

**Members:**

George Quigley, Chairman  
Ed Donaldson, Vice-Chair  
Horace Humphrey  
Melree Hubbard Tart  
Joseph M. Dykes



**Alternates:**

Martin J. Locklear  
Randy Newsome  
William L. Tally  
Carrie Tyson-Autry  
Yvette Carson

***CUMBERLAND COUNTY BOARD OF ADJUSTMENT***

130 Gillespie Street  
Fayetteville North Carolina 28301  
(910) 678-7602

**TENTATIVE AGENDA**

**FEBRUARY 16, 2012**

**7:00 PM**

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, February 16, 2012, at 7:00 p.m. in Hearing Room #3 of the Historic Courthouse at 130 Gillespie Street, Fayetteville, North Carolina. The agenda is as follows:

1. ROLL CALL
2. SWEAR IN STAFF
3. ADJUSTMENTS TO THE AGENDA
4. APPROVAL OF THE JANUARY 19, 2012 MINUTES
5. ABSTENTIONS BY BOARD MEMBERS
6. PUBLIC HEARING DEFERRALS
7. BOARD MEMBER DISCLOSURES
8. POLICY STATEMENT REGARDING APPEAL PROCESS
9. PUBLIC HEARING(S):

**A. P12-01-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1104, DISTRICT DIMENSIONAL PROVISIONS, TO ALLOW A REAR YARD SETBACK OF 30.8 FEET WHERE 35 FEET IS REQUIRED FOR A SINGLE FAMILY DWELLING IN A R10 RESIDENTIAL DISTRICT ON 0.43+/- ACRE, LOCATED AT 2904 BROMWICH COURT; SUBMITTED AND OWNED BY CHRISTOPHER L. AND DEBRA A. CICCONE.

**B. P12-02-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1403 SITE PLAN REVIEW, SUBSECTION I., WHICH REQUIRES EXTENSION AND CONNECTION TO PUBLIC WATER; IN A RR RURAL RESIDENTIAL AND C(P) PLANNED COMMERCIAL DISTRICTS ON 1.55+/- ACRES, LOCATED AT 5087 US HWY 301 SOUTH (SR 2284); SUBMITTED BY CAROLYN L. HICKS ON BEHALF OF DELIVERANCE JESUS IS COMING VICTORY CENTER, INC., (OWNER).

**C. P12-03-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN A1 AGRICULTURAL DISTRICT ON 2.50+/- ACRES, LOCATED AT 6120 BRAXTON ROAD (SR 2242), SUBMITTED BY MARCUS G. MCLEAN (OWNER) AND ROBERT G. MCLEAN.

10. DISCUSSION

11. UPDATE(S)

12. ADJOURNMENT

**Members:**

George Quigley, Chairman  
Ed Donaldson, Vice-Chair  
Horace Humphrey  
Melree Hubbard Tart  
Joseph Dykes



**Alternates:**

Martin J. Locklear  
Randy Newsome  
William Lockett Tally  
Carrie Tyson-Autry  
Yvette Carson

*Cumberland County Board of Adjustment*

130 Gillespie Street  
Fayetteville, NC 28301  
(910) 678-7603

MINUTES  
JANUARY 19, 2012  
7:00 P.M.

**Members Present**

George Quigley, Chairman  
Ed Donaldson  
Horace Humphrey  
Joseph Dykes  
Melree Hubbard-Tart

**Absent Members**

None

**Staff/Others Present**

Patricia Speicher  
Pier Varner  
Melodie Robinson  
Jeff Barnhill  
Angela Perrier  
Rick Moorefield (County  
Attorney)

Chair Quigley called the meeting to order at 7:00 p.m. in Public Hearing Room # 3 of the Historic Courthouse.

1. ROLL CALL

Mrs. Varner called the roll and stated a quorum was present.

2. CHAIR QUIGLEY SWORE IN THE STAFF

3. ADJUSTMENTS TO THE AGENDA

There were none.

4. APPROVAL OF THE NOVEMBER 17, 2011 MINUTES

A motion was made by Mr. Donaldson and seconded by Mr. Humphrey to approve the minutes as submitted. The motion passed unanimously.

5. ABSTENTIONS BY BOARD MEMBERS

There were none.

6. PUBLIC HEARING DEFERRALS

There were no deferrals.

## 7. BOARD MEMBER DISCLOSURES

There were none.

## 8. POLICY STATEMENTS REGARDING APPEAL PROCESS

Mrs. Varner read the Board's policy regarding the appeal process to the audience.

## 9. PUBLIC HEARING(S)

### **Opened Public Hearing**

- A. P10-14-C:** RECONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1002, INCIDENTAL USES, SUBSECTION E. ACCESSORY STRUCTURES 4; FOR A 20 FOOT SETBACK VARIANCE WHERE FIVE FEET IS REQUIRED, ALLOWING AN EXISTING STORAGE BUILDING TO ENCROACH 15 FEET ONTO THE ADJACENT PROPERTY; IN AN R15 RESIDENTIAL DISTRICT ON 1.10+/- ACRES, LOCATED AT 430 SHEP DRIVE; THOMAS AND NANCY POULOS (OWNERS) AND GREEN POND INC (AFFECTED OWNER).

MRS. VARNER: Presented the zoning, land use and photos of the site to the Board.

MRS. VARNER: Mr. Chairman, the Poulos' case was sent back for the Board to receive evidence as to whether or not the portion of the existing storage building has been removed from the portion located on the part belonging to Green Pond. The court ordered that the Poulos' were entitled to a zero lot line with the Green Pond property. Since your October 21, 2010 hearing on this request, the Poulos' have removed that portion of the structure that extends over the common property line with Green Pond. I am going to ready the court order. The court ordered: 1. That this matter is remanded back to the Board of Adjustment. 2. That the Petitioner shall show evidence that the Petitioners have removed that portion of the Subject Building being located on the property belonging to Green Pond. 3. That the Board of Adjustment shall grant the subject variance requested by the Petitioners and entitling the Petitioners to a zero lot line. This order was made on October 20, 2011.

MR. MOOREFIELD: I spoke with the attorney for the Petitioners prior to the hearing and I have seen a new survey with the seal of the surveyor which I believe he was going to put into evidence. Do you have that evidence? I believe that alone is a sufficient finding. I don't know if they have removed that portion of the subject building from the adjoining property. I suggest that without too much depth into the ordinance, because there are a lot more findings and facts that are a lot more involved than what we had in the beginning but, just find that the judge has ordered the Board to proceed as long as the petitioners have presented evidence they have removed that portion of the subject building. Upon doing that the Board of Adjustment will grant the subject variance as long as the petitioners meet those criteria.

MR. DONALDSON: There is only one fact to find and that is that they removed it, right?

CHAIR QUIGLEY: If you will introduce that as evidence. [Is handed a survey submitted by the attorney Mr. Neville – Exhibit 1]

MR. MOOREFIELD: I believe Mr. Neville intended to do that. Is that correct sir?

CHAIR QUIGLEY: Swore in Thomas Neville.

MR. NEVILLE: My name is Thomas Neville. I'm the attorney for the Poulos' and my office is located at 115 E. Russell Street, Fayetteville.

CHAIR QUIGLEY: Are you introducing this as evidence?

MR. NEVILLE: Yes, I will formally present the survey of the Poulos property at this time.

CHAIR QUIGLEY: Does anyone have any questions?

MR. MOOREFIELD: Mr. Chairman, is there anyone here from Green Pond?

MS. SPEICHER: There is no one here signed up in opposition.

**Public Hearing Closed**

CHAIR QUIGLEY: It is the findings of the Board and based on the evidence presented tonight, that the portion of the building that was encroaching has been removed, and therefore; we would like to order the variance be granted in this case.

MS. SPEICHER: Do we need to vote on that?

MR. HUMPHREY: I motion to approve the variance.

MR. DYKES: I second the motion.

The motion was unanimous.

	IN FAVOR	OPPOSED
QUIGLEY	YES	None
DONALDSON	YES	
HUMPHREY	YES	
TART	YES	
DYKES	YES	

**B. WS11-01. REVOCATION OF THE ANDREWS MINI STORAGE DEVELOPMENT'S PREVIOUS APPROVAL FOR UP TO 70% IMPERVIOUS LAND AREA UNDER THE TERMS OF THE COUNTY WATER SUPPLY WATERSHED MANAGEMENT**

AND PROTECTION ORDINANCE, SECTION 31A-60 FOR HIGH DENSITY DEVELOPMENTS; ZONING: C(P), C(P)/CUD AND R6; TOTAL ACREAGE: 15.74 +/-; LOCATED AT THE SOUTHEAST QUADRANT OF SR 1600 (MCARTHUR ROAD) AND SR 1611 (ANDREWS ROAD), NORTH OF SR 1613 (HONEYCUTT ROAD); OWNERS: DOROTHY M ANDREWS, CREEKWOOD HOLDINGS LLC, JACQUELINE C ANDREWS & ANDREWS STORMWATER OWNER'S ASSOCIATION.

MR. BARNHILL: On April 21, 2011, Mr. Andrews got the high density approval for the 70%. Since that time, Mr. Andrews decided to downgrade this project to meet the low density standards, which would be under 24% impervious surface for this site. He is requesting the Board revoke the high density so that we can proceed with the low density which would be approved at staff level and not require Board approval.

CHAIR QUIGLEY: Does any member of the Board have questions for Mr. Barnhill? Do I have a motion?

MR. DONALDSON: I move to grant the revocation.

MR. HUMPHREY: I second the motion.

CHAIR QUIGLEY: Are there any questions? Does staff have any other comments to make? All in favor of granting the revocation of the high density development signify by saying aye.

The motion was unanimous.

	IN FAVOR	OPPOSED
QUIGLEY	YES	None
DONALDSON	YES	
TART	YES	
DYKES	YES	
HUMPHREY	YES	

### **Opened Public Hearing**

- C. P11-07-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1403 SITE PLAN REVIEW, SUBSECTION I., WHICH REQUIRES EXTENSION AND CONNECTION TO PUBLIC SEWER; IN A C2(P) PLANNED SERVICE AND RETAIL DISTRICT ON 1.14+/- ACRES, LOCATED AT 2674 GEORGE OWEN ROAD (SR 1133); SUBMITTED AND OWNED BY SHELBY T. TOWNSEND.

MRS. VARNER: Mr. Chairman, this variance request came from one of the conditions of a preliminary site plan approval for a veterinary clinic, Case No. 11-108 approved on 10/24/2011. If the variance is approved, the applicant will not have to comply with condition No. 2 of the

preliminary site plan approval. A copy of the site plan approval is attached to your packets. If you would like to read the condition, it is No. 2.

MRS. VARNER: Presented the zoning, land use and photos of the site to the Board.

MRS. VARNER: Mr. Chairman, I would like to make a correction for the record. On the location for sewer there is PWC available for sewer.

CHAIR QUIGLEY: Does anyone have questions for the staff?

CHAIR QUIGLEY: Swore in Shelby Townsend.

MS. TOWNSEND: My name is Shelby Townsend, 7132 Sam Cannady Road, Hope Mills, NC 28348. I am founder and director of Unchained Cumberland County. We assist pet families in crisis; usually the poorest, least educated in the county. I would like to open the Big Fix which is a non-profit veterinary clinic on this piece of property that I inherited from my family. Our mission is to make basic veterinary care affordable and available to every pet owner in Cumberland County. We are already doing this, but so far we have Rusty Long from Urban Ministry who has helped us with our big group massive neutering clinic and Sue from In As Much. They have been extremely kind to us by letting us use their facility. We really need our own place to register our families to use for recovery. At this time in order to keep our expenses so low that it will still be affordable, we would like to contract our spay and neuter surgeries with Affordable Animal Care out of Durham. We have been doing business with them since December 2009 and we have subsidized more than 700 spay and neuter surgeries. This office that I would like to put on my lot would be like a processing center. We would have vaccinations. We have affordable vaccination once a month when the weather is good. We just need our own place. In making your decision, I hope you will consider two documents that I have here. One is a contract I have with Barnhill Contracting in 2002. They leased my property for their mobile unit which is very much like this one during the process to do the construction and they used the existing septic tank which I would like to use if at all possible. Another one is my statement regarding our contracting with Affordable Animal Care. It shows pictures of the unit with us actually using it, pictures of the veterinary and it tells exactly what we will be doing there. May I please submit this to you for your consideration?

