

**Members:**

Ed Donaldson, Chairman  
Horace Humphrey, Vice-Chair  
Joseph M. Dykes  
Vickie Mullins  
George Lott



**Alternates:**

Yvette Carson  
Winton McHenry  
Nathan Feinberg  
Joseph Decosta  
Alfonso Ferguson Sr

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT**

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

TENTATIVE AGENDA

JANUARY 15, 2015

7:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, March 20, 2014, 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. OATH OF OFFICE
3. SWEAR IN STAFF
4. ADJUSTMENTS TO THE AGENDA
5. APPROVAL OF THE OCTOBER 16, 2014 MINUTES
6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES
7. PUBLIC HEARING DEFERRALS/WITHDRAWALS
8. POLICY STATEMENT REGARDING APPEAL PROCESS
9. PUBLIC HEARING(S):
  - A. **P14-05-C:** CONSIDERATION OF THE CONTINUANCE OF A NONCONFORMING USE TO ALLOW A CHANGE IN USE FROM A LANDSCAPING BUSINESS TO A MANUFACTURING AND WHOLESALE SIGN BUSINESS IN AN R40A RESIDENTIAL DISTRICT ON 1.28+/- ACRES, LOCATED AT 165 BERRYPATCH COURT, SUBMITTED BY BRIAN AND PATRICIA GALLAGHER (OWNERS).
  - B. **P14-06-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW AN EXPANSION OF A CEMETERY IN AN RR RURAL RESIDENTIAL DISTRICT ON 15.99+/- ACRES, LOCATED AT 4017 GILLESPIE STREET, SUBMITTED BY ROCKFISH MEMORIAL PARK, INC (OWNER). AND LACY G. CHESNEY.
  - C. **P15-01-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A KENNEL OPERATION IN AN A1 AGRICULTURAL / CU CONDITIONAL USE OVERLAY DISTRICT FOR A HOME-BASED CATERING BUSINESS (PENDING REZONING) ON 2.00+/- ACRES, LOCATED AT 2761 COUNTY LINE ROAD, SUBMITTED BY ANDREW C. MILLER & CANDACE D. WARREN (OWNERS).
10. DISCUSSION
11. UPDATE(S)
12. ADJOURNMENT

**Members:**  
Ed Donaldson, Chairman  
Horace Humphrey, Vice-Chair  
Joseph M. Dykes  
Vickie Mullins  
George Lott



**Alternates:**  
Yvette Carson  
Winton McHenry  
Nathan Feinberg  
Joseph Decosta  
Alfonso Ferguson Sr

## **CUMBERLAND COUNTY BOARD OF ADJUSTMENT**

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

MINUTES  
OCTOBER 16, 2014  
7:00 P.M.

### **Members Present**

Ed Donaldson, Chairman  
Winton McHenry  
Vickie Mullins  
Joseph Dykes

### **Absent Members**

Horace Humphrey  
George Lott

### **Staff/Others Present**

Robert Haigh  
Betty Lynd  
Ken Sykes  
Robert Hasty, Jr. (Assistant  
County Attorney)

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

#### 1. ROLL CALL

Mr. Haigh called the roll and stated a quorum was present.

#### 2. SWEAR IN STAFF

Chair Donaldson swore in staff members.

#### 3. ADJUSTMENTS TO THE AGENDA

There were none.

#### 4. APPROVAL OF THE APRIL 17, 2014 MINUTES

**Mr. Dykes made a motion to approve the minutes as submitted, seconded by Ms. Mullins. The motion passed unanimously.**

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
MCHENRY	YES	
DYKES	YES	
MULLINS	YES	

#### 5. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

6. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

7. 2015 DEADLINE SCHEDULE

**Mr. Dykes made a motion to approve the schedule as submitted, seconded by Ms. Mullins. The motion passed unanimously.**

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
MCHENRY	YES	
DYKES	YES	
MULLINS	YES	

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mr. Haigh read the Board’s policy regarding the appeal process to the audience.

9. PUBLIC HEARING(S)

**A. P14-04-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BILLBOARD IN A C(P) PLANNED COMMERCIAL DISTRICT ON 1.76+/- ACRES; LOCATED ON THE EAST SIDE OF NC HIGHWAY 87 SOUTH, AND ACROSS FROM AND SOUTH OF THE INTERSECTION WITH SR 2220 (TOM STARLING ROAD); SUBMITTED BY CHARLES ANTHONY AND CINDY MARIE ALLEN (OWNERS) AND M. GREY VICK ON BEHALF OF GREY OUTDOOR, LLC.

Chair Donaldson read the case heading. There was one speaker in favor: Mr. Grey Vick. There were two speakers in opposition: Mr. Sim Hall and Mr. Verdery Pate. Chair Donaldson swore in all three speakers.

Mr. Haigh reviewed zoning, sketch map, and land use of the area surrounding subject property. He briefly reviewed board packet material.

CHAIR DONALDSON: Any of the board members need to see any specific slides again? Ms. Mullins, do you have any questions of the staff?

MS. MULLINS: No.

CHAIR DONALDSON: You? [to Mr. McHenry]

MR. MCHENRY: None.

CHAIR DONALDSON: None. Okay. Mr. Vick, if you want to testify first please.

MR. VICK: Hey. How are y’all?

CHAIR DONALDSON: Fine. How’re you doing?

MR. VICK: Can y'all hear me good?

MS. MULLINS: Yes.

MR. VICK: Well, I'm basically here, you know I'm Grey Vick. I know we've been here a few other times and I'm here to answer any questions you guys have about the sign. Similar to the last time, a high quality sign that we'll be putting up with a steel I-beam post and like Rob said, it will be a 20 by 24 foot one side. It will be a double-sided sign, one on each side. One reading south and one reading north and basically I'm here to answer any questions that y'all have.

CHAIR DONALDSON: Ms. Mullins.

MS. MULLINS: Just by chance, is this a digital sign?

MR. VICK: No, we're not planning on having this as a digital sign.

MS. MULLINS: Okay.

MR. VICK: Good question though.

MS. MULLINS: Yeah, because it's, you know...

MR. VICK: Now sitting at an intersection, it may actually be one day, but as the sign sits there now we would just do it with just static and it would actually be wrapped with a piece of vinyl that will cover the face of the sign.

MS. MULLINS: Okay.

CHAIR DONALDSON: Anybody else have any questions?

MR. DYKES: Is this something similar to what you were trying to do before when you were in here, like you said some while ago, you're just kind of, something similar?

MR. VICK: Yes sir. It's pretty much the exact same sign that we would be building by the airport. It's pretty much the exact same sign on two I-beams, 20 by 24, 35 feet overall height.

MR. DYKES: Is that over by Airport Road?

MR. VICK: The other two sites that we have approved, there are actually three sites. We're only actually going to be able to build two of them, but one of them is right there at, there's like a Subway/Kangaroo at the Two Men and a Truck site and then the other one is right next to Black's Tire on 301 and I guess that would be on the north side of the airport on 301. So those are the other two that we will be building that you guys have approved.

CHAIR DONALDSON: You know where this is at don't you?

MR. DYKES: Right.

CHAIR DONALDSON: Okay. Anybody else have any questions? I'm looking, there's, honestly I don't see any houses close to this. Are there any residents close?

MR. HAIGH: No sir. These...

CHAIR DONALDSON: I see abandon ones.

MR. HAIGH: Right, that's abandoned. The other one is accessed off this two rut road from the east side. It's through thick forest from where the sign will actually be.

CHAIR DONALDSON: Alright. Thank you. Is there any questions either Mr. Hall or Mr. Pate that you want to ask Mr. Vick?

MR. PATE: What size sign was it again? I couldn't...

MR. VICK: It's actually a 20 by 24 foot sign.

MR. PATE: It's 20 foot high, 24 foot long?

MR. VICK: Yes sir.

CHAIR DONALDSON: The maximum height is 35 feet from the ground up to the very top of the sign is 35 feet under the regulations.

MR. PATE: I can't read [pointing to the map].

CHAIR DONALDSON: Is there a particular?

MR. PATE: I'm sorry.

CHAIR DONALDSON: Is there a particular slide you want to see?

MR. PATE: That slide there, I can't, I'm just curious. This is more information for me. Is it five feet from the...

MR. HAIGH: The northern property line?

MR. PATE: Yes.

MR. HAIGH: Yes sir.

MR. PATE: Well I was told I couldn't even put a building within ten feet of it. Now you're telling me he can put a sign up within five feet?

MR. HAIGH: Right.

MR. PATE: Okay.

MR. HAIGH: That's the regulations in the ordinance that allows for them to do that.

MR. PATE: Okay. I was trying to put a shed up there one time and you turned me down.

CHAIR DONALDSON: You shouldn't have asked.

MR. PATE: I shouldn't have asked? Well, I didn't. Add it later on. Trees grow up around it, but there is a residence on the other side. There is a residence.

CHAIR DONALDSON: How about...you're Mr. Pate right?

MR. PATE: That's correct.

CHAIR DONALDSON: Mr. Hall, did you want to ask him any questions?

MR. HALL: The question I'd like to ask him specifically is, I'm here to represent John and Pat Nunalee and myself. John and Pat Nunalee own the property to the south just on the other side and he-

CHAIR DONALDSON: Where the open field, well-

MR. HALL: Right there-

CHAIR DONALDSON: Where the open-

MR. HALL: It's a farm field and a little lane that turns right down the side of the property where he wants to put the sign at.

CHAIR DONALDSON: Okay.

MR. HALL: Matter fact, a couple years ago, John and I are real good friends. He's just elderly and they couldn't make it, you know, but they came to John I'm going to say two to three years ago with the same proposal pretty much. I didn't see the proposal, but I was involved with John talking about it and they were wanting John to remove two trees on his property so it could be seen coming from the south to the north and John was not in agreement with this. He said I don't want to take the trees down. Right about the time the zoning sign went up, PWC marked those trees. Now one tree, they've always trimmed up. The other tree they've never done anything to.

