

Members:
Vacant, 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
JULY 10, 2012
6:00 PM

A special meeting of the Cumberland County Board of Adjustment is to be held on Tuesday, July 10, 2012, at 6:00 p.m. in Hearing Room #3 of the Historic Courthouse at 130 Gillespie Street, Fayetteville, North Carolina. The tentative agenda is as follows:

1. ROLL CALL
2. SWEAR IN STAFF
3. ADJUSTMENTS TO THE AGENDA
4. ABSTENTIONS BY BOARD MEMBERS
5. PUBLIC HEARING DEFERRAL
6. BOARD MEMBER DISCLOSURES
7. POLICY STATEMENT REGARDING APPEAL PROCESS
8. PUBLIC HEARING(S):

A. P12-08-C: CONSIDERATION OF THE APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR TO ISSUE A ZONING PERMIT TO TIGERSWAN INC. TO OPERATE THE TIGERSWAN TRAINING COLLABORATION CENTER AS A USE CONSISTENT WITH OUTDOOR RECREATION/AMUSEMENT FOR PROFIT AND WITH MECHANIZED VEHICLES ON A PROJECT SITE CONSISTING OF 978.4 +/- ACRES LOCATED SOUTHWEST OF SR 2053 (DOE HILL ROAD) AT 2850 TIGERSWAN DRIVE SUBMITTED BY RAEFORD B. LOCKAMY, II; SAMUEL D. AND DORIS M. FORT; JULIA KATHERINE FAIRCLOTH; OK FARMS OF CEDAR CREEK, LLC; AND ARNOLD DREW SMITH.

9. DISCUSSION

10. UPDATE(S)

11. ADJOURNMENT

P12-08-C
SITE PROFILE

P12-08-C: CONSIDERATION OF THE APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR TO ISSUE A ZONING PERMIT TO TIGERSWAN INC. TO OPERATE THE TIGERSWAN TRAINING COLLABORATION CENTER AS A USE CONSISTENT WITH OUTDOOR RECREATION/AMUSEMENT FOR PROFIT AND WITH MECHANIZED VEHICLES ON A PROJECT SITE CONSISTING OF 978.4 +/- ACRES LOCATED SOUTHWEST OF SR 2053 (DOE HILL ROAD) AT 2850 TIGERSWAN DRIVE SUBMITTED BY RAEFORD B. LOCKAMY, II; SAMUEL D. AND DORIS M. FORT; JULIA KATHERINE FAIRCLOTH; OK FARMS OF CEDAR CREEK, LLC; AND ARNOLD DREW SMITH.

Site Information:

Frontage & Location: 30' on Doe Hill Road (SR 2053)

Depth: 7,600'+/-

Jurisdiction: Cumberland County

Adjacent Property: Yes, north side of subject property

Current Use: Outdoor recreation/amusement for profit & with mechanized vehicle operations, woodlands, and farmlands

Initial Zoning: A1 - September 3, 1996 (Area 21)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: A1, R40A & RR; West: A1, A1/CU (allow a professional office) & R40A; East: A1 & C3; South: A1

Surrounding Land Use: Wholesale sales, hog farm, rural farm, residential (including manufactured homes), woodlands, and farmlands

2030 Land Use Plan: Rural area

Special Flood Hazard Area (SFHA): None

Soil Limitations: Yes, hydric soils: CT Croatan muck / TR Torhunata and Lynn Haven soils / Ra Rains sandy loam (small portion on the west and south side of subject property)

Water/Sewer Availability: Well/Septic

Watershed: No

School Capacity/Enrolled: Stedman Primary: 200/178; Stedman Elementary: 300/282; Mac Williams Middle: 1270/1210; Cape Fear High: 1425/1585

Subdivision/Site Plan: See attached "Ordinance Related Conditions" revised site plan Case 10-058 approved on 4/17/2012

Average Daily Traffic Count (2010): 1,600 on NC HWY 210 S

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

Wetlands: Yes, almost the entire property

County Zoning Ordinance Reference: Outdoor recreation/amusement for profit & with mechanized vehicle operations

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.

P12-08-C
CASE PROFILE

P12-08-C CONSIDERATION OF THE APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR TO ISSUE A ZONING PERMIT TO TIGERSWAN INC. TO OPERATE THE TIGERSWAN TRAINING COLLABORATION CENTER AS A USE CONSISTENT WITH OUTDOOR RECREATION/AMUSEMENT FOR PROFIT AND WITH MECHANIZED VEHICLES ON A PROJECT SITE CONSISTING OF 978.4 +/- ACRES LOCATED SOUTHWEST OF SR 2053 (DOE HILL ROAD) AT 2850 TIGERSWAN DRIVE SUBMITTED BY RAEFORD B. LOCKAMY, II; SAMUEL D. AND DORIS M. FORT; JULIA KATHERINE FAIRCLOTH; OK FARMS OF CEDAR CREEK, LLC; AND ARNOLD DREW SMITH.

Case Information

County Zoning Ordinance References

1. Article II, Interpretations, Calculations, and Definitions. (Co. Zon. Ord. P-5)

The interpretation of terms, methods of measurement, and definitions contained in this article shall be observed and applied when construing this ordinance, except when the context clearly indicates otherwise. Words not otherwise defined shall be construed and given their customary and ordinary meaning.

Section 203. Definitions of Specific Terms and Words. (Co. Zon. Ord. P-6)

In further amplification and for clarity of interpretation of the context, the following definitions of word usage shall apply:

Recreation, Outdoor: (Co. Zon. Ord. P 24-25)

An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open air pavilions and similar structures used primarily for recreational activities. (Section 920)

Recreation, outdoor (with mechanized vehicle operations): (Co. Zon. Ord. P-25)

An area or establishment, which requires the use of motors or engines for the operation of equipment or participation in the activity. This definition includes but is not limited to go-cart tracks, bicycle motorcross (BMX) courses and the like. This definition does not include golf courses (golf carts) or other low impact motorized activities or vehicles. (Amd. 01-19-10)

Amusement Center: (Co. Zon. Ord. P-8)

An establishment offering five or more amusement devices, including, but not limited to coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

First Class 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.

