

**TOWN OF ANGIER
PLANNING BOARD
AGENDA
February 11, 2020
7:00 P.M.
Municipal Building
28 North Raleigh Street
Angier, North Carolina 27501**

1. Opening
2. Pledge Of Allegiance
3. Invocation
4. Approval Of The November 12, 2019 Planning Board Minutes
5. Consideration Of The Agenda
6. New Business
 - A. **Rezoning Request – Ivy Creek Property**
Applicant: SHC Holdings, Inc.
Property PINs: 0675-00-1074.000 (Harnett), 0675016046 (Wake)
Current Zoning: RA-30
Requested Zoning: R-6
 - B. **Ordinance Amendments**
Staff Proposed Amendments Related To Board Of Adjustment Configuration And Approval Criteria
 - C. **Ordinance Amendments**
Staff Proposed Amendment Related To Nonconforming Junkyards
7. Old Business

None.
8. Adjournment



REZONING STAFF REPORT

File #: 2020-000035
Staff Contact: Sean Johnson
sjohnson@angier.org
(919) 331-6702

Planning Board: February 11, 2020

Public Hearing: March 3, 2020

Requesting Rezoning: RA-30 to R-6

Applicant Information

Owner of Record:

Name: Trevel Construction Corp.
Address: 466 Stancil Road
City/State/Zip: Angier, NC 27501

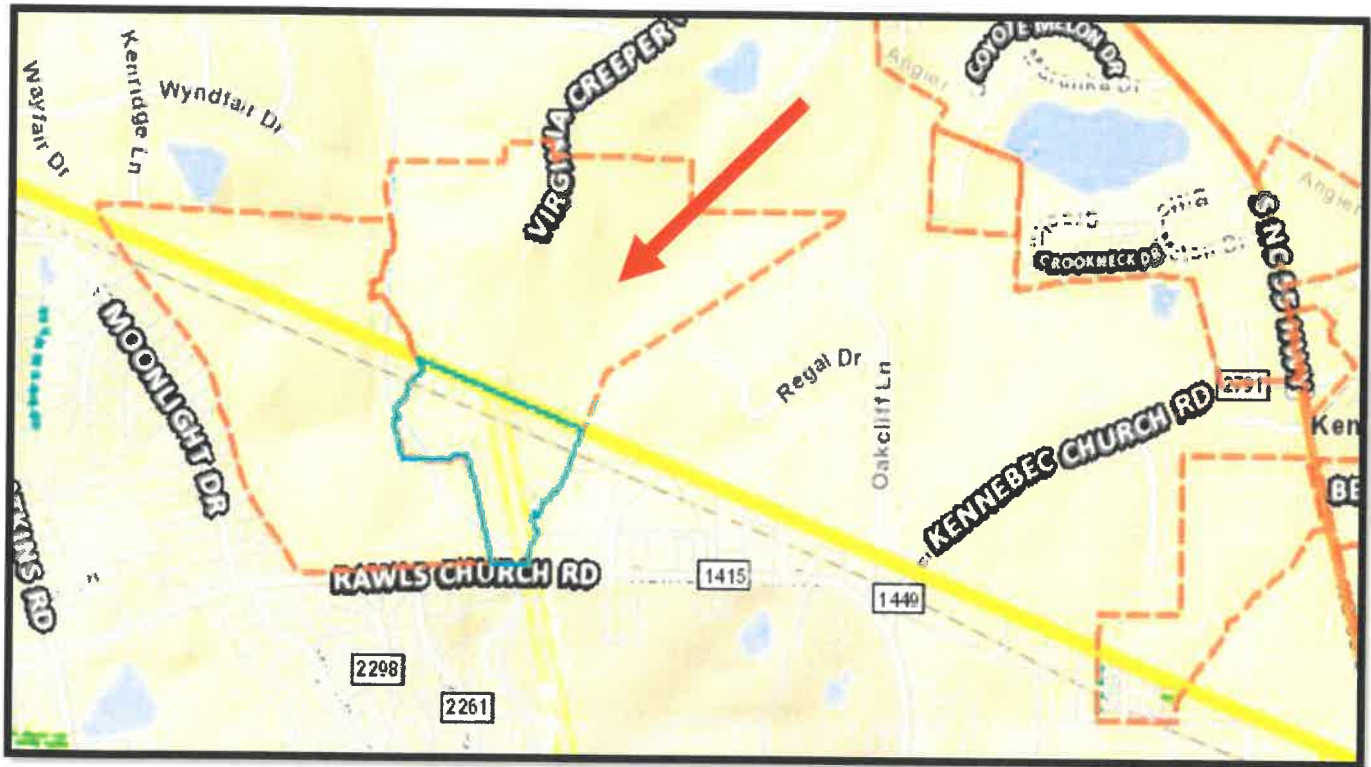
Applicant:

Name: Same as Owner
Address:
City/State/Zip:

Property Description

PIN(s): (Harnett) 0675-00-1074.000, (Wake) 0675016046 Acreage: 82.504 Acres
Address: Rawls Church Road, Angier, NC

Vicinity Map



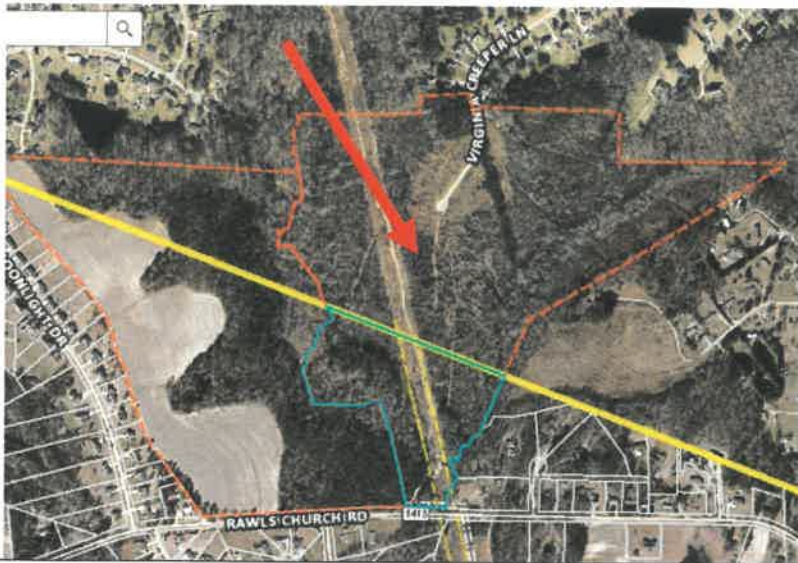
Zoning Compatibility



	CURRENT RA-30	REQUESTED R-6
Min. Lot Size	30,000	6,000
Parks & Recreation Facilities	P	P
Single Family/Duplexes	P	P
Multi-Family		P*
Schools	P	P
Offices & Services		
Retail Uses		
Churches		
Governmental Uses	P	P
Agriculture	P	P

P=Permitted Use S=Special Use

Physical Characteristics



Aerial Photograph (2017)

Site Description: The property is currently wooded and includes a Duke Power easement, floodplains and wetlands.

Surrounding Land Uses: Surrounding Land Uses include low and medium density residential as well as agricultural uses.

Services Available

Water:

- Public (Developer will be required to extend Town water)
- Private (Well)
- Other: Unverified