CHAIR DONALDSON: They didn't do, you just say they didn't do anything to it.

MR. HALL: They marked it, but they've never trimmed it up. The one tree they never trimmed. The other tree they trimmed up, but it's no closer than any other trees that they've always trimmed up for everybody else. You follow me? They just trim it up for the power lines, but this is substantially a ways away from the power lines. I know for a fact that they don't want the trees to be removed.

CHAIR DONALDSON: Well, he doesn't have the right to remove the trees.

MR. HALL: No. I understand, but PWC all of a sudden, and I'm not saying that PWC is involved in it, I'm just saying when this sign went up as an order that they were going to rezone it if they could, these trees were marked.

CHAIR DONALDSON: Well, what PWC does, is generally not anything that we can do anything about except for any-

MR. HALL: My question to him was, do you need those two trees removed?

MR. VICK: No.

CHAIR DONALDSON: Do you know the trees he's talking about?

MR. VICK: I'm not one hundred percent sure exactly the trees he's talking about, but you know, we aren't planning on taking any trees off anybody else's property to put a sign up.

CHAIR DONALDSON: Okay.

MR. HALL: That's my question to you guys.

CHAIR DONALDSON: Is there anything else you want to say Mr. Hall?

MR. HALL: Yes. The, not necessarily to him but to you.

CHAIR DONALDSON: Yes sir. Come on up.

MR. HALL: The sign itself. They call it Highway 87, but it's jokingly known as Interstate 87. A lot of traffic. Bad intersection.

CHAIR DONALDSON: They're repaving it too.

MR. HALL: Hey, they're doing a good job. It's been needing it for a long time. A lot of front ends have been torn up. With that being said, I've been rear ended right there at that same intersection turning in. Knocked us all the way into the ditch in front of where they want to put the sign in a large truck I was in. For some reason, and I got the statistics if you'd like to see them from the Department of Transportation, in the last five years there have been 25 accidents at that one intersection.

CHAIR DONALDSON: I'm trying to remember if there's a light.

MR. HALL: There is a light.

CHAIR DONALDSON: Is it the yellow flashing light?

MR. HALL: No.

CHAIR DONALDSON: No it's the...

MR. HALL: The yellow flashing lights on up at Doc Bennett Road.

CHAIR DONALDSON: Yeah. Okay.

MR. HALL: But it is a bad road. I've, like I said, I've been hit and rear-ended there before I get off the road there to turn into John's property, I'm already off on the grass. People just don't, for some reason. There's bad intersections all over anywhere you're going to live, but this is one of them. Another friend of mine almost lost her life. She was coming down 87 and was knocked all the way off of Tom Starling Road about 80-90 yards. It just totaled the front of her vehicle. I mean it's just a bad intersection and I think a sign like that up there would be just nothing but a distraction. If you notice the location of it from Tom Starling Road, you're looking pretty much directly at it. It's right there at the stop light and people can't even see the stop light much less, you know.

CHAIR DONALDSON: Go back to the schematic where it shows where the, where it's going to actually be. There you go. Okay.

MR. HALL: Pull up the one where it shows it.

CHAIR DONALDSON: Well see, it's going to be a 50 foot setback from the edge of the front of the property.

MR. HALL: Yeah.

CHAIR DONALDSON: So it's going to be 50 feet back. At least fifty from the edge of the, that's actually 50 feet from the right away.

MR. HALL: And I, actually I, understand that and I think that's even more of a problem. If people are looking away and looking, because you're right, they're at the stop light where this sign is going. You're right at a stop light. If people are looking away to see that advertisement it's, to me, it's a problem. It's a huge problem.

CHAIR DONALDSON: Okay.

MR. HALL: And to John and Pat Nunalee.

CHAIR DONALDSON: I'm sorry.

MR. HALL: And to John and Pat Nunalee. I'm here representing them.

CHAIR DONALDSON: Okay. Ms. Mullins, you have any questions? Is there anything else you want to say before I?

MR. HALL: No that's pretty much. I'm just, I'm not.

CHAIR DONALDSON: No.

MR. HALL: I don't have a problem with the sign.

CHAIR DONALDSON: I understand that. Ms. Mullins, you want to ask them any questions?

MS. MULLINS: Yes. Can we, Robert can we go back to the one where it's, where you have your sign up, or the fence where we can see the fence?

MR. HAIGH: This one?

MS. MULLINS: Yeah. Now how, okay from that fence line, how far, now that's looking at the property correct?

MR. HAIGH: This is actually inside the property and it's heavily wooded. You can't see this area from the road as I understand it. We have a different, someone else in our department actually went out and took these pictures, so I'm not exactly sure on the details of the exact location of this fence.

MR. PATE: That fence there, I can clarify for you, that piece of fence there was put up by the previous owner before Mr. Allen bought it. It's been up there.



MS. MULLINS: Okay, I was just trying to get a feel of how far the sign; you see what I'm saying, off the road from where it's you know.

CHAIR DONALDSON: Is that fenced?

MS. MULLINS: A visual.

CHAIR DONALDSON: Is that fenced in, the piece of property that you want to put the sign on?

MR. VICK: Is there? I don't believe there's a fence all the way around it.

MR. HAIGH: I think it is just in a smaller area.

CHAIR DONALDSON: Okay.

MS. MULLINS: Okay. That's what I needed.

MR. HAIGH: There used to be a landscaping and plant nursery.

MR. PATE: Heating and air conditioning business there. He had part of it fenced in.

CHAIR DONALDSON: Okay. Alright. Anybody else have any questions for Mr. Pate? Alright, sir, you want to come up and tell us anything?

MR. PATE: Sure. If you would go back to, on the aerial shot.

MR. HAIGH: Yes sir.

MR. PATE: Okay. If you don't mind, up at the top.

MR. HAIGH: I've got a pointer if you'd like to use it.

MR. PATE: Yeah. Okay. Next, right up there, there is a house right here and it's abandoned. When my wife died, I moved out. On the next piece up there where the light, sandy land is at, I did build a house this year and I paid good tax on it too.

CHAIR DONALDSON: Are you objecting to the sign?

MR. PATE: I'm not really objecting to Mr. Allen's putting his sign up there, but I came, I thought we would have more than one meeting. It was more, more of an information to me.

CHAIR DONALDSON: Okay, well.

MR. PATE: I do have the property beside his sign and it is where my farm shop is. Yeah, that's correct and I was curious how close it would be to me, what size it was, and I was interested in if, down the road, could that be used as a business sign? If somebody was to buy that tract of land, could they put their business sign on that particular sign? I don't know the rules of.

CHAIR DONALDSON: I don't know all the intricacies of it, but I assume that the sign company leases that land for a specific period of time and so if anybody bought the land, they're going to buy the land subject to the lease at that point. Now, whenever that lease expired, you know, if a business

was there “ABC Automotive Wrecking”, they could then change it, probably change it into their sign because it would just be a business sign.

MR. PATE: But wouldn't that conflict with somebody who wanted to put a sign up for their business, but they're restricted to the size of the sign.

CHAIR DONALDSON: It may well and the board may have, might have to look at that at some point in time but there's a general rule that would be grandfathered in, wouldn't it?

MR. HAIGH: Yes sir, unless there were any changes being made. At that point, it would have to come back.

CHAIR DONALDSON: Yeah. So, but you get into the character of what the land use is too. I mean, there are all kind of little intricacies, but yes, I don't know how long y'all's leases are.

MR. VICK: How long? Typically like ten, twenty, or more years is our typical lease.

CHAIR DONALDSON: So, if anybody bought the land, they're going to buy it subject to the lease on that sign. The sign company, as a rule, they could care less who owns the land. Once they've got the lease that says we can use it, they can contract out whoever they want to put advertisements up there.

MR. PATE: Yeah, but what I was saying, if it was going to be for somebody's particular business that is established on that tract of land, cause the county would. At one time, we were going to have some greenhouses there. They would not let me put that size sign up.

CHAIR DONALDSON: Well.

MR. PATE: My property-.

CHAIR DONALDSON: Now you do get into an issue there because businesses are and they probably wouldn't allow it. Would they Mr. Hasty?

MR. HASTY: I don't think so, that'd be a separate issue.

CHAIR DONALDSON: That would be a separate issue and I don't think they would allow it. They can, you know, put up, you know, whoever they want to advertise with, but if a business moved in there and built a building and said “Okay, we want to take over this sign” and do it, they've got other rules they've got to comply with on signage for businesses. So, I don't think that would be an issue. I'm not going to swear to it.

MR. PATE: Well I probably won't be here. I'm getting-.

CHAIR DONALDSON: Well, as he said the lease runs ten to twenty years anyway, so it's some way down the road. You know, by then I suspect our sign ordinances are going to change a number of times.

MR. PATE: Is it a wooden sign or a metal sign?

MR. VICK: We're actually doing a steel, like two steel beams, so it will be all steel and-.

MR. PATE: And it's lit twenty four hours a day?

MR. VICK: Usually we cut the lights off at about twelve o'clock.

MR. PATE: Okay. Maybe then I'll have a little security there. Like I said, I'm not opposed. He owns the property. I just feel like it's. I think it may be a bad analogy, but I'm going to say it. You know, when money starts flowing, and then somebody else down the road will want one and then somebody else down. You don't want to call, you know, is 87 South going to look like 87 North and I'm not going to say 87 North is Spring Lake, but 87 North runs through Spring Lake.

CHAIR DONALDSON: Well, I understand what you're saying.

MR. PATE: And.