2. Article III Zoning Districts. (Co. Zon. Ord. P-31)

Section 303. Agricultural Districts. (Co. Zon. Ord. P-31)

A. A1 Agricultural District. This district is designed to promote and protect agricultural lands, including woodland, within the County. The general intent of the district is to permit all agricultural uses to exist free from most private urban development except for large lot, single-family development. Some public and/or semi-public uses as well as a limited list of convenient commercial uses are permitted to ensure essential services for the residents.

3. Article IV Permitted, Conditional, and Special Uses. (Co. Zon. Ord. P-39)

Section 402. Uses by Right. (Co. Zon. Ord. P-39)

All uses of property are allowed as a use by right except where this ordinance specifies otherwise or where this ordinance specifically prohibits the use. In the event, a use of property is proposed that is not addressed by the terms of this ordinance, the minimum ordinance standards for the use addressed by this ordinance that is most closely related to the land use impacts of the proposed use shall apply. In addition, the Ordinance Administrator may initiate a text amendment addressing such proposed use, provided that the drafting and adoption of said amendment will not cause delay in the permitting of the proposed use.

(Amd. 04-18-11)

Section 403. Use Matrix. (Co. Zon. Ord. P-40)

The matrix indicates Permitted, Special Uses as well as some uses allowed only in a Conditional Zoning district.

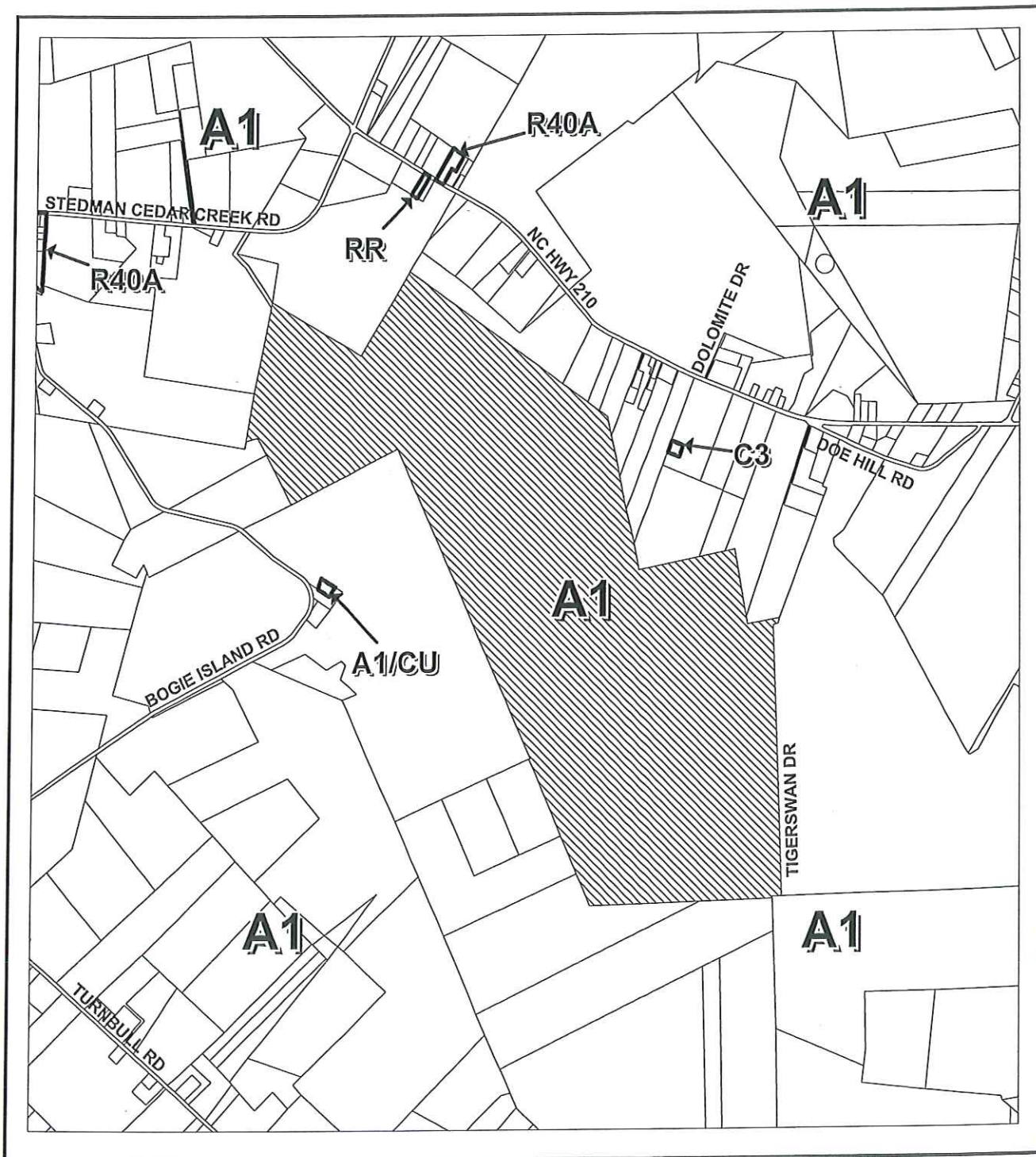
LAND USES	ZONING CLASSIFICATION
	A1
Recreation/Amusement Outdoor (Sec 920) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924	P
Recreation/Amusement Outdoor (with mechanized vehicle operations) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924	P

(Co. Zon. Ord. P-45)

