

**Members:**

Vickie Mullins, Chairman  
George Lott, Vice-Chair  
George Turner  
Alfonso Ferguson Sr.  
Winton McHenry



**Alternates:**

Robert E Davis  
Nathan Galbreath  
Stacy Michael Long  
Alberta Ortiz  
Gregory Parks

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT**

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

TENTATIVE AGENDA  
AUGUST 18, 2016  
7:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, August 18, 2016, 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 JUNE 16, 2016 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. **P16-04-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN R5A RESIDENTIAL & R10 RESIDENTIAL DISTRICT ON 5.55+/- ACRES, LOCATED AT 3337 LEGION ROAD; SUBMITTED BY BREEZEWOOD CHURCH OF GOD OF PROPHECY OF NC INC (OWNER) AND BARBARA B. FELL (AGENT).
10. DISCUSSION
11. UPDATE(S)
12. ADJOURNMENT

**Members:**  
 Vickie Mullins, Chairman  
 George Lott, Vice-Chair  
 George Turner  
 Alfonso Ferguson Sr.  
 Winton McHenry



**Alternates:**  
 Robert E Davis  
 Nathan Galbreath  
 Stacy Michael Long  
 Alberta Ortiz  
 Gregory Parks

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT**

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

MINUTES  
 JUNE 16, 2016  
 7:00 PM

**Members Present**

Horace Humphrey  
 Vickie Mullins  
 George Lott  
 George Turner  
 Alfonso Ferguson Sr.

**Absent Members**

None

**Staff/Others Present**

Patricia Speicher  
 Betty Lynd  
 Hope Ward Page  
 Robert Hasty, Jr. (Assistant  
 County Attorney)

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

**A. ROLL CALL**

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

**B. OATHS OF OFFICE**

Mrs. Lynd, a notary public for Cumberland County administered Mr. Robert E Davis' Oath of Office.

**C. SWEAR IN STAFF**

Chair Humphrey swore in staff.

**D. ADJUSTMENTS TO THE AGENDA**

There were none.

**E. APPROVAL OF THE SEPTEMBER 17, 2015 MINUTES**

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

	<b>IN FAVOR</b>	<b>OPPOSED</b>	<b>ABSTAINED</b>
HUMPHREY	YES		
MULLINS	YES		
TURNER			YES
LOTT	YES		
FERGUSON	YES		

For the record: Mr. Turner abstained from the vote due to not being a board member

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

7. POLICY STATEMENT REGARDING APPEAL PROCESS

Mrs. Lynd read the policy statement.

8. PUBLIC HEARING(S)

- A. **P16-02-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 164 FOOT TOWER IN AN RR RESIDENTIAL DISTRICT ON 21.6+/- ACRES, LOCATED AT 6627 US HWY 301 S; SUBMITTED BY EDWARD DOUGLAS SEALEY, RUTH ELLEN SEALEY BARNES, CAROLYN DELORES SEALEY, BETTY JONES SEALEY, GLORIA C. SEALEY, JAMES H. PARRISH AND FAYE S. PARRISH REVOCABLE LIVING TRUST (OWNERS); AND LAURA GOODE, PENNINGTON LAW FIRM, LLC ON BEHALF OF CELCO PARTNERSHIP (AGENT).**

Betty Lynd read the case heading for Case No. P16-02-C

Mrs. Lynd reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material.

Mrs. Lynd directed the Board that if they are to make a motion, please make the motion subject to the conditions included in your packet, which the property owner and the applicant have already agreed to. Should you need help, behind the yellow tab in your binder is a worksheet that should help you make the motion.

CHAIR HUMPHREY: Please repeat your last statement.

MRS. LYND: In your binder behind the yellow tab is a worksheet to help you make your motions and I'm available for any questions. As well as there are speakers signed up if you would...

CHAIR HUMPHREY: There are staff people here. Are there people here to speak?

MRS. LYND: Yes, Sir. There a few speakers in favor including the law firm and applicant.

CHAIR HUMPHREY: Any question from any of the Board members?

MR. LOTT: None

CHAIR HUMPHREY: Ok, who is going to speak? We're going to get your name and get you sworn in please.

MS. GOODE: Okay.

CHAIR HUMPHREY: Are you representing the law firm?

MS GOODE I'm the attorney. Yes.

CHAIR HUMPHREY: Okay. Alright.

MS. GOODE: Okay. My name is Laura Goode. I'm with Pennington Law Firm. We represent Verizon wireless and their application for a special use permit. I'd like to thank the planning staff for all their help in compiling our application and getting it submitted. They've been very helpful in this process. Also here with me tonight are several people. Clark Davidson he the site acquisition specialist that worked for Verizon Wireless to find the location for the proposed facility, he is here to talk about that and answer any question you may have as well as to help explain the inability to collocate which is a requirement for the special use permit for the tower. Additionally we have Zlatko...Zlatko Bibic he is the RF engineer from Verizon Wireless he is here to talk about the network objective or the need for the tower as well as explaining an inability to collocate on an existing tower in the search area and answer any questions you may have about that. Also here tonight is Brandon Wills. He is with Tom Keith and Associates and he prepared the real estate and impact study that was presented as exhibit 15 to the application. He's here to talk about his report and his expert opinion regarding impact property values as a result of this use. Also here tonight are several of the property owners. They have come just to show their support for the tower. They are willing to answer any questions the board may have as well. At this time I would like to introduce into the record the application as filed with exhibits 1-15 as well as one piece of supplemental material which is the FAA letter which is a determination of no hazard from the FAA. We received that after the filing of the application. If may hand this to the clerk?

CHAIR HUMPHREY: Staff you have all that...Oh you are submitting it now. Okay. Alright

MS. SPEICHER: Would the board like us to pass it forward?

CHAIR HUMPHREY: Say that again...Didn't understand you.

MS. GOODE: So the application as filed with exhibits 1-15 as well as the supplemental letter from the FAA goes point by point through the zoning ordinance and how the proposed use will meet each requirement of the ordinance. I would be happy to answer any question you may have about that but in interest of your time , I was going to just hit the inability to collocate requirement because there is a tower within the search ring and then move forward to the board of adjustment findings of fact.

CHAIR HUMPHREY: Carry on.

MS. GOODE: So for the inability to collate we have the site acquisition specialist and the RF specialist here they will more fully go into detail, but just to forecast that evidence basically when Verizon wireless decides they need a new facility somewhere a search ring is issued. Basically in area where they are looking to set that facility in order to meet the network object for that facility. A site

and acquisition specialist goes out looks at properties in the area sees if there is the ability to collocate on an existing structure or whether a new tower will be required. There is one existing tower within the search ring however, pursuant to N.C.G.S. 153A-349.52 it's technically infeasible for us to collocate on that existing tower because collocation on that tower at the available height would not meet the network objective for the site, which is to provide additional capacity additional coverage and to offer capacity for an existing Verizon wireless site. And again this is consistent with the application material there is an inability to collocate statement exhibit 12 signed by Clark Davidson, and also a network objective statement that explains that fully, signed by Zlatko and they're both going to testify to that later and answer any questions you may have. Moving to the findings of fact that are required by the Board. The first finding of fact is that the use will not materially endanger the public health or safety if located according to the plan submitted and proposed. So, the tower or proposed facility will not endanger the public health. It will promote public health and it is a public necessity and there's a couple of ways that it is going to promote public health. First, it's going to help with the ability for first responders to respond to emergency phone calls in a couple of ways. There's a growing number of people in the Country and in Cumberland County who rely on wireless communication as their main form of communication. That becomes especially important in an emergency situation. Almost half of American adults and children live in wireless only households and so it's critical that they have access to wireless service in the area to make those important emergency phone calls. Additionally, first responders, police, EMS, fire fighters; they have mobile data terminals in their vehicles and having access to wireless service allows them to use those mobile data terminals in order to get information that would not otherwise be transmitted over radio if it's secure information or just voluminous information. It helps police officers make on the spot decisions because it gives them access to criminal records, if there is a warrant out, driver licenses and driving history, so it helps them make informed on the spot decisions. Also the proposed facility will not endanger the public health because it will meet all Federal, State and local laws including FAA and FCC requirements. It will be enclosed by a 10' high locked security gate. It meets all set back requirements. In the highly unlikely event of tower failure the fall zone will not cross any property lines or residential structures. Also we've provided as exhibit 9 a structural integrity letter which is registered engineering certification that the tower will be structurally sound, as designed. The second finding of fact by the board is that the use meets all required conditions and specifications. Again the application with exhibits 1-15 and supplemental material throughout point by point how the use will meet each of the required ordinance provisions. The third finding of fact is that the use will maintain or enhance the value of adjoining or abutting properties or that the use is a public necessity. I already discussed how it is a public necessity but we've also submitted a real estate impact study which is exhibit 15 prepared by Brandon Wills with Tom Keith and Associates. He is here again to briefly talk to you about his report and his expert opinion regarding the fact that there is not an anticipated negative impact to property values. The fourth finding of fact is that the location and character of the