CHAIR DONALDSON: And there have been a number of issues about signs and they're always being reviewed. The people you really have to talk to about this, as far as sign ordinances are the County Commissioners. They're the ones who set the tone. If they came out and said "Look we're not going to put up any more signs", you know, or we're going to do like some other cities, like a number of cities are doing which is, you know, a sign can't be more than about ten feet off, you know, total height, you know, for beauty purposes, beautification purposes, and you know they can do it.

MR. PATE: I realize this hearing is not for that. I mean I think he's totally, he's got all. He's got all of his bases covered because they've put special use permits at other sites. I mean, you've let the cat out of the bag once you do it the first time. That's how I feel. It's hard to deny somebody else the opportunity if it's been approved somewhere else. I just don't think it's right for Gray's Creek. You know, I was at the meeting at the chicken thing they had over at the Crown and the guy jumped up and said "How about Tom Starling Road?" and you know it was an informational meeting. It is an industrial plant on Tom Starling Road. I got from that the fella didn't really care if it was a chicken plant coming to Cumberland County as long as it wasn't in his backyard and that's how most of the stuff that I've come to because we farm around the area. We've always got a developer trying to buy the person's land. So, it makes neighbor against neighbor, church member against church member, and everybody fights over it. It's usually a lot longer line of people wanting to oppose it than are in favor of it. Tonight, it's just nobody here.

CHAIR DONALDSON: Well we have our exceptions.

MR. PATE: We have our exceptions. But anyway, you know, it's just, you know, I just. If he was wanting to put a barber shop there I probably wouldn't want a barber shop there. I'm being honest with you. I mean that's just the way I feel.

CHAIR DONALDSON: I'm sympathetic with you. I understand what you're saying. You like the character of the land the way it is.

MR. PATE: Yeah, I mean. It's his property and he's paying taxes on it. It's probably valued more than what it's worth because mine right beside it I think is valued by the county way more than what it's worth and I've had the same opportunity. I don't know if it was your company or another company that came to me wanting to put a sign up and I didn't. I wasn't interested in it. You know, and if he gets the sign, I hope he makes a million dollars off of it. I don't have any opposition.

CHAIR DONALDSON: I'm sure he does too.

MR. VICK: That'd be nice.

CHAIR DONALDSON: He won't be back up here again.

MR. PATE: And if he does, let me know, he might put one on us, put a sign in. I just felt like it's probably not. It would be, once you let one down, it's several intersections that's got that C(P) zoning and I think it will be someone else down the line and that's how he makes his money and I understand that and I don't have any opposition to somebody doing that, but I didn't really care about the sign being beside me. Now if he wanted, if Mr. Allen wanted to put it up there next to his house, hey, go for it, but I doubt that he would want to do that. I've tried to be friends with him. I'm not. I'm not, I don't dislike him, don't get me wrong.

CHAIR DONALDSON: Your farm sort of wraps around that piece of land.

MR. PATE: Yes sir.

CHAIR DONALDSON: That's all your farm. That open land, the fields.

MR. PATE: That's correct. Now, Mr. Nunalee's is below me and I'm above it.

CHAIR DONALDSON: Okay.

MR. PATE: Thank you.

CHAIR DONALDSON: Yes sir.

MR. PATE: I would tell you a cute story, but I'll let it go tonight and it's very, it's. I've never told anybody this story before, but maybe if we have another sign ordinance I'll tell you.

CHAIR DONALDSON: Okay.

MR. PATE: You would enjoy it.

CHAIR DONALDSON: Mr. Pate, do you want to say anything? I'm sorry. You're Mr. Hall right?

MR. PATE: No, I'm Mr. Pate.

CHAIR DONALDSON: You're Mr. Pate. Mr. Hall I'm sorry.

MR. HALL: No, I'm good.

CHAIR DONALDSON: Okay. Anybody else got any questions or anything? Any comments Ms. Mullins?

MS. MULLINS: No.

CHAIR DONALDSON: Okay.

MR. VICK: I would like to say one more thing though.

CHAIR DONALDSON: Yes sir.

MR. VICK: About the amount of signs, because I know one of your concerns is going to look like there's going to be a lot of signs out here and it's very limited; excuse me, very limited as far as the properties that are zoned correctly that have the proper spacing and other things so it's very limited in spacing for the actual amount of sites that are out there. There's a lot, I obviously haven't been here. It's been six or eight months since I've been in here, so it's very limited as far as there being potentially a ton of signs out there, I don't see that happening. I'm not planning on doing a couple signs a year, if that helps any. Thank you.

CHAIR DONALDSON: Yes sir. Alright, I'm assuming that nobody else wants to be heard. Do I hear a motion or comments? Ms. Mullins?

MS. MULLINS: None at this time.

CHAIR DONALDSON: Sir.

MR. MCHENRY: I have no comments.

MR. DYKES: None at this time.

CHAIR DONALDSON: Do I have a motion to approve or disapprove? One or the other?

MS. MULLINS: I make a-. Oh, go ahead.

MR. MCHENRY: I make a motion that we approve the, in favor of putting the sign up.

CHAIR DONALDSON: Do I have a second?

MR. DYKES: Second.

CHAIR DONALDSON: Okay, all those in favor of approving the Special Use Permit?

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
MCHENRY	YES	
DYKES	YES	
MULLINS	YES	

CHAIR DONALDSON: Okay, on the Special Use Permit:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended.

**It's not going to materially endanger the public health or safety where it's at. The facts are that this is generally rural land. It comes within the permitted uses.**

CHAIR DONALDSON: Oh, I was going to read. Oh, were there certain conditions? I tried to read them. I forgot to read them this afternoon.

MR. HAIGH: There are. It's a pretty short list this time.

CHAIR DONALDSON: Okay. You want to read off the conditions because I can't find them for some reason. Oh. Okay.

MR. HAIGH: You've got them? There's really not much more than what's our standard.

CHAIR DONALDSON: Alright. There's nothing special?

MR. HAIGH: Right.

CHAIR DONALDSON: Okay. I was looking for the special ones.

MR. HAIGH: Yes sir.

CHAIR DONALDSON:

2. The use meets all required conditions and specifications.

**The sign is in compliance. The proposed sign will be in compliance with the county ordinance on signage, size and setbacks.**

3. The use will maintain or enhance the value of adjoining or abutting properties, of that the use is a public necessity.

**It's rural land. It won't, although there are two people that testified. One was really not in opposition to it. One was, but stated his reason was because he thought it might be a hazard at that particular intersection of Tom Starling road.**

4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and it in general conformity with Cumberland County's most recent Land Use Plan.

**It is a permitted use under the Special Use Permit and it is in general conformity with the Land Use Plan and we'll allow the Special Use Permit.**

## 10. DISCUSSION

CHAIR DONALDSON: Anything to discuss? Anything y'all got for us to talk about?

MR. HAIGH: Not unless you wanted an update about The Range Complex. We do have one case that has met that is coming with an application for a case next month. So, we will at this point be having a case next month.

CHAIR DONALDSON: What's that?

MR. HAIGH: It's a continuance of a non-conforming use. It's a property owner purchased a piece of land that was in a residential zone being used as a commercial use and he wants to continue his own business. It's different than the previous business.

CHAIR DONALDSON: Oh, he wants to just sort of be grandfathered in.

MR. HAIGH: Right.

CHAIR DONALDSON: What kind of business is it?

MR. HAIGH: Y'all's decision is whether or not his use that he will be doing now is any more detrimental to the surrounding area than the previous nonconforming use.

CHAIR DONALDSON: What was the previous nonconforming use?

MR. HAIGH: It was a landscaping business.

CHAIR DONALDSON: And what's the new one going to be?

MR. HAIGH: He manufactures small signs and helmet decals for motorcycle riders.

CHAIR DONALDSON: Okay. Ought to be interesting. I don't think we've had one where they wanted. We've have nonconforming, but I can't recall one in four years where they wanted-.

MR. DYKES: What about that watershed one that time, remember that watershed?

CHAIR DONALDSON: Oh yeah, the watershed one thing, that was one, but they ended up abandoning that one basically didn't they? If I remember correctly.

MR. DYKES: They did.

CHAIR DONALDSON: They never did show up.

## 11. UPDATE(S)

CHAIR DONALDSON: Any updates or anything? Anything we need to be aware of other than that?

MR. HAIGH: No sir, not from our end.

CHAIR DONALDSON: Okay. Mr. Hasty, anything on the legal front from the county?

MR. HASTY: Not really. Just in case anybody hasn't heard, the petitioners in the Tigerswan case did ask the Supreme Court to hear that case. It's called a petition and the Supreme Court will likely deny that. They deny most petitions to hear it, but it could be any time now, up to a few months before we even hear anything back.

CHAIR DONALDSON: As a rule, the Supreme Court won't hear a case if it's unanimous at the Court of Appeals. In fact, they aren't required to.

MR. DYKES: So if they deny it, then that's it right.

CHAIR DONALDSON: That's it.

MR. DYKES: Okay. They can't do anything else about it.

CHAIR DONALDSON: Right. It's over with, but as a rule under the law the Supreme Court, if the Court of Appeals panel rules unanimously on it, they won't take it. They can if they want to, but that's

only in exceptional cases because by law they're required to. If it had been a 2-1 they'd be required to take it, but we'd be waiting a year from now or more. Any other business? Motion to adjourn?

## 12. ADJOURNMENT

Mr. Dykes made a motion to adjourn at 7:43 p.m., seconded by Mr. McHenry.



**P14-05-C**  
**SITE PROFILE**

**P14-05-C:** CONSIDERATION OF A CONTINUANCE OF NONCONFORMING USE TO ALLOW A CHANGE IN USE FROM A LANDSCAPING BUSINESS TO A MANUFACTURING AND WHOLESALE SIGN BUSINESS IN AN R40A RESIDENTIAL DISTRICT ON 1.28+/- ACRES; LOCATED AT 165 BERRYPATCH COURT; SUBMITTED BY BRIAN AND PATRICIA GALLAGHER (OWNERS).