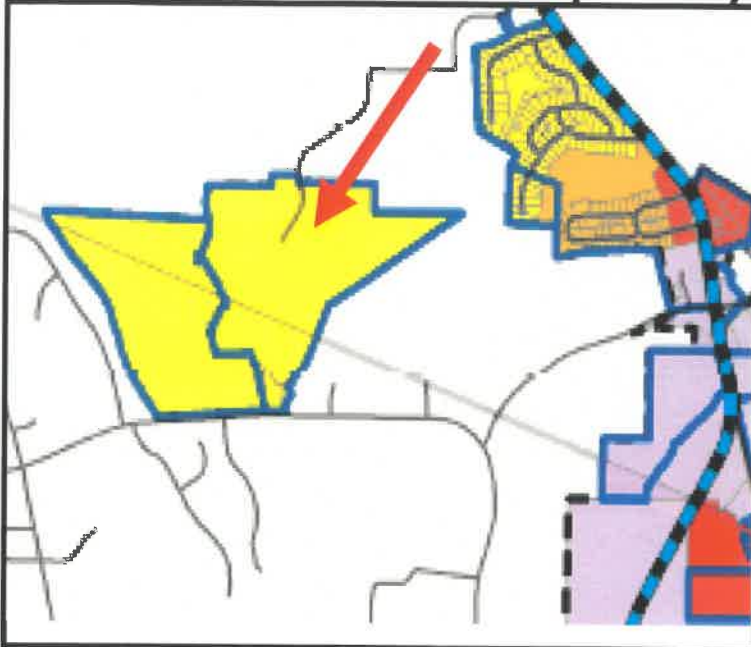
Sewer:

- Public (Developer will be required to extend Town sewer)
- Private (Septic Tank)
- Other: unverified

Transportation:

Access is provided by Rawls Church Road

Land Use Classification Compatibility



Future Land Use Map (2017)

	REQUESTED ZONING	LAND USE
	R-6	MDR
Parks & Rec Facilities	P	P
Detached Single Family	P	P
Multi-Family	P	P
Churches	S	
Schools	P	P
Professional Offices		
Retail Uses		
Restaurants		
Governmental Uses	P	P
Distribution		
Manufacturing Uses		

The Proposed Rezoning Is In Compliance With The Uses Identified In The Land Use Plan

Evaluation

- Yes** No The IMPACT to the adjacent property owners and the surrounding community is reasonable, and the benefits of the rezoning outweigh any potential inconvenience or harm to the community.
REASONING: The requested zoning would allow for uses compatible with adjacent uses and for density similar to adjacent developments.
- Yes** No The requested zoning district is COMPATIBLE with the existing Land Use Classification.
REASONING: The Land Use Plan calls for Medium Density Residential, which is allowed by the proposed district.
- Yes** No The proposal does ENHANCE or maintain the public health, safety and general welfare.
REASONING: The rezoning would allow for uses compatible with surrounding uses.
- Yes **No** The request is for a SMALL SCALE REZONING and should be evaluated for reasonableness
REASONING: The uses allowed by the proposed rezoning are similar to that of adjacent parcels.

Suggested Statement-of-Consistency (Staff concludes that...)

The requested rezoning to R-6 is compatible with The Land Use Plan. The adjacent property to the West is zoned R-6 and the uses permitted by the requested district would be compatible with both the adjacent development and surrounding existing uses. The rezoning request would not have an unreasonable impact on the surrounding community and will not harm the public health, safety, and general welfare for the reasons stated in the evaluation. It is recommended that this rezoning request be **APPROVED**.

Standards of Review and Worksheet

STANDARDS OF REVIEW

The Planning Board shall consider and make recommendations to the Town Board of Commissioners concerning this proposed conditional zoning district. The following policy guidelines shall be followed by the Planning Board concerning zoning districts and no proposed zoning district will receive favorable recommendation unless:

- Yes No A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- Yes No B. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of the individual or small group.
- Yes No C. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
- Yes No D. The proposed change is in accordance with the comprehensive plan and sound planning practices.

GRANTING THE REZONING REQUEST

Motion to grant the rezoning upon finding that the rezoning is reasonable based on **All** of the above findings of fact A-E being found in the affirmative and that the rezoning advances the public interest.

DENYING THE REZONING REQUEST

Motion to deny the rezoning upon finding that the proposed rezoning does not advance the public interest and is unreasonable due to the following:

- The proposal will not place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- There is not convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of the individual or small group.
- There is not convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)
- There is not convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
- The proposed change is not in accordance with the comprehensive plan and sound planning practices.
- The proposed change was not found to be reasonable for a small scale rezoning

Attachments

- Original Rezoning Application

Section 15.3. - Board of Adjustment.