CHAIR QUIGLEY: Yes, one at a time. Thank you.

CHAIR QUIGLEY: Ms. Townsend, you said this was initiated with Barnhill in 2002. How long did they use that septic tank on that site?

MS. TOWNSEND: For two years until completion of the project.

CHAIR QUIGLEY: Does anyone have questions for Ms. Townsend?

MR. DONALDSON: There is no throat on the mobile home on the property now is there?

MS. TOWNSEND: No sir, but I have purchased one.

MR. DONALDSON: The mobile home that was on there is one that Barnhill put on?

MS. TOWNSEND: Yes sir.

MR. DONALDSON: Before that the land was vacant?

MS. TOWNSEND: Yes sir.

MR. DONALDSON: Did they install the septic tank or was that there?

MS. TOWNSEND: No sir, that was there.

MR. DONALDSON: Do you know how long it has been there?

MS. TOWNSEND: I have no idea.

MR. DONALDSON: I assume there was a mobile home at some point in time?

MS. TOWNSEND: It was my family home which was acquired by the Department of Transportation and destroyed for the bypass.

MR. DONALDSON: This piece of land is what was left?

MS. TOWNSEND: Yes sir.

MR. DONALDSON: Was the home there where the septic tank was?

MS. TOWNSEND: Yes.

CHAIR QUIGLEY: Is there any intent to make this a kennel operation?

MS. TOWNSEND: No sir, absolutely not. We do not get into that.

CHAIR QUIGLEY: It is strictly an outpatient sort of treatment facility?

MS. TOWNSEND: We assist pet families in crisis. We are not rescue, we do not foster.

MR. DONALDSON: You don't do overnight?

MS. TOWNSEND: No sir. We have a veterinarian already. Dr. Jack Hill has agreed to handle any emergencies or overnights that we might have.

MR. DONALDSON: I have a question for staff. This is a permitted use, isn't it? We are not changing anything on the permitted use?



MRS. VARNER: Yes sir, it is a permitted use which has been approved through the site plan review.

MRS. TART: When Barnhill was there, were they allowed to place a mobile home there and use the septic tank for their use?

MS. TOWNSEND: Yes, and they did hook up to public water.

MRS. TART: So we do have public water on that lot.

MR. DONALDSON: All you are asking is to avoid having to connect to the sewer?

MS. TOWNSEND: Yes sir, but I certainly plan to do that at the time our neighbors do or at the time we can afford to become a full service veterinary clinic.

MR. DONALDSON: Barnhill is on this list? Did they not have to have a variance for use?

MS. TOWNSEND: I hope they had to stand here just like I am doing and ask you to please....

MS. SPEICHER: There is different standards, different criteria for temporary construction trailers than for permanent structures.

MR. DONALDSON: Did they have to get a permit though?

MS. SPEICHER: They would have had to get some type of permit through permitting.

CHAIR QUIGLEY: Does any board member have any questions?

CHAIR QUIGLEY: How many people would be working there in any given period of time?

MS. TOWNSEND: We will have no staff. We will not pay people. We will be run by volunteers. I am the director. I will be there more than anyone else and I might hire some part-time help to help us with some events or a vet tech to help with recovery, but there will never be more than three people at any one time.

CHAIR QUIGLEY: Your water service is provided now by PWC? It is the sewer line that is the issue?

MS. TOWNSEND: Yes sir, just the septic tank.

CHAIR QUIGLEY: There would never be more than how many people at one time using the facility?

MS. TOWNSEND: Now when we have an event such as a spay and neutering event, the half bath would be available to the staff, to Dr. Bullock and her technician; maybe six during the day of an event. It would be a one day event, maybe twice a month if we could afford it.

CHAIR QUIGLEY: Thank you.

MS. TOWNSEND: Thank you so much.

MRS. VARNER: Mr. Chairman, would you please for the record, introduce the exhibit numbers of the pictures submitted by Mrs. Townsend.

CHAIR QUIGLEY: The agreement is Exhibit 1, the letter with frequently asked questions are Exhibits 2 and 2a, the pictures in sequence are Exhibits 3, 4, & 5, the second message of two pages is Exhibit 6.

MRS. VARNER: Thank you sir.

CHAIR QUIGLEY: Does anyone have any questions?

MRS. VARNER: Mr. Joe Glass is here from PWC if you have questions for PWC.

CHAIR QUIGLEY: Does anyone want to question PWC concerning the sewer?

CHAIR QUIGLEY: Swore in Joe Glass.

MR. GLASS: My name is Joe Glass, I'm a Water Resources Engineer Manager at the Public Works Commission, my residence is 136 Highgrove Court, Fayetteville.

CHAIR QUIGLEY: Thank you very much. Your interest in the case is that you are the public utility provider for this part of Cumberland County?

MR. GLASS: That is correct.

CHAIR QUIGLEY: Can you assist us with any speculation on the cost of putting the sewer line in that would satisfy code in that area.

MR. GLASS: As a minimum, and understand this is just an estimate, you don't know the true cost until you do a detailed design. As a minimum it is probably \$60 - \$70 thousand dollars. If you did it by PWC policy and our policy is to extend it to the far corner of your property if other properties could be served; and that would be the case here. Then get it across the property initially would be about 300 feet. To get it across the property to serve other people would be about another 450 feet, and about another \$90 thousand dollars. You are talking about probably \$100 - \$150 thousand dollars to get the sewer to this property. The sewer that you saw on George Owen Road, 190 feet away, that is gravity sewer. The picture of the sewer from the property going downhill from there, that would be this sewer right here [pointing to the power point presentation] if you extended that up to the property, that has got to go downhill. If you look at the topography, the highpoint in the road is somewhere along here [pointing to the power point presentation] then the road starts dropping off. If you extend the sewer up and then

the property drops down, you will end up with a sewer that is too shallow for our specifications and eventually will be out of the ground.

CHAIR QUIGLEY: Is it possible to put a pump in?

MR. GLASS: Gravity sewer is available through the sewer on Hope Mills Road. We have sewer down here [ pointing to the power point presentation] and that is just to get it from where our last man hole is, then you would have to come between two property lines and get at least one maybe two easements, depending on if you split the property line or put it all on one property. What the cost of that easement is, I don't know, depending on the value of that property. Just to get it from where the last man hole is to the backside of the property, would be about 300 feet and our policy is to come across the property and there are other properties that could be served, so we would have to come across the front of the other properties and that is about 150 feet. So, that is about \$150 thousand dollars; again that is a rough estimate. It is about \$200 dollars a foot. By the time you do engineering, get all the easements, get a bid and get it constructed, an estimate is about \$200 thousand dollars. Hopefully, that is on the high side, but it is probably pretty close.

MR. DONALDSON: I would say it is probably about right. I don't know if you remember the case we had last year right up the road about 800 feet and they estimated about 170 thousand dollars.

MR. GLASS: The prices are going up daily and monthly on the pipe and the materials.

CHAIR QUIGLEY: Does anyone have any questions for Mr. Glass? Thank you very much.

### **Public Hearing Closed**

MR. HUMPHREY: I am in favor of the variance. It seems like a very worthy cause. [the rest of Mr. Humphrey's voice is inaudible]

MR. DONALDSON: It is very similar to the one we did last summer.

MRS. TART: On Cumberland Road.

MR. DONALDSON: Yes, on Cumberland Road where they were going to have to go 800 feet either through the apartments which he didn't want because they would have had to cut through the apartments or go all the way up to the road and extend it down about 800 feet. They said it would cost I think between \$165 - \$170 thousand dollars. That was for a Quick Stop and they had no septic tank. The difference here is the septic tank. Financially it is the same burden on the owner, but they have a septic tank in place, which apparently works because it was used as recently within the last couple of years for an extended period of time. This is actually a more focused case than the one we did last year. Not just this organization, which is a quasi-charitable organization but anybody and to impose that kind of financial burden, I don't think that is really what the County Commissioners had in mind when they came up with the zoning.

CHAIR QUIGLEY: Mr. Dykes?

MR. DYKES: I'm in favor of the variance.

MRS. TART: I have no problems with it at all.

MR. DONALDSON: I move we grant the variance.

CHAIR QUIGLEY: Based on?

MR. DONALDSON: 1. The existing septic tank is there. 2. The minimum use being imposed by the intended use right now.

MR. DONALDSON: I do have a question for staff. Is there an inspection of the septic tank system?

MRS. VARNER: Yes sir, we have some comments from the Health Department.

MS. SPEICHER: If the variance is granted, we will change that condition to reflect that they must get a permit from the County Health Department and provide it to Code Enforcement.

CHAIR QUIGLEY: There are definitely extraordinary and exceptional conditions pertaining to this piece of property and those conditions are the distances in order to connect to the existing sewer line. Granting the variance requested will not confer on this applicant any special privileges that are denied to other residents in the district. The literal interpretations of the provision of the ordinance would deprive the applicant of the use of this property that would be commonly enjoyed by other residents in the district who have access to adequate sewer.

MS. SPEICHER: Excuse me Chair, would that be because other properties in the immediate area are also using septic currently?

CHAIR QUIGLEY: Is that true, is that fact:

MS. SPEICHER: Yes, there are no sewer lines right there.

CHAIR QUIGLEY: The other properties within the district are in fact using septic?

MS. SPEICHER: Yes sir.

CHAIR QUIGLEY: The granting of the variance requested will be in harmony with the purpose and intent of the ordinance and will not be injurious to the neighborhood based on the fact that other commercial and other operations in the area are using septic systems. The special circumstances are not the result of any action of the applicant. The septic system has been used in the very recent past. The variance is the minimum necessary to make the legal use of the land, building or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries. It is the conclusion of the

Board that the variance is not a request to permit a use of land or structure that is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries. There does not appear to be the existence of any nonconforming use of neighboring land, buildings or structures in the same district.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be GRANTED subject to the conditions outlined by staff in the variance documents.

MS. SPEICHER: If I could, those conditions that pertain to the site plan approval, if you could run through items 1-5 on your example sheet. Those would all pertain and then the Board may want to consider entertaining the condition that if the existing septic tank fails, then connection to the Public Utility System would be required.

CHAIR QUIGLEY: In the variance?

MS. SPEICHER: If you wish, it is at the bottom of your example sheet.

MR. MOOREFIELD: Ms. Speicher, that pertains to the operations permit from the Department of Health. They would not have to be required to hook to sewer but that would be a condition of the permit and that would be with the Health Department. What we have adequately covers the Boards concern with the variance.

MS. SPEICHER: Did we want to get the standard information?

1. All information contained in the application;
2. All development shall be in accordance with the site plan as submitted unless otherwise specified below.
3. All other provisions of the County Zoning Ordinance shall be complied with;
4. All relevant Federal, State, and local regulations are complied with; and
5. The applicant is responsible for obtaining all required permits prior to proceeding with any development.

MR. DONALDSON: I have one query. You were saying that you wanted in this Order that if the septic tank failed, they would be required to hook up to the sewer system?

MS. SPEICHER: Yes sir, but the attorney doesn't think it is necessary because it is apparently a County Health Department matter.

MR. DONALDSON: They also have the option to repair the system too.

MR. MOOREFIELD: Again, that would be the County Health Department.

