

**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  
OCTOBER 20, 2016  
7:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, October 20, 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 AUGUST 18, 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):
  - **P16-05-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A KENNEL OPERATION IN AN R40A RESIDENTIAL DISTRICT ON 6.24+/- ACRES, LOCATED AT 1624 SEABROOK SCHOOL ROAD; SUBMITTED BY AARON & JULIA NEWMAN (OWNERS).
10. 2017 DEADLINE SCHEDULE
11. DISCUSSION/UPDATE(S)
12. ADJOURNMENT

**Members:**  
 Vickie Mullins, Chairman  
 George Lott, Vice-Chair  
 George Turner  
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 Winton McHenry



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**CUMBERLAND COUNTY BOARD OF ADJUSTMENT**

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

MINUTES  
 August 18, 2016  
 7:00 PM

**Members Present**

Vickie Mullins  
 George Lott  
 George Turner  
 Alfonso Ferguson Sr.  
 Winton McHenry  
 Robert E. Davis, Alternate, Non-Voting  
 Stacy Long, Alternate, Non-Voting  
 Nathan Galbreath, Alternate, Non-Voting  
 Gregory Parks, Alternate, Non-Voting

**Absent Members**

Alberta Ortiz, Alternate, Non-Voting

**Staff/Others Present**

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

Chair Mullins 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 the Oath of Office to: Mr. George Turner, Mr. Stacy Long, Mr. Nathan Galbreath, Mr. Gregory Parks and Mr. Winton McHenry.

C. SWEAR IN STAFF

Chair Mullins swore in staff.

D. ADJUSTMENTS TO THE AGENDA

There were none.

E. APPROVAL OF THE JUNE 16, 2016 MINUTES

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

|         | IN FAVOR | OPPOSED |
|---------|----------|---------|
| MULLINS | YES      |         |
| MCHENRY | YES      |         |

|          |     |
|----------|-----|
| TURNER   | YES |
| LOTT     | YES |
| FERGUSON | YES |

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mrs. Lynd read the policy statement.

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).**

Chair Mullins read the case heading for Case No. P16-04-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 desire to make a motion for approval please make the approval motion subject to ordinance related conditions in which the property owner has already agreed to.

MRS. LYND: I am available for any questions if you have any.

CHAIR MULLINS: Mr. McHenry do you have any questions?

MR. MCHENRY: No. I'm very familiar with the property so, been by there several times. No. I don't see anything that draws anything to my attention right now.

MRS. LYND: I do believe we have some speakers that have signed up.

CHAIR MULLINS: Yes. There are two that would like to speak. In favor is William ... and I do apologize, I can't read the last name.

MR. VINES: I can't read it either. It's Vines.

CHAIR MULLINS: Okay.

MRS. LYND: You can have him come forward and swear him in.

CHAIR MULLINS: What?

MRS. LYND: You can have him come forward and swear him in.

CHAIR MULLINS: Come to the podium there please. He's in favor of it. Okay.

MRS. LYND: You can swear him in, but he stated he would prefer to affirm.

CHAIR MULLINS: Okay. He wants to affirm. Okay. Do you swear to tell the whole truth and nothing but the truth so help you God?

MR. VINES: I affirm.

MR. FERGUSON: Affirm. He doesn't want to swear he wants to affirm

CHAIR MULLINS: Okay. Just state your name and address for the record.

MR. VINES: My name is: William John Vines Jr. I live at 3402 Davidson Drive, Fayetteville, NC 28306.

CHAIR MULLINS: Okay. Thank you. What would you like to say?

MR. VINES: Some of you guys I'm sure have been a part of our transition eight years ago. Actually almost nine years ago we moved down to the place that you see. We had a daycare facility across the road that had been in business for forty...forty or so years. I guess probably the best thing to say, we began asking ourselves if maybe our season was over? And Flaming Swords with no real estate agent, no signed papers, no sign outside bought our facility and they were not gonna to do afterschool care. Forty, at that time it was forty families were going to be displaced and seven people were gonna lose jobs and I didn't have the heart to do that and so we began to try to transition and work things out and so that we could move forward down there. And we have tried to comply with everything you guys have asked and I think we've done that and along with that I have something from Connie Smith. I was out of town today, you can have it. It simply says that there's no way that it will damage any of the real estate sales and anything else in the community by having it. And so the bottom line we're trying to help people. That's it.

CHAIR MULLINS: Okay.

MR. VINES: If y'all have questions. I don't know I've never done this. This is new to me.

CHAIR MULLINS: Mr. McHenry do you have any questions?

MR. MCHENRY: No I don't. I think it is rather straight forward. I have no questions. Done a very good job in putting it together.

MR. FERGUSON: You spoke on aftercare. So are you only doing aftercare here or are you going to do daycare and aftercare?

MR. VINES: No sir. Flaming Swords is doing a daycare, they took that on and I begged them to do that. For the sake of all the families and the people that had jobs. We are and our only intent and I don't mind putting that we only have one intent at this location, is to not allow these families to lose the facility and for us to continue to employ the ones that are currently employed. We're not wanting to get bigger, I don't foresee that happening, I meant we're set for fifty, we're not there yet.

CHAIR MULLINS: Mr. Lott.

MR. LOTT: No question.