use, if developed according to the plan that's submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent land use plan. In terms of being in harmony with the general area this is a largely rural and agricultural area which is a good place for siting of towers in the sense that it will not have visual impact to a lot of residents. We're not putting it in a subdivision, it's not gonna be in a downtown or a local historic area. So, kind of in a rural area so that it will reduce that impact to residents, while also providing the necessary coverage and capacities. It's also going to be sited on a large 21.6 acre parcel. It's going to be screened by a landscape buffer, as well as natural vegetation that's existing on the larger property. In terms of general conformity with the land use plans it's in conformity with the Cumberland County 2010 Land Use Plan, the 2030 Growth Vision Plan and the Southwest Cumberland Land Use Plan. Specifically the Southwest plan talks about how the Southwestern portion of Cumberland County has experienced a big increase in population growth based on census data and that growth is continued and expected to continue. When you have population growth especially with the increase and the amount of people using wireless service for both telephone and for data and internet usage, this facility will help to provide that increased and off load that increased demand for wireless service with the expected population growth that's in the plan. One of the 2030 Plan goals is to build a more diversified economy. This will help to allow for a more diversified economy because commercial businesses now days are wanting wireless service not only for their telecommunication but also for internet as well. It also will help promote another goal of the 2030 plan, which is to improve public safety services like I've already discussed. The site I spoke earlier about, one of the reason for this proposed new facility is to off load capacity for an existing Verizon wireless site that is in the area and it's called the Southview site. That site is located in an area which according to the Cumberland Plans, has experienced increase in population and is designed to have high density commercial development. Whenever you have high density meaning you're gonna have lots of people in a smaller area your demand for wireless is going to increase. With that increase in population and in a small area you're gonna need to have more wireless facilities to offload the capacity demands because each cell site only has the ability to process so many voice calls, process so many people trying to get on the internet. So this facility is going to provide that capacity offload which will result from the high density population that's projected in the plan and those ways is in conformity with the land use plans. I would be happy to answer any questions you may have.

CHAIR HUMPHREY: Okay. Please say there just a minute.

MRS. LYND: Excuse me Mr. Chairman.

CHAIR HUMPHREY: Okay. You got two questions?

MR. TURNER: Yes. Just probably simple ones.

CHAIR HUMPHREY: Excuse... okay one second...Mr. Turner just hold for one moment. You were saying something?

MRS. LYND: If you don't mind could you please note that the binder application has been accepted for the record for the minutes.

CHAIR HUMPHREY: Okay.

MR. TURNER: Did I understand you to say that there is some, lack of a better word, a pocket of no service, where this is going?

MS. GOODE: Sure, so there's... and Zlatko Bibic is going to be able to speak to that, because he is the engineer, but in a nutshell there is a gap in coverage. So this is going to help to fill in that gap in coverage, but there is also a need for increase capacity. There is an existing Verizon Wireless site; however, it is approaching its capacities to serve the demand in that area. In other words people are using the wireless service that is provided by that existing facility at a rate faster and at more volume than it is currently able to provide so there's two different reasons for this site including coverage.

MR. TURNER: Okay. So it actually constitutes a need. That was the question. I noticed in some of this also that this is a monopole tower and that it withstands winds of 100 MPH?

MS. GOODE: Yes.

MR. TURNER: And 30 mph winds with three quarters of an inch of ice. Is this, is that a standard thing? Is that standard?

MS. GOODE: Yes that uh...

MR. TURNER: It doesn't seem like, excuse me, I mean three quarters of an inch of ice, see we can get that and 30mph winds we can get that so...

MS. GOODE: Yes... So that I believe what you are referring to is the engineered statement which was exhibit 9 and that's a certification from an engineer. If you read in there it's talking about the structure Class II exposure category see topographic category I, in accordance with A-N-Z-I-A-222-G those are their standards.

MR. TURNER: So this is considered a standard type?

MS. GOODE: Correct.



MR. TURNER: Okay.

MS. GOODE: Correct.

MR. TURNER: Thank you.

MR. TURNER: That's all sir.

MRS. MULLINS: I have one question, is this going to be just strictly a Verizon tower? Because there are others that come through, I'm just asking.

MS. GOODE: Sure. No actually, so Verizon is going to own and operate the tower and is going to be the anchor tenant but it is going to be designed to allow for up to three future collocutors so if T-Mobile or AT&T want to come in ... yeah

MR. LOTT: So, it's sort of standard operating...?

CHAIR HUMPHREY: Yes, standard operating.

MR. FERGUSON: Excuse me. I have a question. My main question was what I'm reading here was you said you have three others in that area right?

MS. GOODE: Yes.

MR. FERGUSON: And they're about to reach their capacity. How much capacity would each one of them hold? I'm saying in that area we're trying to put, how far distance are we looking at so we don't in flood the area with towers.


MS. GOODE: Sure. I think I'm going to defer to my engineer on that. Because that gets a little bit more into what he does in that for legal perspective far more than I do.

MR. FERGUSON: Okay...Okay

CHAIR HUMPHREY: You can go ahead and state your name sir.

MR. BIBIC: Uh...my name is Zlatko Bibic. I am RF Engineer for Verizon wireless for the past fifteen years and while I was driving, I was thinking about how many sites I have designed and the number is around eight hundred. So towers are my life. So you heard a lot about capacity. I would like to explain what capacity means without using technical terms, okay. So, imagine I'm a bar owner and I opened a bar and it's very good, great service people start coming in and then after a while I'm facing the problem, I cannot seat anymore people, I'm reaching my capacity. Second



problem is the noise. The people who are already in the bar, they cannot hear each other because everybody talking at the same time. So I'm facing dilemma, where do I build another bar, do I build it far away or do I build it close? If I decided to build it very close, I will have luckily fifty percent of the customers going to the new location but I didn't fix the noise problem. The noise from that bar will still be here in the original bar. If I go too far away, the customers will say okay it's far away; I'm not going to drive over there, but I fix the noise problem. It's far away, it's isolated but nobody wants to go there. Reason I'm telling you this story it's to explain how tricky in my field of work is to decide where to build a new tower to provide capacity off load. Now I'm going to just talk little bit about technical terms. Each tower can support certain number of people and to provide in certain services. When I say that certain services mean for example data, data speeds, we as a Verizon, we're very proud to say that we can provide high speeds to most of our customers but when I have a lot of people under the same tower they share resources. Equipment can support so many people with so many data rates so now I have to build an off tower. (Note please: while describing Mr. Bibic used a RED, BLUE, and GREEN Color Wheel ) So this circle represents a typical tower. It has three zones; each tower divides area to 120 degrees and covers customers. So when we get to the point where I have this red zone here where this sector is exhausted, I cannot do anything physically to off load to help these people. I have to build another tower. Let's put green this way. So here comes that part of my story, if I build it too far away I am not helping these people over here. If I build it too close I'm having too much overlap which is the noise that I was mentioning before because energy of the two towers if overlapping it creates more problem than solutions. So there is this tricky distance that I have to come up with which is exactly 50 percent, so this tower is offloading fifty percent, of this one but without overlapping too much. Now let's talk about distances. Usually the tower on average covers between 2.5 to 3 miles. So moving half mile this way or this way is a lot in my field of work. So, when I decide using my software that I have at work I run the propagation coverage and I calculate, where is that magical distance that gives me fifty percent offload? So I'm utilizing maximum of resources here and maximum of resources here. So that's why I have selected the location that you see on this screen.