MR. DONALDSON: Yes, and they also can't mandate it unless you can't repair the system. Okay, that was my question. I didn't think that belonged in the Order either.

MR. DONALDSON: I motion to grant the variance.

MR. DYKES: I second the motion.

The motion passed unanimously.

	IN FAVOR	OPPOSED
QUIGLEY	YES	None
DONALDSON	YES	
TART	YES	
DYKES	YES	
HUMPHREY	YES	

1. It is the Board's **CONCLUSION** that, 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. This finding is based on the following **CONDITIONS:**

**The topography between the nearest existing gravity sanitary sewer and the subject property prevents the extension of the line and the alternate nearby sanitary sewer line would require extension across other individuals' properties thus causing the applicant to expend an inordinate amount of money for the benefit of many private property owners;**

2. It is the Board's **CONCLUSION** that granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located. This finding is based on the following **CONDITIONS:**

**All properties in the immediate surrounding area of the subject property are currently served by private individual septic tanks;**

3. It is the Board's **CONCLUSION** that the 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. This finding is based on the following **CONDITIONS:**

**All properties in the immediate surrounding area of the subject property are currently served by private individual septic tanks;**

4. It is the Board's **CONCLUSION** that, if granted, the requested variance will be in harmony with the purpose and intent of the County Zoning Ordinance and will not be injurious to the neighborhood or to the general welfare. This finding is based on all of the **CONDITIONS** listed above, as well as the following:

**The primary purpose of the zoning ordinance – protecting the public safety, health and welfare – will be assured through the permitting process for private commercial septic systems as regulated by the County Environmental Health Department;**

5. It is the Board's **CONCLUSION** that the special circumstances are not the result of the actions of the applicant. This finding is based on all of the **CONDITIONS** listed above as well as the following:

**The existing private septic system on the subject property was installed within the past five years and was properly permitted at that time;**

6. It is the Board's **CONCLUSION** that the variance requested is the minimum variance that will make possible the legal use of the land, building or structure. This finding is based on the following **CONDITIONS**:

**The subject property must have an approved and functioning wastewater system to be useable and all other ordinance requirements are being complied with;**

7. It is the Board's **CONCLUSION** that the variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries. This finding is based on the following **CONDITIONS**:

**The proposed use of the subject property is permitted and the site plan approval has been granted;**

8. It is the Board's **CONCLUSION** that the existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts does not constitute a reason for approval of this requested variance. This finding is based on the following **CONDITIONS**:

**Any possible neighboring nonconformities was not considered by the board and is not a factor in this decision to grant the variance;**

**THEREFORE**, on the basis of all the foregoing, **IT IS ORDERED** that the application for a **VARIANCE** be **GRANTED** subject to the following conditions:

1. All information contained in the application;
2. All development shall be in accordance with the site plan as submitted unless otherwise specified below;
3. All provisions of the County Zoning Ordinance shall be complied with;
4. All Federal, State, and local regulations are complied with; and
5. The applicant is responsible for obtaining all required permits prior to proceeding with any Development.

### **Opened Public Hearing**

**D. P11-10-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN R6A RESIDENTIAL DISTRICT ON .46+/- ACRE, LOCATED AT 1425 MCARTHUR ROAD (SR 1600), SUBMITTED BY ANNIE HASAN ON BEHALF OF KALIM HASAN (OWNER ).

MRS. VARNER: Presented the zoning, land use and photos of the site to the Board.

MR. DYKES: Would there be anyone working on the weekend?

MRS. VARNER: No sir, the days will be only Monday through Friday.

CHAIR QUIGLEY: I noticed when you went over the site, you mentioned an abandoned or out of service day care facility down the street?

MRS. VARNER: Yes, it was a day care, now it is a vacant building. According to graphics, it was built for a day care. Graphics is the section that takes the pictures for the cases.

CHAIR QUIGLEY: What does the code say on proximity of day cares to each other?

MRS. VARNER: We don't have a regulation that requires a minimum distance between day cares. There use to be but we don't have that requirement anymore.

MS. SPEICHER: If I could for the Board, the former day care down the street was also the same the applicant, so they could address that better.

CHAIR QUIGLEY: Are there any questions for the staff?

MRS. TART: On the application I noticed that they marked through item #2.

MS. SPEICHER: She marked those out Mrs. Tart because of the reference to the residence. It was referring to a residential structure as opposed to a day care.



MRS. TART: Okay.

CHAIR QUIGLEY: Swore in Gordon Williams.

MR. WILLIAMS: My name is Gordon C. Williams and my address is 1463 Garner Street, Fayetteville, NC. I own several pieces of property in Fayetteville. My current address is 200 Lakewood Drive, Sumpter, SC 29150. [Mr. Gordon pointed to his property on the power point presentation] I am across the street. I came up here tonight and I was going to say “yes” approve this measure, however, approve it but some things you’ve got to know. From where this picture is taken you are standing in the front yard of this potential business. I was stationed here from 1994 – 1998 and lived right down the road there for a short amount of time. This is a dangerous intersection. Several accidents have occurred there over the years that I’ve lived here as a child. I joined the military, came back and it is the same thing, a dangerous intersection. On the fourth slide of your presentation, you can see the entry to the road to that potential business. This business is the first business from the intersection of Stacey Weaver and McArthur Road. This will also be the first business on the left as the new outer loop I-95 as it crosses McArthur Road. There will be an off-ramp that will lead to Ft. Bragg off this intersection as you can see [pointing to the presentation]. Keep in mind the speed at which traffic will be traveling up this highway. There has already been a lot of stuff taken out by the new development to support this highway on both sides of the road, East and West. This was a thriving business before. I’m in favor of that, people need day cares, so I have no problem with that, but I foresee with the hours as discussed, more traffic. This intersection from what I’ve been told, the eastern side of this won’t be developed for another two years. At this time they have leveled an apartment complex and this road will be widened and it is basically going to be in the front yard. My first question for this business is where do they plan on parking and how do they plan on entering the property, from the front or from the rear? I didn’t get that, maybe I misunderstood.

MRS. VARNER: From the front.

MR. WILLIAMS: From the front, it is just straight in parking. You’ve got two residences that are side by side, so where does all of this parking go? What is the structure? You are saying it is going to be straight across the front?

MRS. VARNER: Yes sir.

MR. WILLIAMS: The space at the pole where the right of way is, is literally in that front yard and there is no front yard.

MS. SPEICHER: If I could clarify for the speaker, sir. The driveway is in the front yard. The parking is behind the structure, not in front.

MR. WILLIAMS: Okay the parking is in the rear of the structure. How do they get to the rear of the structure?

MRS. VARNER: Through this proposed driveway, right here [pointing to the presentation].

MR. WILLIAMS: The easement between these two buildings?

MRS. VARNER: No, there is no easement; the applicant is proposing a driveway in her property right here, [pointing to the presentation].

MR. WILLIAMS: A driveway between two structures that will go through it and then park in the back.

MR. DONALDSON: Please show the front view of the house.

MS. SPEICHER: Originally, when she came in all of her parking was in the front. The state is requesting a 25 foot reservation, so we cannot have any required improvements in the reservation. Her driveway is shifting over to the side of her house with the parking to the rear.

MR. WILLIAMS: This road that you see here, [pointing to the presentation] once the highway finishes doing what it is going to do, it is going to move approximately 15 feet towards the house. I just want to make it clear, I am in favor of it, but take a look at this intersection of what the impact is going to do on this business. I implore that we have to do this right. What do we as the residents gain from this? I saw that there is city county water but no sewer line. So for that particular piece, what was it about the septic? Does that mean that city sewer will be imminent? The occupants of that building with almost 24-hour operation; how big is the sewer? With the parking that is going to be in the backyard for the repair, I don't think there is enough land. If there is great, but if there isn't, there isn't. I'm looking for maybe city sewer.

CHAIR QUIGLEY: Essentially Mr. Williams, you are speaking opposed.

MR. WILLIAMS: I'm still in favor, but I want to make sure that everything is done right because it affects me because I'm right across the street.

MR. DONALDSON: Well, as staff stated earlier because it is going to be a commercial venture, the septic tank system is upgraded and to a different capacity. As far as when they are going to get city sewerage, we don't have anything to do with that, we don't know. It's not that we don't care, but that is something between the city and PWC. We don't have any control over that. As I've said, and to my understanding, it is a commercial property and the septic tank system will have to meet those requirements which the Health Department won't approve until it does.

MR. WILLIAMS: To make sure I understand this; although this is residential, but it is being upgraded for light commercial use?

MR. MOOREFIELD: For special use.

MR. DONALDSON: For special use, but because as I understand it the Health Department is going to look at the use there and determine what type of septic tank it has and if it has to be upgraded or not.

MR. MOOREFIELD: The current state regulations are for a residence you have to have a system that will maintain 240 gallons of flow per bedroom per day. For commercial, I think 3000 gallons a day is the minimum. That is substantially different from a 3-bedroom home.

MR. WILLIAMS: With the number of personnel that are proposed to be in that building.

MR. MOOREFIELD: They will need a water, septic tank and a much larger drain field. The lot may or may not accommodate a commercial building, I don't know. The Health Department will determine that.

MS. SPEICHER: For the speaker, she does have to get approval of her plans from the Health Department before she can apply for any zoning and new construction and she has to have the zoning permit to get her state permit to run her day care. The first step and it is condition #4 on your draft conditions of approval is that the County Health Department has to approve the sewer plans prior to application for permits.

MR. WILLIAMS: It is proposed as a day care and not an assisted living facility?

MRS. VARNER: It is proposed as a day care.

MR. WILLIAMS: I hate to be the devil's advocate and say "what if" it became that, would they have to come back down here or does a complaint get filed? I happened to be in the yard and I went by and talked to some of the workers and I was told that it was an assisted living facility.

MR. DONALDSON: If that happens, you want to file a complaint with the Zoning Board and Inspections and they will go out and inspect it.

MS. SPEICHER: Mrs. Perrier will cite them for violation and shut them down.

MR. DONALDSON: They would go out and inspect them, if it is true, they would cite them.

MR. WILLIAMS: Lastly, I know that we've talked about the intersection. It is at that point of the intersection there is going to be three lanes; one turning lane in the middle, a northbound lane and a southbound lane. I don't believe that there is enough room to support it unless they are going to use both buildings. That might be an issue to be addressed. If one building, the one furthest to the north that is the facility and the second one is not used at all, then you have it. I can't guarantee the status of this. My biggest concern is making sure that there is city sewer.

CHAIR QUIGLEY: Essentially, you have spoke in opposition to the granting of the Special Use Permit for this facility. Are you aware that is the case?

MR. WILLIAMS: I didn't mean to, I'm still in favor of it, so long as they meet the requirements.

CHAIR QUIGLEY: Is there anyone here that wants to speak at this time.

CHAIR QUIGLEY: Swore in Mabel C. Williams.

MRS. WILLIAMS: My name is Mabel C. Williams; my address is 1463 Garner St., Fayetteville, NC 28311.

CHAIR QUIGLEY: Your interest is in the property obviously Garner Street, the street opposite to this building?

MRS. WILLIAMS: Yes sir.

CHAIR QUIGLEY: Please point out where you live. [referring to the power point resentation].

MRS. WILLIAMS: At the corner where the white fence is the house where the lots adjoin. We are on the east side of McArthur Road. The property in question is on the west side of McArthur Road. I am not a mean person. We helped this family in the day care business before and the building that is not presently being used for the day care and it is was very severe problem. Not what is inside; the problem that we as neighbors encountered was outside debris and that included waste that was generated from the day care it was placed on the back of a pickup truck and left open. As delicately as I can say, that includes used diapers that were left without any protection to the neighbors. I got it off my property and threw it back across the fence. That was a constant problem. We only know what happened in the past. The parking where the fence is now was commandeered by the entire lot. If the property owner deemed it was necessary for them to park there, they took it over. When I came home at night, the whole area was taken over by the automobiles of the clients without any question, no warning and this happened several times. For a few years ago, I sat in your seat; I've served on a board. It was a constant problem.