CHAIR MULLINS: Mr. Turner?

MR. TURNER: Did I understand you to say the facility that was across the street was yours?

MR. VINES: Yes sir.

MR. TURNER: That you operated it and then someone came in and bought it.

MR. VINES: Yes Sir. In uh...probably around, the closing was in June. It closed in 30 days with no real estate agent or anything. It was, we choose to believe a God thing no real estate signs or anything, it kind of just happened. We felt like that was kind of the direction kind of an answer to prayer. That was the least of it and of the same token we have four of our own parishioners that are employed by that afterschool program and a couple of others. I just didn't feel like it was right and parents was begging us to stay open. You can talk about it with anybody I think our record is impeccable.

MR. TURNER: How many children do you have that would use the facility?

MR. VINES: Currently?

MR TURNER: Yes.

MR. VINES: We have twenty-eight. Twenty-eight.

MR. TURNER: Okay.

MR. VINES: And I will say this too. To comply with everything that we've had to, that y'all asked us to do or we've been asked to do, we've spent about twenty plus thousand dollars. I mean we believe in what we are doing and so I may talk too much.

MR. TURNER: Will you be hooking to the sewer there now, or it's not an issue. I just want to know.

MR. VINES: I think at some point we need, we would like to do that. Yes sir.

MR. TURNER: Okay.

MRS. LYND: Madam Chair, if we could just have for the record that you accept the real estate statement he passed around on to the record.

CHAIR MULLINS: Yes. Thank you.

MR. TURNER: Probably should note that's just an opinion. That's not an appraiser, that's just an opinion from a broker.

CHAIR MULLINS: Duly noted. Okay. Thank you.

MR. VINES: Thank you.

CHAIR MULLINS: Okay. Opposed.

MRS. LYND: Yes ma'am. You may call the next person.

CHAIR MULLINS: The opposed would be Sherri Mitchell.

MS. MITCHELL: Yes ma'am.

CHAIR MULLINS: Can you come to the podium please? Can you raise your right hand? Do you swear to tell the truth the whole truth, and nothing but the truth, so help you God?

MS. MITCHELL: I do.

CHAIR MULLINS: Can you state your name and address please?

MS. MITCHELL: My name is Sherri Mitchell, 579 Countrytown Drive, Hope Mills, NC 28348. Adjacent to the property, I have the following concerns in opposition to this. I wish no one ill-will. I have no ill motives intended. This is straight business. I think it would've been helpful if they had done a survey of the surrounding residents as to the impact this facility would have. My concerns are this is residential area it is not commercial business. I would see this as one step further to getting more and more commercial along residential area which I think will impact property value and use. I am concerned with increased noise levels cause it's currently quiet, compared to some past. I am concerned with increased traffic in the area. I am concerned with potential car accidents with the slowing down of traffic to get in and out of the entrance and it being so close to where people are trying to exit the community, especially with it being one-way. There's already people speeding down Legion Road now that it's two lanes. I'm concerned...with let's see. Okay covered the noise level; there was a noise level issue in the past with the church that was a little difficult to address. Again I have no ill-will I'm just concerned about these impacts. Again there is no actual survey as to impact on property values in a residential area. I think it will have an

impact and also see a potential for this to get larger. And most people in that area have not moved there to be next to a daycare. I have no ill-will towards any one, this is simply, just impacts that I foresee coming. High peak exit and entry areas for the neighborhood is the times people gonna be dropping off children or picking up children and its already been difficult there's already been close calls and there have been accidents in the past. And when you add the school buses when school starts and everything everybody trying to exit at one time, I do see a lot of concerns and again the increased noise levels is gonna be one of 'em.

CHAIR MULLINS: Okay.

MS. MITCHELL: And then essentially we're in a residential area this is not business.

CHAIR MULLINS: Right and there was already a...

MR. LOTT: Daycare across the road.

CHAIR MULLINS: Daycare across the road.

MS. MITCHELL: It was further down, but it was not heard in our area maybe because it was on the other side and it was smaller.

MR. FERGUSON: Can I see that slide, where you showed the businesses in the area please?

MRS. LYND: Yes

MR. TURNER: Just to clarify you live on Countrytown?

MS. MITCHELL: Yes.

MR. TURNER: So you're off Legion Road?

MS. MITCHELL: Yes. Further down.

MR. TURNER: What noise issues? Could you describe the noise you were talking about? I'm trying to understand noise from the church.

MS. MITCHELL: Past or potential current?

MR. TURNER: I'm sorry?

MS. MITCHELL: Past or potential future?

MR. TURNER: Well we can only predict the future. What was the past?

MS. MITCHELL: Well long time ago there was noises with the alarms going off...some kids were too loud.

MR. TURNER: Burglar alarm?

MS. MITCHELL: mmmhmm.

MR. TURNER: Okay.

MS. MITCHELL: Then when the church moved in there was some excess noise coming from the church.

MR. TURNER: What, what kind of excess noise? Describe that.

MS. MITCHELL: The bass, the boom. It came all the way from the back.

MR. TURNER: Oh the music. You had the music you heard.

MS. MITCHELL: That was the bass. Not the actual tones but the bass. Boom, boom, boom, boom and it came out from the back all the way across the baseball field and into the townhomes, which are adjacent to the property and the baseball field. There's only a chain link fence separating the properties. When trying to bring...