**Site Information:**

**Frontage & Location:** 210'+/- on Berrypatch Court (approved private dirt street)

**Depth:** 267'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** Yes, the properties to the north, south, and east are owned by the property owner/applicant.

**Current Use:** Sign & decal manufacturing and sales

**Initial Zoning:** R40A – December 17, 2001 (Area 15)

**Nonconformities:** Operation of a sign & decal business in a residential zoning district

**Zoning Violation(s):** Operating sign & decal business without approval

**Surrounding Zoning:** North: R40A, R6A, A1, PND/CU; West: R40A, RR, A1; East: R40A, R6A, A1, C3, M2; South: R40A, A1, R20

**Surrounding Land Use:** residential (including manufactured dwellings), manufactured home park, farmland, & woodlands

**School Enrolled/Capacity:** Raleigh Road (K-1): 219/220; Long Hill (2-5): 460/495; Pine Forest Middle: 732/820; Pine Forest High: 1597/1750

**North Central Cumberland Land Use Plan:** Low Density Residential

**2030 Growth Strategy Map:** Rural Area

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

**Water/Sewer Availability:** Linden/Septic (water currently supplied by well)

**Soil Limitations:** None

**US Fish & Wildlife:** No objection

**Average Daily Traffic Count (2012):** 7,800 on US 401 (Ramsey Street)

**Municipal Influence Area:** N/A

**Highway Plan:** Ramsey Street is a principle arterial. There are no road improvements/ construction specified for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program.

**Cumberland County Zoning Ordinance Reference:**

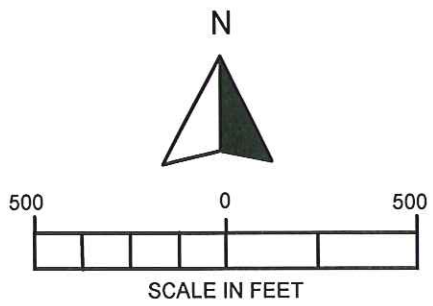
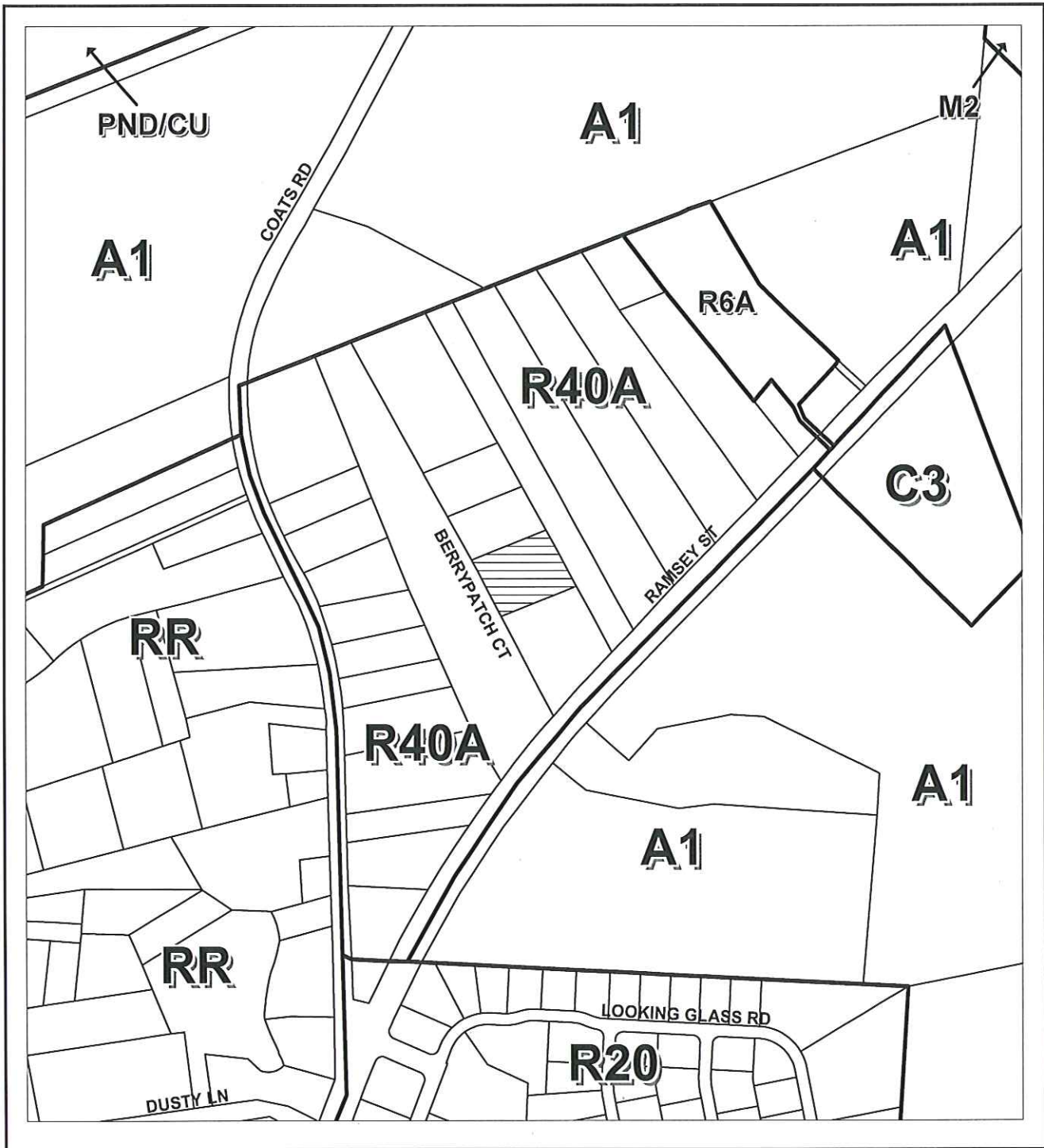
- Section 1003. Nonconforming Uses:
  - No nonconforming use may be changed, expanded or resumed to any other nonconforming use, *unless the Board of Adjustment finds that such use is no more detrimental to the neighborhood than the initial nonconforming use of the property in question.*

**Notes:**

- Contents of Application:
  - Proposed continuance of existing nonconforming use to allow a change from a landscaping business to a manufacturing and wholesale sign business.

**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.*

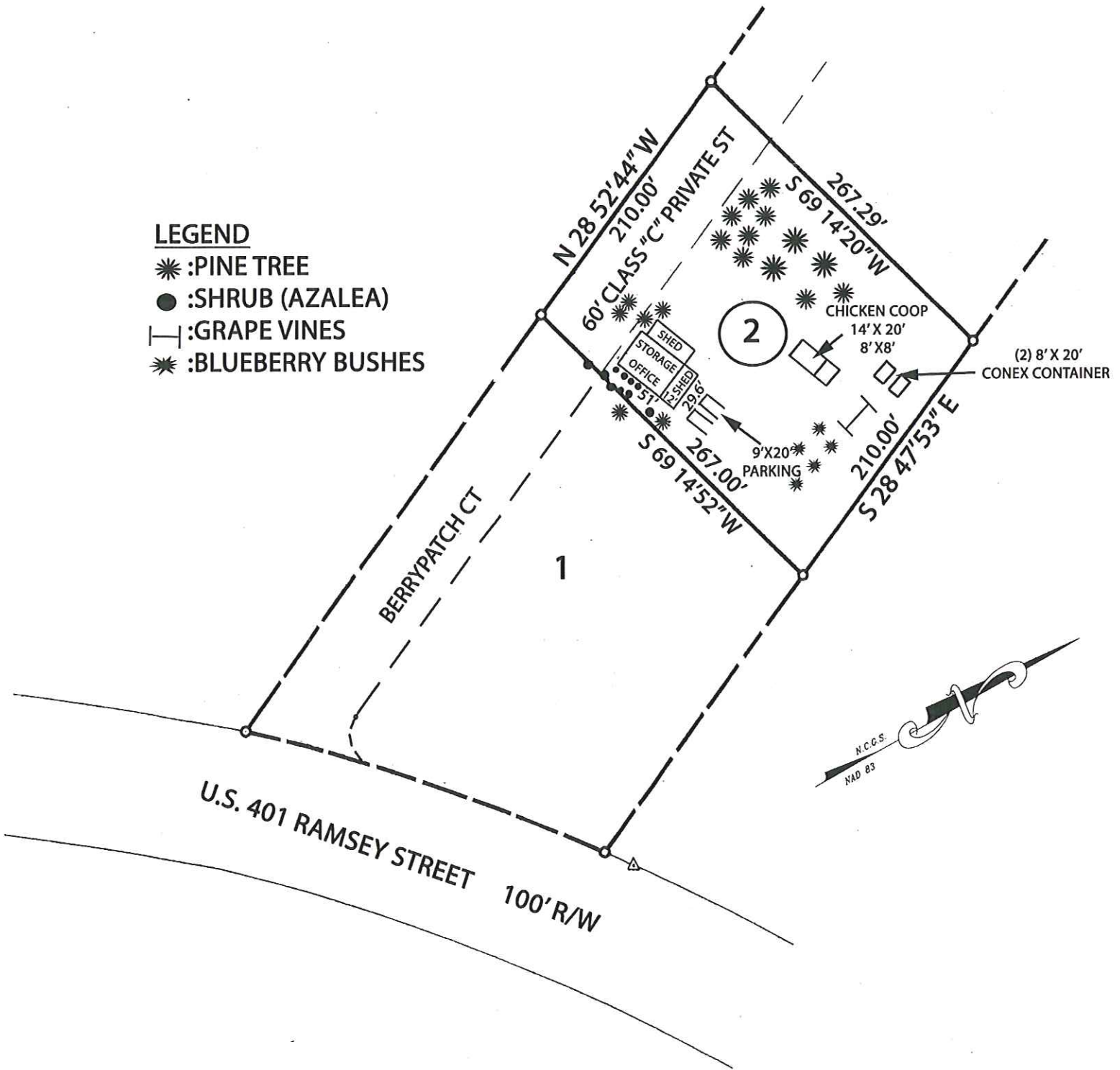


**BOARD OF ADJUSTMENT  
CONTINUANCE OF  
NONCONFORMING USE**

<b>ACREAGE: 1.28 AC.+/-</b>		<b>HEARING NO: P14-05-C</b>	
ORDINANCE: COUNTY		HEARING DATE	ACTION
GOVERNING BOARD			

**LEGEND**

- \* :PINE TREE
- :SHRUB (AZALEA)
- ┌┐ :GRAPE VINES
- \* :BLUEBERRY BUSHES



**BOARD OF ADJUSMENT**  
**CONTINUANCE OF NONCONFORMING USE**  
**REQUEST: TO ALLOW A CHANGE IN USE FROM A LANDSCAPING**  
**BUSINESS TO SIGN MANUFACTURING AND WHOLESALE BUSINESS**  
**CASE: P14-05-C ACREAGE: 1.28 AC +/-**  
**ZONED: R40A SCALE: NTS**

