shift- a qualified professional (more than two years of experience in the field with a masters or bachelors degree) and an Associate Professional aid on site 24 hours a day. She will also have a clinician on site. The students will be enrolled in school.

Rosie Moore of 1569 Long Branch Rd. was sworn in. She stated she is concerned as a senior citizen that lives next door. Chairman Ward asked Ms. Walls if she contacted the neighbor. Ms. Walls said that she used to live in this house, but did not contact the neighbor.

Virginia McClain of 1571 Long Branch Rd was sworn in. She takes care of her 91-year old mother and she is concerned about troubled youth being nearby. She is a registered nurse. Chairman Ward asked if she had trouble with residents in the trailer park. She said they occasionally come to the wooded area and occasionally get rowdy but nothing else.

Chairman Ward closed the Public Hearing at 4:19 pm as there was no further comment.

Chairman Ward knows the trailer park and feels like that would be more of a concern for neighbors. The area has good law enforcement. He asked if there could be a condition about renewal if the site becomes a nuisance it would not be eligible for renewal. Elliott Engstrom said if it ties into public safety, they would not be eligible. Mr. Engstrom felt that public health and safety needs to tie into evidence presented.

Chris Martin was sworn in. He said the majority of permits are one-time, but there are some that require renewals. They have the option to add a renewal period. Group Homes do not have a set renewal time unless the Board adds one as a condition. Chairman Ward asked Ms. Walls what their contingency plan is if a youth is troubled. Ms. Walls says they need to meet a certain level to be in a home and they are assessed accordingly.

Paul Aulbach made the motion to approve the Conditional Use Permit 19-14 according to their site plan and application. Joyce Coleman seconded the motion. **The Board** reviewed the four criteria.

- (1) Will it materially endanger the public health or safety- No.
- (2) Will it substantially injure the value of adjoining or abutting property- No.
- (3) Will it not be in harmony with the area in which it is to be located- No.
- (4) Will it not be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the board of commissioners- No.

The motion unanimously carried.

CASE #19-15 CONDITIONAL USE PERMIT: RV PARK EXPANSION

Applicant: James Gibson of Dry Ridge RV Park

Location: 414 Davis Rd

Parcel #: 55394

Mr. Earle stated that the applicant James Gibson wishes to expand on his existing RV park by adding 8 RV sites. It is currently zoned residential with surrounding residential uses, a mobile home park, and some business. If it is approved, it will be surveyed off from the main larger parcel since that property is a part of the Present Use Value farm use tax program. The applicant has submitted a site plan showing the 8 sites being developed in two phases (Phases II and III).

Chairman Ward opened the Public Hearing at 4:35 pm.

James Gibson of 424 Davis Rd. was sworn in. He stated they consistently have all five of their current sites rented out. They have a high demand and they have had requests for pull through sites in addition to the back in sites. The site plan shows five pull through sites and three back in sites. The site covers about two acres and will be surveyed and incorporated in with the existing site.

Paul Aulbach asked about the existing screening. Mr. Gibson stated that the neighbor across the road has become friends with a family that rents a site. They have their screening up and have not lost any trees. There will not be additional screening on this site, but a shade tree will be planted at each site. This addition is not on the road so he does not see a need for more screening and this is where a lot of the utilities will run.

Mr. Aulbach asked if there will be a new road to the turn around. Mr. Gibson said eventually on the east side there will be a new road that will come back on the Phase three side to Davis Road. The four sites to the west will have a turn around for the time being.

Chairman Ward closed the Public Hearing at 4:42 pm as there was no more public comment.

Joyce Coleman made the motion to approve the Conditional Use Permit 19-15 as presented on the site plan showing Phase II and Phase III. Paul Aulbach seconded the motion.

The Board reviewed the four criteria.

- (1) Will it materially endanger the public health or safety- No.
- (2) Will it substantially injure the value of adjoining or abutting property- No.
- (3) Will it not be in harmony with the area in which it is to be located- No.
- (4) Will it not be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the board of commissioners- No.

The motion unanimously carried.

