

**CUMBERLAND COUNTY
BOARD OF ADJUSTMENT (BOA) HEARING
May 20, 2021**

SUBJECT: BOA CASE # P21-01-C – Special Use
Concord Church Road Campground

REQUEST: Special Use Permit to allow a campground in an A1 Agricultural District on 40.58+/- acres, located on the north side of Concord Church Road, east of Cashwell Road

**** CONTINUED FROM THE APRIL 15 BOA HEARING ****

- | <u>Exhibits</u> |
|-------------------------------------------------|
| A. Site Location/Zoning |
| B. Use Matrix, Sec. 403, Zoning Code |
| C. Section 921, Campgrounds |
| D. Special Use Site Plan |
| E. Existing and Adjacent Uses |
| F. South Central Land Use Plan |
| G. Soil and Utilities |
| H. Special Use Permit |
| I. Sec. 1606 Applicant Response and application |
| Attachment: mailing list |

EXPLANATION OF THE REQUEST

Property Owner requests the BOA grant a Special Use Permit for a campground with sixty campsites supported by two bathhouses at the property illustrated in Exhibit "A". Twelve of the total campsites and one of the bathhouses are proposed to be installed in a second phase. Two residential buildings are located on the property, a single-family building at 780 sq. ft. and a manufactured home at 1,130 sq. ft.

A campground use located with an A1 zoning district must obtain a Special Use approval from the Board of Adjustment, per Section 403, County Zoning Code. A campground use for camp sites and recreational vehicles falls under the Use Matrix category of "Campground/RV Parks", as shown in Exhibit "B".

Pursuant to the County Zoning Code, a "Campground/RV Park" is defined as: "Land upon which shelters (such as tents, cabins/open air cabins, travel trailers and recreational vehicles) are erected or located for temporary occupation by transients and/or vacationers. They may include such permanent structures and facilities as are normally associated with the operation of a campground. (Section 921 [Zoning Code])"

A Special Exception for a campground in an A1 zoning district must comply with the requirements set forth in Section 921 of the Zoning Code. Refer to Exhibit "C" for the requirements set forth in Section 921. The applicant's proposed special use site plan appears in Exhibit "D".

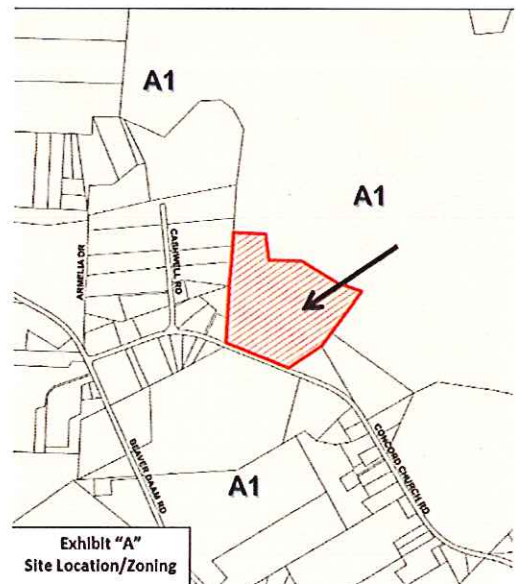
PROPERTY INFORMATION

Owner/Agent: Michael D Joyal and Marie Joyal and Judith A. Murach/ Alex Amavizca (Agent)

Address/Location: 7715 Concord Church Road (Exhibit A), approximately 2.5 miles southeast of the Town of Stedman and approximately a mile west of the Sampson County line.

REID #: 1405106920000

Parcel Size: 40.58 acres. Frontage along Concord Church Road is approximately 820 feet in length.

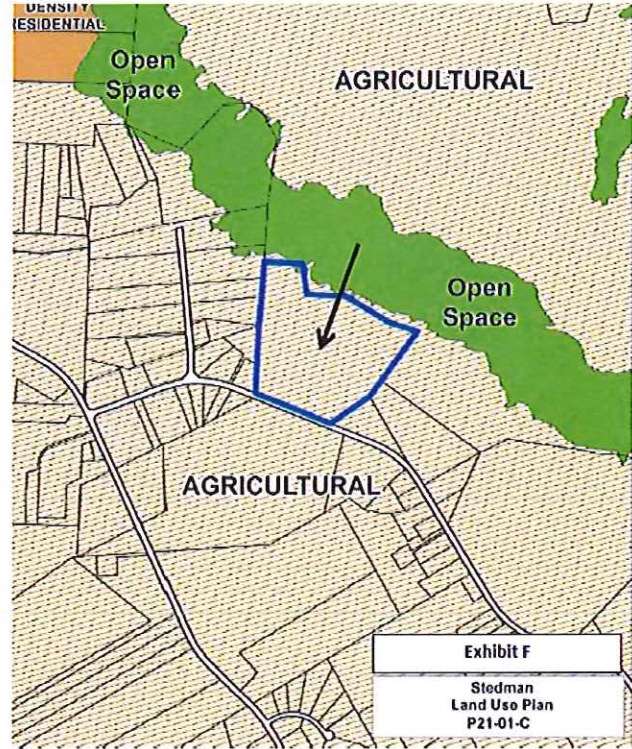
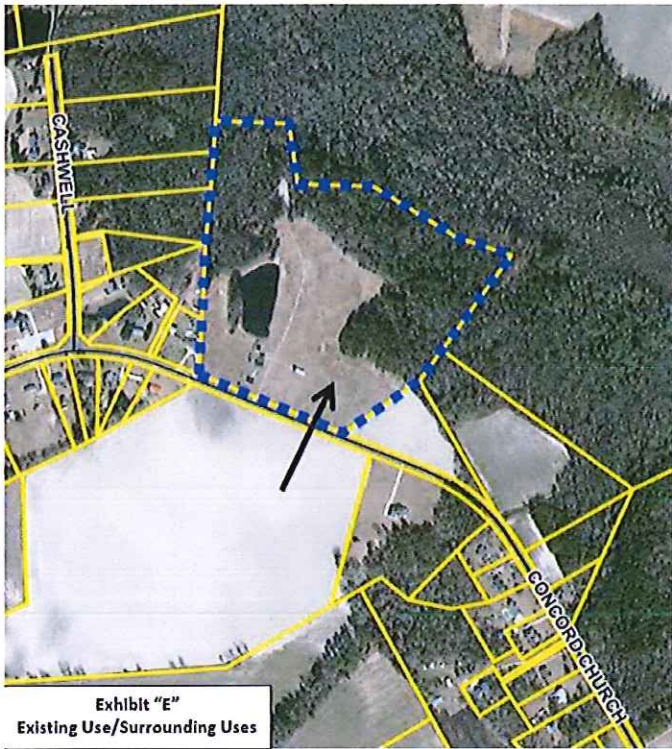


Existing Land Use: The subject property currently has two residential buildings comprised of a 780 sq. ft. single family home with a 1,380 sq. ft. detached "game room" and a 1,130 sq. ft. manufactured home.