4. Article XVI, Board of Adjustment. (Co. Zon. Ord. P-157)

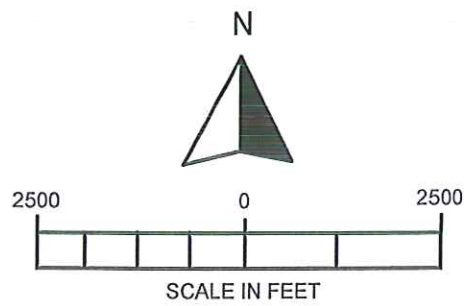
First Class Mailed Notice Certification

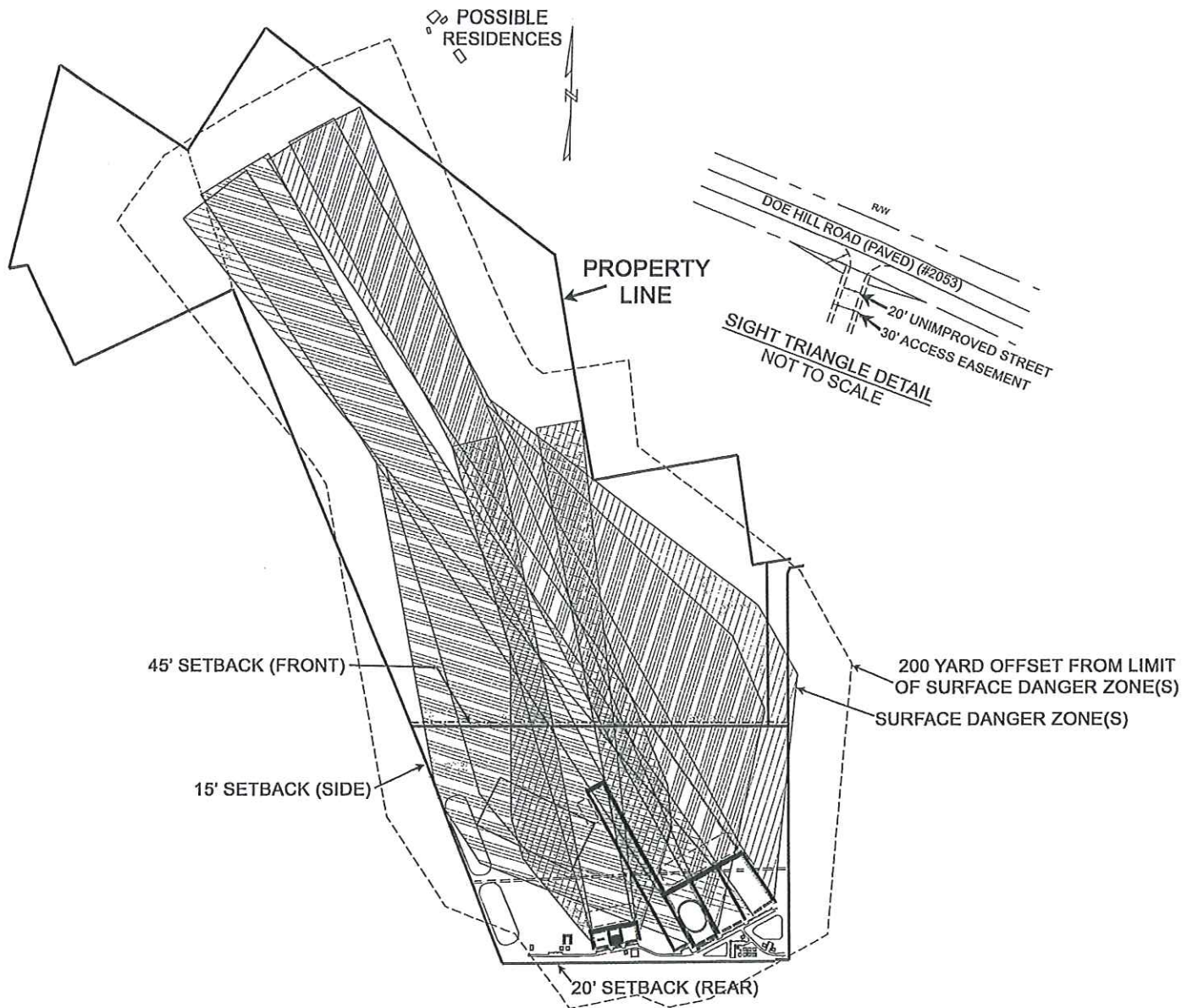
A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith. The record owners' certified receipt of notice is also included.



BOARD OF ADJUSTMENT APPEAL

ACREAGE: 978.40 AC.+/-	HEARING NO: P12-08-C	
ORDINANCE: COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		