MR. TURNER: What time would you hear that bass? Roughly, I mean was it a daytime thing, was it...?

MS. MITCHELL: Oh yes, every Sunday.

MR. TURNER: Was it eleven o'clock at night or?

MS. MITCHELL: Every Sunday morning. 7:30 to 8:00 every morning until after 1:00 or 12:30 whenever the service ended, in between the two services.

MR. TURNER: Would you hear it after 8pm?

MS. MITCHELL: Not after 8pm, unless they were doing a special youth presentation during the week and they had that going. But eventually they did resolve that but it took quite some time and there was some reluctance.

MR. TURNER: Okay. Thank you. No, I don't have anything else.

CHAIR MULLINS: Mr. Ferguson?



MR. FERGUSON: Are these noise issues that you're bringing up, have you ever went to the church and spoke to them about some of the issues that you might have had? Did they do anything?

MS. MITCHELL: Yes, I did.

MR. FERGUSON: And what was the outcome of that from the church?

MS. MITCHELL: Uh truthfully my...the church was not receptive to put it kindly and I was treated negatively to put it kindly and then in time after prayer, 'cause I did pray to the Lord to deal with it. Eventually months later maybe about a year later, eight months to a year, it was finally toned down but it did take at least a year and a half, took me a year to even get to where I could try and present some of the concerns. And it wasn't to be disrespectful I never asked them to tone down their music just the base. The building was not set up for that and children are children. They're gonna play, they're gonna yell. Children are great, I like children. I love children, but once you get a group of children together and their outside playing and running around you're gonna have increased noise level and its residential area it's not set up for 30-50 children. And again you're gonna have increased traffic another concern. It's the step in my current view towards more commercialism in an area that was more residential and this is still zoned residential.

MR. LOTT: Betty would you go back to the picture of the highway.

MRS. LYND: The photos of the site.

MR. LOTT: Showing the actual highway itself.

MRS. LYND: Okay. This is Legion Road.

MR. LOTT: Is this directly in front of the church?

MR. VINES: Yes.

MR. LOTT: It's limited access or there's driveways off of this to all the property?

MS. MITCHELL: Mmhmm.

MR. LOTT: Well obviously that road was designed to handle a lot of traffic. For either now or in the future and that of course is going to create a lot of noise that's just the sound of progress I guess you can call it. The church music is once a week, I'm not sure how much noise a daycare would generate but I wouldn't think it would be very much, the sound of children playing. And the fact that you're the only one in the neighborhood that's here indicates that apparently it's not a great problem, although I can understand your view that it is. But I can also understand that due to the fact you're the only one here.

MS. MITCHELL: Well I understand that sir and I was hesitant to come but encouraged by a sister in Christ to come. Because of the concern because they had dealt with something recent, you know that was a while back that was similar. Again it's not to be negative and some people will just not stand up and my thought is I speak and then what happens is what happens.

MR. LOTT: I'm afraid that is what you're going to see in the near future along with this road being widen and improved like it is.

MS. MITCHELL: It was recently done.

MR. LOTT: It's probably going to turn into a boulevard type situation in the future. Maybe not the near future but that's what that road is designed for to handle a lot of traffic and where there is a lot of traffic you're gonna have businesses moving in because that's what they want they want the traffic and that's just inevitable.

MS. MITCHELL: Sometimes.

MR. LOTT: I do understand your dilemma.

MR. TURNER: Obviously that road is an issue or they wouldn't have turned it into one of those super highways.

MR. LOTT: Right.

CHAIR MULLINS: True.

MS. MITCHELL: There used to be a lot of accidents there.

MR. TURNER: Do you own your home?

MS. MITCHELL: Yes I do.

MR. TURNER: You do. Okay

CHAIR MULLINS: Any other questions?

MR. LOTT: I don't have anything else

CHAIR MULLINS: Okay, William can you step back up.

MR. VINES: Certainly.

MR. FERGUSON: Thank you.

MR. FERGUSON: My question to you is, what is the hours of your aftercare program? What would be the hours of your aftercare program?

MR. VINES: We open at 6am and when school starts other than the days that there are, like they're out of school and they'll need full, we offer twelve hours, six to six. But if school is in progress we take, we have a before and after. The before consists of maybe eight to twelve kids max that we take to school. The after school we come back about one we have a lady in office, we come back about one or so prepare the vehicles and go, and go pick up the children. And so they have 'til six o'clock to pick up their children.

MR. FERGUSON: It's like my church. I thought maybe you were longer. I thought maybe something different, something going on all day. Okay.

MR. VINES: Is that it?

CHAIR MULLINS: Okay. Thank you. You can sit.

MR. VINES: Okay. Thank you.

MR. LOTT: Ready for a motion?

CHAIR MULLINS: Yes. Let's make a motion.

MRS. LYND: Yes ma'am and if you need help addressing the findings of facts like I said there's the special use tab in your binder.

CHAIR MULLINS: Finding of facts that's what I'm looking for, I'm new guys, as Chair. Okay.

MR. TURNER: Could I ask one question, just to clear it up. Is there a maximum amount of children they would be allowed?

MR. LOTT: Yeah, fifty.