Zoning: A1 Agriculture (Refer to Exhibit "A")

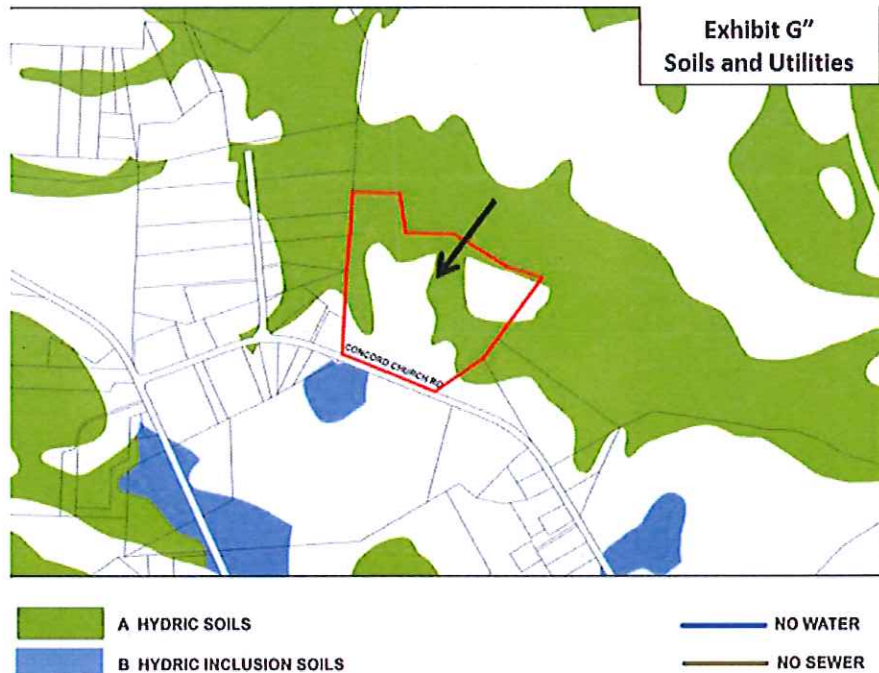
Surrounding Land Use: Agricultural uses and single-family homes are the predominant land uses abutting the property and occurring along Concord Church Road, as shown in Exhibit "E".

Comprehensive Plans: The 2030 Growth Vision Plan designates this parcel for "Rural Area". The Stedman Area Land Use Plan (2020) designates this parcel for "**Agriculture**", as illustrated herein as Exhibit "F".



Other Site Characteristics:

The property is not within a watershed area but a small portion of the property at the northwest corner is within a Special Flood Hazard Area, which does not appear to be near the campground site. Portions of the property contain hydric soils, as shown in Exhibit "G", particularly at the northwest and east central areas of the property.



IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

Utilities: This property is currently served by private well and septic. This site is not located within a water or sewer district.

Traffic and Streets: The subject property sits along Concord Church Road, a two-lane local road which is not located in the FAMPO planning area. The property fronts and accesses Concord Church Road.

Schools Cap/Enroll: The proposed campground will function only to serve as temporary habitation and used for travel, vacation, and recreation purposes. If used as intended, the campground will not have an impact on student enrollment at public schools.

- Stedman Elementary: 300/275; Mac Williams Middle: 1270/1076; Cape Fear High: 1425/1400

Emergency Services: This request has been reviewed by the Cumberland County Fire Marshal's Office. The Fire Marshal has indicated that the internal service road needs to have a minimum width of twenty feet.

Special Districts: This property is not located within the Airport Overlay District or within five miles of Ft. Bragg military base.

FINDINGS OF FACT

The proposed Special Use Permit is provided in Exhibit "H".

Pursuant to Section 1606.C. Special Use Permits, Consideration of Application, the Board of Adjustment must establish a finding of fact for the following criteria to approve the special use:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended.
2. The use meets all required conditions and specifications.
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

Applicant's response to each of these criteria are provided within Exhibit "I".

MOTION

The BOA is requested to take action/motion based on the findings of fact, the Concord Church Road Campground Special Use Site Plan. Any motion to approve the special use includes approval of the Special Use Permit conditions and the Special Use Site Plan.

Proceeding: Quasi-Judicial hearing

**EXHIBIT B
PERMISSIBLE USE MATRIX (SECTION 403, ZONING CODE)**

SECTION 403 USE MATRIX

CUMBERLAND COUNTY ZONING ORDINANCE
P = PERMITTED USE
S = SPECIAL USE (Sec. 1606, Bd of Adjustment)
Z = CONDITIONAL ZONING (Art. V, County BOC)

LAND USES	ZONING CLASSIFICATIONS																						
	CO	A1	A1A	A40	A50A	A50	A50A	A5	A20	A20A	R1S	R7S	R6	R6A	P5	P5A	GL(P)	CL(P)	CL(P)	CL(P)	ML(P)	M(P)	
PUBLIC/COMMUNITY UTILITY STATIONS/SUBSTATIONS	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
PUBLIC UTILITY WORKS, SHOPS OR STORAGE YARDS (Sec. 918)		S																	P	P	P	P	P
PUBLISHING																						P	P
QUARRY (Sec. 919)	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
RADIO OR TELEVISION STUDIO ACTIVITIES ONLY																		P	P	P	P	P	P
RAILROAD STATION/OPERATIONS																					P	P	P
RECREATION/AMUSEMENT INDOOR (Sec. 920) conducted inside building for profit, not otherwise listed & not regulated by Sec. 924								P												P	P		
RECREATION/AMUSEMENT OUTDOOR (Sec. 920) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924	P	P	S	S	S	S	S	S	S	S	S	S								S	P		
RECREATION/AMUSEMENT OUTDOOR (with mechanized vehicle operations) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924		P																			P		
RECREATION OR AMUSEMENT PUBLIC/PRIVATE (Sec. 920) not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, etc., & not regulated by Sec. 924	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
RECREATIONAL VEHICLE PARK AND/OR CAMPGROUNDS (Sec. 921)	S	S	S					S												P	P		
RELIGIOUS WORSHIP ACTIVITIES	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
REPAIR, RENTAL AND/OR SERVICING, of any product the retail sale of which is a use by right in the same district																			P	P	P	P	P
RESIDENTIAL HABILITATION SUPPORT FACILITY (Sec. 922)		S	S		S			S										P	P		P		
RESTAURANT, operated as commercial enterprise, except as regulated by Section 924																				P	P	P	
RETAILING OR SERVICING. With operations conducted and merchandise stored entirely within a building and not otherwise listed herein																					P	P	
SANITARIUM																				P			

EXHIBIT "C"

SECTION 921, ZONING CODE

shrubs, legumes or grasses and maintained until the soil is stabilized and approved by the County Engineer.

K. When any extraction has been completed, such area shall either be left as a permanent spring-fed lake or the floor thereof shall be leveled in such manner as to prevent the collection and stagnation of water and to provide proper drainage without excessive soil erosion.

L. All equipment and structures shall be removed within three months of the completion of the extraction of materials.

M. The facility must be permitted by the North Carolina Department of Environment and Natural Resources and/or other applicable Federal, State, and local agencies.

SECTION 920. RECREATION OR AMUSEMENT, PUBLIC/PRIVATE & INDOOR/OUTDOOR.

A. One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) zoning district.

B. The site shall have vehicular access to a paved public street.

C. *Repealed.*

D. All outdoor lighting shall comply with the standards of Section 1102 M.

E. If the facility is of such a use that would be conducted on dirt (i.e., ball fields, go cart tracks, etc.) measures shall be taken to minimize the creation of dust.

F. Fencing, netting, or other control measures shall be provided around the perimeter of any areas used for hitting, flying, or throwing of objects to prevent the object from leaving the designated area.

G. A minimum of three acres of land is required for mechanized outdoor recreation areas and the detailed site plan and application shall provide adequate information to ensure the increase in motor vehicle traffic will not adversely impact any surrounding residential neighborhoods.

(Amd. 01-19-10; Amd.04-18-11)

SECTION 921. RECREATION VEHICLE PARK AND/OR CAMPGROUND.

A. Recreation vehicle parks/campgrounds shall be used only by travel trailers, pickup, coaches, motor homes, camping trailers, other vehicular accommodations,



cabins and tents suitable for temporary habitation and used for travel, vacation and recreation purposes.

B. The area of the park/campground shall be at least three acres. Each recreation vehicle/cabin/open air cabins camp site, excluding sites used solely for tents, shall be a minimum of 1,200 square feet in area with a maximum of 20 sites per acre. Each site shall contain a stabilized vehicular parking pad of packed gravel, paving or other suitable material. Cabin sites shall not exceed more than twenty percent of the total proposed sites within the recreation vehicle/campground site. The maximum size of the proposed cabins shall not exceed 400 square feet and shall be identified as being either a cabin or open air cabin. Cabins shall not have bathrooms within the cabin and must be served by a bathhouse located within 500 feet from the entrance of the cabin to the entrance of the bathhouse.