CHAIR QUIGLEY: That was property that was adjacent to your property on the east side of McArthur Road. This property is on the west side of McArthur Road.

MRS. WILLIAMS: Yes, it was the same family.

CHAIR QUIGLEY: Your are speculating that you may have the same unsanitary conditions, is this what we are listening to?

MRS. WILLIAMS: Yes.

CHAIR QUIGLEY: But you have no proof?

MRS. WILLIAMS: Where it was, I just assumed it was tidy in the inside, but when you got ready to get rid of the garbage and diapers and other stuff.....

CHAIR QUIGLEY: But at this time you have no evidence, and they are not in operation in that facility now? Is that correct Mrs. Williams?

MRS. WILLIAMS: Thankfully not, but you would think that might advance their demise.

CHAIR QUIGLEY: I understand what you are saying. You are speculating the conditions might exist in the future.

MRS. WILLIAMS: Yes, my son would rather I not say this but, he was in junior high school and I came home one day and the owner had him and was disputing that she could just come over and park any place she wanted to on my property. The neighbor that was on the east side was the one that had to summon the police, not me. You cannot just go over and take over the property and park where you please without permission. Thank you for your time.

MR. DONALDSON: Is there a picture that shows where the other day care was?

MR. WILLIAMS: In relation to the picture that you just had [referring to the power point slide] the area in blue. The picture that was up previously when you saw the white fence, if you move that arrow up a little to the north and to the left, that is where that white fence is, come back down to the south is where the day care was before.

MRS. TART: Why did they leave that location?

MR. WILLIAMS: Due to the outer loop, I've been affected by it and that is why I'm speaking in favor. The highway is going to widen. It is a good thing, progress, I got that. When that happens, that highway from the west side is going to be in this businesses front door. The first question I had was where was the parking and how do they get to it? With the three lanes and a van full of kids sitting in the middle with the left turn signal trying to go into a driveway, now the septic tanks are going to be enlarged and I know about septic tanks and how much space they need, where is the parking because you can't park over a septic tank unless the other house or property is used.

CHAIR QUIGLEY: Your testimony is not germane to what we are discussing here which is the specific property in question. We can't speculate on proposed uses of other properties that may or may not occur. We appreciate your testimony though.

MR. WILLIAMS: Thank you.

MRS. WILLIAMS: There was another owner after these people, before the situation I spoke about, there was another owner that came in after they had gone and it was a completely different situation.

CHAIR QUIGLEY: Thank you.

MRS. PERRIER: I wanted to say to Mrs. Williams that if you have problems in the future with parking and diapers, etc., you can contact the Zoning Office and the Health Department.

CHAIR QUIGLEY: That was the original day care location?

MRS. PERRIER: Yes, we would go out and inspect to make sure everything met zoning conditions.

CHAIR QUIGLEY: Are there any questions?

**Public Hearing Closed**

MR. DONALDSON: Does anybody know why the petitioners are not here? Were they told that they had to be here?

MRS. VARNER: They did not tell me that they would not be here.

MS. SPEICHER: Just for the Board's knowledge, they also signed the application that they are aware if they are not here the Board can go ahead and hear their case. We have two addresses for them, we did have one return mail, but we had two that were received.

MR. DONALDSON: I move to dismiss because they failed to appear.

CHAIR QUIGLEY: I think what we can dismiss is the special use permit request based on some of the factors.

MR. DONALDSON: They can reapply?

MS. SPEICHER: Not without a substantial material change.

MR. DONALDSON: If we dismiss the petition for failing to appear, they can reapply, can't they?

CHAIR QUIGLEY: Is that an option for us?

MR. MOOREFIELD: If the Board makes no findings with respect to the conditions or site plan.

MS. SPEICHER: Such as leave it open?

MR. DONALDSON: No, just dismiss it because they didn't appear. They didn't present any evidence for us to consider.

MR. MOOREFIELD: I believe they could reapply if you don't make any findings about the particulars.

CHAIR QUIGLEY: We don't have any real testimony as to why we shouldn't approve it.

MR. HUMPHREY: I read somewhere in the application as long as the application is filed, you can be asked to appear, but you don't have to appear. Once you file the application, the application stands alone by itself, so you don't have to appear. It is recommended that you

appear, but you do not have to. So if you do not have to appear, I do not see how we can vote against it.

MR. DONALDSON: In other words, we are just going off the basis of the application.

MR. HUMPHREY: Yes. I think there is a great need for day cares out there; a tremendous need for day cares and they said it was a day care previously out there and they had to give it up due to roads. That need is still there for that day care. I know there is a great need for day care and there was an existing day care on McArthur Road but they had to give up due to construction.

CHAIR QUIGLEY: The question Mr. Humphrey is, has any evidence been presented that would indicate that would be endangering public health or safety?

MR. HUMPHREY: Are you referring to item #1?

CHAIR QUIGLEY: Yes.

MR. HUMPHREY: There has been speculation. No evidence has been presented and I'm also basing that on the proper permits from the Health Department and Codes will be met if this Special Use Permit is granted pending whatever conditions they put on. Item #2, the use meets all required conditions and specifications: again I refer back to these permits they would have to obtain if we went forward.

CHAIR QUIGLEY: They have to comply to all federal and state and local laws.

MR. HUMPHREY: With day care situations, they have some very stringent requirements for the number of people, the personnel that have to be there, the parking spaces; it is quite extensive of what they require.

CHAIR QUIGLEY: Based on the site plan the staff has. Is that right Mrs. Varner?

MRS. VARNER: Yes sir, they are complying with the 25 foot reservation and after that they are meeting the setbacks in the front. They changed the layout of the parking in the rear. At first they were proposing it in the front.

MS. SPEICHER: Chair, they are meeting everything except the one, they still need one loading space which we have requested for staff review and approval if the Board considered approving that request for us to review and approve the revised site plan meeting that standard.

CHAIR QUIGLEY: That's a requirement they would have to meet?

MS. SPEICHER: Those are required by ordinance; they are short one loading space.

MR. MOOREFIELD: If they can't use their front yard because of this street widening how will they meet that? You've talked about their entrance still being in the front and just the parking in the back.

MR. DONALDSON: As I see the 25 foot right-of-way, you said there is only 17 feet from the edge of that to the front of the house.

MR. MOOREFIELD: That would be the proper thing for you to advise the Board, can they meet that ordinance requirement and can they still meet the two points of pick-up and drop-off?

MS. SPEICHER: Yes, we believe they could, sir. They are showing one and they would have room for the notch on the front of the structure coming off the driveway. We looked at that for the same reason, thinking the same thing, could they do it?

MR. DONALDSON: Do you have the instructions that are given to the petitioners that say they have to appear or they don't have to appear?

MRS. VARNER: It is on the application, in the packet, the statement of acknowledgement.

CHAIR QUIGLEY: On item #3, there is nothing that indicates any change in the value of the property in that area. We have heard no testimony of it. Case fact #4 – the location and character of use is in general harmony with the area, it is not detrimental to the area. We have heard all of the evidence and argument we have had our discussion. I'll ask for a motion.

MR. HUMPHREY: Mr. Chairman, I offer a motion that we grant the Special Use Permit for this day care based on the facts we have previously discussed.

MR. DYKES: I second the motion.

CHAIR QUIGLEY: All in favor signify by saying aye. All opposed signify. The vote is 3 to 2. Mr. Quigley, Mr. Humphrey and Mr. Dykes voted in favor. Mr. Donaldson and Mrs. Tart voted in opposition.

	IN FAVOR	OPPOSED
QUIGLEY	YES	TART
HUMPHREY	YES	DONALDSON
DYKES	YES	

Having heard all the evidence and arguments presented at the hearing, the Board finds that the application is complete, that the application complies with all of the applicable requirements of the Cumberland County Zoning Ordinance for the development proposed, and that therefore the application to make use of the property described within this case for the purpose indicated is hereby approved, subject to all applicable provisions of the Zoning Ordinance and the following conditions:



1. The applicant shall complete the development strictly in accordance with the application and site plan submitted to and approved by this Board, a copy of which is filed in the Cumberland County Planning & Inspections Office.
2. The applicant/property owner is the responsible party for the information contained within the site plan, including but not limited to the property boundaries, easement locations, and right-of-way boundaries.
3. The applicant/property owner is the responsible party to ensure compliance with all other related Federal, State, and local regulations, including but not limited to the NC Building Code.

10. DISCUSSION

None

11. UPDATES(S)

None

12: ADJOURNMENT

There being no further business the meeting adjourned at 8:40 pm.

**P12-01-C**  
**SITE PROFILE**

**P12-01-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1104, DISTRICT DIMENSIONAL PROVISIONS, TO ALLOW A REAR YARD SETBACK OF 30.8 FEET WHERE 35 FEET IS REQUIRED FOR A SINGLE FAMILY DWELLING IN A R10 RESIDENTIAL DISTRICT ON 0.43+/- ACRE, LOCATED AT 2904 BROMWICH COURT; SUBMITTED AND OWNED BY CHRISTOPHER L. AND DEBRA A. CICCONE.

**Site Information:**

**Frontage & Location:** 55' +/- on Bromwich Court

**Depth:** 153'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** No

**Current Use:** Residential

**Initial Zoning:** R10 – February 6, 1976 (Area 5)

**Nonconformities:** None

**Zoning Violation(s):** None

**Surrounding Zoning:** North: R10 & R5; South & West: R10; East: SF-1- (Fayetteville) CD & R5A

**Surrounding Land Use:** Golf course, residential and woodlands

**2030 Grow Strategy Map:** Urban area

**Special Flood Hazard Area (SFHA):** None

**Soil Limitations:** None

**Water/Sewer Availability:** PWC/PWC

**Subdivision/Site Plan:** Lot created prior to 08/22/1984

**School Capacity/Enrolled:** Stoney Point Elementary: 900/679; John Griffin Middle: 1340/1210; Jack Britt High: 1870/1868

**Average Daily Traffic Count (2008):** 8,500 on SR 1108 (Lakewood Road)

**Municipal Influence Area:** City of Fayetteville

**Highway Plan:** There are no road improvements/constructions specified for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program

**County Zoning Ordinance Reference:** Section 1104, District Dimensional Provisions

**Notes:**

1. R10 Minimum Yard Setbacks

Front: 30'