**BOARD OF ADJUSTMENT
APPEAL**

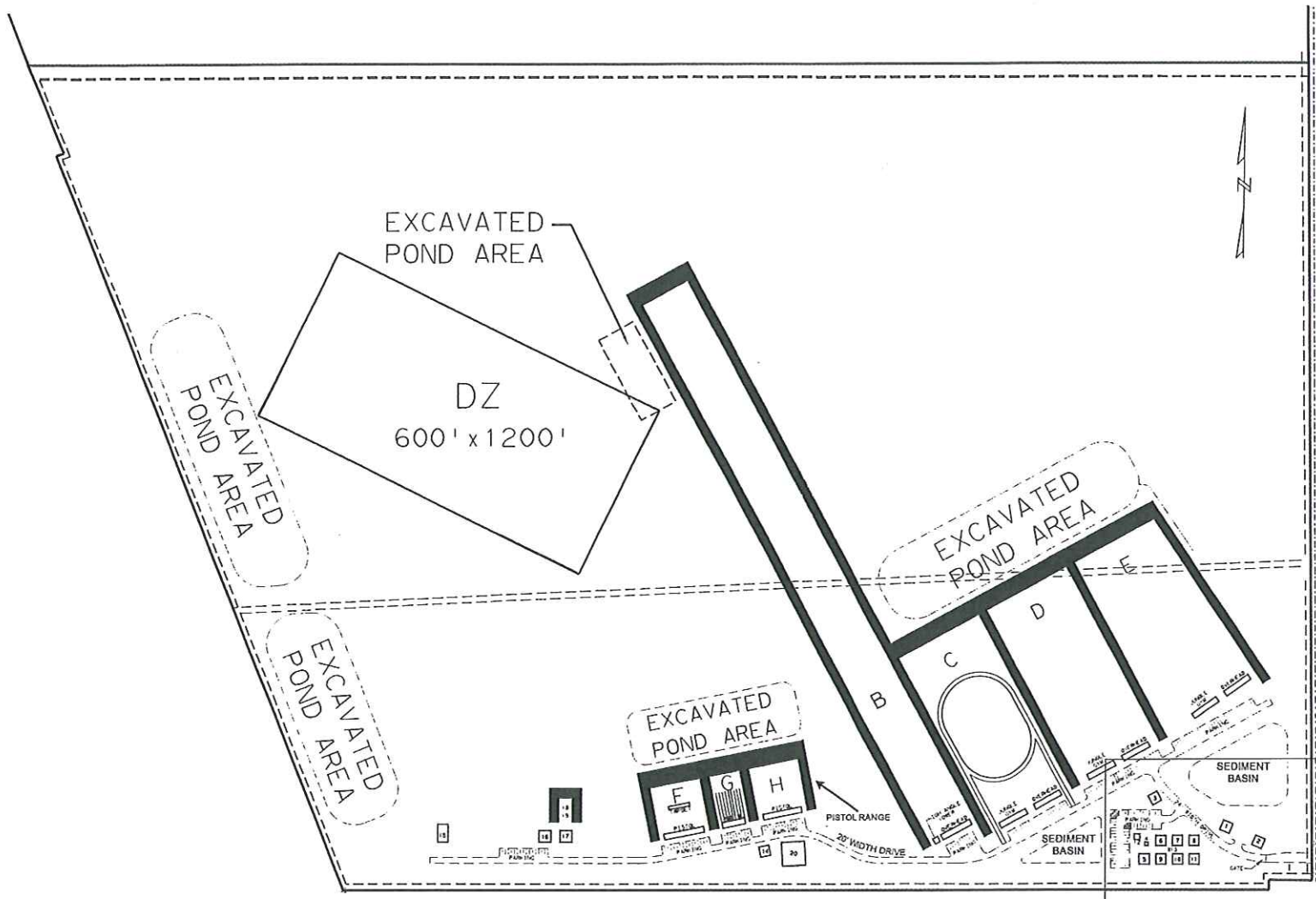
REQUEST: CONSIDERATION OF AN APPEAL OF THE ZONING ADMINISTRATOR

CASE: P12-08-C ACREAGE: 978.40 AC +/-

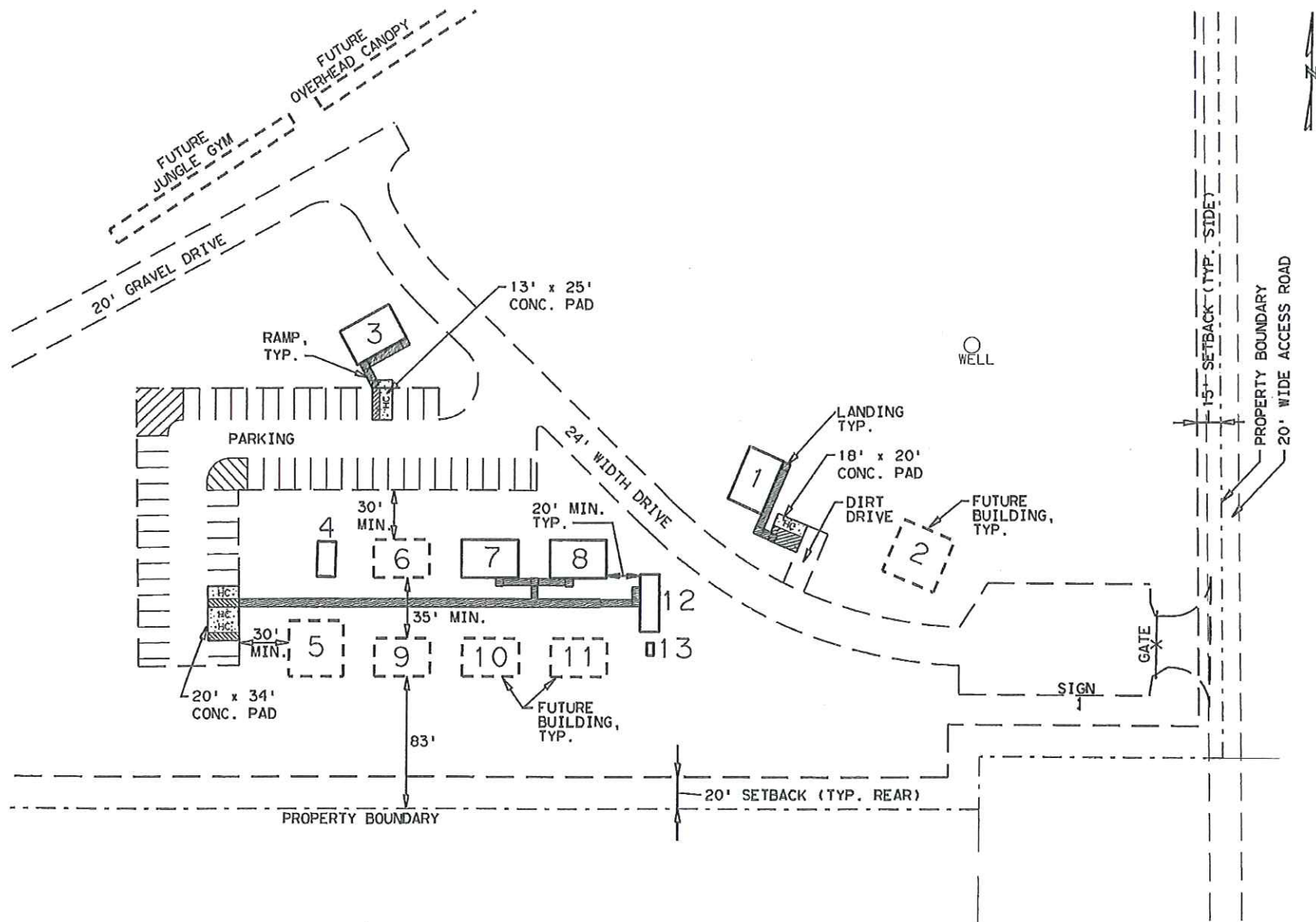
ZONED: A1 SCALE: NTS

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

5/25/12



CASE NO: P12-08-C



P12-08-C
SHEET 3

Roy Turner,
Chair
Cumberland County

Walter Clark,
Vice-Chair
Cumberland County

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Steedman
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 McLaughlin,
Wade, Falcon & Godwin

REVISED: 04-17-12

STAFF REVIEW: 4-9-12

PLANNING BOARD DECISION: N/A

CASE NO: 10-058

NAME OF DEVELOPMENT: TIGERSWAN, INC.