15.3.1 Establishment of the Board of Adjustment.

- A. The Town of Angier Zoning Board of Adjustment is hereby established. The word "board" when used in this section shall be construed to mean the Zoning Board of Adjustment. Membership on the Board shall include the seven members. Five of the members shall consist of the Angier Town Board of Commissioners. ~~These members shall be appointed to three-year, two-year, or one-year terms depending on the remainder of the term of that member's seat on the Board of Commissioners (whichever is largest).~~ ~~and~~ The remaining two members shall be appointed by the Harnett County Board of Commissioners to represent the extraterritorial jurisdiction. In the event the Board of County Commissioners fails to make their appointments within 90 days after receipt of a resolution from the Angier Town Board, requesting that such appointments be made, the Town Board may thereupon make such appointments. The two members appointed by the Board of County Commissioners shall be residents of the territory surrounding the corporate limits of the Town of Angier within the extraterritorial area.
- B. All meetings of the Board shall be held at a regular place and shall be open to the public. The Board shall keep minutes of its proceedings in a book maintained for that purpose only, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be by recorded resolution indicating the reasons of the Board therefore, all of which shall be a public record. No final action shall be taken on any matter unless a quorum is present.

15.3.2 Powers and duties. The Board of Adjustment shall have the following powers and duties:

15.3.2.1 Appeal of the administrator. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by administration in the enforcement of this ordinance.

- A. An appeal from the decision of the administrator may be taken to the Board of Adjustment by any person who has standing under G.S. 160A-393(d) ~~aggrieved or any officer, department, board or bureau of the town affected by such decision.~~ Such appeal shall be taken within 30 days from receipt of the written decision of the administrator ~~within a reasonable time as provided by the rule of the board~~ by filing a notice of appeal with the Town Clerk and ~~with the officer from whom the appeal is taken and with the board a notice of appeal~~ specifying the grounds thereof. The office to whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrator certifies to the Board after the notice of appeal shall have been filed with him by reasons of fact stated in the certificate, a stay would in his opinion cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this ordinance. In such case proceedings shall not be stayed except by a restraining order, which may be granted by the Board or by a court of record on application of notice to the administrator and on due cause shown.

15.3.2.2 Variances. To authorize upon appeal in specific cases such variances from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of the ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Town Clerk. The applicant may submit reports, arguments, proposed findings or other documents along with the application. Upon submittal of a variance application, no enforcement action shall be taken by Staff until a decision is made by the Board of Adjustment.

The existence of a nonconforming use of neighboring land, buildings, or structures in the same district or of permitted or nonconforming uses in either districts shall not constitute a reason for the requested variances. No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. The concurring vote of four-fifths of the board shall be necessary to grant a variance.

Such variances may be granted in such individual case of unnecessary hardship only upon findings by the Board of Adjustment after a public hearing that the following conditions exist:

- A. Unnecessary hardship would result from the strict application of the ordinance.
 - B. The hardship results from conditions that are peculiar to the property, such as location, size, or 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.
 - C. 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 the granting of a variance shall not be regarded as a self-created hardship.
 - D. 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.
- ~~A. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.~~
- ~~B. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.~~
- ~~C. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.~~
- ~~D. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.~~
- ~~E. The special circumstances are not the result of the actions of the applicant.~~

~~F.—The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.~~

15.3.2.3 Special use permits. The development and execution of this ordinance is based on the division of the Town of Anger into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. ~~It is recognized, however, that there are some land uses which are basically in keeping with the intent and purposes of the district where special, but which may have an impact on the area around them which can only be determined by review of the specific proposal.~~ Special uses may be established, under certain conditions and with the proper controls, in such a manner as to minimize any adverse effects. In granting approval of a special use permit, the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare, and public interest. ~~In order to ensure that these uses, in their proposed locations, would be compatible with the surrounding development and in keeping with the purposes of the district in which they are proposed, their establishment shall not be a matter of right, but shall be only be permitted after review and approval of a Special Use Permit preceded by an evidentiary hearing.~~

Uses specified as a special use in Section 3.3 shall be permitted only upon the issuance of a special use permit by the Board of Adjustment. The owner or owners of all property included in the petition for a special use permit shall submit a complete application and a detailed site plan to the Planning Department.