MRS. LYND: The applicant has written fifty children on the application.

MR. TURNER: Fifty.

MRS. LYND: Yes sir.

MR. TURNER: I probably missed that somewhere. Thank you.

CHAIR MULLINS: Mr. Ferguson is going to read.

MR. FERGUSON: It says facts relevant to the issuance of the special use permit. The Board of Adjustments has discretionary review in deciding whether to grant or deny a special use permit or land uses that cannot be adequately controlled by general zoning regulations. The board may authorize and set forth conditions when deemed necessary on the special use permit if in its judgment the public convenience and welfare will substantially served and appropriate use of a neighboring property would not be substantially or permanently injured. Special use because of special site or design requirements operating characteristics or potential adverse effects on surrounding properties and the neighborhood shall be permitted only upon approval by the board and in accordance with the four standards and conditions as set forth in the zoning ordinance of Cumberland County Article 15, well no I'm sorry...16 section 1606 as follows, I'm going to get my Roman numbers together, I've been out of school so long here. Okay, this will not, okay oh number one the use would not materially endanger the public health or safety if located according to the plan submitted and recommended. Case fact.

CHAIR MULLINS: There are no dangers to the public safety. Correct?

MRS. LYND: If you could just be a little more specific.

MR. LOTT: Has the applicant met all the requirements by the planning board?

MS. SPEICHER: It has to; it has to meet all four of the standards, yes sir.

CHAIR MULLINS: Okay.

MRS. LYND: The application does meet all the ordinance...

CHAIR MULLINS: It does. Okay.

MRS. LYND: ...standards but you would have to be specific to the site when you address each fact.

CHAIR MULLINS: Okay.

MRS. LYND: For example you know a daycare standard is that they have to be located on a major thoroughfare, which in this case the subject property is, so something more specific to the property.

CHAIR MULLINS: Okay.

MR. FERGUSON: In the standards here, we got here, on page 81 it says a daycare facility located in any residential or agricultural zoning district the following provisions must be complied with, the minimum lot size shall be 20,000 square feet. Do they meet those requirements?

MR. LOTT: Yes.

CHAIR MULLINS: Yes.

MR. FERGUSON: The required minimum setback shall be as following front yard 30 feet from any public or private street. Is that met?

MRS. LYND: Yes sir. All the standards in the ordinance are met.

MR. FERGUSON: Okay.

MRS. LYND: Yeah.

MR. FERGUSON: So we just gonna go and say they were met. You want us to just go down the lines.

MRS. LYND: Yes sir. You just have to address that the property will not materially endanger the public health or safety by using a specific example.

MR. FERGUSON: Okay. This said property would not endanger, you saying, the public use.

MRS. LYND: Public health or safety.

MR. FERGUSON: The public health and safety.

MS. SPEICHER: You can go with things such as DOT controls the access (INAUDIBLE) the site meets each of the ordinance standards which were written with the public health, safety and welfare in mind, this is the whole purpose of the ordinance.

CHAIR MULLINS: So P16-04-C does meet all the requirements for...

MR. LOTT: Daycare.

CHAIR MULLINS: ...the daycare that they are wishing to start.

MRS. LYND: Okay.

CHAIR MULLINS: The second one right?

MRS. LYND: Mmhmm.

CHAIR MULLINS: Two: the use meets all required conditions and specifications. All those specifications for the daycare have been met.

MRS. LYND: Yes ma'am.

CHAIR MULLINS: Three: the use will maintain or enhance the value of adjoining or abutting properties or that the use is a public necessity. I would say that the daycare would benefit...

MR. LOTT: The community.

CHAIR MULLINS: ...the community and the surrounding areas.

MR. TURNER: The inclusion of the daycare won't devalue anything.

CHAIR MULLINS: What was that?

MR. TURNER: You're addressing value, it won't devalue anything.

CHAIR MULLINS: Right, without any, anything against the properties.

MR. TURNER: Detrimental.

CHAIR MULLINS: Detrimental, nothing detrimental to the properties, to the surrounding properties.

MR. MCHENRY: Not negatively impact the value of the surrounding neighborhood.

MR. FERGUSON: It is a public necessity.

CHAIR MULLINS: Number four the location and character of the use is developed according to the plan as submitted and recommended will be in harmony with the area in which it is to be located and is general conformity with Cumberland County's most recent land use plan. It meets the specifications for the land use plans that are set forth and would automatically be in harmony with the community.

MRS. LYND: Yes ma'am that's the findings of facts. You can make a motion and vote.

CHAIR MULLINS: Okay. Need to make a motion.

MR. TURNER: Was that a motion?

MR. FERGUSON: Yes. I make a motion that we go ahead and vote on it. You want us to vote?

MRS. LYND: Yes. Just state, that you are incorporating the findings of facts that you just reviewed into your motion.

MR. FERGUSON: I make a motion that we take the information we just submitted and spoke on into the proposal and vote on it.

MRS. LYND: As well as make it subject to the conditions placed upon the application.

MR. FERGUSON: As well as make it subject to the conditions which they still have to meet the requirements.

MR. TURNER: I'll second that.

CHAIR MULLINS: All in favor?