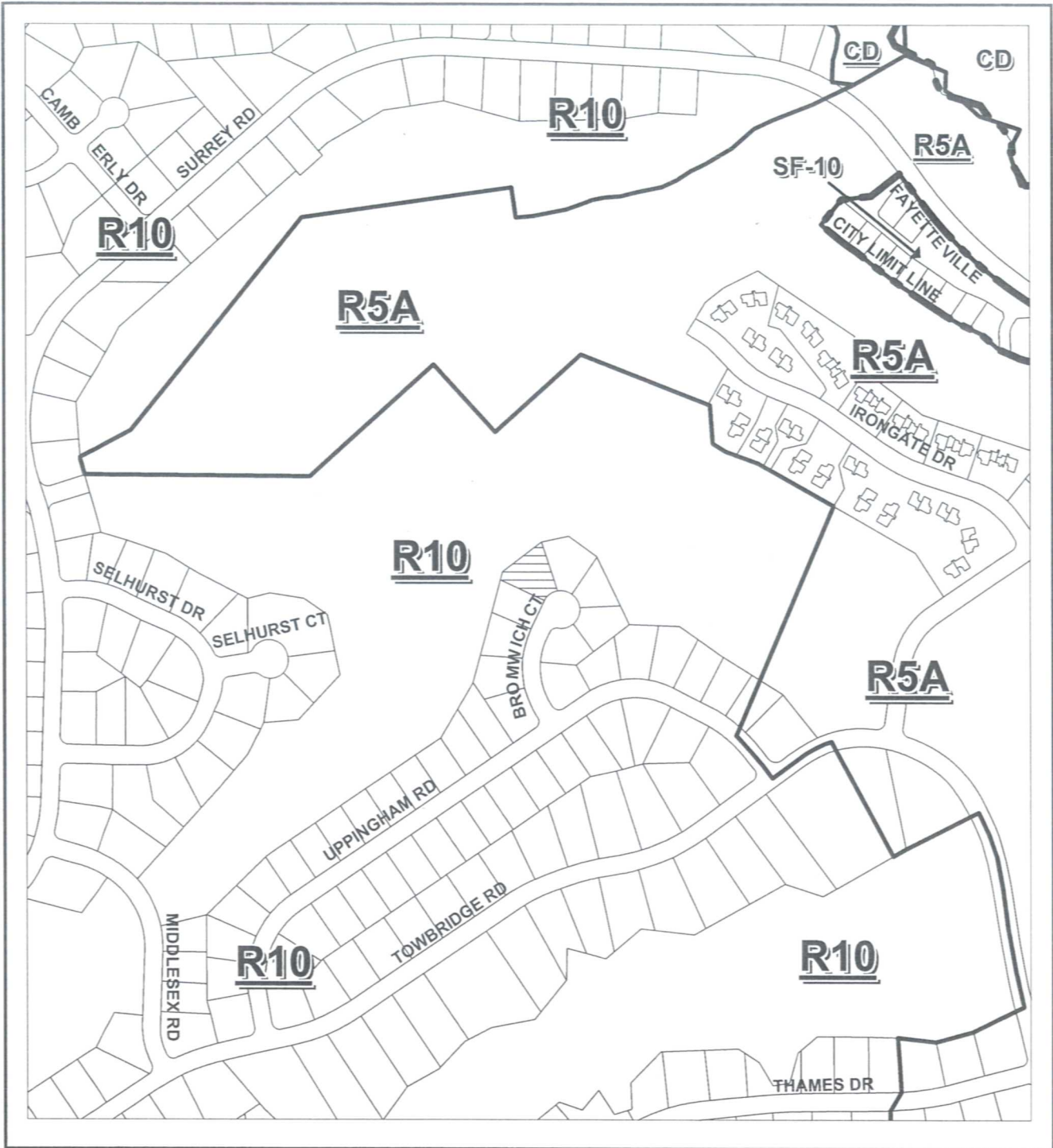
Side: 10' (1 story setback)

Rear: 35' (4'2" foot variance requested)

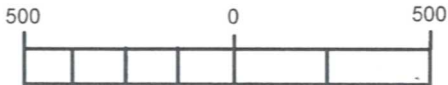
2. R10 Residential district is a dormant district and corresponds to R7.5 Residential District.  
(Amd. 11-20-06)

**First Class and Record Owners' Mailed Notice Certification**

*A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' certified receipt of notice is also included.*



N



SCALE IN FEET

## BOARD OF ADJUSTMENT VARIANCE

ACREAGE: 0.43 AC.+/-

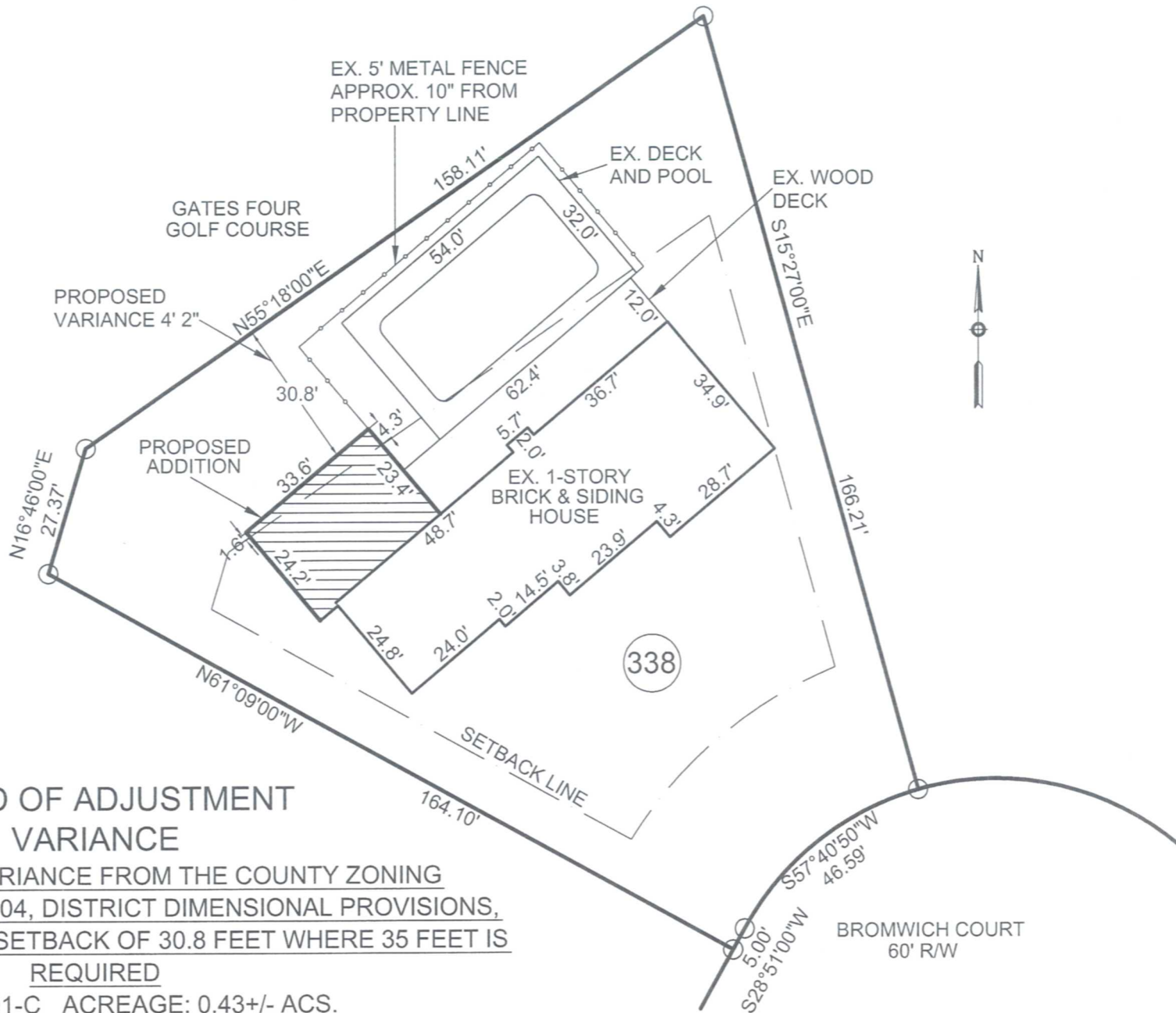
HEARING NO: P12-01-C

ORDINANCE: COUNTY

HEARING DATE

ACTION

GOVERNING BOARD



**BOARD OF ADJUSTMENT  
VARIANCE**

REQUEST: FOR A VARIANCE FROM THE COUNTY ZONING  
ORDINANCE, SECTION 1104, DISTRICT DIMENSIONAL PROVISIONS,  
TO ALLOW A REAR YARD SETBACK OF 30.8 FEET WHERE 35 FEET IS  
REQUIRED

CASE: P12-01-C ACREAGE: 0.43+/- ACS.

ZONED: R10 SCALE: NTS

\*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST

BOARD OF ADJUSTMENT

GATES FOUR

LOCATION OF PROPERTY: 2904 BROMWICH COURT FAYETTEVILLE NC 28306

OWNER: CHRISTOPHER L. & DEBRA A. CICCONE

ADDRESS: 2904 BROMWICH COURT FAYETTEVILLE ZIP CODE: 28306

TELEPHONE: HOME 910-429-2489 WORK 910-263-4161

AGENT: Robert D Jackson

ADDRESS: 3429 Rosehill Rd Fayetteville, NC 28311

TELEPHONE: HOME 910-494-7334 WORK 910-494-7334

rjackson001@nc.rr.com

APPLICATION FOR A VARIANCE

As required by the Zoning Ordinance or Code

A. Parcel Identification Number (PIN #) of subject property: 9495-63-3412  
(also known as Tax ID Number or Property Tax ID)

B. Acreage: .433 Frontage: 46.59 Depth: 164.1 x 168.21

C. Water Provider: PWC

D. Septage Provider: PWC

E. Deed Book 8221, Page(s) 734, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing and/or proposed use of property: Single family residence, with proposed addition of approximately 750 square feet.

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: 1104 District Dimensional Prov.

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: HOMEOWNERS ARE REQUESTING A VARIANCE OF FIVE (4.2) FEET FROM THE BUILDING SETBACK LINE. HOMEOWNERS DESIRE TO BUILD AN ADDITIONAL BEDROOM & OFFICE SPACE OF APPROXIMATELY 804.74 SQUARE FEET. THE ADDITION REQUIRES IT TO BE APPROXIMATELY 30'8" FROM THE PROPERTY LINE, WHILE CURRENT LAW REQUIRES THE SETBACK TO BE 35 FEET. THE GATES FOUR HOMEOWNERS' ASSOCIATION HAS ALREADY APPROVED THE ADDITION, WITH A SITE VISIT BY THE GOLF COURSE OWNER. COPY OF E-MAILED APPROVAL IS ATTACHED. (SEE ATTACHED).

The variance is requested due to the shape of the lot and the house  
had to be forced back to meet setbacks of R.10 R/L

**STATEMENT OF ACKNOWLEDGEMENT**

Regarding appearance before the Board of Adjustment, the undersigned owner(s), agents, or their assigns, by virtue of their signature(s) to this application, hereby acknowledge the following:

- That although appearance before the Board is not required, it is strongly encouraged;
- The Board will hear any and all arguments for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the Board has the authority to issue a final approval or denial decision on this request, or defer the request for additional information to be provided;
- If the petitioner or the representative of this application does not appear personally before the Board, whether there is opposition or not, the Board has full authority to consider the case and defer, approve, or deny the case.
- If the Board's action is to deny the matter before them, the course of appeal to their decision will be that of Cumberland County Superior Court. (Affected parties of the Board's decision have 30 days from proper notification which to serve notice of appeal).

Signed acknowledgement that the Planning and Inspections Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above.

SIGNATURE OF OWNER(S) Christopher L. Ciccone Debra A. Ciccone

PRINTED NAME OF OWNER(S) Christopher L. Ciccone Debra A. Ciccone

DATE 11/5/2012

Only expressly authorized agents or assigns may sign this acknowledgement in lieu of the tax record owners' signatures.

**P12-02-C**  
**SITE PROFILE**

**P12-02-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1403 SITE PLAN REVIEW, SUB-SECTION I., WHICH REQUIRES EXTENSION AND CONNECTION TO PUBLIC WATER; IN A RR RURAL RESIDENTIAL AND C(P) PLANNED COMMERCIAL DISTRICTS ON 1.55+/- ACRES, LOCATED AT 5087 US HWY 301 SOUTH (SR 2284); SUBMITTED BY CAROLYN L. HICKS ON BEHALF OF DELIVERANCE JESUS IS COMING VICTORY CENTER, INC., (OWNER).