MISCELLANEOUS BUSINESS

Mr. Earle stated that Christmas party is December 4th and the invitations are attached with the details. **Mr. Martin** said that the Commissioners have requested the Planning Board review RV Park standards. Mr. Aulbach stated that one RV site enforces a six-month maximum stay in any one spot within the park. Mr. Martin said that the state building code and zoning code say it can't be a permanent residence, but there is no language saying it must be moved. Chairman Ward said the RV's are regulated under DMV regulations unless it is a park model (which does not have its own tank). Ocean Beach has park models hooked directly into sewer. Mr. Aulbach said Burke County's code says six months. Chairman Ward said that is a good time limit for temporary workers. Mr. Aulbach said Staff should audit their logs for check in dates and Code Enforcement could ask for their logs at any time if Staff receives complaints.

ADJOURNMENT

Chairman Ward entertained a motion to adjourn.

Joyce Coleman made the motion to adjourn the meeting. The motion was seconded by Paul Aulbach and unanimously carried to adjourn at 5:00 pm.

Jeff Ward, Chairman

Anna Parker, Clerk

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Case 20-01

Department:

Agenda Title: Case 20-01: Request for a Conditional Use Permit to operate a Skills Game Promotion Establishment at 5110 East Dixon Blvd

Agenda Summary:

Proposed Action:

ATTACHMENTS:

File Name	Description
<input type="checkbox"/> 20-01_Staff_Report_CUP_5110_East_Dixon_Bld.pdf	Staff Report
<input type="checkbox"/> 20-01_5110_E._Dixon_Site_plan.pdf	Site Plan
<input type="checkbox"/> 20-01_Aerial_Map_5110_East_Dixon_Bld.pdf	Aerial Map
<input type="checkbox"/> 20-01_Land_Use_Map_5110_East_Dixon_Bld.pdf	Land Use Map
<input type="checkbox"/> 20-01_Zoning_Map_5110_East_Dixon_Bld.pdf	Zoning Map

STAFF REPORT

To: Board of Adjustment

Date: January 17, 2020

From: Chris Martin, Senior Planner

Subject: Conditional Use Permit Application 20-01

Summary Statement: Judy Haney is requesting a Conditional Use Permit to operate a video gaming retail store called ArcadeZ. She has submitted a completed application and a site plan showing how the merchandise will be used.

Review: The property for consideration is located at 5110 East Dixon Blvd, Units 1&2, and is owned by Charlie and Betty Carrigan, as is property surrounding it to the west and south. This property was issued a Conditional Use Permit in April, 2018 under Case 18-04. This permit was deemed non-transferable.

The property is currently zoned General Business and the surrounding uses are business and industrial, including a salvage yard to the west and south, as well as some general business uses to the immediate east. Video gaming is listed in the zoning table of uses as a conditional use permit in the General Business zoning district..

When issuing conditional use permits, the Board must consider the following four findings;

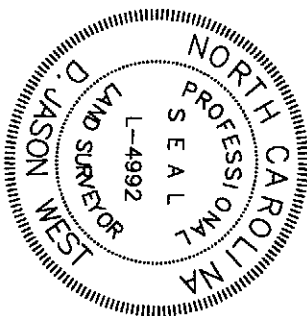
- (1) Will not materially endanger the public health or safety;
- (2) Will not substantially injure the value of adjoining or abutting property;
- (3) Will be in harmony with the area in which it is to be located; or
- (4) Will be in general conformity with the land use plan, thoroughfare plan, or other plans officially adopted by the board of commissioners.

In the past, the Board of Adjustment has applied the following conditions to Gaming Businesses:

1. The applicant shall complete the development strictly in accordance with the site plan approved by this Board, a copy of which is on file with the Cleveland County Planning Department.
2. No tinted, blocked or otherwise obscured windows.
3. No exterior flashing lights.
4. No illegal activities allowed on the premises.
5. Exterior lighting shall illuminate total property, but shall not illuminate surrounding property or roadways in any way or amount.

6. A minimum of one properly marked parking place for each sweepstakes machine inside the business shall be provided, and one parking space for every two employees to be completed no later than thirty (30) days from issuance of permit.
7. Cars shall be prohibited from parking within the public right-of-way.
8. The applicant must obtain any and all necessary permits from county, state and federal agencies prior to beginning operation.
9. No one under the age of 18 shall be allowed on the premises. Operator must check ID's.
10. Hours of operation _____ to _____ Monday through Saturday.
 - a. Sunday: _____ to _____.
11. Obtain NCDOT driveway permit for any new driveway construction.
12. Site must be kept clean and neat, and must not become a public nuisance.
13. Keep in harmony with surrounding community.
14. Any sign construction must meet sign requirements per Section 12-285 of the County Code.
15. Provide a dumpster by an approved trash hauler.
16. Limited to _____ sweepstakes gaming devices.
17. Permit must be renewed by _____, 20_____ to maintain and regulate complaints, law regulation changes, etc.
18. Permit is not transferable and becomes null and void if there is a change of occupancy.
19. If any of the conditions or activities affixed hereto, or any part thereof, shall be held invalid or void, then this permit shall be void and of no effect.