The Board of Adjustment shall find that the following conditions exist prior to granting approval of a Special Use Permit application:

- A. The requested use will not impair the integrity or character of the surrounding or adjoining districts;
- B. The requested use will not be detrimental to the health, morals, or welfare;
- C. Adequate utilities, access streets, drainage, sanitation and/or other necessary facilities have been or are being provided;
- D. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
- E. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment.

Planning Staff will issue Special Use Permits upon approval by the Board of Adjustment. The permit is transferable with the sale of the property and will not expire unless a new development proposal or special use permit is approved for the subject property. The Board of Adjustment shall review any substantial change or increase in density or size of the approved site plan submitted as a part of the special use application. The Planning Director may approve minor modifications of the approved plans, provided that the changes do not substantially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from.

15.3.2.4 Right of appeal. If a Land Use Permit is denied, then the applicant may appeal the action of the administrator to the Board of Adjustment; and that from the decision of the Board of Adjustment, recourse shall be had to courts as provided by law. Such appeal shall be made within 30 days of such ~~written permit denial~~ **by submitting the appeal to the Town Clerk.**

15.3.3 Hearing process.

- A. Appeals from the enforcement and interpretation of this ordinance and requests for variances, shall be filed with the administrator specifying the grounds thereof. The administrator shall transmit to the Board of Adjustment all applications and records pertaining to such appeals and variances.
- B. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time.
- C. ~~The concurring vote of four fifths~~ **A simple majority vote** of the members of the board shall be necessary to reverse any order, requirement, decision, or determination of the administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance, or to grant a variance from the provisions of this ordinance.
- D. Every decision of the Board shall be subject to review by the Harnett County Superior Court by proceedings in the nature of certiorari. Any appeal to the superior court shall be taken within 30 days after the decision of the Board is filed in the office of the zoning officer, or after a written copy thereof is delivered to the appellant by personal service or registered mail, whichever is later.

15.3.4 Administration of oaths. The chairman or any member temporarily acting as chairman is authorized to administer oaths to witnesses in any matter coming before the Board. All testimony before the Board must be under oath and recorded.

15.3.5 Fees for variances or appeals. The Board of Commissioners shall set a fee, payable to the Town of Angier, North Carolina, to cover the necessary administrative costs and advertising of each application for a variance or appeal. The set fee shall be posted in the **current Rate and Fee Schedule of the Town.** ~~town clerk's office.~~

15.3.6 Stay of proceedings.

- A. An appeal stays all proceedings in furtherance of the action appealed from, with the following exceptions:
 - 1. The administrator certifies to the Zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property; or
 - 2. The administrator certifies to the Zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, seriously interfere with enforcement of the ordinance because the violation charged is transitory in nature.
- B. In either case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Adjustment or by a court of record on application, on notice to the administrator, and on due cause shown.

DRAFT UDO AMENDMENTS – NONCONFORMING JUNKYARDS, SALVAGE YARDS AND SIMILAR USES

Junkyard. An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard. Any lot containing more than three unregistered and nonfunctional (junk) motor vehicles shall constitute a junkyard for the purpose of this ordinance.

PERMITTED USES TABLE												
Industrial, Warehousing, Wholesale, Distribution and Transportation Uses	Use Group	OSR	RA-30	R-15	R-10	R-6	O&I	CB	GC	CP	SR	Parking
Junkyards, junked motor vehicles, salvage operations, and/or similar uses	4									S	4.9.3	1 per 2 employees (largest shift) or 1 per 500 square feet

Section 13.11. - Nonconforming automobile storage, junk yards, and salvage yards.