MR. FERGUSON: Thanks. Thank you.

MS. GOODE: Please allow Zlatko to briefly explain to y'all why the other tower in the search ring does not meet that network object if he could speak about it briefly.

MR. BIBIC: So, so we have that other tower that's let's say like this. Okay so if you can see I'm just trying to show it to you. It's only covering offloading portion of existing tower, and based on my calculation it's only twenty-three percent. So that's why that tower didn't meet my engineering objectives. Because twenty-three percent is not acceptable for us and she was also mentioning about

the additional coverage. Proposed tower provides additional coverage for the people that didn't have it before. And I had plots so...came from my software that I use it's really reliable and that's nutshell.

MR. FERGUSON: Thank you.

CHAIR HUMPHREY: Okay. Do we have anyone else that we need to hear from?

MRS. LYND: Mr. Chairman.

CHAIR HUMPHREY: Yes.

MRS. LYND: If we could have it for Hope's benefit if he doesn't mind spelling out his full name for the record so we have it correctly.

CHAIR HUMPHREY: Okay. Please spell your name to her.

MR. BIBIC: It's uh Z-L-A-T, as in Texas K-O; LAST NAME B-I-B-I-C

CHAIRMAN HUMPHREY: We didn't have any sign up in opposition did we?

MRS. LYND: No. Mr. Chair we did not. You have the sign-up sheet in front of you but no we did not.

CHAIR HUMPHREY: We did not. And the people here are letting the law firm represent them, is that correct?

MRS. LYND: Yes sir. The property owners are in attendance.

CHAIR HUMPHREY: Okay. So the property owners are in attendance. Okay. Alright.

MS. GOODE: May I also briefly have my expert on real estate impact just come and briefly and make a statement just to have that in the record.

CHAIR HUMPHREY: Do you have that in the package?

MS. GOODE: It is...however I just...want to... I'm going to be respectful of your time.

CHAIR HUMPHREY: Okay. Alright.

MS. GOODE: It's just for the record in case someone were to challenge us on the minutes.

CHAIR HUMPHREY: Go ahead.

MR. WILLS: I'll be quick.

CHAIR HUMPHREY: Thank you.

MR. WILLS: My name is Brandon Wills

ATTORNEY HASTY: Excuse me we need to get him sworn in. We're a little rusty we haven't been here in a while (Inaudible)

CHAIR HUMPHREY: Would you state your name sir address for the record please?

MR. WILLS: My name is Brandon Wills; W-I-L-L-S; my address is: 121 South Cool Springs Street, Fayetteville, NC 28301.

CHAIR HUMPHREY: Okay. You say I should swear him in to be sworn?

ATTORNEY HASTY: Yes, considering he will be testifying to the real estate impact.

CHAIR HUMPHREY: You have a Bible there?

MR. WILLS: Yes sir.

CHAIR HUMPHREY: Okay. Do you solemnly swear to tell the truth or affirm to tell the truth so help you God?

MR. WILLS: Yes sir.

CHAIR HUMPHREY: Continue.

MR. WILLS: My name is Brandon Wills. I am a North Carolina certified real estate appraiser. I work with Tom Keith and Associates here out of Fayetteville. We have been doing these damage studies for over ten years now and for this particular tower we studied the impact the proposed tower would have on the property values in the neighborhood and found that this tower will not be detrimental or injurious to the property values of the surrounding neighborhood. And I can answer any questions you might have about resume or the study itself. If you have any.

CHAIR HUMPHREY: I have none.

MRS. MULLINS: None.

MR. LOTT: None.

MR. FERGUSON: None.

MR. TURNER: Well, I'll ask one. I'm assuming the way you stated that, this is not just your opinion you have ...

MR. WILLS: Yes sir. Yes sir, we used the county GIS information plus MLS information and we did a buffering study. We plotted three different towers basically south of Elk road and studied the property values around. When we notice the property values trending upwards as you get away from the tower, then we would say that tower is diminishing the values of those homes close by. If we notice the property value staying level or fluctuating with no real correlation to the tower, then it is our opinion that this tower does not affect values. And from our study from what we found in this report here, that we presented to you, is that in none of the neighborhoods around there did we find any instances where the values increased as you went away from the tower.

MR. TURNER: And that was based on tax value?

MR. WILLS: Uh, no sir. That was based on MLS information.

MR. TURNER: Multiple Listings. Okay.

MR. WILLS: And so we looked at all the homes sales within half mile radius of the tower.

MR. TURNER: Okay. That's all I ask.

CHAIR HUMPHREY: Thank you. We have no further questions. Thank you.

MR. WILLS: Thank you.

CHAIR HUMPHREY: Okay and there's no other speakers, we can close this. They didn't want to speak they wanted be represented by the law firm. We didn't have anyone here that wanted to speak. You did go with the law firm is that correct? Okay, thank you. Just wanted to make sure we didn't leave you out in case you wanted to speak. Okay. We can close this in discussion members.

MR. LOTT: I believe we heard several of these cases and of course they've all been for the good for the community and enrichment of our lives on our cell phones that we can't do without.

MR. LOTT: I make the motion that we approve this application.

MRS. MULLINS: I second it.

MRS. LYND: Excuse me Mr. Chairman, if you will follow the findings of facts behind the yellow tab please.

CHAIR HUMPHREY: Can we go with the motion of the findings of fact or do we have to find the facts before they do the motion?

MRS. LYND: You incorporate them within the motion.

CHAIR HUMPHREY: We'll incorporate. What we are going to do here if it is okay with Mr. Lott. The attorney presented some findings of fact that look like came directly out of a book and hopefully we can incorporate those into this motion. And I hope they're in that package. Are they attorney?

MS. GOODE: Yes. Our narrative laid out roughly everything that I was talking about. We went point by point through each of the finding of facts in the narrative which is exhibit one of the application.

CHAIR HUMPHREY: So before you sit down, see if you could help us out here a little bit.

MS. GOODE: Sure.

MS. SPEICHER: Mr. Chair if you wish, the board could just incorporate the record as stated by Ms. Goode and then staff can complete the form for you.

CHAIR HUMPHREY: That's kind of what I was getting at. That's exactly where I was going. I want to make sure it was there so the staff would have it there.

MS. SPEICHER: Yes.

CHAIR HUMPHREY: Some assurances that it would be there if we tried to do this was going to be my next question.

MS. SPEICHER: We'll take it straight from her testimony.

CHAIR HUMPHREY: Any opposition, any?

MR. LOTT: No sir.

CHAIR HUMPHREY: Okay. We'll do it that way.

MRS. LYND: Yes, Mr. Chair.

CHAIR HUMPHREY: So now we carry the motion. All in favor? Yes. Unanimous.



MS. SPEICHER: And that's incorporating the attorney's comments.

CHAIR HUMPHREY: Right.

**Mr. Lott made a motion to approve the application as submitted based on the findings of fact, seconded by Ms. Mullins. The motion passed unanimously.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
HUMPHREY	YES	
MULLINS	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	

MRS. LYND: Mr. Chair if you desire you can excuse the property owners and applicants for that case. They do not have to stay for the rest of the meeting.

CHAIR HUMPHREY: I didn't hear you.

MRS. LYND: If you like to, you can excuse those parties interested in that previous case. They do not have to stay for the rest of the meeting if they don't desire to.

CHAIR HUMPHREY: Property owners, if the attorney was going to leave I figured the staff would leave. If I have to tell you, you can go home now.