**Site Information:**

**Frontage & Location:** 320' +/- on US HWY 301 South (SR 2284)

**Depth:** 220'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** No

**Current Use:** Religious facility

**Initial Zoning:** RR & C(P) – June 25, 1980 (Area 13)

**Nonconformities:** None

**Zoning Violation(s):** None

**Surrounding Zoning:** North: C(P), C(P)/CUD (retail and other permitted uses), C3/CU (residential use in C3 heavy commercial), RR & R6A; West: M2, C(P), C3 & R6A; East: M(P), C(P) & RR; South: C(P), R6A/CU (manufactured, display, sale and shop of statuary products) & R6A

**Surrounding Land Use:** Manufactured home sales, food production/wholesale sales, 2-motor vehicle sales, 3-trade contractor, tower, residential (including multiple family), and woodlands

**2030 Grow Strategy Map:** Urban Fringe

**Special Flood Hazard Area (SFHA):** None

**Soil Limitations:** None

**Water/Sewer Availability:** Well/Septic

**School Capacity/Enrolled:** Gallberry Farms Elementary: 900/830; Gray's Creek Middle: 1,000/953; Gray's Creek High: 1,800/1,837

**Subdivision/Site Plan:** Site plan approval Case No. 10-098 on 08-30-10, developer is required to connect to existing water located approximately 570' feet north east of subject property – see condition No. 2 on attached conditions of approval

**Average Daily Traffic Count (2008):** 12,000 on US HWY 301 South (SR 2284)

**Military Influence Area:** Town of Hope Mills

**Highway Plan:** US 301/Bus 95 (Gillespie Street) is identified in the Highway Plan as a major thoroughfare. The plan calls for widening to a multi-lane facility. This is a priority #2 in the Highway Portion of the LRTP

**County Zoning Ordinance Reference:** Section 1403 Site Plan Review, Sub-section I

**Notes:**

**1. County Zoning Ordinance Section 1403 Site Plan Review, Sub-section I:**

Extension and connection to public water and /or sewer is required if extension and/or connection would be required under the provisions of the County Subdivision Ordinance. If the development consists of a non-residential use or a mixed use and utilities are present within the right-of-way or if any adjacent lot is served by utilities, extension and connection is mandatory.

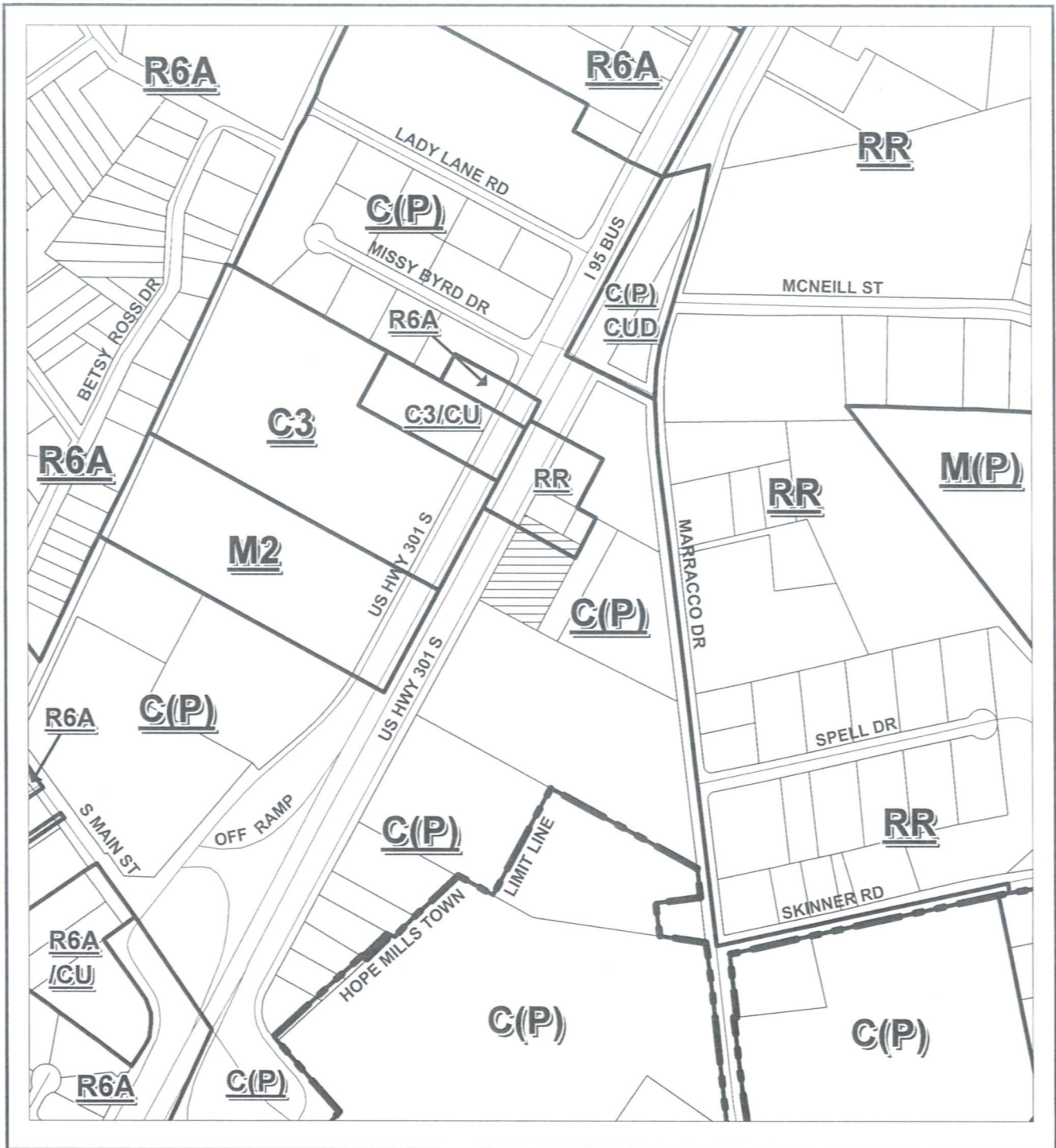
**2. Summary of request:** Applicant request to use private well for this development.

Note: Section 2306 of the County Subdivision Ordinance requires lots within 300 feet of public water or sewer to connect.

**First Class and Record Owners' Mailed Notice Certification**

*A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' certified receipt of notice is also included.*





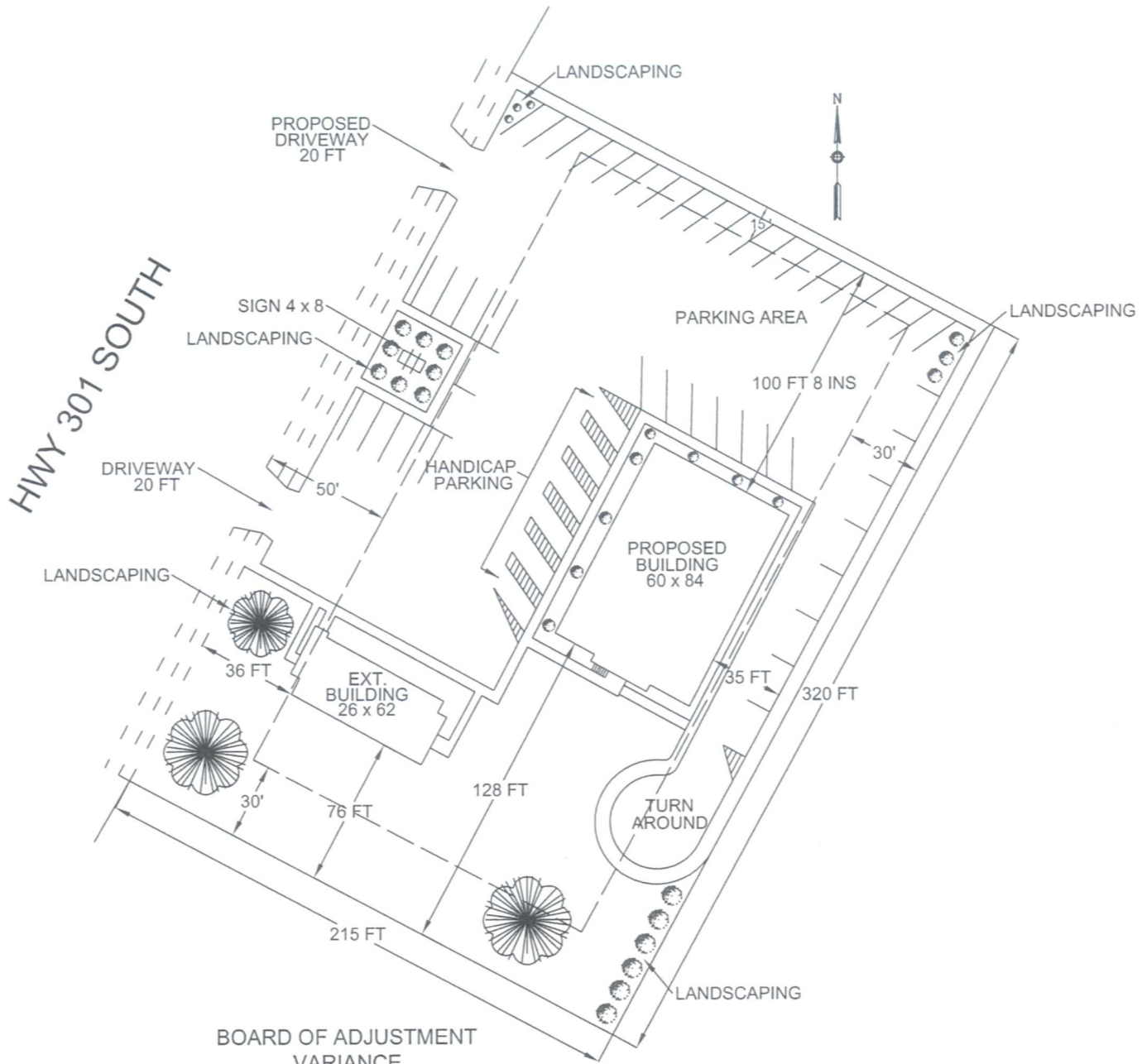
SCALE IN FEET

## BOARD OF ADJUSTMENT VARIANCE

ACREAGE: 1.55 AC.+/-		HEARING NO: P12-02-C	
ORDINANCE: COUNTY		HEARING DATE	ACTION
GOVERNING BOARD			

PIN: 0423-16-7343

WL



BOARD OF ADJUSTMENT  
VARIANCE

REQUEST: FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE,  
SECTION 1403 SITE PLAN REVIEW, SUB-SECTION I., WHICH REQUIRES  
EXTENSION AND CONNECTION TO PUBLIC WATER

CASE: P12-02-C ACREAGE: 1.55 +/- ACS.

ZONED: RR & C(P) SCALE: NTS

\*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 5087 Hwy US 301 South, Hope Mills  
OWNER: Deliverance Jesus Is Coming Victory Center, Inc.  
ADDRESS: (Carolyn L. Hicks on behalf of) ZIP CODE: \_\_\_\_\_  
TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_

AGENT: Carolyn L. Hicks  
ADDRESS: 1687 Bladen Union Church Rd, Fayetteville 28306  
TELEPHONE: HOME 910-977-6116 WORK \_\_\_\_\_  
overseerhicks@aol.com

APPLICATION FOR A VARIANCE  
As required by the Zoning Ordinance or Code

- A. Parcel Identification Number (PIN #) of subject property: 0423-16-7343  
(also known as Tax ID Number or Property Tax ID)
- B. Acreage: 1.55 Frontage: 320' Depth: 220'
- C. Water Provider: Well
- D. Septage Provider: Septic
- E. Deed Book 8190, Page(s) 0119, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- F. Existing and/or proposed use of property: Church

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: SECTION 1403 I

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: There exist extraordinary conditions which prohibit us from putting in water lines. Postage for water lines are over 500 feet. Which creates a hardship for the church.