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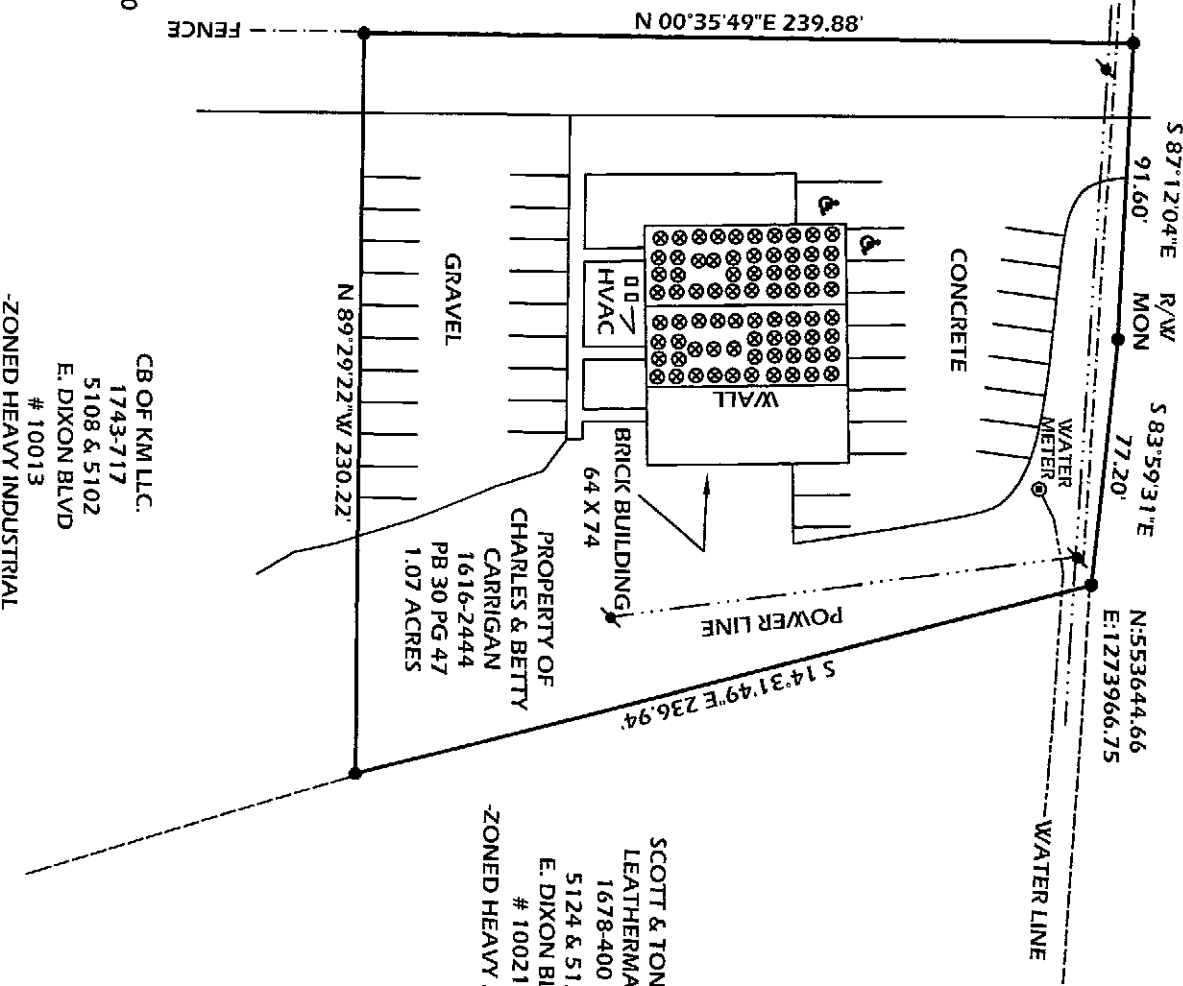
CB OF KM LLC.
 1743-717
 5108 & 5102
 E. DIXON BLVD
 # 10013
 -ZONED HEAVY INDUSTRIAL