CHAIR HUMPHREY: Are we ready for our next case?

MRS. LYND: Yes sir.

- B. **P16-03-C: CONSIDERATION OF A VARIANCE TO ALLOW A 30 FOOT REAR YARD SETBACK WHERE 35 FEET IS REQUIRED IN AN RR RURAL RESIDENTIAL DISTRICT ON .32+/- ACRE, LOCATED AT 4914 LION HEART LANE; SUBMITTED BY NEAL & CHRISTINA LOWERY.**

Betty Lynd read the case heading for Case No. P16-03-C

Mrs. Lynd reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material. Stated the property is also in the Hope Mills municipal area, but we received no objection from them.

CHAIR HUMPHREY: Okay do we have anybody here to speak on this, anybody?

MR. TURNER: What type of structure is this? I didn't get that.

MS. MULLINS: It's an awning.

MR. TURNER: It's just an awning.

(Inaudible)

MRS. LYND: I think that would be a better question for the applicant to answer if she would come to the board and speak.

CHAIR HUMPHREY: You may come up please and while you are there please give your name and address.

MS. LOWERY: Yep. Yes Sir. My name is Christina Lowery my address is 4914 Lion Heart Lane, Parkton, NC.

CHAIR HUMPHREY: Do I need to put her on an oath too?

ATTORNEY HASTY: Yes sir.

CHAIR HUMPHREY: Do you solemnly swear, promise and affirm to tell the truth nothing but the truth so help you God?

MS. LOWERY: Yes, sir I do.

CHAIR HUMPHREY: Alright.

MS. LOWERY: Yes sir, I already have...my house is a concrete slab house. It already has a preexisting 10 x 12 concrete pad at the back door. I just want an awning back there at the back because it gets hot back there and I've got the pool back there and rain is coming in my backdoor and I'm just trying to eliminate the sun and the rain from my back door.

CHAIR HUMPHREY: Okay. Anything else you want to say?

MS. LOWERY: No, sir.

CHAIR HUMPHREY: Can you hold there for just a moment so I do not have to call you back?

MS. LOWERY: Yes sir.

CHAIR HUMPHREY: Mr. Turner, question further?

MR. TURNER: No sir.



MS. MULLINS: No sir.

CHAIR HUMPHREY: You can sit down.

MS. LOWERY: Thank you.

CHAIR HUMPHREY: Nobody got any questions. I'm going to table this discussion.

MR. TURNER: I have no problem, I got a few questions on procedure and I don't want to really mess anything up so let's do this and we'll talk about it later.

CHAIR HUMPHREY: Okay. Okay, will it affect what we're getting ready to do here your procedure and what you want to discuss?

MR. TURNER: Well, I don't think so.

CHAIR HUMPHREY: Let's hear it.

MR. TURNER: I'm fairly... I mean this is my first time here since 1995. I was here in '95 and I just left the city's board of adjustment and was there for a long time, but the question I have, I think what and I don't want to cause trouble now. I think what y'all were expecting was, for us to make findings of fact on the last one that were actually stated is that not so... I mean it... I mean, we kind of came to a conclusion that we're all in agreement but we actually made no findings of fact.

ATTORNEY HASTY: Well, you incorporated what the attorney went through that she felt were the findings.

MR. TURNER: And it isn't necessary for us to bring those in our self?

ATTORNEY HASTY: No, not as far as the motion. You can just put those into those findings and the staff is going to take those out and put them in there.

MR. TURNER: Certainly don't have a problem with this and I don't think any of us do. One of the things we're expected to find for this variance, unless I'm wrong, is that she can make no reasonable use of the property without the variance? Has that changed?

MS. SPEICHER: That has changed ...Sir.

MR. TURNER: Okay. That has changed?

MS. SPEICHER The state statute that you are referring to has changed that to read an unnecessary hardship would result from strict application of the ordinance standards.

MR. TURNER So that's been somewhat relief from...

MS. SPEICHER: In state statute.

MR. TURNER: Okay that's fine, and I'm fine.

MS. SPEICHER: Yes Sir, it has.

MR. TURNER: I'm fine.

MS. SPEICHER: They have.

MR. TURNER: Without this awning, she would get a sunburn.

MS. SPEICHER: That was a part of the...don't hold me to it but, I think it was 1 ½ to 2 years ago the standard was relaxed by the state.

MS. MULLINS: and also... (Inaudible)...I know how it is. Your backdoor is probably getting rain right?

MS. LOWERY: Yes.

MS. MULLINS: So I mean...

MR. LOTT: The sad part is she got to get a permit.

(Inaudible)

CHAIR HUMPHREY: Okay so we will go on with the finding of facts here and let's see if we can get these done and they are located on a special use permit here and this is granting or denying variance, right? And we have a motion for approved everybody was in agreement right? We carry the motion.

MR. LOTT: I didn't hear a motion.

MS. MULLINS: I make the motion to accept her decision for a variance.

CHAIR HUMPHREY: Do we have a second?

MR. FERGUSON: Second.

CHAIR HUMPHREY: Okay we move to grant this variance.

**Ms. Mullins made a motion to accept the variance as submitted based on the findings of fact, seconded by Mr. Ferguson. The motion passed unanimously.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
HUMPHREY	YES	
MULLINS	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	

MRS. LYND: Excuse me Mr. Chairman we need to address the findings of fact in the motion.

CHAIR HUMPHREY: We are going to do that right now we are just getting the motion going. We all in favor said yes, everyone in favor yes, so alright so now we go to the findings of facts. The very first one here is the board conclusion that unnecessary hardship would result from the strict application of the ordinance. This board findings based on the following conditions...one it would protect her from the sun.

MS. MULLINS: That it will protect from the sun and rain.

MR. LOTT: Add value to the house.

CHAIR HUMPHREY & MS. MULLINS: Add value to the house.

CHAIR HUMPHREY: Anything else on that one? Okay let's move on down to number two. We got those Betty; do we need to restate them?

MRS. LYND: I have those noted.

CHAIR HUMPHREY: Okay thank you. It is the board conclusion that hardship results from conditions that are particular to the property such as location, size, topography based on the following hardship results...we can go right back to the one to prevent sunburn. We can almost go back and incorporate number one.

MS. SPEICHER: Possibly think about her statement about the water with the room.

MS. MULLINS: That's what I was saying the rain.

ATTORNEY HASTY: Elements.

MS. MULLINS: The hardship would be the elements, which limit conditions.

CHAIR HUMPHREY: Carry on to number three. The board's conclusion is that the hardship did not result from the actions taken by the applicant or the property owner. The applicant is trying to get some action here.

MR. TURNER: The hardship was basically created by the builder who built the house in the position that it's in on the lot.

MS. MULLINS: Very good Mr. Turner.

CHAIR HUMPHREY: Very good.

MR. TURNER: The hardship is peculiar to this property because of its position on the lot.

CHAIR HUMPHREY: We'll use it. Okay it is the board conclusion that required variance is consistent with the spirit purpose and intent of the ordinance such as public safety secured and substantial justice is achieved. These findings are based on the conditions listed above as well as the following. All of the above. Therefore, it is granted.

MS. SPEICHER: Maybe if you just add a little bit about the public safety. Maybe, possibly the fact that it's in the rear yard. There is no public passing through her rear yard.

MR. TURNER: I'll add to that there is no impact to public safety. It's in the back yard; the backyard backs up to a main road. It's a private area.

MS SPEICHER: Thank you.

CHAIR HUMPHREY: Please incorporate that into the motion.

MR. TURNER: Did we vote?

CHAIR HUMPHREY: We did. We approved it, accepted the findings of fact. Are we satisfied staff?

MRS. LYND: Yes Mr. Chair.

CHAIR HUMPHREY: Uh... You may leave if you want to.

MS. LOWERY: Thank you.

CHAIR HUMPHREY: It's been granted.