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

1/5/15

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 165 BERRY PATCH COURT

OWNER: BRIAN GALLAGHER AND WIFE PATRICIA GALLAGHER

ADDRESS: 232 SHAWCROFT RD FAYETTEVILLE NC ZIP CODE: 28311

TELEPHONE: HOME 910-494-6040 WORK \_\_\_\_\_

AGENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_

E-MAIL: SIENMANSDE@AOL.COM

APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0543-99-1906  
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 1.28 Frontage: 210' Depth: 267'

C. Water Provider: LINDEN WATER

D. Septage Provider: SEPTIC

E. Deed Book 9322, Page(s) 0351, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: LANDSCAPING & SHRUB SALES

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.)

WHOLESALE SIGN SALE and MANUFACTURING  
all operations performed in structure, MOST SALES  
THRU MAIL ORDER BY APPOINTMENT, INTERMITTEND DURING  
NORMAL 9-5 WORK HOUR AS NEEDED SELF EMPLOYED  
2'x2' ATTACHED SIGN, PARKING - LANDSCAPING - ETC  
AS PLOTTED ON PLAN

**STATEMENT OF ACKNOWLEDGMENT**

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 argument 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 approve, deny, or defer the request for additional information to be provided;
- If the petitioner or their representative for this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case.
- If the board's decision is to deny the matter before them, the aggrieved party shall file a **"Notice to Intent to Appeal" with the Planning & Inspections Staff on the next business day following the meeting in which the board's decision was made final, or the next business day following receipt of the written copy thereof.**
- Any petition for review by Superior Court shall be file with the Clerk of Superior Court within 30 days after the decision of the board is made final.

Signed acknowledgment 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) Brian Gallagher Patricia Gallagher

PRINTED NAME OF OWNER(S) BRIAN GALLAGHER PATRICIA Gallagher

DATE 9/26/2014

**P14-06-C**  
**SITE PROFILE**

**P14-06-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW AN EXPANSION OF A CEMETERY IN AN RR RURAL RESIDENTIAL DISTRICT ON 15.99+/- ACRES, LOCATED AT 4017 GILLESPIE STREET, SUBMITTED BY ROCKFISH MEMORIAL PARK, INC (OWNER). AND LACY G. CHESNEY.

**Site Information:**

**Frontage & Location:** 693'+/- on Gillespie St.

**Depth:** 1090'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** Yes

**Current Use:** Cemetery

**Initial Zoning:** RR – 3/15/1979 (Area 6)

**Nonconformities:** None

**Zoning Violation(s):** None

**Surrounding Zoning:** North: R6A, R10, R20, C(P); West: R5A, PND, C(P); East: RR, R15, R20; South: RR, R10, O&I(P), M(P)

**Surrounding Land Use:** Residential (including manufactured dwellings), religious worship, office use, retailing or servicing, truck terminal activities

**School Enrolled/Capacity:** Alderman Road: 648/750; South View Middle: 705/900; South View High: 1777/1800

**2030 Growth Strategy Map:** Urban Area

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

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

**Subdivision/Site Plan:** See attached “Ordinance Related Conditions”

**Soil Limitations:** None

**US Fish & Wildlife:** No objection

**Average Daily Traffic Count (2012):** 2,273 on US 301 (Gillespie Street)

**Municipal Influence Area:** Fayetteville

**Highway Plan:** I-95 Business/Gillespie Street is a principal arterial. There are no road improvements/construction specified for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program.

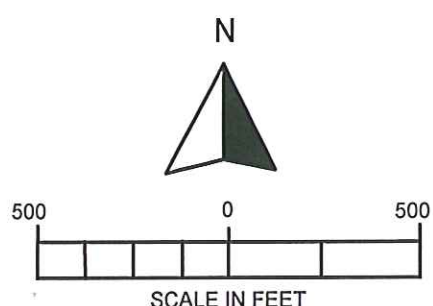
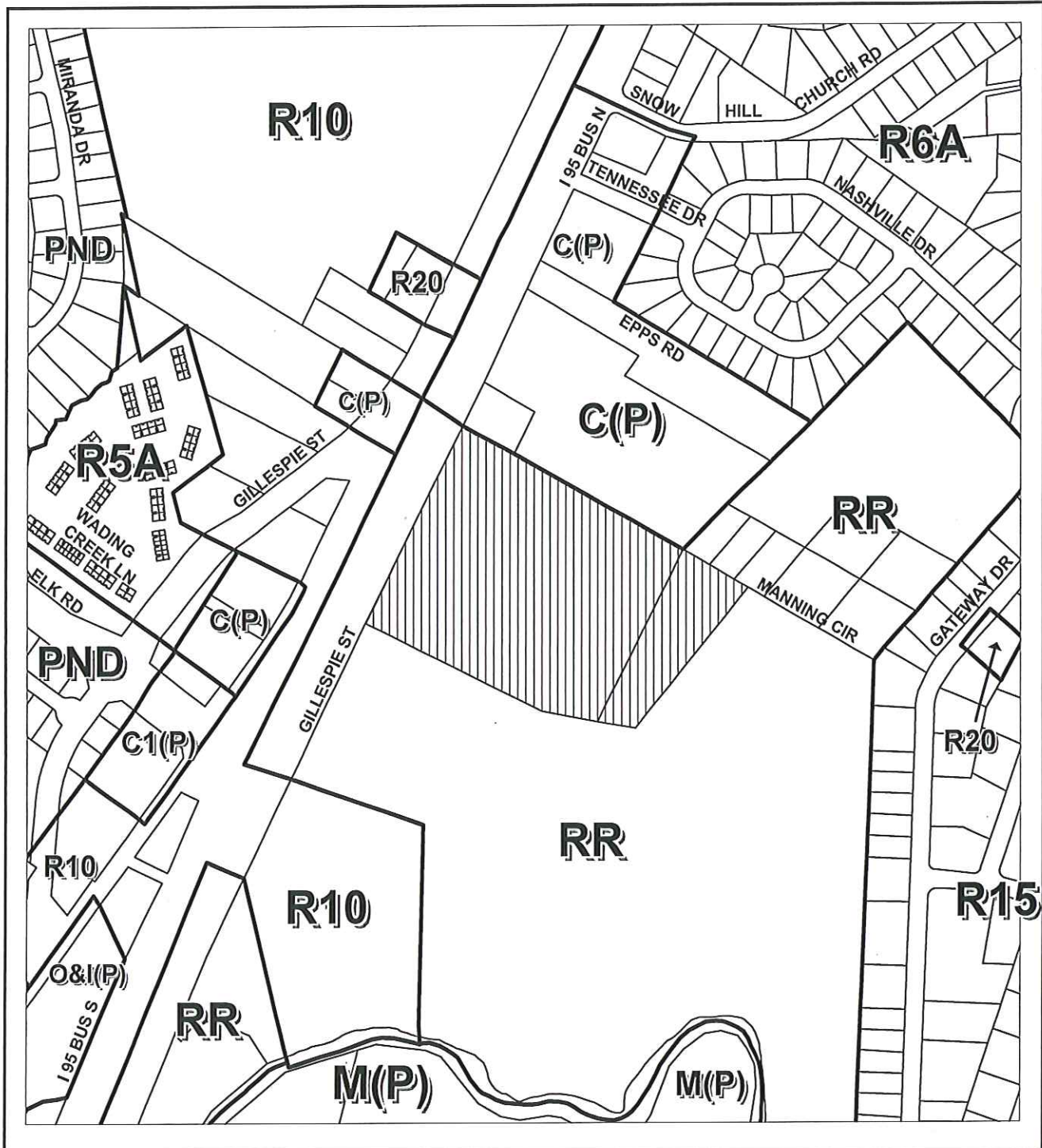
**Cumberland County Zoning Ordinance Reference:** Section 916. Non-Residential Use as Permitted in a Residential or Agricultural District.

**Contents of Application:**

1. Used for burials of human remains
2. Acreage will accommodate 894 plots – recording individual plots is a “No Approval Required” under the County Subdivision Ordinance.