Nonconforming automobile storage, junk yards, and salvage yards shall provide an opaque buffer in accordance with ~~chapter 7's requirement for outdoor storage~~ Section 4.9.3 no later than one year after the date of notification by the administrator.

4.9.3 Junkyards, junked motor vehicles, salvage operations and similar uses.

Junkyards, salvage operations, and similar uses shall comply with the following requirements. Junkyards, salvage operations, and automobile repair services existing at the date of adoption of this ordinance shall be brought into compliance with the requirements included herein within ~~two years~~ one year of the effective date of this ordinance.

Standard	Junked Motor Vehicles (Existing and New Automobile Services)	New and Expanding Junkyards	Nonconforming Junkyards
Buffer shall be adjusted in height to meet the required height requirement and to ensure maximum screening where the road grade is significantly higher than the required buffer and during all seasons of the year.	X	X	X
Junked motor vehicles shall not be stacked higher than the screening.	X	X	X
Vehicles shall be stored in such a manner that all fire apparatuses and equipment can ingress and egress all	X	X	X

areas of the site at all times and be in accordance with all state and federal regulations.			
Maximum of two junked vehicles outside of automobile salvage yard or enclosed building, unless otherwise specified.	X		
Junked motor vehicles and parts storage areas shall be screened from view from adjacent property and right(s)-of-way by the following: (all requirements shall be met at time of installation and shall be a minimum six feet in height).	Opaque fence or row of continuous evergreen shrubs	"Buffers" article of this ordinance	Opaque fence or row of continuous evergreen shrubs
New automobile services that have junked motor vehicles and motor vehicles parts storage areas shall be screened from view from adjacent property and right(s)-of-way.	X	X	X
Junked motor vehicles or parts shall not be stored in the front yard or in the required front yard setback.	X	X	X
Setback from a school, residential structure, religious institution, or place of public assembly existing at application approval, excluding the residence of the owner (s) of such use.		1,000 feet	
Buffering plan shall be submitted in accordance with chapter 7 of this ordinance.		X	
All operations, equipment, junk, and/or inoperable motor vehicles shall be kept within said buffer at all times unless in motion by transportation to and from the site.	X	X	X
Setback for equipment, junk, and/or inoperable motor vehicles from any adjoining property lot line.	20 feet	50 feet	20 feet
Fences shall be designed to reasonably secure the area from unauthorized entry.	X	X	X
Setback from rights-of-way of any public or private road existing at application approval (property line shall be used if no right-of-way).		100 feet	10 feet

The operational area existing at the effective date of the ordinance shall not be expanded, except in conformance with the provisions of this ordinance.		X	X
Motor vehicles, parts, or other junked materials storage prohibited in setback.	X	X	X

Applicable Standards for Nonconforming Junkyards listed in Table in Section 4.9.3:

- Buffer shall be adjusted in height to meet the required height requirement and to ensure maximum screening where the road grade is significantly higher than the required buffer and during all seasons of the year.
- Junked motor vehicles shall not be stacked higher than the screening.
- Vehicles shall be stored in such a manner that all fire apparatuses and equipment can ingress and egress all areas of the site at all times and be in accordance with all state and federal regulations.
- Junked motor vehicles and parts storage areas shall be screened from view from adjacent property and right(s)-of-way by the following: (all requirements shall be met at time of installation and shall be a minimum six feet in height) - Opaque fence or row of continuous evergreen shrubs
- Junked motor vehicles or parts shall not be stored in the front yard or in the required front yard setback.
- All operations, equipment, junk, and/or inoperable motor vehicles shall be kept within said buffer at all times unless in motion by transportation to and from the site.
- Setback for equipment, junk, and/or inoperable motor vehicles from any adjoining property lot line. – 20 Feet
- Fences shall be designed to reasonably secure the area from unauthorized entry.
- Setback from rights-of-way of any public or private road existing at application approval (property line shall be used if no right-of-way) – 10 Feet
- Motor vehicles, parts, or other junked materials storage prohibited in setback (GC Setbacks: Front: 30 ft, Corner: 30 ft, Sides: 10 ft, Rear: 20 ft)