MIA: N/A

A1 SITE PLAN REVIEW (OUTDOOR RECREATION/AMUSEMENT, FOR PROFIT & W/ MECHANIZED VEHICLE OPERATIONS)

LOCATION: SOUTHWEST SIDE OF SR 2053 (DOE HILL ROAD)

ZONING: A1

SOUTHWEST OF NC HWY 210 S

PIN: 0493-04-5262

OWNERS / DEVELOPER: TIGERSWAN INC.

ENGINEER OR DESIGNER: CALL SIGN ENGINEERS

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. 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. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
4. 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.
5. 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.
6. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the supplemental site plan, provided that enough existing trees will remain on site to satisfy the minimum standards. The following are the minimum standards for the required landscaping of this site:

- Eleven large shade trees or 22 small ornamental trees are required within the parking areas.

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.
7. 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:

8. 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.
9. The street name "TigerSwan Drive" has been approved for the private street and the street sign has been installed.
10. This conditional approval is not approval of any new 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.) (Note: One sign is permitted and cannot exceed the standards of the C1(P) zoning district.)
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 Ordinance)
12. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
13. 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.
14. The driveway permit has previously been issued by the NC Department of Transportation for the existing connection to SR 2053 (Doe Hill Road); this revision is not approval of any additional driveways.
15. Turn lanes may be required by the NC Department of Transportation (NCDOT).
16. 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.
17. A solid vegetative buffer should be provided and maintained completely surrounding the subject property; the developer is strongly encouraged to plant and/or allow tree growth where possible to achieve a natural buffer.
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'. A minimum of one off-street parking space for each four persons in design capacity for the firing range is required for this development.
20. Noise levels cannot exceed 60 dB(A) between the hours of 10:00 pm and 7:00 am. In any event, the noise level cannot become a nuisance to neighboring properties and strict compliance with the County's Noise Ordinance is required.
21. This conditional approval is not approval of the use of helicopters at this facility. "Minor airport operations" requires approval of a Special Use Permit issued by the County Board of Adjustment prior to commencement of any air traffic activity.
22. Protective measures are required to be in place to minimize the creation of dust affecting surrounding properties.
23. Fencing, netting, berms or other control measures are required to be provided on the site to ensure that rounds/munitions are prevented from escaping the designated area.
24. Full compliance with Chapter 9.5, Article IX, Cumberland County Code of Ordinances, is required as applicable – see attached copy.
25. The developer is encouraged to meet or exceed the DOD Range Safety measures as specified in the Department of the Army Pamphlet 385-63.
26. The developer is encouraged to meet or exceed the EPA's *Best Management Practices for Lead at Outdoor Shooting Ranges*.

Other Relevant Conditions:

27. The applicant is advised to consult an expert on wetlands before proceeding with any development. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.
28. 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.

29. 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.
30. The developer is encouraged to post warning signs approximately every 100 feet around the perimeter of the site to warn individuals of the ranges.
31. The owner/developer be aware that every deed created for the purpose of conveying a lot served by a private street must contain the following disclosure statement at the time of recordation with the County Register of Deeds:

"It is hereby acknowledged that a subdivision streets disclosure statement has been executed in accordance with N.C.G.S 136-102.6(f)."

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
Ground Water Issues:	Matt Rooney	678-7625
County Public Utilities/NORCRESS	Tom Cooney	678-7682
Corp of Engineers (wetlands):	Crystal C. Amschler	251-4170
NC DENR (E&S):	Sally McKinney	433-3300
E911 Site-Specific Address:	Ron Gonzales	678-7616
E911 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

Attachment: Article IX. Firearms Regulations, Chapter 9.5 Cumberland County Code of Ordinances

OFFICIAL PRELIMINARY STAMP
CUMBERLAND COUNTY

CASE NO: 10-058

REVISED: 04-17-12

THIS PLAN APPROVED BY THE CUMBERLAND COUNTY PLANNING &
INSPECTION DEPARTMENT ON: 04-09-12

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: 04-09-14

Patricia S. Speicher EMB
SUPERVISOR, LAND USE CODES

CUMBERLAND COUNTY PLANNING & INSPECTION DEPT.
130 Gillespie/PO Drawer 1829
Fayetteville, NC 28302-1829
(910)321-6636 Fax(910)321-6637

Misc

Zoning PERMIT

Z-12-149289 PAGE 1 of 1

Issued by: JWH Prt by: JWHEELER

Permission is hereby granted for the construction or installation as identified herein. All work must comply with the North Carolina State Building Code and all other applicable State and Local Laws, Ordinances, and Regulations.