**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.*



## BOARD OF ADJUSTMENT SPECIAL USE PERMIT

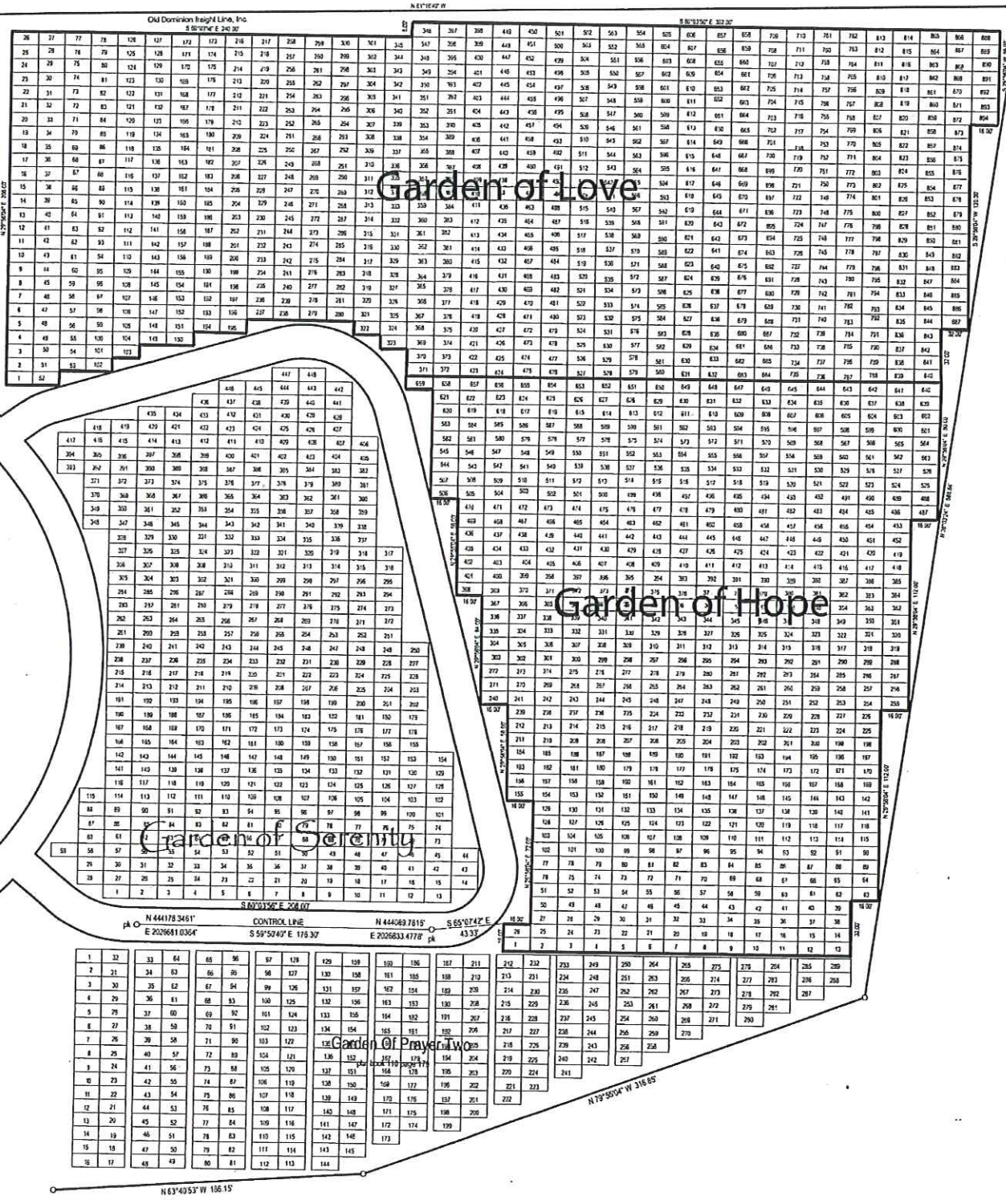
ACREAGE: 15.99 AC. +/-	HEARING NO: P14-06-C	
ORDINANCE: COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		

PIN: 0424-64-6471  
PIN: 0424-74-1262

1/05/15  
AM

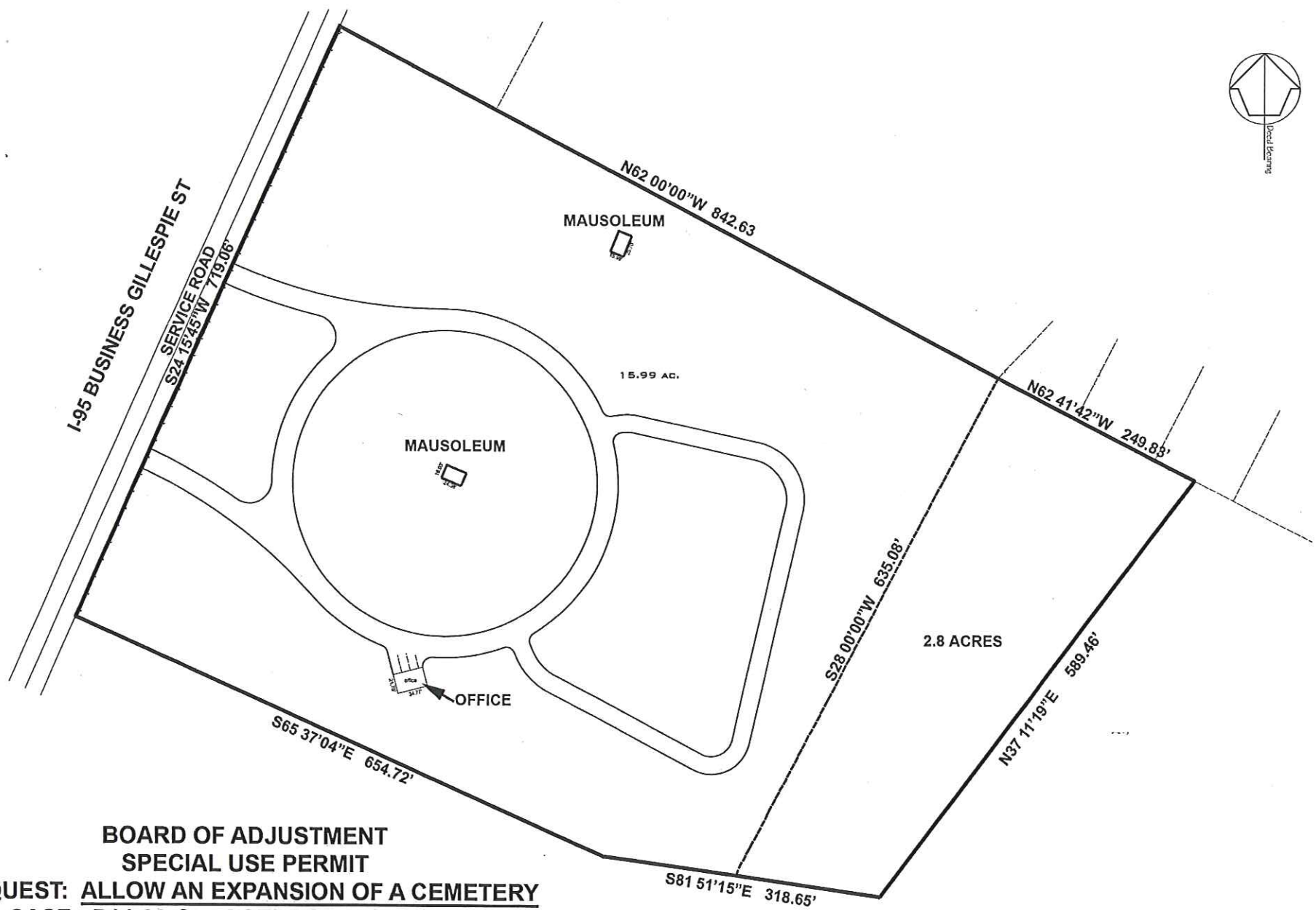
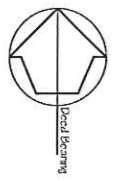


OFFICE



# P14-06-C





**BOARD OF ADJUSTMENT  
SPECIAL USE PERMIT  
REQUEST: ALLOW AN EXPANSION OF A CEMETERY  
CASE: P14-06-C ACERAGE: 15.99 AC+/-  
ZONED: RR SCALED: NTS**

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

12/19/2014

**BOARD OF ADJUSTMENT**

LOCATION OF PROPERTY: 4017 GILLESPIE ST  
OWNER: ROCKFISH Memorial Park, Inc  
ADDRESS: 4017 Gillespie St ZIP CODE: 28306  
TELEPHONE: HOME 910 425 1923 WORK 910 425 0002  
AGENT: Lacy G Chesney  
ADDRESS: 998 NC Hwy 87 So, Cameron, N.C 28326  
TELEPHONE: HOME 919 499 6168 WORK 910 964 1751  
E-MAIL: lches20100@aol.com

**APPLICATION FOR A SPECIAL USE PERMIT**

**As required by the Zoning Ordinance**

- A. Parcel Identification Number (PIN #) of subject property: 0424-74-1262  
(also known as Tax ID Number or Property Tax ID) 0424-64-6471
- B. Acreage: 15.93 Frontage: 693.00 Depth: 1090.00
- C. Water Provider: WELL
- D. Septage Provider: SEPTIC TANK
- E. Deed Book 003366, Page(s) 00232, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry). B. 813
- F. Existing use of property: Preparing for Burial Sites  
AND EXISTING Cemetery
- 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.) used for burials of Human Remains. Acreage will accomodate 894 Plots.

Pg. 50

## STATEMENT OF ACKNOWLEDGMENT

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 argument 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 approve, deny, or defer the request for additional information to be provided;
- If the petitioner or their representative for this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case.
- If the board's decision is to deny the matter before them, the aggrieved party shall file a **"Notice to Intent to Appeal" with the Planning & Inspections Staff on the next business day following the meeting in which the board's decision was made final, or the next business day following receipt of the written copy thereof.**
- Any petition for review by Superior Court shall be file with the Clerk of Superior Court within 30 days after the decision of the board is made final.