MRS. LYND: Mr. Chairman the next two cases on the agenda are both revocations of special use permits obtained in the past. The properties or one property at least is located in the right-of-way for I-295. I do have a presentation that I have prepared that I can run through but if it's the board's desire you can go ahead and vote on it.

CHAIR HUMPHREY: Board.

MR. TURNER: What prompted the revocation of this? Did someone come forth and ask for that or...

MRS. LYND: We do have the property owner and NC DOT because one case is in the right-of-way. We do have their acknowledgement that we're going to do this and their agreement for us to revoke.

MR. TURNER: But it started with the staff? Is that what you're saying?

MS. SPEICHER: It initially came from code enforcement.

MR. TURNER: Okay.

MS. SPEICHER: ...had requested and uh for the one site the one inside the interchange and then at that time we saw the adjacent... almost adjacent special use so we just added it on both just to kind of clear our records out while we were doing it.

MR. TURNER: So basically these were granted many years ago and now through changes that have happened just naturally it's basically in the public interest that they be revoked.

MS. SPEICHER: Yes sir, and if you'll look at the one for the public transformer for CP and L was approved in that general area but it was actually built with the second special use permit just north of that site. They also changed the location because of the right-of-way coming in for I-295.

MR. TURNER: So basically it's in public interest to revoke that so it won't come to play in the future when we're not paying attention.

MS. SPEICHER: Yes we're just cleaning it up. Or they could come back if they wish for a public hearing and apply for it.

MR. TURNER: I'm fine.

MS. MULLINS: And the property owners already know?

MS. SPEICHER: Yes. The property owners and all the adjacent property owners were notified including the DOT.

MS. MULLINS: Okay.

MS SPEICHER: The Raleigh Office DOT.

MS MULLINS: Yes. right.

MR. TURNER: Can I make a motion that we approve the revocation?

CHAIR HUMPHREY: Sure you may let's. Did you have anything? Sure you may.

MR. TURNER: I just did. That would be for both of them.

CHAIR HUMPHREY: Hold it just a moment before that. Do we have to go to the second one...we can't do that, can we?

MS SPEICHER: Go through the what?

CHAIR HUMPHREY: He said make the motion for both of them.

MR. TURNER: I said motion to revoke both of them.

CHAIR HUMPHREY: Do we have to do them individually?

MR. TURNER: We revoke both of them P15....

MS SPEICHER: Just for the record for Hope's sake if you would just state case numbers.

MR. TURNER: P13-C wait a min....

MS. MULLINS: P89...

MR. TURNER: P89-13-C; P78-15-C that both of those be revoked.

MS MULLINS: Second.

CHAIR HUMPHREY: Move to second both of those cases be revoked. Any questions? All in favor. Opposed; none. Motion carried.



**Mr. Turner made a motion to approve the revocation of P89-13-C and P78-15-C. Seconded by Ms. Mullins. The motion passed unanimously.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
HUMPHREY	YES	
MULLINS	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	

9. DISCUSSION/UPDATE(S):

a. APPROVAL OF CORRECTED 2016 DEADLINE SCHEDULE

CHAIR HUMPHREY: Down to you Betty approval of correspondence. Are we down to that point now?

MRS. LYND: Yes item 9A is the approval of the corrected deadline schedule we just had to change a few dates on it and for our records we need you to make a motion to adopt the corrected schedule that was provided in your packet.

CHAIR HUMPHREY: and you sent that out in the packet?

MRS. LYND: Yes.

**Mr. Lott made a motion to approve the corrected 2016 deadline schedule. Seconded by Mr. Ferguson. The motion passed unanimously. The motion passed unanimously.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
HUMPHREY	YES	
MULLINS	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	

b. ELECTION OF OFFICERS

CHAIR HUMPHREY: Is that next in line?

MRS. LYND: Yes sir, Mr. Chairman. Effective July 1<sup>st</sup> we would need a new chair and a new vice chair.

CHAIR HUMPHREY: Right. Right, to elect a new chairman and a new vice chairman and while I have this, I'll stop talking after you elect the new one. I'd like to just thank everybody for their support the experience that I've gained serving as chairman on the board and for my time on the board. It was very fulfilling for six years, so that has been a really, really long time. I think that this staff has enriched my life so kind and helpful. Patti is just one of the best persons I have ever met in my life. Thank you very much Patti and I'd like to the people for appointing me to this board. Mr. Hasty, he has been helpful them and I see him at other meetings, as county attorney. To the staff and the whole land section they have been good. The people who take the pictures of the land that come in and present it to us. The inspectors have all been very, very gracious and wholesome and I truly, truly appreciate having the opportunity to have served. It will go in one of my highlights of what I have done for my county. Now let's elect the officers.



**Mr. Turner made a motion to elect Ms. Mullins as new chairman. Seconded by Chair Humphrey. Ms. Mullins accepted. The motion passed unanimously.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
HUMPHREY	YES	
MULLINS	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	

**Ms. Mullins made a motion to elect Mr. Lott as Vice Chair. Seconded by Mr. Turner. Mr. Lott accepted. The motion passed unanimously.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
HUMPHREY	YES	
MULLINS	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	

Mrs. Lynd stated those positions will become effective July 1; however there is no meeting in July.

c. PRESENTATIONS

By Ms. Mullins to Chair Humphrey; Plaque for service from Board of Adjustments

Ms. Speicher stated to Chair Humphrey the staff would like to thank you for being so supportive to us and for teaching us and thank you. Certificates of Appreciation for: Mr. Nathan Feinburg, Mr. Joseph Decosta and Ms. Yvette Carson. Mrs. Lynd stated certificates will be mailed due to absence of the members.

10. ADJOURNMENT

**Chair Humphrey made motion to adjourn. Seconded by Mr. Lott. The motion passed unanimously. Meeting adjourned at 7:59pm.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
HUMPHREY	YES	
MULLINS	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	

**P16-04-C**  
**SITE PROFILE**

**P16-04-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN R5A RESIDENTIAL & R10 RESIDENTIAL DISTRICT ON 5.55+/- ACRES, LOCATED AT 3337 LEGION ROAD; SUBMITTED BY BREEZEWOOD CHURCH OF GOD OF PROPHECY OF NC INC (OWNER) AND BARBARA B. FELL (AGENT).

**Site Information:**

**Frontage & Location:** 630.00'+/-

**Depth:** 420.00'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** Yes

**Current Use:** Religious Worship Facility

**Initial Zoning:** R5A & R10 – November 17, 1975 (Area 4)

**Nonconformities:** No

**Zoning Violation(s):** No

**Surrounding Zoning:** North:RR, R10, R10/CU(Barbering), R6A, C1(P), C(P), C(P)/CUD(Ice house) M(P);

West: R10, R5A, C(P); East: R10, R6A, M(P); South: R7.5, R5A, R5

**Surrounding Land Use:** Residential, Condos, Janson & Co. Hair Designers, Private school & daycare, Centurylink substation, Nationwide Insurance

**2030 Growth Strategy Map:** Urban

**Southwest Cumberland Land Use Plan:** Medium and Low Density Residential

**Special Flood Hazard Area (SFHA):** No

**Water/Sewer Availability:** Served by PWC Water. Sewer available 200 feet to the south and 200 feet to the east.

**Soil Limitations:** No

**Watershed:** No

**School Capacity/Enrolled:**

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

**Average Daily Traffic Count (2012):** 7700 on SR1132 (Legion Rd)

**US Fish & Wildlife:** No objection

**Highway Plan:** The subject property falls within the U-2809B widening project. Right-of-way has already been acquired and the project, if not already, is close to completion. The subject property will not be impacted.