C. All yard setback requirements shall be in accordance with the dimensional requirements of the zoning district in which the park or campground is located and no structure, recreational vehicle site or camping site shall be located within the required yard area.

D. Individual recreation vehicle spaces within a recreation vehicle park/campground shall not directly access a public road. Access to all recreation vehicle spaces and accessory structures within the park/campground shall be from internal streets with the entrance to the park directly accessing a public right-of-way. A driveway permit must be obtained from the North Carolina Department of Transportation for connection to the public street.

E. The recreation vehicle park/campground shall not allow for permanent occupancy on the same site by the same occupant for any continuous period of time exceeding 90 days with a maximum allowance of 180 days per calendar year within the same park. There must be a minimum 30-day waiting period between stays within the same park for each recreational vehicle/occupant. Each recreation vehicle park/campground shall be required to maintain a registry or logbook identifying, at a minimum, the recreation vehicle license plate number and Vehicle Identification Number for recreation vehicle sites and/or names of occupants in campground sites which will be subject to inspection by the County during regular inspections. Upon the adoption date of this amendment, existing recreation vehicle parks will also be required to comply with the logbook requirement.

F. Each park shall have at least one telephone available for public use. Management headquarters, manager's residence, recreational facilities, bathhouses, toilets, dumping stations, showers, coin-operated laundry facilities, stores and the uses and structures customarily incidental to operations of a recreation vehicle park/campground are permitted as accessory uses to the park, subject to the following restrictions:

1. Such establishments (excluding recreational facilities) and the parking areas primarily related to their operations shall not occupy more than 10% of the gross area of the park/campground.

2. The structures housing such facilities shall not be located closer than 100 feet to any public street and shall not be directly accessible from any public street but shall be accessible only from an internal drive within the park/campground.

3. Such structures containing toilets, bathhouses and other plumbing fixtures shall comply with the requirements of the North Carolina Building Code.

4. Each park shall be limited to a maximum of one manager's/ caretaker's residence.

G. Adequate off-street parking and maneuvering space shall be provided on site. No public street, sidewalk or right-of-way or any other private grounds not a part of the recreational vehicle parking area shall be used to park or maneuver vehicles.

H. Internal drives shall be constructed to a minimum of 18 feet in width if providing two-way streets and 12 feet in width for one-way streets and contain a minimum depth of six inches of stone gravel base with proper ditching, drainage, and seeding of slopes. Permanent dead-end streets shall have a cul-de-sac constructed 40 feet in diameter.

I. Recreational vehicle parks and campgrounds shall be enclosed by a fence, wall, landscape screening, earthen mounds or by other measures from all contiguous residential areas in a manner that complements the landscape and assures compatibility with the adjacent environment and complies with the buffering requirements for non-residential uses adjacent to residential districts.

J. In addition to the requirements required to be shown on the site plan as required by the Article XIV, the site plan shall include the name and address of the applicant, the location and dimensions of each recreation vehicle/camping site, the location and use of all service and recreational facilities, all interior access ways, drives, and parking. All site plans subject to this Section shall also require approval from the County Health Department.

K. When permitted, recreation vehicle parks/campgrounds within the CD Conservancy District shall be subject to the following requirements:

1. No individual recreation vehicle/camping site shall have individual on-site septic systems.

2. Each recreational vehicle must be equipped with a holding tank and each park/campground must have an approved dumping station or pump-out facilities on the premises.

L. All Federal, State and other local regulations shall be complied with.
(Amd. 11-20-06; Amd. 01-19-10; Amd. 04-20-20)

SECTION 922. RESIDENTIAL HABILITATION SUPPORT FACILITY.

A. Minimum lot size: 20,000 square feet.

B. The structure must pass all health and fire inspections.

C. The property must be at least a one-half-mile radius from an existing or approved residential habilitation support facility or an existing or approved group home, regardless of the jurisdiction of the existing or approved facility or home.

D. The following setbacks shall be minimum yard requirements, except where the zoning district in which the facility is located has greater dimensional requirements, the zoning district setbacks apply:

1. Front yard: 50 feet from any public or private street.

2. Rear yard: 35 feet; and

3. Side yard: 25 feet.

E. Off-street parking shall be provided at the rate of two spaces plus one for each caregiver.

F. The facility shall have direct access to a paved public street meeting North Carolina Department of Transportation standards.

G. The facility shall provide a minimum of 100 square feet of living area per person, not counting the caregivers.

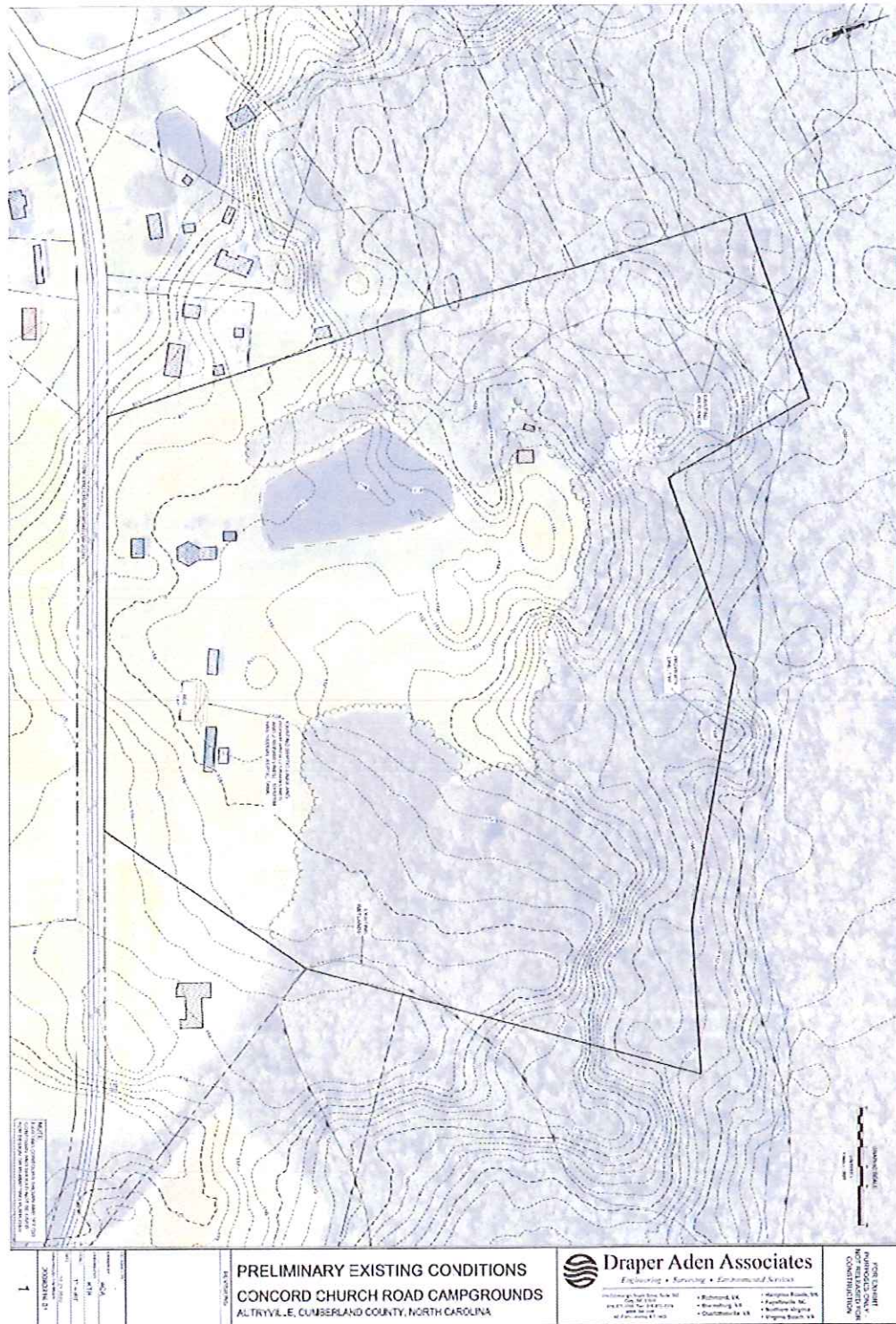
(Amd. 02-19-08; 01-19-10)

SECTION 923. SECOND HAND, PAWN AND FLEA MARKET.