**Mr. Ferguson made a motion to approve the application as submitted based on the findings of fact and subject to the required conditions, seconded by Mr. Turner. The motion passed unanimously.**

|          | <b>IN FAVOR</b> | <b>OPPOSED</b> |
|----------|-----------------|----------------|
| MULLINS  | YES             |                |
| MCHENRY  | YES             |                |
| TURNER   | YES             |                |
| LOTT     | YES             |                |
| FERGUSON | YES             |                |

MS. SPEICHER: Excuse me, Chair Mullins you may want to dismiss the audience.

CHAIR MULLINS: Okay we are going to have some discussion if you all would like to sit through it that's fine. You are free to leave if you so like to.

MS. MITCHELL: Can I ask a question, would it be possible to have a copy impact, which was an opinion I believe, that it's not going to be a negative impact on the surrounding property? It would be nice to have it.

CHAIR MULLINS: Yes. That's fine.

MS. MITCHELL: Thank you very much.

10. DISCUSSION:

CHAIR MULLINS: For our discussion, I don't know how you guys feel, but I would like to add on our agendas from now on an invocation and also the Pledge of Allegiance before, as soon as we start.

MR. FERGUSON: That's fine.

MR. MCHENRY: I agree.

MR. LOTT: Is this something we need to agree on and vote?

CHAIR MULLINS: You have to vote. Yes.

MR. LOTT: Okay. You say you can't make that motion but you want that motion made?

CHAIR MULLINS: Yes.

MR. LOTT: So moved I make that motion.

MR. FERGUSON: Second.

MRS. LYND: You need to vote on it.

**Mr. Lott made a motion to add an invocation on the agenda and the Pledge of Allegiance before the meetings. Seconded by Mr. Ferguson. The motion passed unanimously. The motion passed unanimously.**

|          | <b>IN FAVOR</b> | <b>OPPOSED</b> |
|----------|-----------------|----------------|
| MULLINS  | YES             |                |
| MCHENRY  | YES             |                |
| TURNER   | YES             |                |
| LOTT     | YES             |                |
| FERGUSON | YES             |                |

CHAIR MULLINS: Okay.

MR. LOTT: Thank you.

CHAIR MULLINS: Updates?

MRS. LYND: I do have one point under discussion. We did not receive any cases so we will not have a September Board of Adjustment meeting.

CHAIR MULLINS: Okay.

MRS. LYND: You all are free.

CHAIR MULLINS: Okay. Any updates?

11. UPDATE(S):

MRS. LYND: No ma'am unless Mr. Hasty has any.

MR. HASTY: I don't really have any update but I will tell you we are involved in the appeal of the Hampton Range case and in fact I finished the brief today and I'll clean it up tomorrow and get it out. So it will be several months before we hear anything, that's in the works.

CHAIR MULLINS: Okay.

MR. LOTT: Thank you.

MRS. LYND: Madam Chair before we adjourn the staff would like to just thank the alternates for coming out tonight and your service to the board in the future. Thank you for that.

CHAIR MULLINS: Yes. Thank you guys for coming out. Okay. Meeting adjourned.



MRS. LYND: Madam Chair we need a motion to adjourn and a second.

CHAIR MULLINS: I need a motion to adjourn.

12. ADJOURNMENT:

**Mr. Ferguson, Sr. made motion to adjourn. Seconded by Mr. Lott. The motion passed unanimously. Meeting adjourned at 7:55pm.**

|          | <b>IN FAVOR</b> | <b>OPPOSED</b> |
|----------|-----------------|----------------|
| MULLINS  | YES             |                |
| MCHENRY  | YES             |                |
| TURNER   | YES             |                |
| LOTT     | YES             |                |
| FERGUSON | YES             |                |

DRAFT

**P16-05-C**  
**SITE PROFILE**

**P16-05-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A KENNEL OPERATION IN AN R40A RESIDENTIAL DISTRICT ON 6.24+/- ACRES, LOCATED AT 1624 SEABROOK SCHOOL ROAD; SUBMITTED BY AARON & JULIA NEWMAN (OWNERS).

**Site Information:**

**Frontage & Location:** 450.00'+/-

**Depth:** 510.00'+/-

**Jurisdiction:** Cumberland County

**Adjacent Property:** No

**Current Use:** Residential

**Initial Zoning:** R40A– September 3, 1996 (Area 20)

**Nonconformities:** Yes, existing kennel without Board of Adjustment approval of a special use permit

**Zoning Violation(s):** None issued

**Surrounding Zoning:** North: A1, R40A, R30A, RR, R6A; West: A1; East: A1, R40A; South: A1, R40A, RR, R6A

**Surrounding Land Use:** Residential

**2030 Growth Strategy Map:** Rural

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

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

**Soil Limitations:** Yes: TR (Torhunta and Lynn Haven Soils)

**Watershed:** No

**School Capacity/Enrolled:** Seabrook Elementary School: 310/265; Mac Williams Middle School: 1270/1102; Cape Fear High School: 1450/1512

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

**Average Daily Traffic Count (2014):** 8600 on NC Hwy 210 S

**US Fish & Wildlife:** No objection

**Highway Plan:** Seabrook School Road is a local road with no road improvements/construction planned for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program.