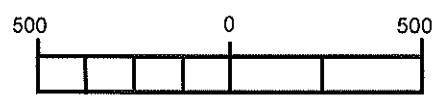
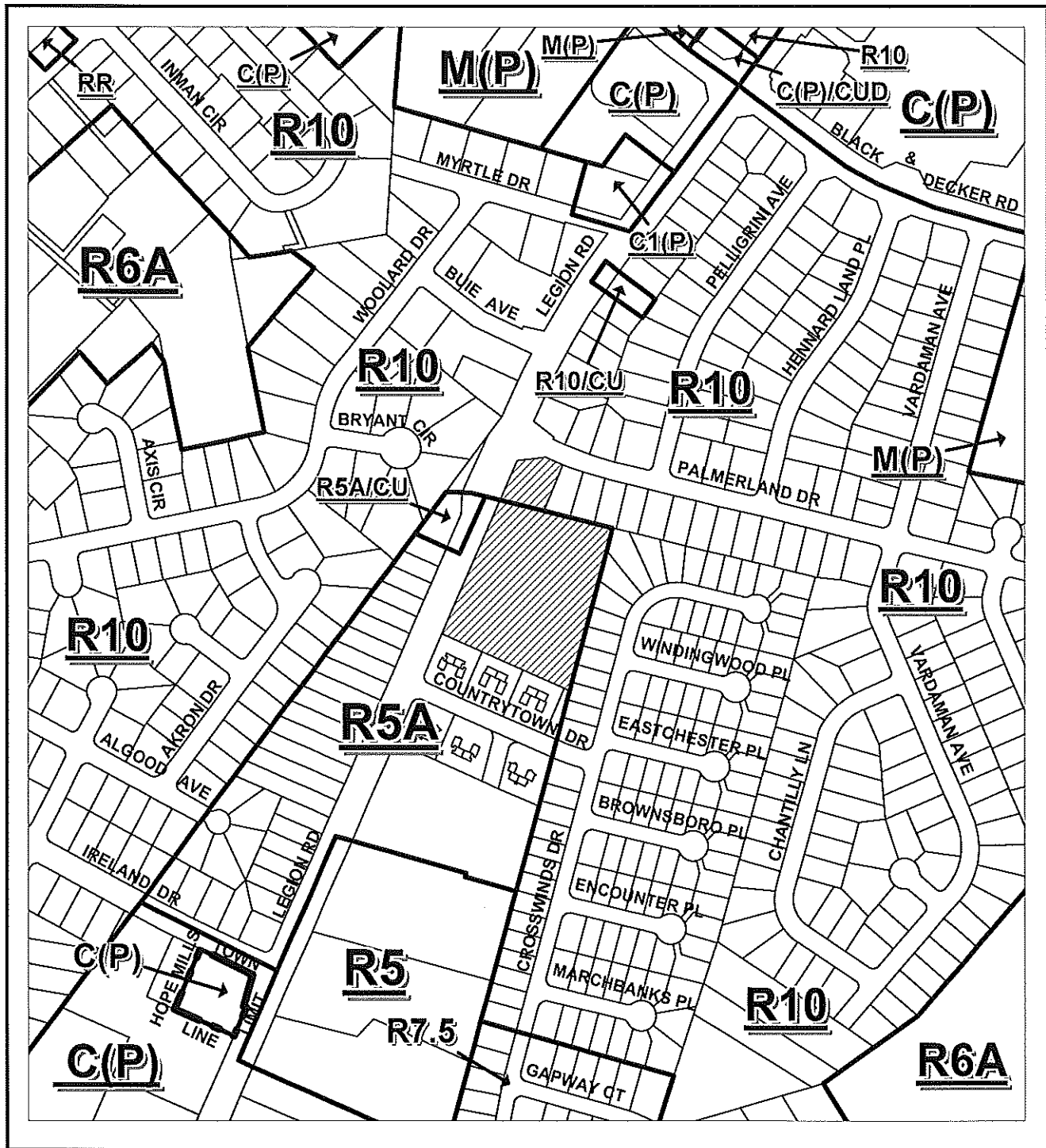
**Cumberland County Zoning Ordinance Reference:** Section 906. Day Care Facilities

**Notes:**

1. Contents of Application:
  - a. Proposed day care facility with operation hours of Monday-Friday, 6:00 a.m. - 6:00 p.m.
  - b. Day care facility will have six employees.
2. All documentation required by the ordinance is attached to the application or contained within the case file, and is available for review upon request.
3. The property owners and applicant have agreed to all conditions.

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

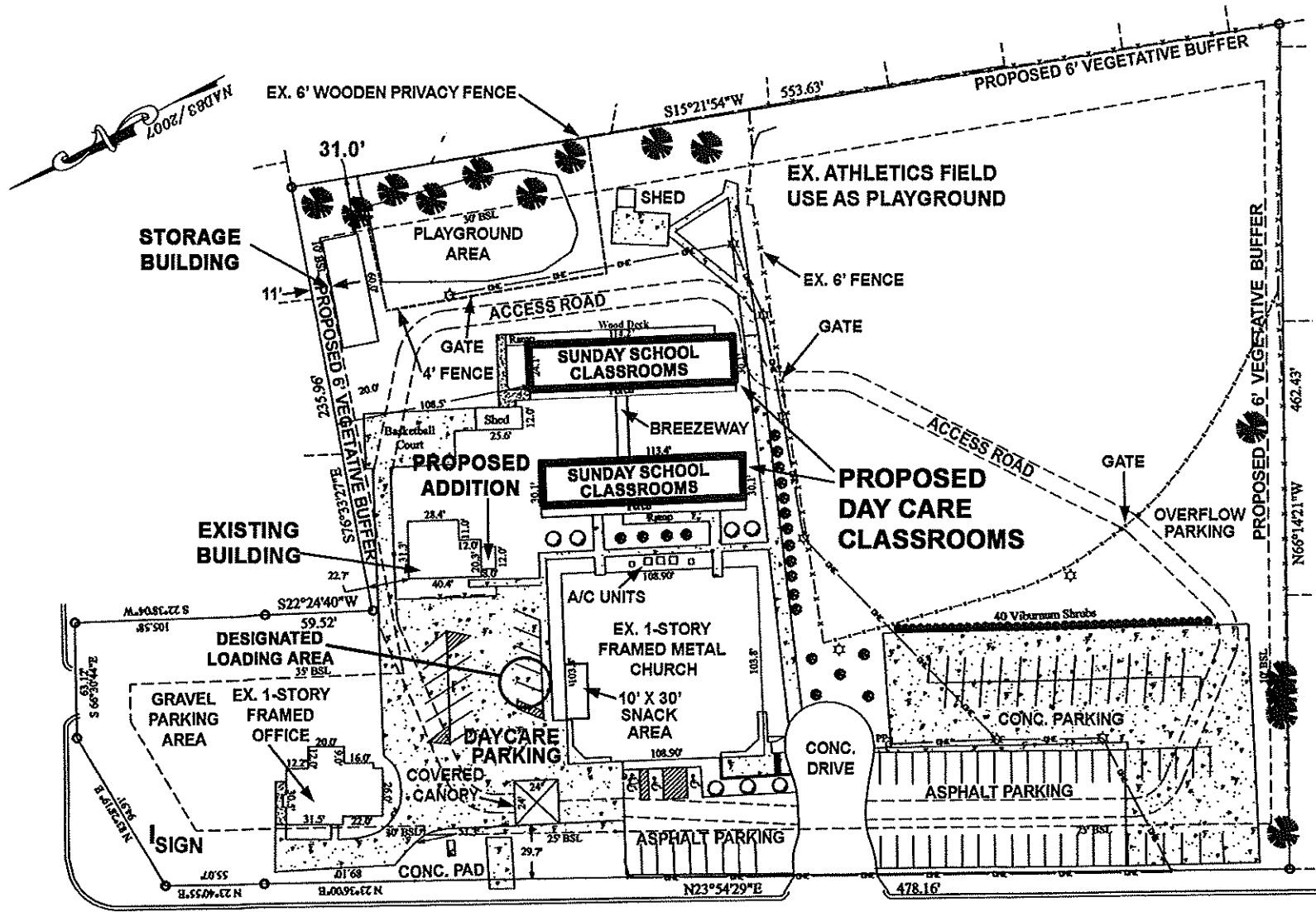
*A certified copy of the listing with the tax record owner(s) of the subject and adjacent properties, along with their tax record mailing addresses, is contained within the case file and incorporated by reference as if delivered herewith.*