A. Outside storage of goods, equipment and material shall be prohibited; however, outside display of merchandise in conducting the commercial operation is permitted

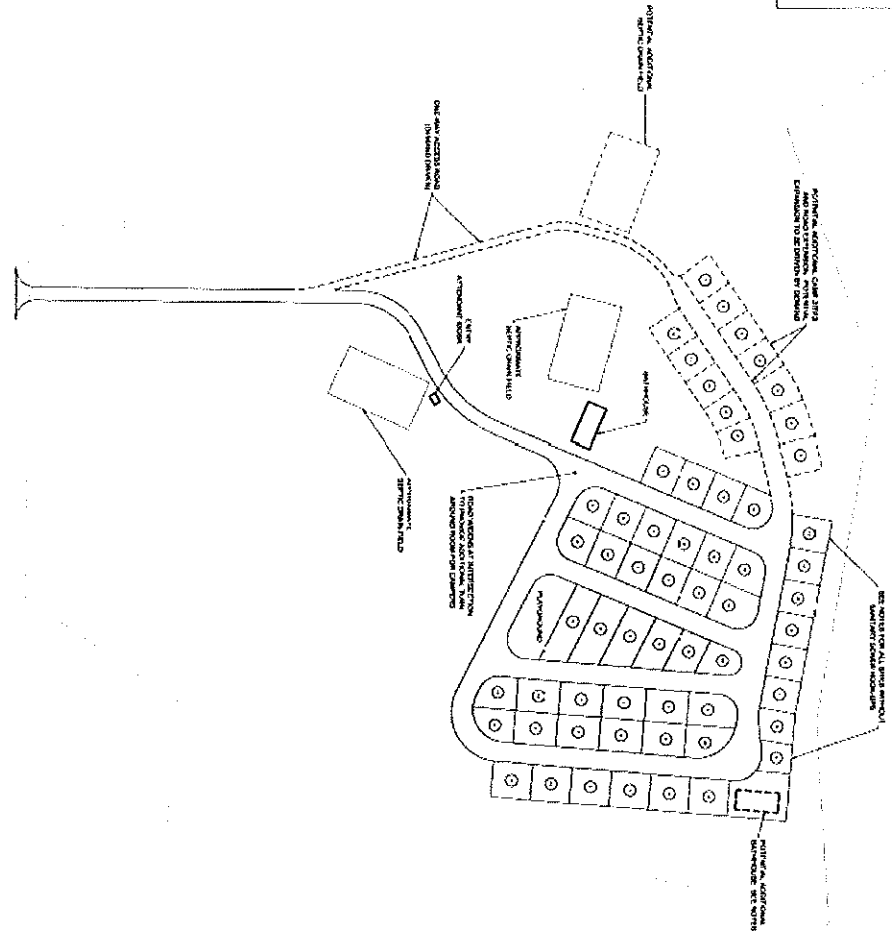
EXHIBIT "D"

SPECIAL USE SITE PLAN – CONCORD CHURCH CAMPGROUND SITE PLAN (Case # P21-01-C Special Use)



SITE STATISTICS

1. PROJECT NUMBER	14-0320
2. PROJECT NAME	CONCORD CHURCH ROAD CAMPGROUNDS
3. PROJECT LOCATION	CONCORD CHURCH ROAD, AUTRYVILLE, NC 28504
4. CLIENT	DRAPER ADEN ASSOCIATES
5. DATE	11/11/11
6. DRAWN BY	DRAPER ADEN ASSOCIATES
7. CHECKED BY	DRAPER ADEN ASSOCIATES
8. SCALE	AS SHOWN
9. SHEET NO.	1
10. TOTAL SHEETS	1



LEGEND
 [Symbol] EXISTING BUILDING
 [Symbol] EXISTING ROADWAY

NOTES:
 1. THIS PLAN IS A SCHEMATIC LAYOUT AND IS NOT TO BE CONSIDERED A FINAL DESIGN.
 2. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.
 3. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.
 4. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.



<p>2</p>	<p>CONCORD CHURCH ROAD CAMPGROUNDS</p>	<p>Draper Aden Associates <i>Engineering • Surveying • Environmental Services</i></p> <p>1400 S. 10th Street, Suite 100 Raleigh, NC 27605 Phone: 919.876.1111 Fax: 919.876.1112 Website: www.draperaden.com</p>
	<p>SHEMATIC SITE LAYOUT PLAN CONCORD CHURCH ROAD CAMPGROUNDS AUTRYVILLE, CUMBERLAND COUNTY, NORTH CAROLINA</p>	

EXHIBIT "H"

DRAFT SPECIAL USE PERMIT – CONCORD CHURCH RD CAMPGROUND

Special Use Permit- Board of Adjustment

DRAFT

(Concord Church Rd Special Use Permit and Site Plan)

Ordinance Related Conditions

SUP- Campground Park in an A1 District

Pre- Permit Related:

1. Three copies of a revised SUP site plan must be submitted to staff review and approval and include the following:
 - a. Landscaping shall be provided in accordance with the provisions of Section 1102.N, Landscaping, County Zoning Ordinance. The following are the minimum standards for the required landscaping of the site:
 - 1) Seventeen canopy trees within fifty feet of the southern property line along Concord Church Road but no closer than 25 feet to any power lines.
 - 2) Two canopy trees and a minimum of 10 shrubs for each bathhouse.
 - 3) Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
 - 4) All yard and planting areas shall be maintained in a neat, orderly and presentable manner and kept free of weeds and debris.

Note: The developer is encouraged to retain as many existing trees of significant stature as possible, particularly to screen the campground from residential homes to the east and west of the property.
 - b. This conditional approval is not approval of any freestanding signs. If a freestanding sign is desired, the sign location must be shown of the SUP site plan. 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).
 - c. The campground park is limited to one manager's/caretaker's residence. The SUP site plan must denote the residential building that will be used for the manager's/caretakers residence and the location of the campground business office. The business office shall not be closer than 100 feet from Concord Church Road. Access to the manager's/caretakers home shall occur from an internal service driveway or road and shall not occur from Concord Church Road.
 - d. The residential manufactured home will need to be platted as a separate lot complying with the A1 zoning district requirements if not used as the manager's/caretaker residence.

Permit-Related:

2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits. (NCGS § 130A-338 & Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)
3. The *Special Flood Hazard Area* (SFHA) exists on this tract. The SUP Site Plan does not appear to place any development within the SFHA. Any development within SFHA must have first flood elevations, including all mechanical and electrical equipment above base flood elevation (BFE) plus two feet of freeboard. Proper Floodplain Development Permits are required, issued by the County Engineer, prior to any building/permit

application. A copy of the approved Floodplain Development Permit must be provided to County Code Enforcement at the time of building/zoning permit applications. [Sec. 6.5-21, County Code]

4. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Department of Energy, Minerals and Land Resources, NC Department of Environmental Quality (DEMLR NCDEQ). If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy. (Note: If any retention/detention basins are required for state approval of this plan, three copies of a revised plan (and \$25/\$50 revision fee) must be submitted and approved by Planning & Inspections.) (Sec. 2306.D, County Subdivision Ord. & 2006-246, NC Session Law)
5. The owner/developer(s) of the Concord Church Road RV/Campground Park must obtain detailed instructions from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street on provisions of the County Zoning Ordinance and any permits that may be required to place any structure within this development or to commence any use of the subject property. For additional information, the developer should contact a Code Enforcement Officer. (Chpt. 4, County Code & Sec. 107, County Zoning Ord.)
6. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application. [Sec. 4-8(b)(2), County Code]
7. Driveway Permit Required. Construction of any new connection or alteration of any existing connection to Concord Church Road may require an approved Driveway Permit. For additional information contact the NC Department of Transportation's (NCDOT) Division 6/District 2 office.