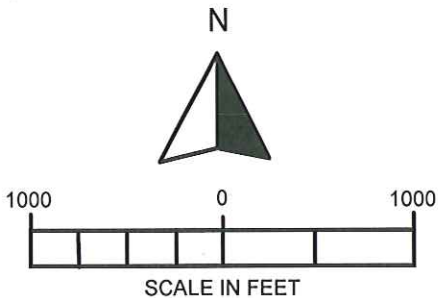
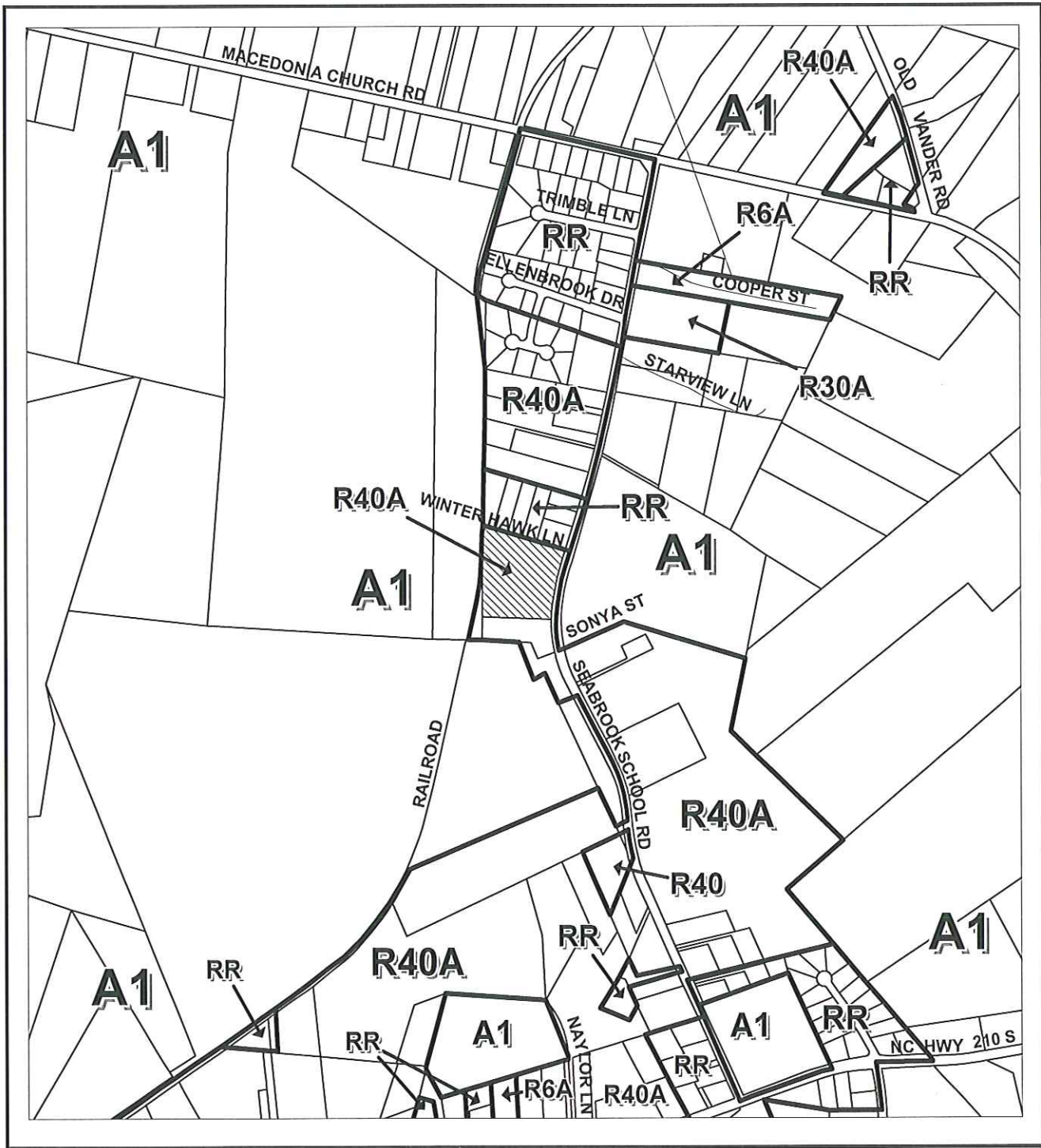
**Cumberland County Zoning Ordinance Reference:** Section 912. Kennel Operations

**Notes:**

1. Contents of Application:
  - a. Proposed kennel operation with operation hours of 7:00 a.m. - 7:00 p.m.
  - b. The kennel facility will have five employees and a maximum of 87 dogs.
  