SCALE IN FEET

## BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 5.55 AC.+/-		HEARING NO: P16-04-C	
ORDINANCE: COUNTY		HEARING DATE	ACTION
GOVERNING BOARD			



**LEGION ROAD (SR 1132) - 100' PUBLIC R/W**

**BOARD OF ADJUSTMENT  
SPECIAL USE PERMIT**

**REQUEST: TO ALLOW A DAY CARE FACILITY**

**CASE: P16-04-C ACREAGE: 5.55 AC ±**

**ZONED: R5A & R10 SCALE: NTS PARKING: AS SHOWN**

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

**BOARD OF ADJUSTMENT**

LOCATION OF PROPERTY: 3337 Legion Rd  
OWNER: The Breezewood Church of God of Prophecy of NC,  
ADDRESS: 3321 Legion Rd., Hope Mills NC ZIP CODE: 28348 JMC  
TELEPHONE: HOME (910) 425-7862 WORK 910-850-9566  
AGENT: Barbara B. Fell, Church Clerk,  
ADDRESS: 5105 Ponderosa Dr @ Foy, NC 28304  
TELEPHONE: HOME 910-425-3883 WORK (910) 850-9566  
E-MAIL: Fellbarbara B. Fell

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

- A. Parcel Identification Number (PIN #) of subject property: 0425-44-46-15  
(also known as Tax ID Number or Property Tax ID)
- B. Acreage: 5.55 Frontage: N23°54'29"E Depth: 200 (est)
- C. Water Provider: PWC
- D. Septage Provider: SEPTIC TANK
- E. Deed Book 08822, Page(s) 00668, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- F. Existing use of property: Church & Children's Ministry  
Worship Services
- 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.) Property is used for Church worship  
each Sunday, Monday & Wednesday; We are Requesting  
Special use for after school Program. Times are  
6:00 AM to 6:00 PM Mon-Fri. There will be  
6 employees. Signage is already in place and  
We have designated parking spaces.

The undersigned hereby acknowledge that the County Planning Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

✓ Breezewood Church of God Prophecy of NC, Inc  
NAME OF OWNER(S) (PRINT OR TYPE)

3337 Legion Rd Hope Mills NC 28348  
ADDRESS OF OWNER(S)

breezewoodchurch@aol.com  
E-MAIL

(910) 425-3883  
HOME TELEPHONE #

910-425-7862  
WORK TELEPHONE #

✓ Barbara B. Fell, Church Clerk & Trustee  
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

5105 Ponderosa Dr. Fayetteville, NC 28304  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

Fellbarb@aol.com  
E-MAIL

(910) 813-3069  
HOME TELEPHONE #

(910) 425-7862  
WORK TELEPHONE #

W. John V. Jr.  
SIGNATURE OF OWNER(S)

Barbara B. Fell, Clerk  
SIGNATURE OF AGENT, ATTORNEY  
OR APPLICANT

\_\_\_\_\_  
SIGNATURE OF OWNER(S)

The contents of this application, upon submission, become "public record."

**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) W. John Vine Jr

PRINTED NAME OF OWNER(S) William John Vine Jr

DATE 6-22-16



## Special Use Permit – Board of Adjustment

**DRAFT**

### **Ordinance Related Conditions**

(Day Care Facility w/ Existing Religious Worship Facility)

#### 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 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)

Note: Upon any upgrade in utilities affecting sewer and/or for any new development, the developer will be required to connect to the Public Works Commission's (PWC) public sewer system.

3. For all upgrades to the water system and/or new development, connection to public water is required, the Public Works Commission (PWC) must approve water plans prior to application for any permits. A copy of the PWC approval must be provided to Code Enforcement at the time of application for building/zoning permits. (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.

4. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
5. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environmental Quality. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
6. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environmental Quality (NCDEQ) 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 NCDEQ approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
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.
8. The developer may be required to obtain a driveway permit for construction of any new connection or alteration of any existing connection. If a driveway permit is required, a copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits. Permits MUST be secured prior to the change or alteration of existing or proposed property use. Failure to secure required permits prior to construction or change in property usage may result in the removal of the driveway or street connections at the property owner's expense. For additional information contact the Division 6 / District 2 office at the number listed on the bottom of this conditional approval.

Note: In the event the NCDOT driveway permit process alters the site plan in any manner, the copies of a revised site plan must be submitted for staff review and approved prior to permit application.

Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.

#### Site-Related:

9. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the R5A & R10 zoning district, in addition to the contents of the Special Use Permit application and site plan for the day care facility, must be complied with, as applicable.

Note: This conditional approval is restricted to the subject property being used for religious worship purposes with the proposed day care facility co-occupying the two structures currently used for "Sunday School Classrooms" and the day care office co-occupying the current religious worship office as denoted on the special use permit site plan. No other structure existing on the subject property is approved for day care use.

Note: The day care facility operation is limited to operating hours of 6:00 am to 6:00 pm, Monday through Friday only during those hours that the religious worship is not in service; six employees and a maximum of 50 children.

**Note: All conditions from site plan Case No. 08-175 which is the conditional approval of the religious worship facility office apply – see attached.**

10. All corner lots and lots fronting more than one street must provide front yard setbacks from each street.
11. This conditional approval is not approval of any structural changes or expansions to the existing freestanding sign. Prior to any changes to the freestanding sign, the developer is encouraged to contact Code Enforcement regarding the ordinance criteria. 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 Environmental Quality (NCDEQ) *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. Turn lanes may be required by the NC Department of Transportation (NCDOT).

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

15. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
16. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
17. All required off-street parking spaces are required to be a minimum of 9' x 20'; a minimum of two off-street parking spaces, plus one off-street parking space per employee is required for this development.
18. A minimum of two paved off-street loading/unloading spaces as well as a sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers is required.
19. 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.

**Advisories:**

20. The applicant is advised to consult an expert on wetlands before proceeding with any development.
21. The subject property falls within the U-2809B widening project. Right-of-way has already been acquired and the project, if not already, is close to completion. The subject property will not be impacted.
22. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.
23. 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.
24. 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 to serve the citizens of Cumberland County!*

**If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 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	<a href="mailto:ebyrne@co.cumberland.nc.us">ebyrne@co.cumberland.nc.us</a>
Code Enforcement (Permits):	Scott Walters	321-6654	<a href="mailto:swalters@co.cumberland.nc.us">swalters@co.cumberland.nc.us</a>
County Building Inspections:	Gary Faulkner	321-6648	<a href="mailto:gfaulkner@co.cumberland.nc.us">gfaulkner@co.cumberland.nc.us</a>
Fire Marshal – Emergency Services	Rodney Ward	321-6625	<a href="mailto:rward@co.cumberland.nc.us">rward@co.cumberland.nc.us</a>
County Engineer's Office:	Wayne Dudley	678-7636	<a href="mailto:wdudley@co.cumberland.nc.us">wdudley@co.cumberland.nc.us</a>
County Health Department:	Daniel Ortiz	433-3680	<a href="mailto:dortiz@co.cumberland.nc.us">dortiz@co.cumberland.nc.us</a>
Food & Lodging Env. Health:	Daniel Ortiz	433-3680	<a href="mailto:dortiz@co.cumberland.nc.us">dortiz@co.cumberland.nc.us</a>
Ground Water Issues:	Matt Rooney	678-7625	<a href="mailto:mrooney@co.cumberland.nc.us">mrooney@co.cumberland.nc.us</a>
PWC:	Joe Glass	223-4740	<a href="mailto:joe.glass@faypwc.com">joe.glass@faypwc.com</a>
Fayetteville Airport Director	Brad Whited	433-1160	<a href="mailto:bwhited@ci.fay.nc.us">bwhited@ci.fay.nc.us</a>
Fayetteville Planning:	Marsha Bryant	433-1416	<a href="mailto:mbryant@ci.fay.nc.us">mbryant@ci.fay.nc.us</a>
County Public Utilities:	Amy Hall	678-7637	<a href="mailto:ahall@co.cumberland.nc.us">ahall@co.cumberland.nc.us</a>