See Attached

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code:

Deliverance Jesus Is Coming Victory Center, Inc. is a small congregation of approximately 60 adults and 40 children that are the owners of the property at 5087 Hwy US 301 South in Hope Mills North Carolina. It is our desire to build a church on the property to worship in and also have a daycare and school and offering services to help the community. *CLH*

Section 1403 I of the Zoning Ordinance has stated that we must connect to existing water within 300 feet of the property. The water connection is approximately 514 feet to our property line without obstruction. This is over the requirement of being within 300 feet to the waterline. The water connection behind us is 300 feet within the limits; however, it is not land that is clear and available to come across. The property owners on the street behind us are not willing to have water come across their property for us to connect.

These are extraordinary conditions which prohibit us from putting in water lines seeing that the only open connection is over 514 footage of PWC pipeline, the church cannot afford and it has created a hardship for us. We have had to utilize other buildings and it has caused a decrease in the number of attendance. We have been given an estimate that it would cost us anywhere from \$150,000 to \$250,000 which we cannot afford.

We would appreciate if the Board would take these considerations and grant us permission to use a well for the building of the new church.

**STATEMENT OF ACKNOWLEDGEMENT**

Regarding appearance before the Board of Adjustment, the undersigned owner(s), agents, or their assigns, by virtue of their signature(s) to this application, hereby acknowledge the following:

- That although appearance before the Board is not required, it is strongly encouraged;
- The Board will hear any and all arguments for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the Board has the authority to issue a final approval or denial decision on this request, or defer the request for additional information to be provided;
- If the petitioner or the representative of this application does not appear personally before the Board, whether there is opposition or not, the Board has full authority to consider the case and defer, approve, or deny the case.
- If the Board's action is to deny the matter before them, the course of appeal to their decision will be that of Cumberland County Superior Court. (Affected parties of the Board's decision have 30 days from proper notification which to serve notice of appeal).

Signed acknowledgement that the Planning and Inspections Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above.

SIGNATURE OF OWNER(S) *Deliverance Jesus Is Coming Victory Center Inc.*  
PRINTED NAME OF OWNER(S) *Carolyn L. Hicks on behalf of*  
DATE 1/12/12 *Deliverance Jesus Is Coming Victory Center, Inc*  
*CAROLYN L. Hicks on behalf of*

Only expressly authorized agents or assigns may sign this acknowledgement in lieu of the tax record owners' signatures.

Roy Turner,  
Chair  
Cumberland County

Walter Clark,  
Vice-Chair  
Cumberland County

Garland C. Hostetter,  
Town of Spring Lake  
Harvey Cain, Jr.,  
Town of Stedman  
Patricia Hall,  
Town of Hope Mills  
Charles C. Morris,  
Town of Linden



# COUNTY of CUMBERLAND

## Planning and Inspections Department

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Lori Epler,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin,  
Wade, Falcon & Godwin

Revision: 11-3-11

STAFF REVIEW: 08-30-10 PLANNING BOARD DECISION: N/A

CASE NO: 10-098 NAME OF DEVELOPMENT: DELIVERANCE JESUS IS COMING VICTORY CENTER

MIA: HOPE MILLS RR & C(P) SITE PLAN REVIEW (RELIGIOUS WORSHIP FACILITY W/ OFFICE)

LOCATION: EAST SIDE OF US HWY 301 SOUTH, ZONING: C (P) & RR

WEST OF SR 2274 (MARRACCO DRIVE) PIN: 0423-16-7343-

OWNERS / DEVELOPER: DELIVERANCE JESUS IS COMING ENGINEER OR DESIGNER: N/A

PLANNING & INSPECTIONS DEPARTMENT ACTION:

- PRELIMINARY
- EXTENSION  REVISION
- APPROVED CONDITIONALLY
- DENIED

PLANNING BOARD DECISION:

- PRELIMINARY
- EXTENSION  REVISION
- APPROVED CONDITIONALLY
- DENIED

The development plat/plan you submitted to this office is conditionally approved. Your approval is subject to the following conditions:

**Permit-Related:**

1. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
2. Connection to public water is required, the Public Works Commission (PWC) must approve water plans prior to application for any permits. A copy of the PWC approval must be provided to Code Enforcement at the time of application for building/zoning permits.  
  
Note: Due to an existing agreement between the PWC and the Town of Hope Mills, an annexation agreement most likely will be required to be submitted prior to submission of any utility plans.  
  
Note: Connection to the public water applies to the existing structure being converted to an office only if new utilities are required to be provided.
3. The County Health Department must approve sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.)
4. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
5. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
6. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
7. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the site plan. The following are the minimum standards for the required landscaping of this site:

- a. Two large shade trees or four small ornamental trees within the front yard setback area;
- b. Two ornamental trees and 17 shrubs are required in the building yard area;
- c. Two large shade trees or five small ornamental trees are required within the parking area.

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
  - b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
8. Prior to the building final inspection, a concrete, or other approved surface material, sidewalk is required to be constructed along US HWY 301 S (Service Road) all streets. Contact Jeff Barnhill for an inspection of the sidewalk once the sidewalk is constructed.
  9. Prior to the building final inspection, a fire hydrant must be provided so that it is located no further than 300 feet from the subject property. Contact Jeff Barnhill for an inspection of the hydrant once it is in place.
  10. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.

**Site-Related:**

11. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the C(P) and RR zoning district must be complied with, as applicable.
12. This conditional approval is not approval of the permit for any freestanding signs. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.)
13. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision Ordinance)
14. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
15. In the event a stormwater utility structure is required by the NC Department of Environment and Natural Resources (NCDENR), the owner/developer must secure the structure with a four foot high fence with a lockable gate, and is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.
16. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
17. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
18. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
19. All required off-street parking spaces shall be a minimum of 9' x 20' and must be surfaced, with a permanent material such as asphalt or concrete, and striped prior to application for the building final inspection. Based on the count of 200 seats available, a minimum of 40 off-street parking spaces are required for this development.

**Advisories:**

20. The applicant is advised to consult an expert on wetlands before proceeding with any development.
21. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.
22. This conditional approval is not to be construed as all encompassing of the applicable rules, regulations, etc. which must be complied with for any development. Other regulations, such as building, environmental, health and so forth, may govern the specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.

**Other Relevant Conditions:**

23. The owner/developer be aware that every deed created for a lot being served by an on-site sewer system must contain the following disclosure when filed with the County Register of Deeds:

“Public sewer services are not available as of the date of the recording of this deed. On-site sewer disposal systems must be approved by the County Health Department.”

**If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605; otherwise, contact the appropriate agency at the contact numbers below.**

Contact Information (Area Code is 910 unless otherwise stated):

Improvements Inspections:	Jeff Barnhill	678-7765
Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
PWC:	Heidi Maly	223-4737
Town of Hope Mills:		424-4555*
Asst. Town Manager/Town Clerk:	Connie Spell	
Chief Building Inspector:	Mike Bailey	
County Public Utilities:	Tom Cooney	678-7682
Corp of Engineers (wetlands):	Crystal C. Amschler	251-4170
NCDENR (E&S):	Sally McKinney	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545

\*This is the main telephone number for the Town of Hope Mills; once connected, the caller will be directed to the various departments.

cc: Mike Bailey, Town of Hope Mills

**OFFICIAL PRELIMINARY STAMP**  
CUMBERLAND COUNTY  
CASE NO: **10-098**  
Revision: **11-3-11**

THIS PLAN APPROVED BY THE CUMBERLAND COUNTY PLANNING &  
INSPECTION DEPARTMENT ON: **8-30-10**

COMMENTS: SUBJECT TO CONDITIONS

I CERTIFY THAT THIS PLAN HAS BEEN APPROVED BY THE CUMBERLAND  
COUNTY PLANNING & INSPECTIONS DEPARTMENT AS DRAWN HEREON  
AND MAY BE USED FOR ANY OFFICIAL PURPOSE AS PERMITTED BY LAW.  
THIS APPROVAL IS VALID UNTIL: **8-30-12**

*Patricia S. Speicher*  
\_\_\_\_\_  
EMB  
SUPERVISOR, LAND USE CODES



**P12-03-C**  
**SITE PROFILE**

**P12-03-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN A1 AGRICULTURAL DISTRICT ON 2.50+/- ACRES, LOCATED AT 6120 BRAXTON ROAD (SR 2242), SUBMITTED BY MARCUS G. MCLEAN (OWNER) AND ROBERT G. MCLEAN.

**Site Information:**

**Frontage & Location:** 315' +/- on Braxton Rd (SR 2242)

**Depth:** 342' +/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** Yes, one lot on the southwest side of subject property

**Current Use:** Vacant land

**Initial Zoning:** A1 – June 25, 1980 (Area 13)

**Nonconformities:** None

**Zoning Violation(s):** None

**Surrounding Zoning:** North: R30 & R10; West: A1 & R30; East: A1; South: A1, RR & R10

**Surrounding Land Use:** Residential, woodlands and farmlands

**2030 Growth Strategy Map:** Urban Fringe

**Special Flood Hazard Area (SFHA):** None

**Soil Limitations:** None

**Water/Sewer Availability:** Well/Septic

**Sewer Service Area:** Fayetteville

**School Capacity/Enrolled:** Gallberry Farms Elementary: 900/830; Gray's Creek Middle: 1,000/953; Gray's Creek High: 1,800/1,837

**Average Daily Traffic Count (2006):** 2,100 on Braxton Rd (SR 2242)

**Highway Plan:** There are no road improvements/constructions specified for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program

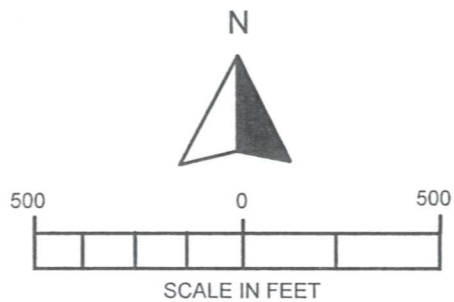
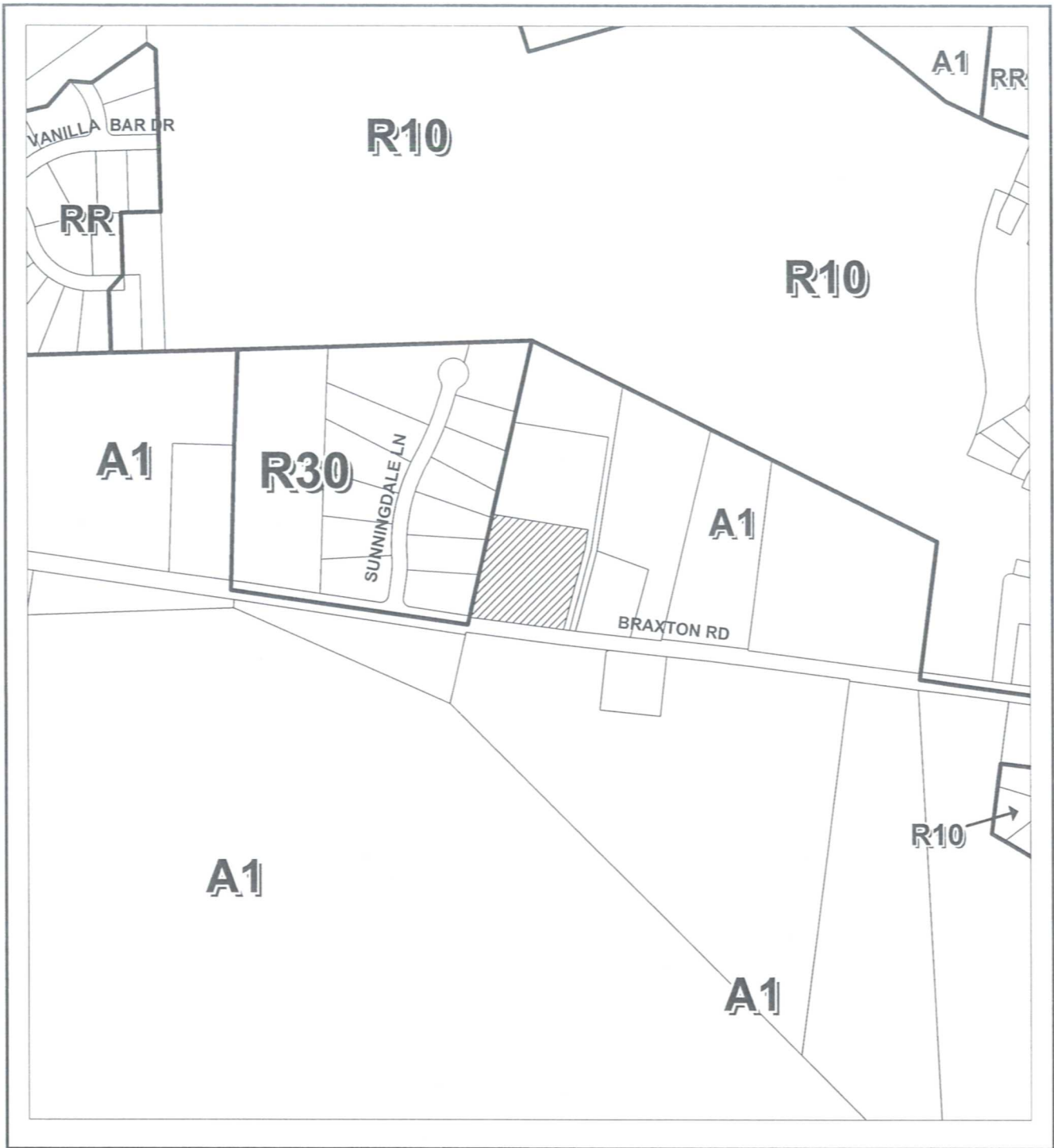
**County Zoning Ordinance Reference:** Section 906, Day Care Facility