2. **County Zoning Ordinance Section 203. Definition of a Kennel:** Any premises where four or more dogs which are five months old or older are kept permanently commercially or as pets, or temporarily housed/boarded if approved under Section 912.G, excluding pet grooming shops, veterinary clinics and veterinary hospitals. (Section 912)

**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.*



## BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 6.24 AC.+/-

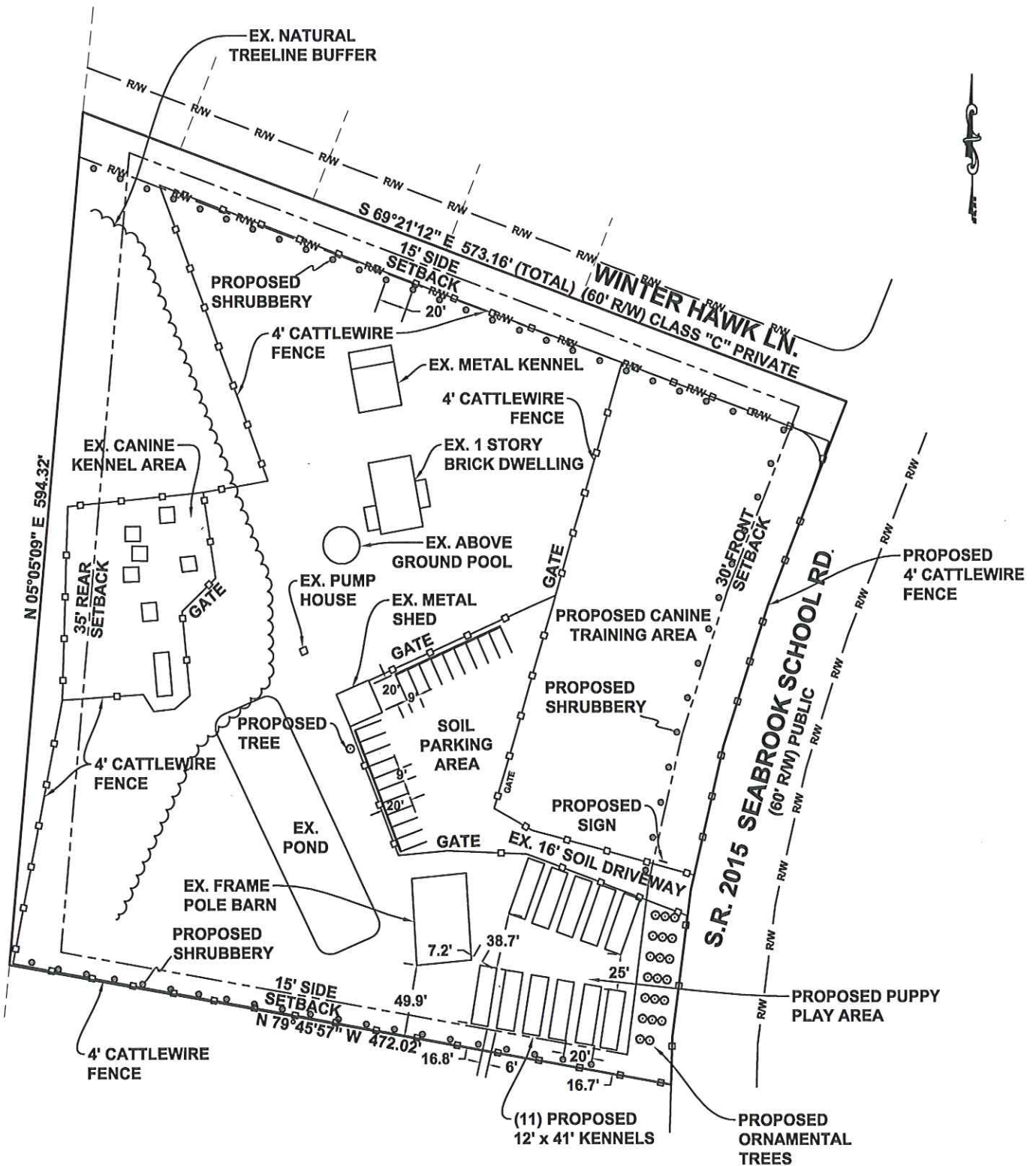
HEARING NO: P16-05-C

ORDINANCE: COUNTY

HEARING DATE

ACTION

GOVERNING BOARD



**BOARD OF ADJUSTMENT  
SPECIAL USE PERMIT**

**REQUEST: TO ALLOW A KENNEL OPERATION**

**CASE: P16-05-C      ACREAGE: 6.24±**

**ZONED: R40A      SCALE: NTS      PARKING: AS SHOWN**

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

## Special Use Permit – Board of Adjustment

**DRAFT**

### **Ordinance Related Conditions (Kennel Operation)**

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

1. Prior to application for any permits, the developer is required to submit a revised site plan for staff review and approval. The site plan must provide for the following:
  - a. Thirty foot setbacks from the right-of-way line of SR 2015 (Seabrook School Road) and Winter Hawk Lane, a 15 foot setback from the southern property line, and a 35 foot setback from the western property line are required.. This setback requirement must be observed for every part of the kennel operation, to include but not limited to: all fencing, runs, shelters, training areas, outside pen areas.
  - b. Chain link, farm or any other type of open fencing used for the kennel operation must not be located between the required buffer (vegetative and/or solid fencing) and the common property line with the adjacent property.
  - c. All required landscaping must be located between the right-of-way/property line and any fencing to qualify as landscaping for purposes of the kennel operation.
  - d. All areas and structures to be used for the kennel operation must be clearly delineated on the site plan and the developer must ensure the kennel operations only occur in the approved areas.
  - e. The plan must label the structures to be used as a “shelter” indicating that said structure(s) are fully enclosed on three sides, roofed and have a solid floor, to include listing the type of flooring.