Date Issued: 04/17/2012 Pin: 0493-04-5262-
Location: 2850 TIGERSWAN DR Subdivision: TIGERSWAN INC.
Lot: TRACT A ECOBANK (1521.69 ACS) Lot:
Owner: SOUTHERN PRODUCE DISTRIBU
Address: PO BOX 130 Phone: 590-9500
FAISON, NC 28341
Contractor: SOUTHERN PRODUCE DISTR. License: OWNER
Address: PO BOX 130 Phone: 910-690-9500
FAISON, NC 28341 Phone: 910-267-0011

Structure: Commercial Type:Improvement: Other Occupancy: BUSINESS
Construction Type: No of stories:
Heated (Sq. Ft.): Unheated: Total Sq.Ft:
Area: (Sq. Ft.):First Floor: Second Floor: Third Floor:
Water: Sewer:
Zoned as: A1 Set Backs: Front: * Rear: * Left: * Right: *
Fees:

Total Fees: \$50.00 Work Value:

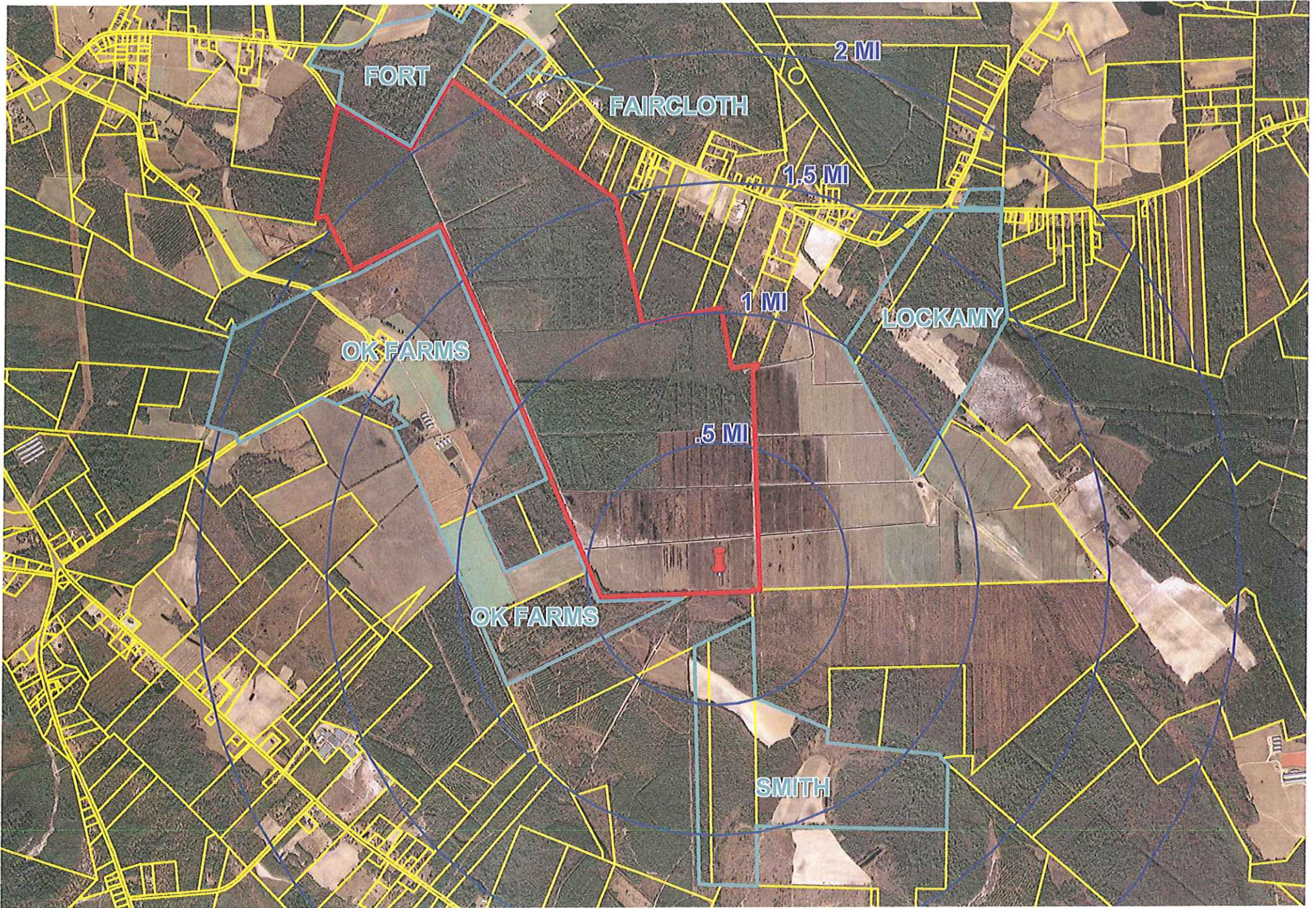
OUTDOOR RECREATION AMUSEMENT
TO BE SITED IN ACCORDANCE WITH APPROVED SITE PLAN AND ALL CONDITIONS OF
APPROVAL- CASE # 10-058

TO BE SITED AS PER PLOT PLAN

All work will comply with the NC State Bldg. Code & all other applicable state & local laws, ordinances & regulations. The Inspection Dept. shall be notified of any changes in the approved plans or work as submitted. It is the permit holders responsibility to request all required inspections & ensure approval prior to continuing work.

Without further notice from this Dept., this permit will become void if work is not started within 6 mths. from issuance or if the work is discontinued for one year as determined by no inspection activity. These time periods are superseded by time limitations set by County ordinance and/or Code Enforcement Actions.

Call before you dig - 1-800-632-4949. A \$25 processing fee shall be charged for all returned checks. (NCGS25-3-506)