Change of use of subject properties shall require an approved Driveway Permit. 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.

In the event that a structure (house) is built by a contractor for commercial gain and/or if property changes ownership from existing owner to builder, an approved Driveway Permit must be secured.

Note: In the event the NCDOT driveway permit process alters the site plan in any manner, three copies of a revised site plan (and \$25.00 revision fee) 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. [§ 136-18(29), NCGS]

8. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans. (Sec. 107.B, County Zoning Ord.; & Secs. 2005 & 2007 County Subdivision Ord.)

Site-Related:

9. Development and use of the project site shall occur consistent with the "Concord Church Road Special Use Permit" site plan (Exhibit "A") and as set forth in Exhibit "B". All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance, and County Zoning Ordinance for the A1 zoning district must be complied with, as applicable.
10. Any swimming pool must comply with any minimum fencing requirements.
11. Landscaping placed near the entrance driveway or road must be installed and maintained to provide adequate sight distance for along Concord Church Road.

12. This conditional approval is not approval of any freestanding signs. If a freestanding sign is desired, re-submittal of the site plan is required prior to application for any freestanding sign permits. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.) (Art. XIII, County Zoning Ord.)
13. "Concord Church Road" must be labeled with the assigned State Road number on all submitted future site plans. (Sec. 2203, County Subdivision Ord.)
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 2307.A, County Subdivision Ord.)
14. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306.C, County Subdivision Ord.)
15. 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. (Sec. 1102.O, County Zoning Ord.)
16. Turn lanes may be required by the NC Department of Transportation (NCDOT). [Art. XIV, County Zoning Ord. & NCGS §136-18(5) & §136-93]

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.

17. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
18. All dumpster, garbage, and utility area shall be provided and located on concrete pads and screened on a minimum of three sides.
19. The campground park, including the manager's/caretaker residence, shall be served by the internal driveway system. The internal driveway must be a minimum width of twenty (20) feet and constructed with appropriate material to support emergency vehicles. Clearance above the road must be maintained at an unobstructed height not less than 13 feet 6 inches to allow for passing of a fire engine. This includes trees, lights, wires etc.

The driveway width provided herein shall supersede the driveway width requirement provided within Exhibit "B".

20. All required parking spaces for vehicles other than RV's are required to be a minimum of 9' wide x 20' long within the site plan.
21. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site and landscape areas are 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. (Sec. 1403, County Zoning Ord.)
22. Operation of the site must occur consistent with the Noise Regulations of the County Code Chpt. 9.5, Art. II.

23. The use of the site as an RV/Campground Park, as shown in Exhibits "A", is limited to a maximum of sixty (60) campground and recreation vehicles sites for temporary occupation by transients and/or vacationers. Any residential structure occurring on the property at the time of the Special Use Permit shall not be used only for permanent occupation and not as temporary occupation related to the operation of the RV/Campground Park. Only one permanent residential structure shall be used for a manager's/caretaker residence.

Advisories:

- Any revision or addition to this plan necessitates re-submission for review and approval prior to the commencement of the change.
- 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.

- 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.
- 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.
- 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.
- The subject property sits on Concord Church Road and is not within the FAMPO boundaries or its Transportation Plan. For questions related to this comment, please contact Transportation Planning.

Other Relevant Conditions:

- This conditional approval is contingent upon continued compliance with the County's Subdivision and Development Ordinance and Zoning Ordinance. Development of the property must comply with all applicable local, state and federal laws and ordinances.
- The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

"Public water and/or sewer services are not available as of the date of the recording of this deed. On-site sewer disposal systems must be approved by the County Health Department."

If you need clarification of any conditions, please contact David Moon at 910-678-7606 with the Current Planning Section; otherwise, contact the appropriate agency at the contact numbers below.

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

Current Planning Manager: dmoon@co.cumberland.nc.us		678-7606	
Subdivision/Site Plan/Plat jbarnhill@co.cumberland.nc.us	Jeff Barnhill	678-7765	
Code Enforcement (Permits): swalters@co.cumberland.nc.us	Scott Walters	321-6654	
County Building Inspections: mnaylor@co.cumberland.nc.us	Michael Naylor	321-6657	
Fire Marshal – Emergency Services klowther@co.cumberland.nc.us	Kevin Lowther	321-6625	
wbooth@co.cumberland.nc.us	Gene Booth	678-7641	
County Engineer’s Office: wdudley@co.cumberland.nc.us	Wayne Dudley	678-7636	
County Health Department: fthomas@co.cumberland.nc.us	Fred Thomas	433-3692	
US Postal Service jonathan.r.wallace@usps.gov	Jonathan R. Wallace	(704) 393-4412	
Corp of Engineers (wetlands): emily.c.greer@usace.army.mil	Emily Greer	(910) 251-4049	
NCDEQ (E&S): leland.cottrell@ncdenr.gov	Leland Cottrell	(910) 433-3393	
US Fish & Wildlife Services susan_miller@fws.gov	Susan Ladd Miller	(910) 695-3323	
Location Services: Site-Specific Address: wphipps@co.cumberland.nc.us	Will Phipps	678-7666	
Tax Parcel Numbers:		678-7549	
NCDOT (driveways/curb-cuts):	Troy Baker	364-0601	tlbaker@ncdot.gov
Transportation Planning: iwyche@co.cumberland.nc.us	Irvin Wyche	678-7615	
N.C. Division of Water Quality: annette.lucas@ncdenr.gov	Annette Lucas	(919) 807-6381	

EXHIBIT "A"
of the Concord Church Road RV/Campground Park Special Use Site plan

The site plan appearing in Exhibit "D" of the Staff Report will be included as Exhibit "A" of the Special Use Permit with any additional conditions or changes, if any, made by the BOA at the hearing.

EXHIBIT "B"
SECTION 921 REQUIREMENTS – RVCAMPGROUND PARKS

As appearing in Exhibit "C" of the Staff Report

EXHIBIT "I"
Applicant's Response to Sec. 1606 Special Use Criteria

Pursuant to Section 1606.C. Special Use Permits, Consideration of Application, the Board of Adjustment must establish a finding of fact for the following criteria to approve the special use:

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

The proposed usage will not materially endanger the public health or safety when located according to the plan. The proposed campgrounds will be designed in compliance with all County and State regulations, including state/county stormwater, erosion control, and wastewater (septic) regulations.

2. The use meets all required conditions and specifications.

The use will be designed so that it complies with all requirements provided in Article IX, Section 921. Recreational vehicle park and/or campground, as well all of the stipulations listed in the draft Special Use Permit. As noted/suggested in the pre-permit related conditions, landscaping and screening for the site will focus heavily on maintaining the existing tree lines to the east and west of the property to ensure adequate screening between adjacent residential homes.

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

The use will maintain the value of the adjoining properties. One of the goals for the design will be to ensure the neighbors never have to see the campers. This will be accomplished, as noted/suggested in criteria 2, by maintaining as much of the existing trees along the perimeter of the property. Photos have been provided below showing both the anticipated general location for camp sites as well as the heavily vegetated perimeter.

The owners originally came up with the idea to develop the campground when they were visiting the area. They were looking to camp in the area and were unable to find any camp sites in the area. They are a small sampling of the number of people who would like to come camp in the area but don't have the necessary access to camp sites.