Signed acknowledgment 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) \_\_\_\_\_

PRINTED NAME OF OWNER(S) \_\_\_\_\_

DATE \_\_\_\_\_

## **Special Use Permit – Board of Adjustment**

for  
Cemetery Expansion

**DRAFT**

### **Ordinance Related Conditions**

#### **Pre- Permit Related:**

1. A recombination plat (also known as a “No Approval Required” or “NAR”) must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.
2. Three copies of a revised site plan must be submitted for staff review and approval. The revised plan must indicate the location and type of buffer proposed. A solid buffer must be provided and maintained along the southern & eastern property lines where this tract/site abuts an RR residential zoning district 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.)

#### **Permit-Related:**

3. 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.
4. If applicable, for any new water and sewer utilities connection to public water and sewer is required, the Public Works Commission (PWC) must approve water and sewer 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. (Section 2306 A.1, Public Water and Sewer Systems, County Subdivision and Development Ordinance)

Note: Due to an existing agreement between the PWC and the City of Fayetteville, an annexation petition most likely will be required prior to the PWC’s review of any utility plans.

5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
6. 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.
7. 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.
8. The 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 Development Ordinance and Zoning Ordinances for the RR zoning and Airport Overlay districts, in addition to the contents of the application and site plan, must be complied with, as applicable.

10. This conditional approval is not approval of any new freestanding signs. If a new freestanding sign is desired, re-submittal of the site plan is required prior to application for any freestanding sign permits. 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. 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 and Development Ordinance)
12. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
13. In the event a storm water 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.
14. 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.
15. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
16. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing.

**Plat-Related:**

17. "I-95 Business Gillespie Street" must be labeled as "SR 2273 (Gillespie Street/I-95 Business)" on the recombination plat.
18. Any/All easements must be reflected on the recombination plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
19. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the recombination plat when submitted for approval for recording. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision and Development Ordinance)
20. The recombination plat must be submitted to Land Use Codes for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.

**Plat-Required Statements:**

21. Since this development is located within the *Airport Overlay District* as shown on the official zoning map, the following disclosure statement is required to be provided on the recombination plat (Section 8.101.E, Notice and Disclosure of Noise Impact Disclosure, County Zoning Ordinance):

"Property shown on this plan/plat is within the Cumberland County Airport Overlay District and all or a portion of the property described hereon is within an area that is subject to an average noise level near to or exceeding 65 dnl."

22. All structures shall be shown on the recombination plat or the recombination plat shall reflect the following statement (Section 2504 D, County Subdivision and Development Ordinance):

"Nonconforming structures have not been created by this recombination plat."

**Advisories:**

23. The applicant is advised to consult an expert on wetlands before proceeding with any development.
24. The conditional approval of this cemetery expansion does not void the proposed mausoleum w/ chapel and proposed addition to the office as approved in Case No. P05-18-C.
25. 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.
26. 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.
27. Because the subject property is located within the Airport Overlay District, the developer is strongly encouraged to discuss their development plans with Land Use Codes Section and/or the Fayetteville Regional Airport Director early in the planning stage to ensure that the proposed height of any proposed structure can be found to be no obstruction or hazard to air navigation.

*Thank you for choosing Cumberland County for your business location!*

**If you need clarification of any conditions, please contact Robert Haigh at 910-678-7602 or Patti Speicher at 910-678-7605 with the Land Use Codes Section; 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 Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
PWC:	Heidi Maly	223-4737
Fayetteville Planning:	Marsha Bryant	433-1416
County Public Utilities:	Amy Hall	678-7637
Corp of Engineers (wetlands):	Crystal C. Amschler	251-4170
NCDENR (E&S):	Sally Castle	433-3300
Location Services:		
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

cc: Marsha Bryant, City of Fayetteville

**P15-01-C**  
**SITE PROFILE**

**P15-01-C.** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A KENNEL OPERATION IN AN A1 AGRICULTURAL / CU CONDITIONAL USE OVERLAY DISTRICT FOR A HOME-BASED CATERING BUSINESS (PENDING REZONING) ON 2.00+/- ACRES, LOCATED AT 2761 COUNTY LINE ROAD, SUBMITTED BY ANDREW C. MILLER & CANDACE D. WARREN (OWNERS).

**Site Information:**

**Frontage & Location:** 199.99'+/- on SR 2257 (County Line Road)

**Depth:** 456.01'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** No

**Current Use:** Residential

**Initial Zoning:** A1 – June 25, 1980 (Area 13); rezoned to A1/CU for a home catering business on April 17, 2000

**Nonconformities:** No

**Zoning Violation(s):** No

**Surrounding Zoning:** North: A1/CU(Home-based catering business), A1; West: A1, R40; East: A1, R40, R40A; South: A1

**Surrounding Land Use:** Residential

**2030 Growth Strategy Map:** Rural

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

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

**Soil Limitations:** None

**Watershed:** Yes

**School Capacity/Enrolled:** Gray's Creek Elementary: 430/495; Gray's Creek Middle: 1050/1100; Gray's Creek High: 1322/1270

**Subdivision/Site Plan:** See attached "Ordinance Related Conditions"

**Average Daily Traffic Count (2012):** 630 on SR 2257 (County Line Road)

**US Fish & Wildlife:** No objection

**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

**Cumberland County Zoning Ordinance Reference:** Section 912. Kennel Operations

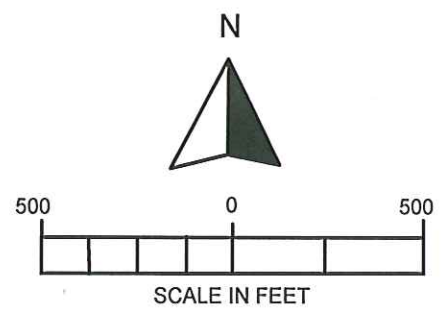
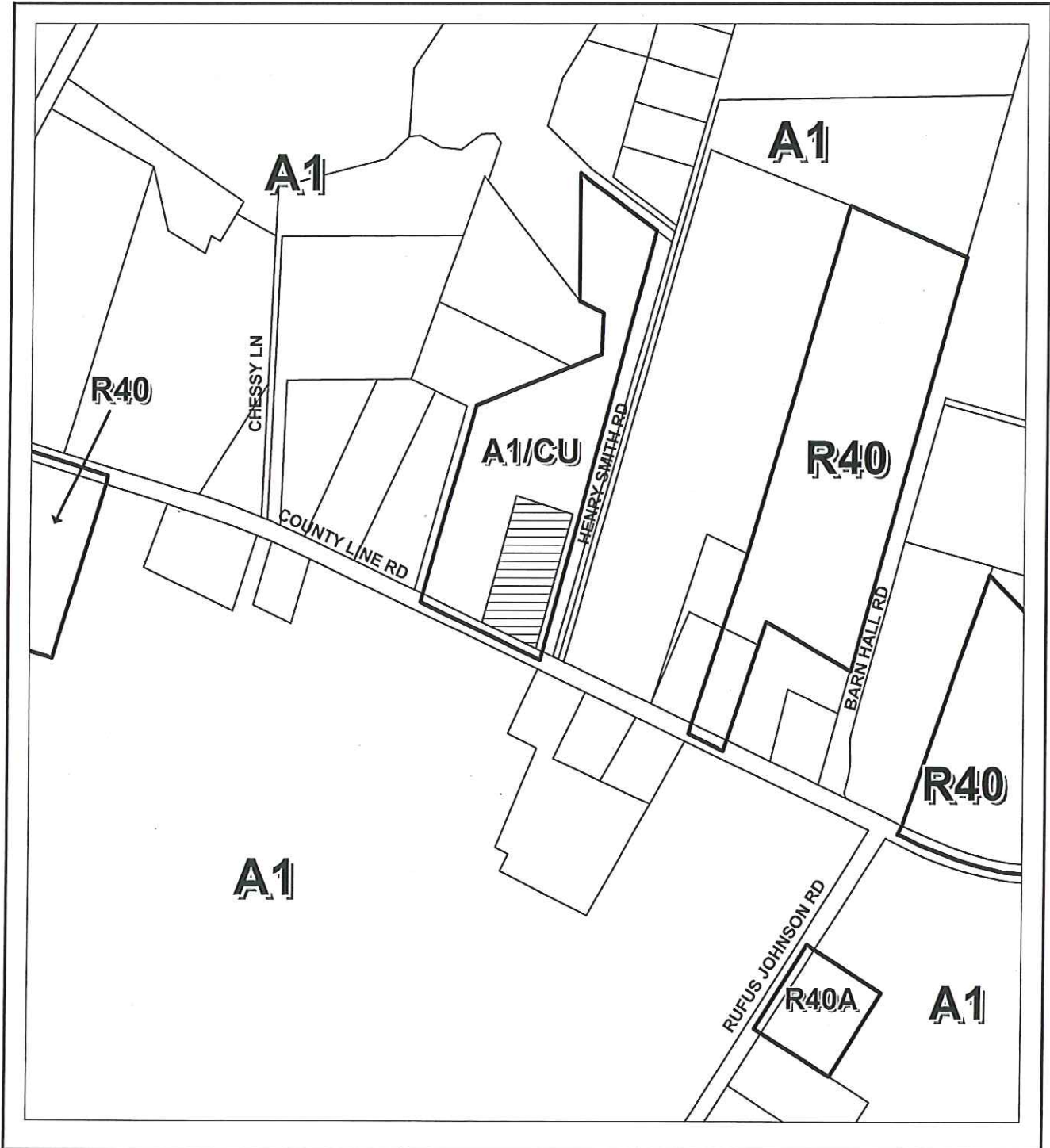
**Notes:**

Contents of Application:

1. Proposed kennel operation to breed, train, sell, and show golden retrievers.
2. Hours of operation are 8AM-5PM with client visits by appointment.
3. Property owner operates the business with no other employees