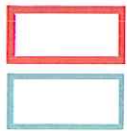
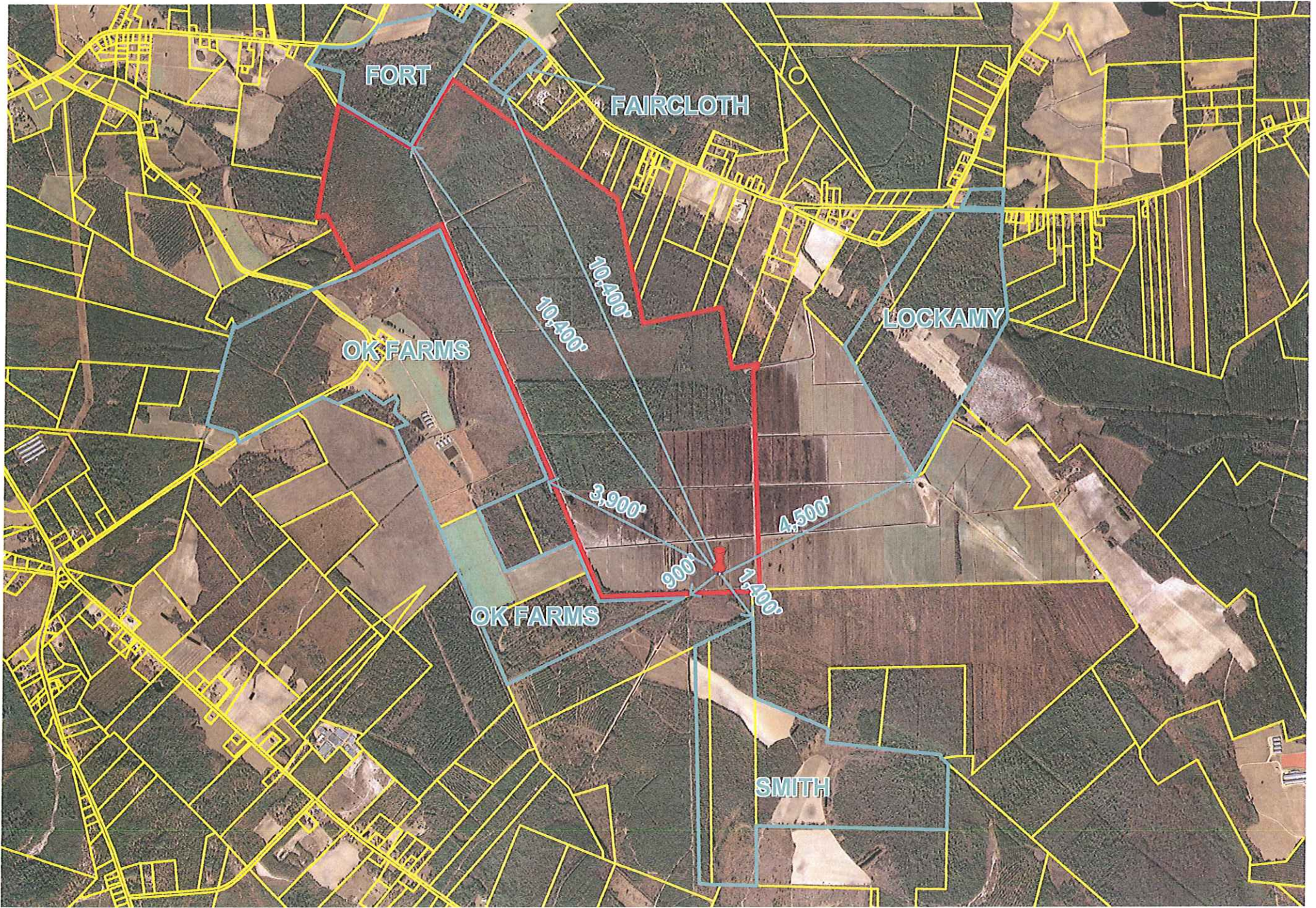


TIGERSWAN, INC.

APPELLANT PROPERTY

AERIAL PHOTO
CASE: P12-08-C





TIGERSWAN, INC.

APPELLANT PROPERTY

AERIAL PHOTO
CASE: P12-08-C



TO THE CUMBERLAND COUNTY (NORTH CAROLINA) BOARD OF ADJUSTMENT:

I (We), the undersigned, hereby submit this application, and petition the County Board of Adjustment to consider my (our) appeal as described below. In support of this application, the following facts are submitted:

*TigerSwan Training Collaboration Center Property
2850 Tigerswan Drive*

1. Address of Property (if request is site specific): Site Plan Case No. 10-058
3. Location of Property (if no address assigned): Zoning permit no. Z-12-149289
(Doe Hill Rd.), Southeast of NC Hwy 210 S
4. Parcel Identification Number (PIN #) of subject property: 0493-04-5262
(also known as Tax ID Number or Property Tax ID)
5. Acreage: 978.4 Frontage: N/A Depth: N/A
6. Water Provider: Well N/A PWC N/A Other (name) N/A
8. Septage Provider: Septic Tank N/A PWC N/A
9. Deed Book 05968, Page(s) 00118, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
10. Existing use of property: TigerSwan Training Collaboration Center (Operating Illegally)
11. Do you own any property adjacent to or across the street from this property?
Yes No If yes, where? See page 4's
13. Has a Notice of Violation been issued on this property? Yes N/A No N/A
If yes, Violation Case No.: _____ Date: _____
(Attach a copy of Notice of Violation)
14. Provision of County Zoning Ordinance on which appeal is based: See Attachment A
15. Brief explanation of basis for appeal (attach additional sheets if necessary): See Attachment A

The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application.

Attachment A.

14. Provisions of Zoning Ordinance on which the appeal is based:

Section 203 ("Recreation, Outdoor," "Recreation, Outdoor (with mechanized vehicle operations)" and "Amusement Center"), Section 303, Section 403 ("Recreation/Amusement Outdoor" and "Recreation/Amusement Outdoor (with mechanized vehicle operations)") and Article XVI.

15. Brief Explanation of basis for appeal:

TigerSwan, Inc. ("TigerSwan") has proposed and has for the second time obtained Site Plan approval and a Zoning Permit for its "Training Collaboration Center" (the "TigerSwan Facility") in the A1 Zoning District in Cumberland County.¹ (copies attached). This approval was apparently based on the interpretation of the zoning administrator that the TigerSwan Facility should now be classified as "outdoor recreation/amusement, for profit and with mechanized vehicle operations," which is a permitted use in that district. This appeal challenges that determination. The TigerSwan Facility is not properly classified as "outdoor recreation/amusement, for profit and with mechanized vehicle operations" as that term is used in the Cumberland County Zoning Ordinance (the "Zoning Ordinance") and is not otherwise permitted in the A1 district. Thus, the determination of the zoning administrator should be reversed and the Board of Adjustment should hold that the TigerSwan Facility is not permitted at all in the A1 district and must be prohibited and its Site Plan and Zoning Permit revoked.