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

Section 303 in the zoning ordinance states, "this district is designed to promote and protect agricultural lands, including woodland, within the County". Our development fulfills this goal by protecting the existing woodlands, stream, and wetlands on the property. No development is desired or anticipated within any stream or wetland areas. The site design is laid out so it takes advantage of the screening provided by the existing woodlands, while minimizing the need to impact the existing trees to the greatest extent possible. The development fulfills the vast majority of the requirements outlined in the Comprehensive Land Use Plan. This, coupled with the large amount of existing screening, will ensure the development will be in complete

harmony with the surrounding area, and will often go unnoticed by citizens who aren't actively looking for the campgrounds.





County of Cumberland
BOARD OF ADJUSTMENT

CASE #:	<u>P 21-01-C</u> P 20-08-C
CUMBERLAND COUNTY BOA MEETING DATE:	_____
DATE APPLICATION SUBMITTED:	<u>2-16-21</u>
RECEIPT #:	<u>76384</u>
RECEIVED BY:	<u>JB</u>

**APPLICATION FOR
SPECIAL USE PERMIT**

The Cumberland County Board of Adjustment meetings are held on the third Thursday of each month in the Historic Courthouse, 130 Gillespie Street - Hearing Room 3. The Planning and Inspections Department will advertise the public hearing and a notice will be mailed or delivered to surrounding residents or property owners that may be affected by the proposed Special Use Permit request.

The Board of Adjustment is a quasi-judicial review board and all persons wishing to appear before this Board should be prepared to give sworn testimony on relevant facts. Applicants for Special Use Permits are encouraged to read Section 1606 "Special Use Permits" of the Zoning Ordinance to ensure the technical requirements of the Ordinance are met before submission to the Board of Adjustment (see next page).

The following items are to be submitted with the complete application:

1. A copy of the recorded deed and/or plat,
2. If a portion of an existing tract, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
4. Cash or check payable to "Cumberland County" in the amount of \$ 250.00 (see attached Fee Schedule)

NOTE: Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board of Adjustment meeting according to the board's meeting schedule. Also, the application fee is *nonrefundable*.

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

**EXCERPT FROM
THE CUMBERLAND COUNTY ZONING ORDINANCE**

Section 1606 SPECIAL USE PERMIT (portion of)

B. Procedure. Special Use Permit shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Section 403, Use Matrix, as Special Uses. Uses specified as a Special Use in Section 403 shall be permitted only upon the issuance of a Special Use Permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a Special Use Permit shall submit a complete application and three copies of a site plan (drawn in accordance with the specifications listed in Section 1402) to the Planning and Inspections Staff. The Staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule. The Planning and Inspections Staff shall also notify the Commanders of Fort Bragg, and Pope U.S. Army Field of any application affecting the use of property located within a five miles or less of the perimeter boundary of said bases in accordance with the N.C. Gen. Stat §153A-323.

Developers are encouraged to discuss their Special use plans with the Planning and Inspections Staff before submission. The Staff shall assist the developer upon request by reviewing Special use plans to insure that the technical requirements of this Ordinance are met before submission to the Board of Adjustment.

All applications and site plans shall provide information indicating compliance with the development standards for individual uses as listed in Article IX of this Ordinance, as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the Special Use provide to the contrary.

C. Consideration of Application. The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this Article and may grant or deny the Special Use Permit requested. On granting a Special Use Permit, the Board shall find that:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;
2. The use meets all required conditions and specifications;
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

Any special use permit granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified within one calendar year from the date of such approval.

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 7715 Concord Church Road, Autryville, NC

OWNER: Michael D. Joyal and Marie Joyal and Judith A. Murach

ADDRESS: 7715 Concord Church Road, Autryville, NC ZIP CODE: 28318

TELEPHONE: HOME 989-984-7731 WORK 989-305-1131

AGENT: Draper Aden Associates - Alex Amavizca

ADDRESS: 114 Edinburgh S. Drive, Suite 200, Cary, NC 27511

TELEPHONE: HOME 919-826-0864 WORK _____

E-MAIL: aamavizca@daa.com

APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance

MB
40.58
KO

A. Parcel Identification Number (PIN #) of subject property: 1405-10-6920
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 40.6 Frontage: 822' Depth: 1268'

C. Water Provider: None (private well)

D. Septage Provider: None (Existing Septic System)

E. Deed Book 3821, Page(s) 780, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: Agricultural, A-1 zoning district

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.)

Campground with approximately 50 campsites. Parking will be individual camp site based, with a maximum of 1 recreational vehicle and one personal vehicle estimated per camp site.

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.

MICHAEL D JOYAL and MARIE JOYAL and JUDITH A MURACH
NAME OF OWNER(S) (PRINT OR TYPE)

7715 Concord Church Road, Autryville, NC 28318
ADDRESS OF OWNER(S)

mariejoyal@gmail.com
E-MAIL

989-984-7731
HOME TELEPHONE #

989-305-1131
WORK TELEPHONE #

Alex Amavizca - Draper Aden Associates
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

114 Edinburgh S. Drive, Suite 200, Cary, NC 27511
ADDRESS OF AGENT, ATTORNEY, APPLICANT

aamavizca@daa.com
E-MAIL

N/A
HOME TELEPHONE #

919-827-0864
WORK TELEPHONE #

Michael D Joyal
SIGNATURE OF OWNER(S)


SIGNATURE OF AGENT, ATTORNEY
OR APPLICANT

M Joyal Judith A Murbach
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) Michael D Joyal M Joyal Judith A Murbach

PRINTED NAME OF OWNER(S) Michael D Joyal and Marie Joyal and Judith A Murbach

DATE 2/4/2021



County of Cumberland
BOARD OF ADJUSTMENT

CASE #:	<u>P21-01-C</u> P20-08-C
CUMBERLAND COUNTY BOA MEETING DATE:	_____
DATE APPLICATION SUBMITTED:	<u>2-16-21</u>
RECEIPT #:	<u>76384</u>
RECEIVED BY:	<u>JB</u>

**APPLICATION FOR
SPECIAL USE PERMIT**

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The following items are to be submitted with the complete application:

1. A copy of the recorded deed and/or plat,
2. If a portion of an existing tract, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
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E-MAIL: aamavizca@daa.com

APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance

MB
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(also known as Tax ID Number or Property Tax ID)

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E. Deed Book 3821, Page(s) 780, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: Agricultural, A-1 zoning district

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.) _____

Campground with approximately 50 campsites. Parking will be individual camp site based, with a maximum of 1 recreational vehicle and one personal vehicle estimated per camp site.

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SIGNATURE OF OWNER(S) Michael D Joyal M Joyal Judith A Murbach

PRINTED NAME OF OWNER(S) Michael D Joyal and Marie Joyal and Judith A Murbach

DATE 2/4/2021

ATTACHMENT: MAILING LIST

SMITH, ARNOLD
SMITH, JUSTIN CORY; SMITH, KELSEY KURTZ
AVERY, TONYA R; AVERY, SHALAWN Y
WRENCH, STEVEN LESLIE; WRENCH, PAMELA EVANS
MATTHEWS, JAMES E; MATTHEWS, GUDRUN J
CASHWELL, JERRY W; CASHWELL, LINDA G
WRENCH, FAYE CASHWELL
CASHWELL, GERALD DWIGHT
GETTINGS, DANIEL; GETTINGS, SHANNON
SIMMONS, ROSE CASHWELL LIFE ESTATE
MURBACH, JUDITH A.; JOYAL, MICHAEL D.; JOYAL, MARIE T.
CITY OF FAYETTEVILLE

11075 BROADWATER BRIDGE RD
2504 EVANS DAIRY RD
2905 SNAPPINGER MNR
PO BOX 523
7669 CONCORD CHURCH RD
7641 CONCORD CHURCH RD
2304 COLGATE DR
1807 SPRUCE ST
7100 BOSE IKARD DR
985 CASHWELL RD
7711 CONCORD CHURCH RD
433 HAY ST

ROSEBORO, NC 28382
FAYETTEVILLE, NC 28312
DECATUR, GA 30035
STEDMAN, NC 28391
AUTRYVILLE, NC 28318
AUTRYVILLE, NC 28318
FAYETTEVILLE, NC 28304
FAYETTEVILLE, NC 28303
KILLEEN, TX 76549
AUTRYVILLE, NC 28318
AUTRYVILLE, NC 28318
FAYETTEVILLE, NC 28301

1st
- Class

P21-01-C

**CUMBERLAND COUNTY
BOARD OF ADJUSTMENT HEARING
May 20, 2021**

Exhibits

- A. Site Location
- B. Site Plan (attached)
- C. Soils
- D. Existing/Surrounding Uses.
- E. Future Land Use Map
- F. Sec. 1104 District Standards (attached)
- G. Variance Application (attached)
- Attachments: Pictures, Mailing List

SUBJECT: BOA CASE # P21-02-C -- Variance

REQUEST: Variance to allow a larger storage building than an existing residential dwelling unit at property in an RR district on 2.0+/- acres, and located at 120 St. Jude Road, south of Clinton Road.