I, D. JASON WEST, CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION
 THIS PLAT WAS DRAWN FROM AN ACTUAL SURVEY MADE UNDER MY
 SUPERVISION; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN
 LINES; THAT THE RATIO OF PRECISION AS CALCULATED IS A MINIMUM OF
 1: 10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH GS 47-30
 AS AMENDED; WITNESS MY ORIGINAL SEAL, SIGNATURE AND REGISTRATION
 NUMBER THIS

2 DAY OF MARCH, 2018

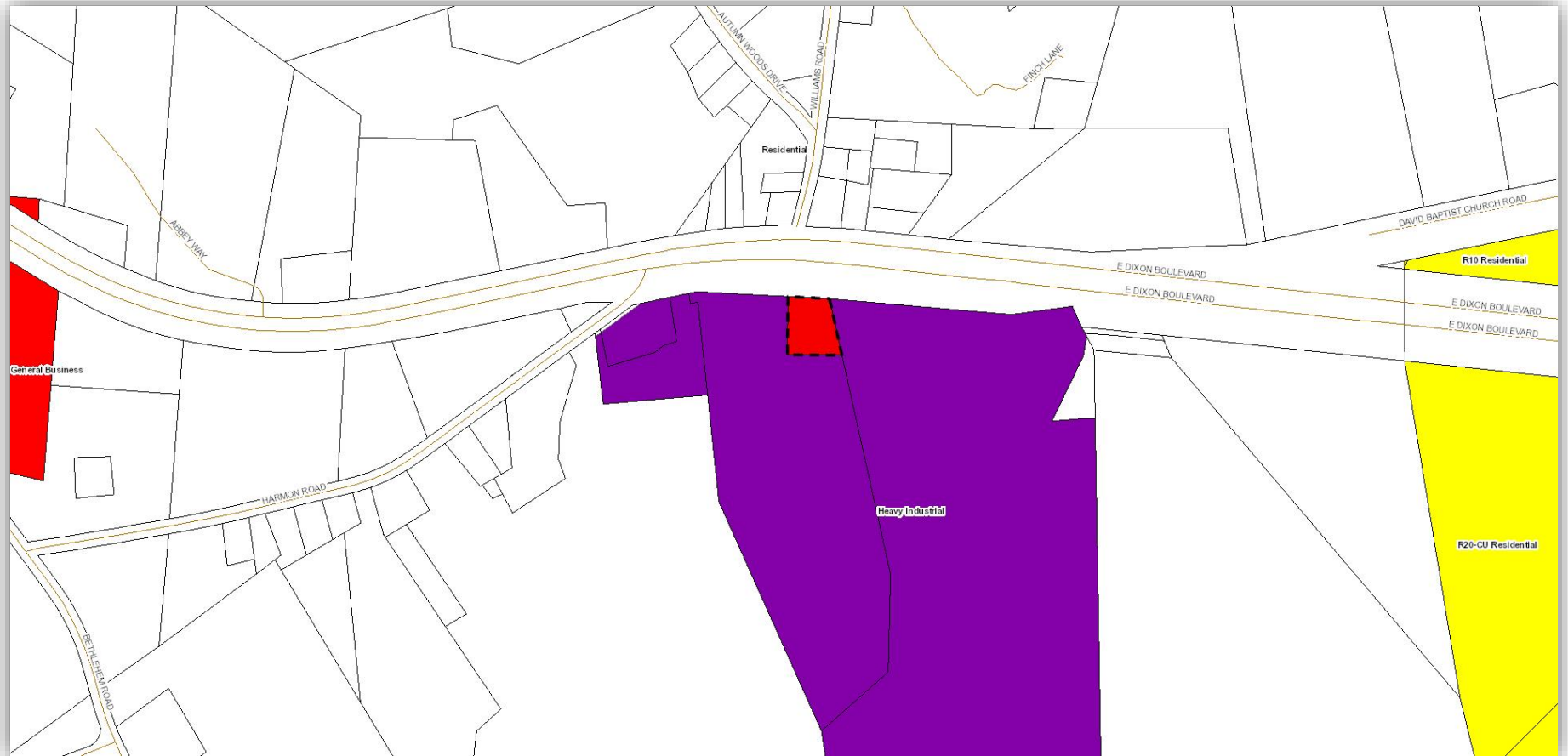
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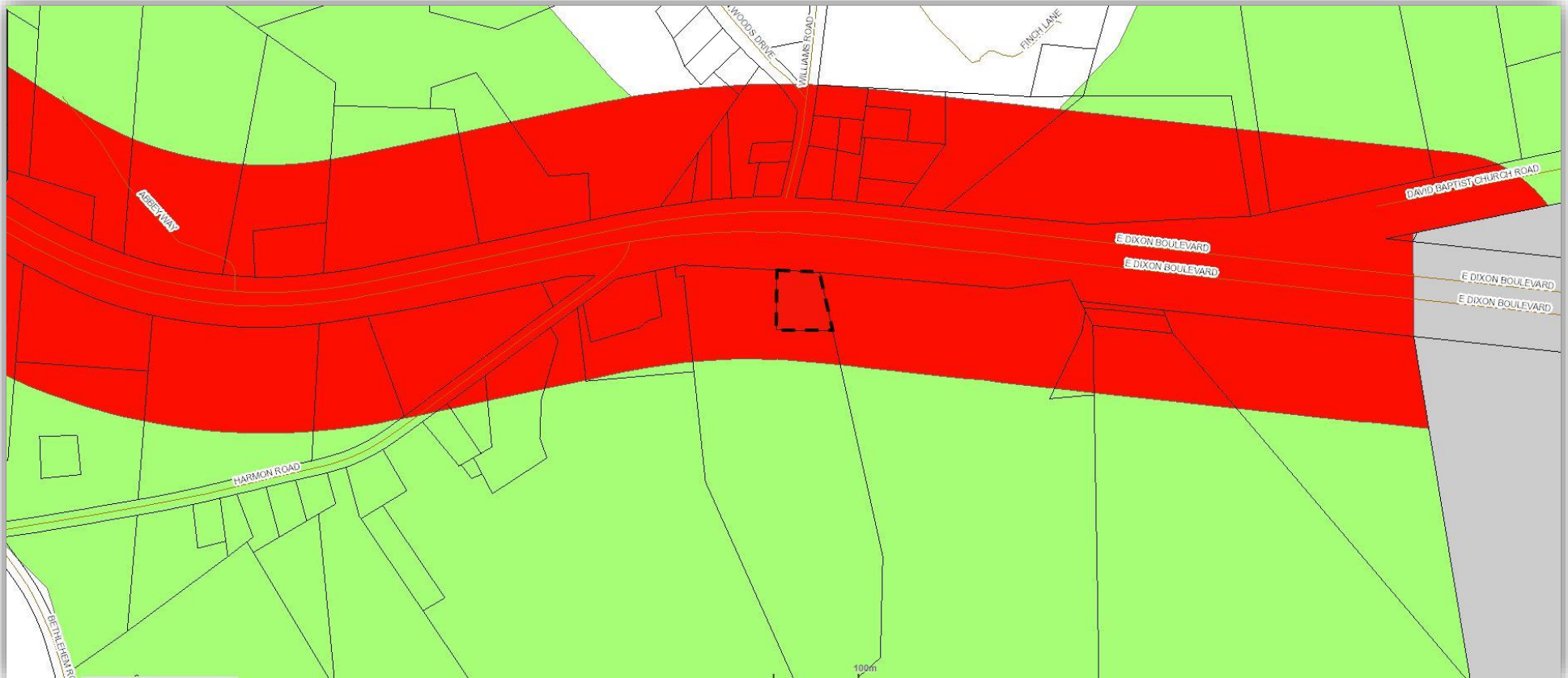


REVISED 1-14-20 TO ADD
 25 MORE MACHINES. NO
 FIELD WORK DONE ON
 THIS DATE.

Case # 20-01 CUP for 5110 East Dixon Blvd
Aerial Map, Parcel #59646 1.07 acres



Case # 20-01 CUP for 5110 East Dixon Blvd
Land Use Map, Parcel #59646 1.07 acres



Case # 20-01 CUP for 5110 East Dixon Blvd
Zoning Map, Parcel #59646 1.07 acres