**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.*



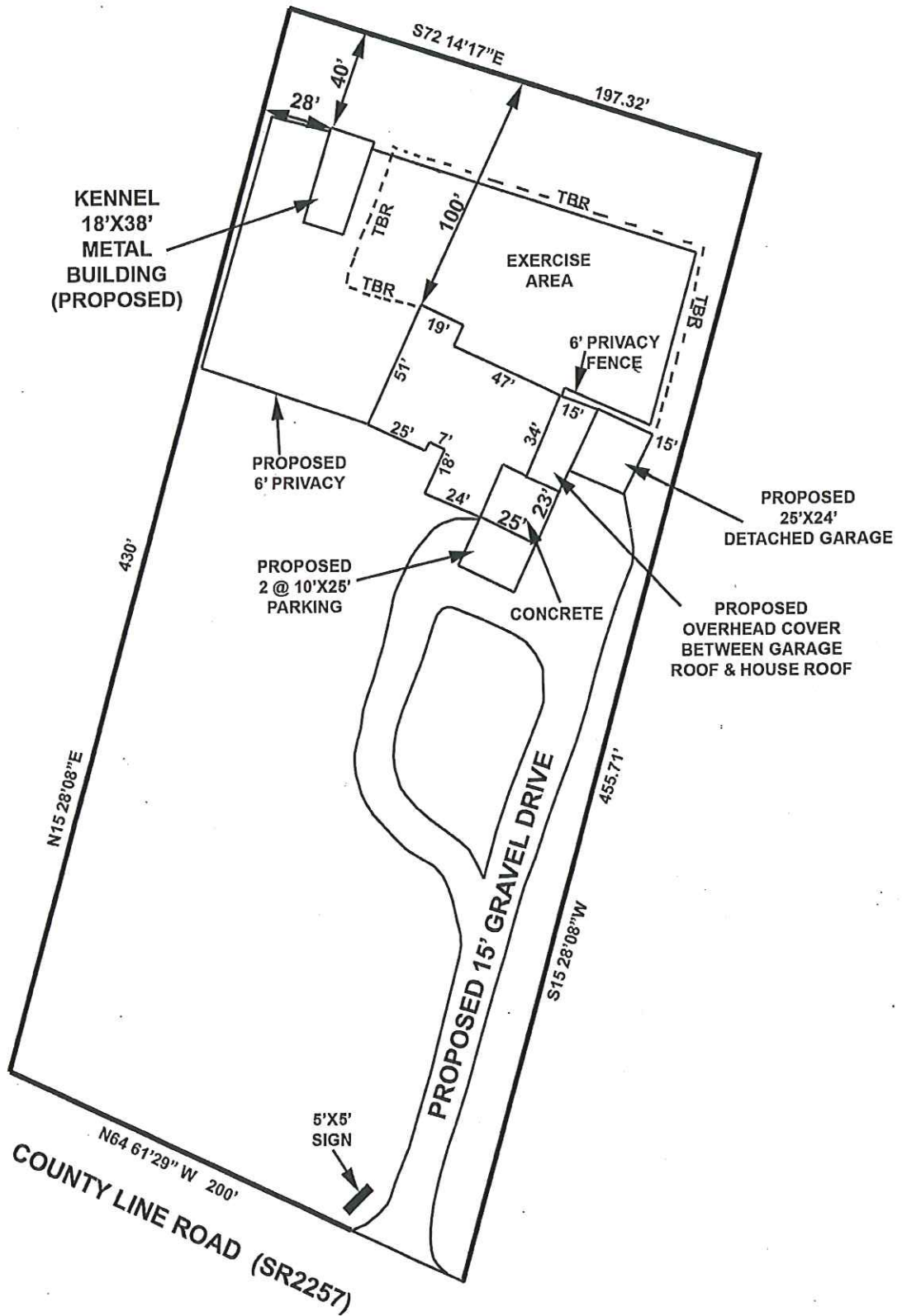
## BOARD OF ADJUSTMENT SPECIAL USE PERMIT

<b>ACREAGE: 2.00 AC.+/-</b>	<b>HEARING NO: P15-01-C</b>	
<b>ORDINANCE: COUNTY</b>	<b>HEARING DATE</b>	<b>ACTION</b>
<b>GOVERNING BOARD</b>		

PIN: 0430-30-3116

1/5/15  
AM





**BOARD OF ADJUSTMENT**  
**SPECIAL USE PERMIT**  
**REQUEST: ALLOW A KENNEL OPERATION**  
**CASE: P15-01-C ACREAGE: 2.00 AC +/-**  
**ZONED: A1/CU (R40 PENDING) SCALE: NTS**  
**PARKING: 2 SPACES**

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

12/19/2014

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 2761 County Line Rd Saint Pauls NC 28384

OWNER: Andrew C Miller / Candace D Warren

ADDRESS: 2761 County Line Rd Saint Pauls ZIP CODE: 28384

TELEPHONE: HOME (910) 420-9613 WORK (910) 922-5810

AGENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_

E-MAIL: chew.miller2308@gmail.com

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

A. Parcel Identification Number (PIN #) of subject property: 0430-30-3116  
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 2.0 Frontage: 200' Depth: 456'

C. Water Provider: well

D. Septage Provider: Septic

E. Deed Book 9527, Page(s) 04, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: Residential

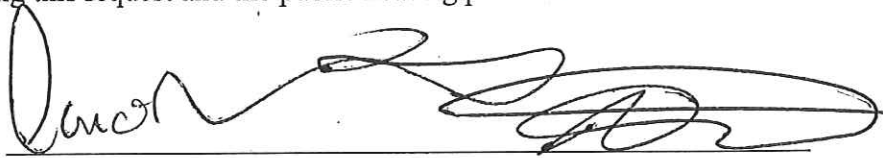
G. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail including hours of operation, number of employees, signage, parking, landscaping, etc.) This property will be used for the operations of Copperfields Golden's. We show, train & breed our champion sired & health tested Golden's. Operating hours are 9am-5pm (not continuous) Clients come to visit by appointment only during the process of adopting one of our lovely Golden's. Parking will consist of a gravel parking area near the garage. There is no employees, business is run solely by Candace Warren. There will be a sign near the road eventually.

**STATEMENT OF ACKNOWLEDGMENT**

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 argument 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 approve, deny, or defer the request for additional information to be provided;
- If the petitioner or their representative for this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case.
- If the board's decision is to deny the matter before them, the aggrieved party shall file a **"Notice to Intent to Appeal" with the Planning & Inspections Staff on the next business day following the meeting in which the board's decision was made final, or the next business day following receipt of the written copy thereof.**
- Any petition for review by Superior Court shall be file with the Clerk of Superior Court within 30 days after the decision of the board is made final.

Signed acknowledgment 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) 

PRINTED NAME OF OWNER(S) Candace D Warren / Andrew C M's Her

DATE 12/2/14

**Special Use Permit – Board of Adjustment**

for

**Kennel Operation w/ Existing Dwelling**

**DRAFT**

**Ordinance Related Conditions**

(Includes Conditions for a Group Development Approval)

**Pre- Permit Related:**

1. This conditional approval is contingent upon the approval of the rezoning request – Case No. P15-06 – from A1/CU for a catering business to R40.
2. Three copies of a revised site plan must be submitted for review and approval. The revised plan must address the following:
  - a. Ensuring that no portion of the kennel activities, including yard/run area and kennel, is located any closer than 15 feet to the property line. Note: The developer could opt to enclose the kennel by separate fence from the 6' privacy fence.
  - b. A solid vegetative buffer must be provided and maintained along both sides and the rear where the kennel operation is proposed. The specifications for the buffer are to be in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance. If the developer desires to also install a 6' privacy fence or in the event the Board of Adjustment mandates a privacy fence in addition to the vegetative buffer, the fence must be located so that the vegetative buffer is located along the common property line with neighboring properties.

**Watershed-Related:**

3. An application for a Watershed “No Approval Required” development must be submitted to the Watershed Review Officer (WRO) and plans must be approved by the WRO prior to final plat approval and/or prior to application for any building/zoning permits, site plan approval is required. A copy of the WRO’s approval of this plat/plan must be submitted to Code Enforcement at the time of application for any permits.

**Permit-Related:**

4. 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.
5. 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 and Development Ordinance)
6. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
7. 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.
8. 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.

9. The 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:**

10. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the R40 (pending) zoning district, and the contents of the application and site plan must be complied with, as applicable. Note: The side yard setback for the garage addition is a minimum of 15' – developer is advised to have boundary staked prior to commencement of construction.
11. This conditional approval is not approval of the permit for the freestanding sign. The freestanding sign proposed for this development must comply with Section 1306.A.4, County Zoning Ordinance. 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.)
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 and Development Ordinance)
13. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
14. 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.
15. 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.
16. Turn lanes may be required by the NC Department of Transportation (NCDOT).
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. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing. Waste removal and disposition must be in accordance with acceptable health sanitation and solid waste regulations.

**Advisories:**

19. The applicant is advised to consult an expert on wetlands before proceeding with any development.
20. 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.
21. 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.

***Thank you for choosing Cumberland County for your home and business location!***

**If you need clarification of any conditions, please contact Robert Haigh at 910-678-7602 or Patti Speicher at 910-678-7605 with the Land Use Codes Section; otherwise, contact the appropriate agency at the contact numbers below.**

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

Watershed Review Officer:	Jeff Barnhill	678-7765
Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Building Inspections:	Gary Faulkner	321-6648
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
County Public Utilities:	Amy Hall	678-7637
County Solid Waste:	Karen Hall	321-6929
Corp of Engineers (wetlands):	Liz Hair	(910) 251-4049
NCDENR (E&S):	Sally Castle	433-3300
Location Services:		
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