Corp of Engineers (wetlands):	Liz Hair	(910) 251-4049	<a href="mailto:hair@usacr.army.mil">hair@usacr.army.mil</a>
NCDEQ (E&S):	Leland Cottrell	(910) 433-3393	<a href="mailto:leland.cottrell@ncdenr.gov">leland.cottrell@ncdenr.gov</a>
US Fish & Wildlife Services	Susan Ladd Miller	(910) 695-3323	<a href="mailto:susan_miller@fws.gov">susan_miller@fws.gov</a>
Location Services:			
Site-Specific Address:	Ron Gonzales	678-7616	<a href="mailto:rgonzalez@co.cumberland.nc.us">rgonzalez@co.cumberland.nc.us</a>
Tax Parcel Numbers:		678-7549	
NCDOT (driveways/curb-cuts):	Troy Baker	486-1496	<a href="mailto:tlbaker@ncdot.gov">tlbaker@ncdot.gov</a>
Transportation Planning:	Joel Strickland	678 7622	<a href="mailto:jstrickland@co.cumberland.nc.us">jstrickland@co.cumberland.nc.us</a>
N.C. Division of Water Quality:	Mike Randall	(919) 807-6374	<a href="mailto:mike.randall@ncdenr.gov">mike.randall@ncdenr.gov</a>

Attachment: Case 08-175 Condition Sheet

cc: Marsha Bryant, City of Fayetteville



Lori Epler,  
Chair  
Cumberland County

Roy Turner,  
Vice-Chair  
Cumberland County

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



# COUNTY of CUMBERLAND

## Planning and Inspections Department

Thomas J. Lloyd,  
Director

Cecil P. Combs,  
Deputy Director

Walter Clark,  
Sara E. Piland,  
Cumberland County

Benny Pearce,  
Town of Eastover

Donovan McLaurin  
Wade, Falcon, & Godwin

REVISION: 10-06-09; 08-09-16

STAFF REVIEW: 12-03-08 PLANNING BOARD DECISION: N/A

CASE NO: 08-175 NAME OF DEVELOPMENT: BREEZEWOOD CHURCH (R5A & R10 SITE PLAN REVIEW)

MIA: FAYETTEVILLE (ADD OF DAY CARE OFFICE TO EXISTING RELIGIOUS WORSHIP FACILITY W/ OFFICE)

LOCATION: 3321 & 3337 LEGION ROAD ZONING: R5A & R10 (AOD)

PIN: 0425-44-4612

OWNERS / DEVELOPER: BREEZEWOOD CHURCH ENGINEER OR DESIGNER: GOODEN & ASSOCIATES, INC.

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. Upon any new construction affecting 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 Ordinance)
3. New development that will disturb one acre or more of land or is part of a larger plan that will disturb at least an 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.
4. For any new development, the developer must/may have to 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.
5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
6. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the site plan. The following are the minimum standards for the required landscaping of this site:
  - a. One large shade trees or two small ornamental trees within the front yard setback area;
  - b. Four shrubs are required in the building yard area;
  - c. Two large shade trees or five small ornamental trees are required within the parking area.

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and

- b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
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 R5A - AOD zoning district must be complied with, as applicable.
- 9. This conditional approval is not approval of permits for 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.)
- 10. 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)
- 11. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
- 12. The developer may be required to obtain a new 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. Permits MUST be secured prior to the change or alteration of existing or proposed property use. Failure to secure required permits prior to construction or change in property usage may result in the removal of the driveway or street connections at the property owner's expense. For additional information contact the Division 6 / District 2 office at the number listed on the bottom of this conditional approval.

**Note: In the event the NCDOT driveway permit process alters the site plan in any manner, the copies of a revised site plan must be submitted for staff review and approved prior to permit application.**

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

- 13. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of 41 off-street parking spaces is required for this development with a seating capacity of 205. (Note: If the seating capacity of the religious worship facility is over 205, five copies of a revised site plan must be submitted for review and approval prior to application for any permits. Seating for religious worship facilities is based on one off-street parking space for each five seats.)
- 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.

**Advisories:**

- 16. The developer should be aware that any addition and/or revision to this site plan may require an additional review and approval by the Planning & Inspections Department prior to submission of permits for any portion of this development.
- 17. The applicant is advised to consult an expert on wetlands before proceeding with any development.
- 18. 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.
- 19. The 20' x 60' structure located along the northern property and next to Lots 4 & 5 of the Westchester subdivision was approved as a storage building (only) on March 11, 2009. **(Note: If this building is to be used anything other than a storage building, the developer must resubmit a site plan for approval of the new use.)**

**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	<a href="mailto:ebyrne@co.cumberland.nc.us">ebyrne@co.cumberland.nc.us</a>
Code Enforcement (Permits):	Scott Walters	321-6654	<a href="mailto:swalters@co.cumberland.nc.us">swalters@co.cumberland.nc.us</a>
County Building Inspections:	Gary Faulkner	321-6648	<a href="mailto:gfaulkner@co.cumberland.nc.us">gfaulkner@co.cumberland.nc.us</a>
Fire Marshal – Emergency Services	Rodney Ward	321-6625	<a href="mailto:rward@co.cumberland.nc.us">rward@co.cumberland.nc.us</a>
County Health Department:	Daniel Ortiz	433-3680	<a href="mailto:dortiz@co.cumberland.nc.us">dortiz@co.cumberland.nc.us</a>
Food & Lodging Env. Health:	Daniel Ortiz	433-3680	<a href="mailto:dortiz@co.cumberland.nc.us">dortiz@co.cumberland.nc.us</a>
PWC:	Joe Glass	223-4740	<a href="mailto:joe.glass@favpwc.com">joe.glass@favpwc.com</a>
Fayetteville Planning:	Marsha Bryant	433-1416	<a href="mailto:mbryant@ci.fay.nc.us">mbryant@ci.fay.nc.us</a>
County Public Utilities:	Amy Hall	678-7637	<a href="mailto:ahall@co.cumberland.nc.us">ahall@co.cumberland.nc.us</a>
US Postal Service	Laricia McIver	(704) 393-4481	<a href="mailto:laricia.mciver@usps.gov">laricia.mciver@usps.gov</a>

Corp of Engineers (wetlands):	Liz Hair	(910) 251-4049	<a href="mailto:hair@usacr.army.mil">hair@usacr.army.mil</a>
NCDEQ (E&S):	Leland Cottrell	(910) 433-3393	<a href="mailto:leland.cottrell@ncdenr.gov">leland.cottrell@ncdenr.gov</a>
US Fish & Wildlife Services	Susan Ladd Miller	(910) 695-3323	<a href="mailto:susan_miller@fws.gov">susan_miller@fws.gov</a>
Location Services:			
Site-Specific Address:	Ron Gonzales	678-7616	<a href="mailto:rgonzalez@co.cumberland.nc.us">rgonzalez@co.cumberland.nc.us</a>
Tax Parcel Numbers:		678-7549	
NCDOT (driveways/curb-cuts):	Troy Baker	486-1496	<a href="mailto:tlbaker@ncdot.gov">tlbaker@ncdot.gov</a>
N.C. Division of Water Quality:	Mike Randall	(919) 807-6374	<a href="mailto:mike.randall@ncdenr.gov">mike.randall@ncdenr.gov</a>

cc: Marsha Bryant, City of Fayetteville

**OFFICIAL PRELIMINARY STAMP**  
CUMBERLAND COUNTY  
CASE NO: **08-175**  
Revision: 08-09-16

THIS PLAN APPROVED BY THE CUMBERLAND COUNTY PLANNING &  
INSPECTION DEPARTMENT ON: 12-3-08

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: 08-09-18

  
\_\_\_\_\_  
EMB  
SUPERVISOR, LAND USE CODES