**Notes:**

- Contents of the application
  - a. Days of operation: Monday through Friday
  - b. Hours of operation: 6:00 am to 6:00 pm
  - c. Total children: 100
  - d. Employees: 15
  - e. Off-street parking spaces for day care: 20  
Required spaces: 17 (see site plan)
  - f. 2 bus off-street parking spaces

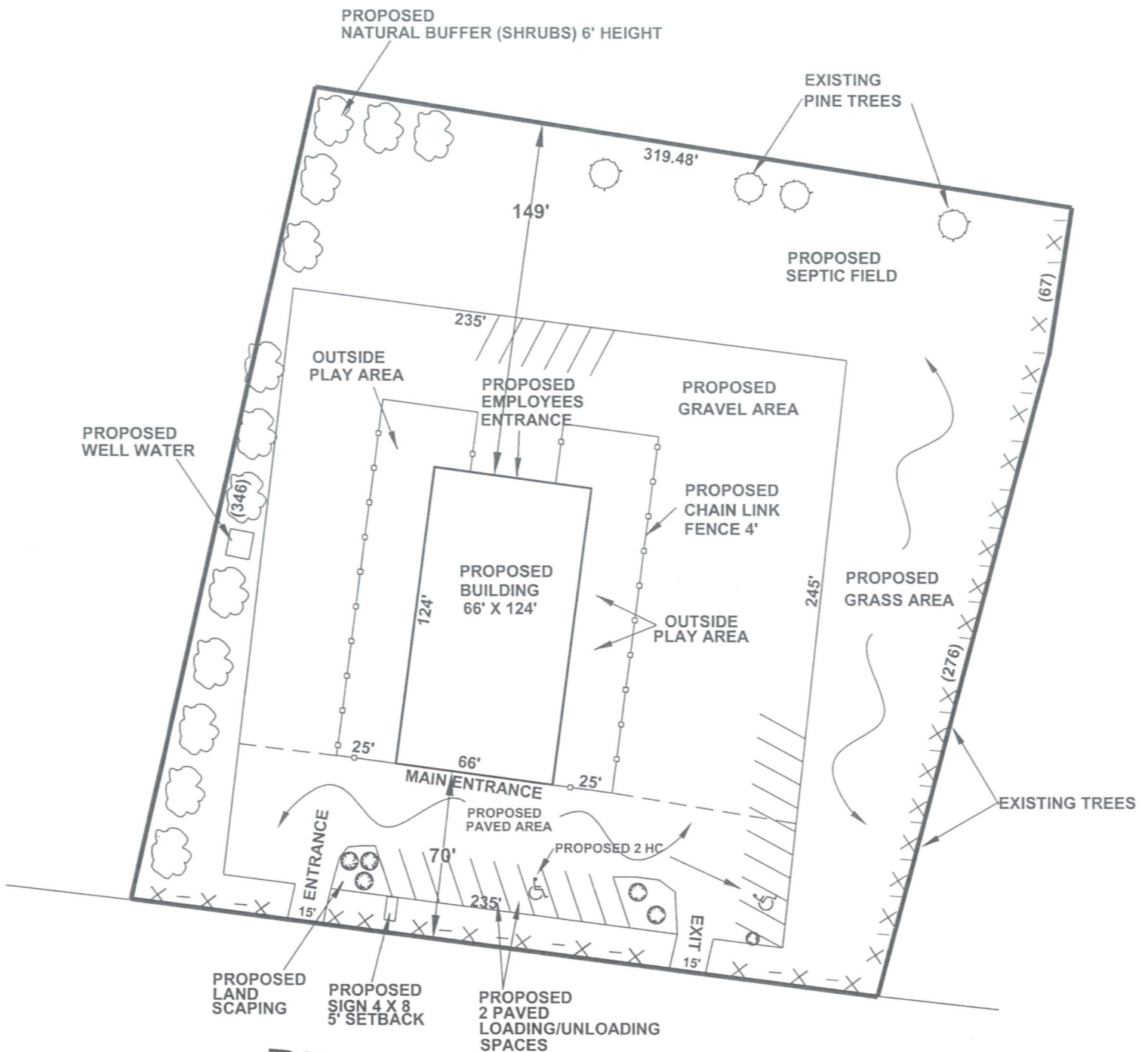
**First Class and Record Owners' Mailed Notice Certification**

*A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' certified receipt of notice is also included.*



## BOARD OF ADJUSTMENT SPECIAL USE PERMIT

<b>ACREAGE: 2.50 AC.+/-</b>	<b>HEARING NO: P12-03-C</b>	
<b>ORDINANCE: COUNTY</b>	<b>HEARING DATE</b>	<b>ACTION</b>
<b>GOVERNING BOARD</b>		



# BRAXTON RD

## BOARD OF ADJUSTMENT SPECIAL USE PERMIT

REQUEST: ALLOW A DAY CARE FACILITY IN AN  
A1 AGRICULTURAL DISTRICT

CASE: P12-03-C ACREAGE: 2.50±

ZONED: A1 SCALE: 1"=60'

PARKING: 22 SPACES

\* SCALED DETAILED SITE PLAN IN FILE AVAILABLE REVIEW UPON REQUEST

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 6120 BRAXTON RD (Gallberry Farms)  
APR

OWNER: MARCUS G. McLEAN

ADDRESS: 327A Bandock Dr Durham, NC ZIP CODE: 27703

TELEPHONE: HOME 919-610-0045 WORK 919-993-1188

AGENT: Robert G. McLean

ADDRESS: 6141 BRAXTON RD

TELEPHONE: HOME 910-3097758 WORK \_\_\_\_\_

robert.g.mcleam.civ@mail.mil

APPLICATION FOR A SPECIAL USE PERMIT  
As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0422-08-9249  
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 2.50 Frontage: 312 FT Depth: 371 FT

C. Water Provider: Private Well

D. Septage Provider: Private SEPTIC

E. Deed Book 08804, Page(s) 0442, 0443, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: VACANT LAND

G. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail including hours of operation, number of employees, signage, parking, landscaping, etc.) \_\_\_\_\_

- Propose To construct Child Care Facility that will operate from 6:00AM To 6:00PM, Mon.-Friday
- Approximately 15 employees / up to approx. 100 children (day shift only)
- 4x8 sign (in front)
- 25 regular parking space + 2 handicap spaces + 2 bus parking space
- normal landscaping (shrubbery around perimeter)

**STATEMENT OF ACKNOWLEDGEMENT**

Regarding appearance before the Board of Adjustment, the undersigned owner(s), agents, or their assigns, by virtue of their signature(s) to this application, hereby acknowledge the following:

- That although appearance before the Board is not required, it is strongly encouraged;
- The Board will hear any and all arguments for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the Board has the authority to issue a final approval or denial decision on this request, or defer the request for additional information to be provided;
- If the petitioner or the representative of this application does not appear personally before the Board, whether there is opposition or not, the Board has full authority to consider the case and defer, approve, or deny the case.
- If the Board's action is to deny the matter before them, the course of appeal to their decision will be that of Cumberland County Superior Court. (Affected parties of the Board's decision have 30 days from proper notification which to serve notice of appeal).

Signed acknowledgement that the Planning and Inspections Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above.

SIGNATURE OF OWNER(S) Marcus Gregory McLean

PRINTED NAME OF OWNER(S) Marcus Gregory McLean

DATE 1/10/12

Only expressly authorized agents or assigns may sign this acknowledgement in lieu of the tax record owners' signatures.

**Special Use Permit**  
**DRAFT**  
Ordinance Related Conditions

**Permit-Related:**

1. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision Ordinance)
3. Day care permits issued by the Food and Lodging Section of Environmental Health must be presented to Code Enforcement at the time of application for permits.
4. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
5. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
6. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
7. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the site plan. The following are the minimum standards for the required landscaping of this site:
  - a. Six large shade trees or 12 small ornamental trees within the front yard setback area;
  - b. One large shade tree and 13 shrubs are required in the building yard area;
  - c. One large shade tree or two small ornamental trees are required within the parking area.

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
  - b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
8. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.

**Site-Related:**

9. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the A1 zoning district must be complied with, as applicable.
10. This conditional approval is not approval of the permit for the freestanding sign. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.)
11. “Braxton Road” must be labeled as “SR 2242 (Braxton Road)” on all future plans.
12. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources’ (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision Ordinance)
13. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
14. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
15. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
16. A solid buffer must be provided and maintained along the side property line where this tract/site abuts residentially zoned properties in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance. (Note: Chain link fencing cannot be used to satisfy the buffer requirement.)
17. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
18. All required off-street parking spaces shall be a minimum of 9’ x 20’; a minimum of 17 off-street parking spaces is required for this development.
19. The play areas must be enclosed with a minimum of a 4 foot high fence and secured with a lockable gate.
20. A minimum of two off-street unloading/loading spaces which must be have sufficient paved driveway to accommodate at least two motor vehicles at on time for the purpose of loading and unloading passengers

**Advisories:**

21. The applicant is advised to consult an expert on wetlands before proceeding with any development.
22. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.

**If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605; otherwise, contact the appropriate agency at the contact numbers below.**

Contact Information (Area Code is 910 unless otherwise stated):

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Engineer’s Office:	Wayne Dudley	678-7636
County Health Department:	Daniel Ortiz	433-3680
Food & Lodging Env. Health:	Tony Ferguson	433-3678
Ground Water Issues:	Matt Rooney	678-7625

Fayetteville Planning:	Marsha Bryant	433-1416
County Public Utilities:	Amy Hall	678-7682
Corp of Engineers (wetlands):	Crystal C. Amschler	(910) 251-4170
NCDENR (E&S):	Sally Castle	433-3300
Location Services:		
Site-Specific Address:	Ron Gonzales	678-7616
Street Naming/Signs:	Diane Shelton	678-7665
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545

cc: Marsha Bryant, City of Fayetteville