Moreover, despite the prior representations of the County Attorney, the zoning regulations at issue in this appeal were in effect as of the date of the County's first classification of the TigerSwan Facility as a "private school" in May 2010. Nonetheless, in May 2010, the County did not classify the use as "outdoor recreation/amusement for profit and with mechanized vehicle operations," and has, therefore, never taken the position at any time or before any court that the TigerSwan Facility should be permitted as "Recreation, Outdoor (with mechanized vehicle operations)." The current Site Plan, Zoning Permit and determination are in direct conflict with the County's previous position and the County has, in effect, admitted the TigerSwan Facility is not permitted as "Recreation, Outdoor (with mechanized vehicle operations)" by its previous determination, statements and conduct.

The North Carolina Court of Appeals held on February 7, 2012 that the TigerSwan Facility was not a "private school" under the Zoning Ordinance and that the TigerSwan Facility was not a permitted use in the A1 Zoning District. The interpretation at issue in this appeal is in direct conflict with the decision of the Court of Appeals and these Petitioners intend to pursue a civil action to enforce that decision, in addition to this appeal. This current appeal has been filed in an abundance of caution and Petitioners reserve all rights to challenge the County's decision to continue to allow the operation of the TigerSwan

¹ TigerSwan left blank the line on the Site Plan Submission Form which states "Use of Property (Be Specific)." However, it continues to operate and advertise the same "TigerSwan Training Collaboration Center" which the County previously classified as a school and which the Court of Appeals determined to be unlawful in the A1 district.

Facility in the A1 district in all available forums and to seek and recover their attorney's fees under N.C. Gen. Stat. § 6-21.7 and other applicable law.

EXCERPT FROM CUMBERLAND COUNTY ZONING ORDINANCE

Section 1604. Administrative Review. Appeals may be taken to the Board of Adjustment by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of an administrative official charged with the enforcement or interpretation of this ordinance thought to be in error. Such appeals shall be filed with the Board of Adjustment by notice specifying the grounds for appeal. Appeal shall be filed within 30 calendar days from the date of the action being appealed. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken, together with any additional written reports or documents, as the administrative official deems pertinent. The Board of Adjustment may after public hearing, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determinations as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

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STATEMENT OF ACKNOWLEDGEMENT

Regarding appearance before the Cumberland County 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 relative facts will be given under sworn testimony;
- If the petitioner or the petitioner's representative 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 request; and
- If the board's action is to deny the matter before them, the course of appeal to their decision will be that of Superior Court. Affected parties of the board's decision have 30 days from proper notification in which to serve notice of appeal.

The undersigned hereby acknowledge that the Planning and Inspections Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct. The undersigned further understands that the burden of proving their position regarding this appeal rests with the petitioner.

↓ RAE FORD B. Lockamy II Pin # 0493-68-8049
NAME OF TAX RECORD OWNER(S) (PRINT OR TYPE)

5509 Labrador Dr. Hope Mills N.C 28348
COMPLETE MAILING ADDRESS OF OWNER(S)

~~910-485-2761~~
HOME TELEPHONE #

910-818-7083
WORK TELEPHONE #

866-401-6507
FAX #

EMAIL ADDRESS

↓ Rafein J. Curvin Attorney
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

P.O. Box 86, Raleigh N.C. 27602
ADDRESS OF AGENT, ATTORNEY, APPLICANT

HOME TELEPHONE #

919-832-1515
WORK TELEPHONE #

919-836-8484
FAX #

EMAIL ADDRESS


SIGNATURE OF OWNER(S)

SIGNATURE OF AGENT, ATTORNEY
OR APPLICANT

SIGNATURE OF OWNER(S)

Upon submission the contents of this application becomes "public record."

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↓ FORT, Samuel D. AND wife DORIS M. (Pin # 0484-50-~~473~~⁰⁷²³)
NAME OF TAX RECORD OWNER(S) (PRINT OR TYPE)

6506 Ema Dr. Hope Mills, N.C. 28348
COMPLETE MAILING ADDRESS OF OWNER(S)

910-483-9296
HOME TELEPHONE # WORK TELEPHONE #

FAX # EMAIL ADDRESS

Robin T. Curwin Attorney
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Samuel D. Fort
SIGNATURE OF OWNER(S)

SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

Doris M. Fort
SIGNATURE OF OWNER(S)

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↓ Julia K. Faircloth (PIN# 0484-70-3754)
NAME OF TAX RECORD OWNER(S) (PRINT OR TYPE)

6504 NC Hwy 210 South Stedman, NC 28391
COMPLETE MAILING ADDRESS OF OWNER(S)

910-531-3051 HOME TELEPHONE # WORK TELEPHONE #

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Julia K. Faircloth
SIGNATURE OF OWNER(S)

SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

SIGNATURE OF OWNER(S)

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↓ OK Farms of Cedar Creek, LLC ^{PIN #'S} 0482-89-2567 / 0483-70-1760 / 0483-54-7593
NAME OF TAX RECORD OWNER(S) (PRINT OR TYPE)

4656 Cedar Creek Rd Fayetteville, NC 28312
COMPLETE MAILING ADDRESS OF OWNER(S)

910-484-8810 same
HOME TELEPHONE # WORK TELEPHONE #

FAX # EMAIL ADDRESS

Robin T. Currin, Attorney
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P O Box 86, Raleigh, NC ~~27602~~
ADDRESS OF AGENT, ATTORNEY, APPLICANT

919-832-1515
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919-836-8484
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SIGNATURE OF OWNER(S)

SIGNATURE OF AGENT, ATTORNEY OR APPLICANT


SIGNATURE OF OWNER(S)

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Parcel ID #: 0492-16-8922
0492-16-2717
0492-46-0315

X Arnold Drew Smith
NAME OF TAX RECORD OWNER(S) (PRINT OR TYPE)

X 11075 Broadwater Bridge Rd. Roseboro NC 28382
COMPLETE MAILING ADDRESS OF OWNER(S)

X 910 531-4004
HOME TELEPHONE #

910 850-7756
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EMAIL ADDRESS

X *Arnold D Smith*
SIGNATURE OF OWNER(S)

SIGNATURE OF AGENT, ATTORNEY
OR APPLICANT

SIGNATURE OF OWNER(S)

Upon submission the contents of this application becomes "public record."