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

2. 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.
3. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision and Development Ordinance)

**Note: This condition includes obtaining the Health Department’s approval for the method of removal of dog waste.**

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. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the site plan. Three copies of a revised site plan depicting the landscaping must be submitted to Land Use Codes. The following are the minimum standards for the required landscaping of this site:
  - a. Ten large shade trees or 20 small ornamental trees within the front yard setback area along SR2015 (Seabrook School Road); and
  - b. Six ornamental trees and 29 shrubs are required in the building yard area.

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
  - b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
8. The 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.
  9. A review of the data available to the Army Corp of Engineers indicates that jurisdictional waters are likely to be present on this property and therefore are likely to be impacted by the proposed project. However, without an official Jurisdictional Determination at the property, these findings cannot be confirmed.

A permit will be required for this project if construction will involve the temporary and/or permanent placement of fill in waters of the United States including wetlands. If a permit is required, the applicant will be required to avoid and minimize impacts to wetland/waters of the United States and may need to provide compensatory mitigation for unavoidable impacts.

10. The developer must obtain a commercial 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.**

**Site-Related:**

11. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the R40A zoning district must be complied with, as applicable. This conditional approval includes all references and notes on the application, approved site plan and any additional conditions imposed by the County Board of Adjustment.
12. All corner lots and lots fronting more than one street must provide front yard setbacks from each street.
13. This conditional approval is **not** approval of the permit for the proposed freestanding sign. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.)

14. 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)
15. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
16. In the event a stormwater utility structure is required by the NC Department of Environmental Quality (NCDEQ), 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.
17. Turn lanes may be required by the NC Department of Transportation (NCDOT).
18. 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.
19. A solid buffer must be provided and maintained along the southern and western property lines in accordance with the provisions of Sections 912.D and 1102 G, Buffer Requirements, County Zoning Ordinance. (Note: Chain link or open fencing cannot be used to satisfy the buffer requirement.)
20. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
21. All required off-street parking spaces are required to be a minimum of 9' x 20'. A minimum of eight off-street parking spaces is required for this development for the potential office area and employees. The site plan includes 19 off-street parking spaces.
22. 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.
23. The County noise regulations as enforced by the Cumberland County Sheriff's Office must be complied with.

**Advisories:**

24. 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.
25. An internal street system most likely will be required to serve any future divisions of the parent tract. In addition, any proposed division of the subject property cannot be considered without the property owner first receiving Board of Adjustment approval of the modification of the Special Use Permit.
26. 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.
27. The US Postal Service most likely will require this development to have centralized cluster boxes for postal service to each lot or unit. The developer is advised contact the US Postal Growth Coordinator for the Mid-Carolinas District to determine the appropriate location for the cluster boxes. If the cluster box location requires changes to the subdivision or site plan, a revised preliminary/plan must be submitted to the Planning & Inspections Department for review and approval.
28. The developer's subsequent application for permits upon receipt of these conditions of approval constitutes the developer's understanding and acceptance of the conditions of approval for this development.
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.

**Other Relevant Conditions:**

30. This conditional approval is contingent upon continued compliance with the County's Subdivision and Development Ordinance and Zoning Ordinance.

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

**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):**

|                                   |                     |                |  |
|-----------------------------------|---------------------|----------------|--|
| Land Use Codes Manager:           | Patti Speicher      | 678-7605       | <a href="mailto:pspeicher@co.cumberland.nc.us">pspeicher@co.cumberland.nc.us</a> |
| 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>       |
| Ground Water Issues:              | Matt Rooney         | 678-7625       | <a href="mailto:mrooney@co.cumberland.nc.us">mrooney@co.cumberland.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                 | Jonathan R. Wallace | (704) 393-4412 | <a href="mailto:jonathan.r.wallace@usps.gov">jonathan.r.wallace@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> |
| Street Naming/Signs:              | Diane Shelton       | 678-7665       | <a href="mailto:nameit2@co.cumberland.nc.us">nameit2@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>                         |
| NCDOT (subdivision roads):        | Earl C. Locklear    | 486-1496       | <a href="mailto:elocklear@ncdot.gov">elocklear@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>             |



**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

**DRAFT**

**2017**

### ***COUNTY BOARD OF ADJUSTMENT***

### ***DEADLINE/MEETING SCHEDULE***

#### **Application Deadline**

Wednesday, December 7, 2016

Thursday, January 12, 2017

Friday, February 10, 2017

Tuesday, March 14, 2017

Tuesday, April 11, 2017

Thursday, May 11, 2017

Tuesday, June 13, 2017

Wednesday, July 12, 2017

Tuesday, August 15, 2017

Wednesday, September 13, 2017

Thursday, October 12, 2017

Monday, November 13, 2017

Thursday, December 7, 2017

#### **Meeting Date**

Thursday, January 19, 2017

Thursday, February 16, 2017

Thursday, March 16, 2017

Thursday, April 20, 2017

Thursday, May 18, 2017

Thursday, June 15, 2017

Thursday, July 20, 2017

Thursday, August 17, 2017

Thursday, September 21, 2017

Thursday, October 19, 2017

Thursday, November 16, 2017

Thursday, December 21, 2017

Thursday, January 18, 2018

**NOTE: Generally, deadlines are set 24 working days prior to the Board meeting date.**