**** CONTINUED FROM THE APRIL 15 BOA HEARING ****

EXPLANATION OF THE REQUEST

The Property Owner of a parcel located at the property illustrated in Exhibit "A" has constructed a storage building with approximately 2,000 sq. ft. on a parcel that includes a residential dwelling, which is only 988 sq. ft. Pursuant to Section 203, Paragraph B. Definitions of Specific Terms and Words, of the County's Zoning Code, an accessory structure cannot be larger than the primary structure, which in this case is a 988 sq. ft. residential dwelling. As stated in Section 203:

Accessory Building or Use: A building or use, not including signs, which is:

A. Conducted or located on the same zoning lot as the principal building or use, or off-street parking, as specifically provided for in this ordinance;

B. Clearly incidental to, subordinate in area and purpose to, and serving the principal use; [emphasis added]

And

C. Either in the same ownership as the principal use or clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

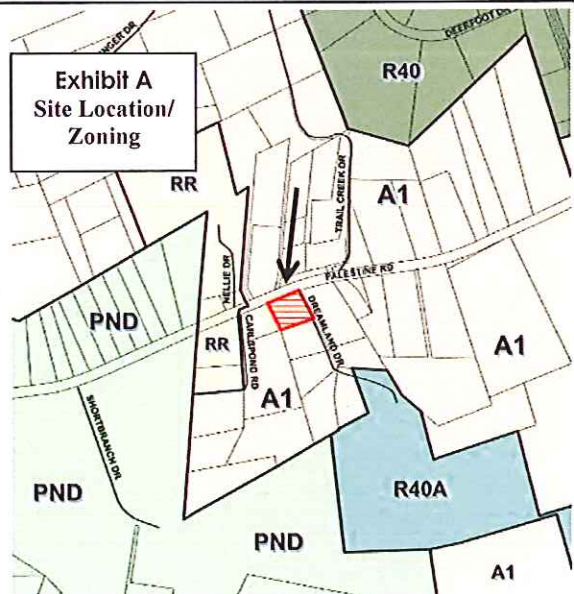
With a floor area of approximately 2,000 sq. ft., the shed/storage building floor area needs to be smaller than the floor area of the primary residential structure, which is approximately 988 sq. ft., in order to meet the intent of Section 203. Construction of the storage building occurred without the property owner submitting a building permit application and without the Department of Planning & Inspections issuing a building permit.

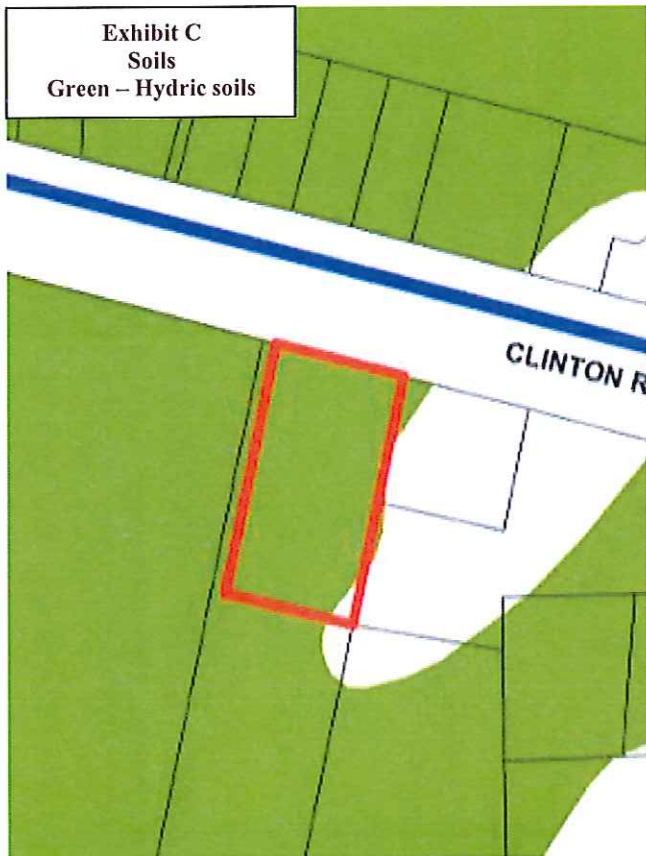
PROPERTY INFORMATION

Owner/Applicant: Brendan M. Blackman
Address/Location: 120 St. Jude Rd. (Exhibit A)
REID #: 045658747100
Parcel Size: 2.0 acres within one parcel
Parcel Width: 212 feet
Parcel Depth: 411 feet
Street Frontage: 212 feet (Clinton Rd)

Existing Land Use: The subject property is currently developed with a single-family dwelling, as illustrated in Exhibit B below, as well as pictures provided in Exhibit E (attached).

Zoning: A1 Agricultural (as shown in Exhibit "A").





Other Site Characteristics: A site plan of the property with the shed is provided in Exhibit "B" attached. The property is not within the Special Flood Hazard Area. The property is within the watershed. Hydric soils cover most of the property with exception to a small portion of its southeast corner, as shown in Exhibit "C". The property is not located inside a 100-year floodplain.

SURROUNDING LAND USE: Residential uses, including manufacture homes as well as farmlands are the predominate use in the surrounding area, as shown in Exhibit "D".

Development Review: This property was platted in 2013 by Plat Book. 132, Page. 154.

Utilities: This property is currently served by private well and septic.

Comprehensive Plans: The 2030 Growth Vision Plan designates this parcel for "Low Density Residential Residential", (2.2 to 6 units per acre). The Vander Land Use Plan is shown in Exhibit "E".

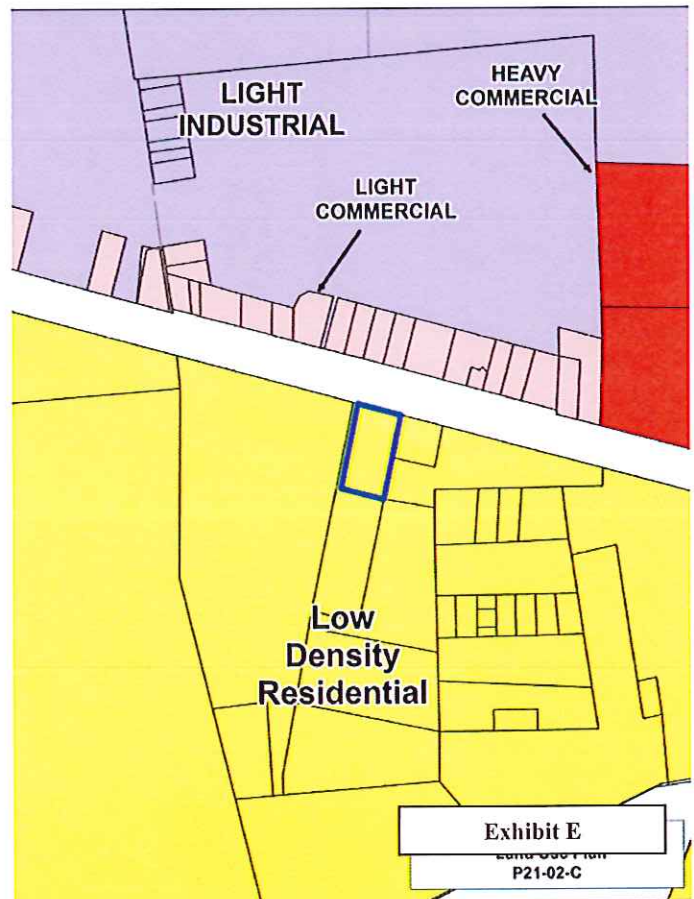


Exhibit E
 2013-000-PLAT
 P21-02-C

Applicable Zoning Codes: Section 203, Paragraph B. Definitions of Specific Terms and Words);
Section 1002. Incidental Uses. Accessory Structures (Exhibit F attached)

IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

Traffic and Streets: The subject property is located inside of FAMPO boundaries and accesses St. Jude Road, which is identified as a local road in the Metropolitan Transportation Plan. There are no construction projects planned, and the subject property will have no impact on the Transportation Improvement Plan.

EMERGENCY SERVICES: This request has been reviewed by the Cumberland County Fire Marshal's Office. The County Fire Marshall had no comment on any concerns at this time.

FINDINGS OF FACT

Criteria that must be addressed for evaluation of a variance application originate from Section 1605 of the Zone Code and are listed below.

1. Unnecessary hardship would result from the strict application of the ordinance.
2. There are conditions peculiar to the property, such as location, size, or topography.
3. The special circumstances are not the result of the actions of the applicant.
4. The requested variance will be consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Applicant's response to the above criteria were submitted with the application and is provided with the Variance Application in Exhibit "G".

:

EXHIBIT B SITE PLAN

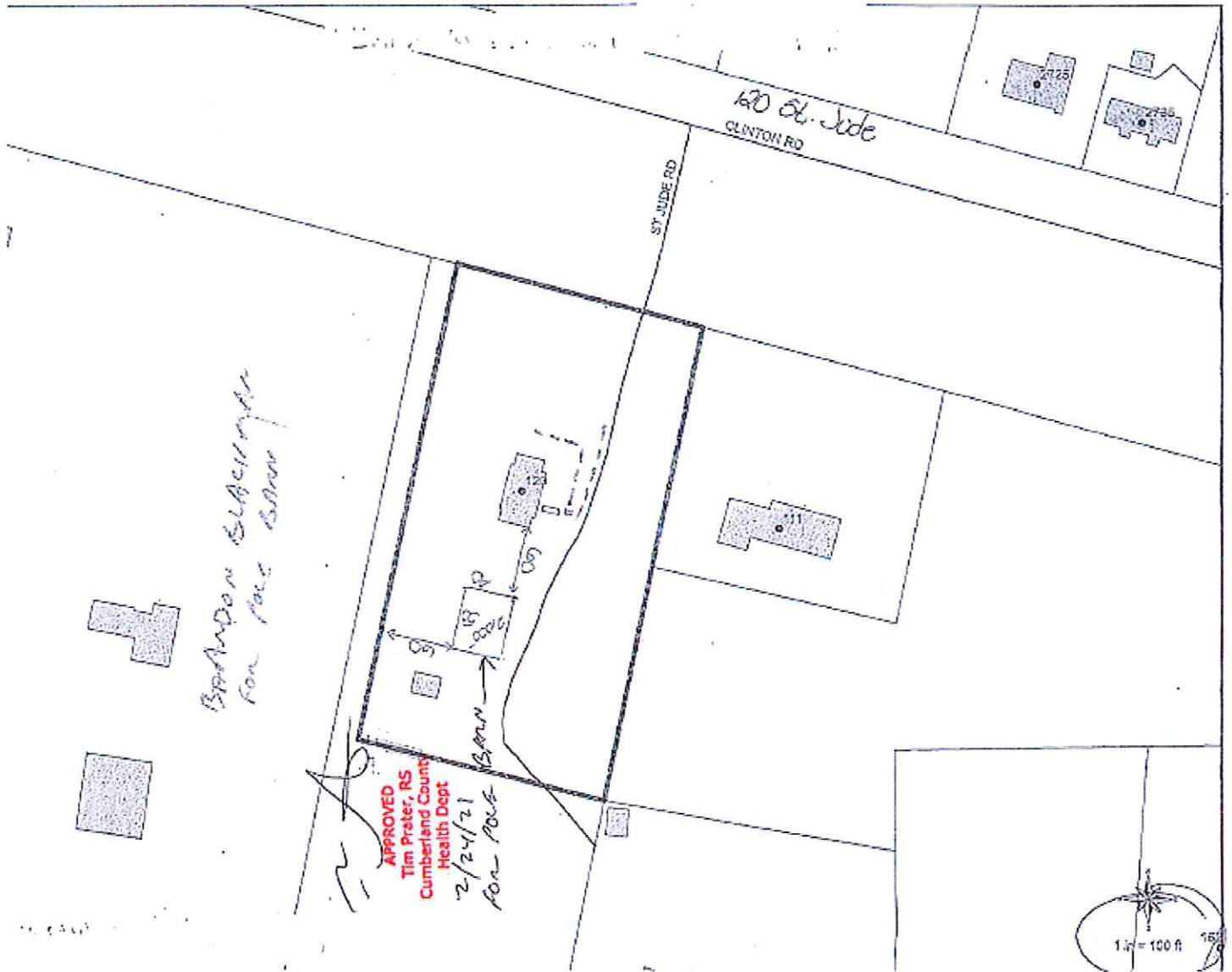


EXHIBIT F
APPLICABLE ZONING CODES

SECTION 203. DEFINITIONS OF SPECIFIC TERMS AND WORDS.

Accessory Building or Use: A building or use, not including signs, which is:

A. Conducted or located on the same zoning lot as the principal building or use, or off-street parking, as specifically provided for in this ordinance.

B. Clearly incidental to, subordinate in area and purpose to, and serving the principal use;
and

C. Either in the same ownership as the principal use or clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

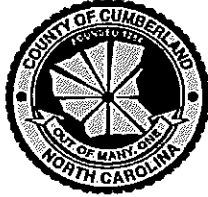
D.

SECTION 1002. INCIDENTAL USES.

A. Accessory Structures. The following provisions apply to all accessory structures:

1. Accessory structures shall not be rented or inhabited by other than employees performing services on the premises of the owner, lessee, or tenant of the premises.
2. Accessory buildings not intended to be used for living quarters shall not be constructed upon a lot until the construction of the principal building has commenced.
3. Manufactured homes intended for residential occupancy shall not be classified as accessory or used as a storage structure.
4. Accessory structures shall not be erected in any required front or side yard or within 20 feet of any side street line, or within five feet of any lot line not a street line, or within five feet of any accessory building or other building. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure. Any accessory structure greater than 700 square feet in floor area must be located inside the building envelope.

EXHIBIT G
VARIANCE APPLICATION



County of Cumberland
BOARD OF ADJUSTMENT

CASE #: P21-02-06^C

CUMBERLAND COUNTY BOA
MEETING DATE: April 15, 2021

DATE APPLICATION
SUBMITTED: 2-24-21

RECEIPT #: 76483

RECEIVED BY: JB

**APPLICATION FOR
VARIANCE REQUEST**

The Cumberland County Board of Adjustment meetings are held on the third Thursday of each month in the Historic Courthouse, 130 Gillespie Street – Hearing Room 3. The Planning and Inspections Department will advertise the public hearing and a notice will be mailed or delivered to surrounding residents or property owners that may be affected by the proposed Variance request.

The Board of Adjustment is a quasi-judicial review board and all persons wishing to appear before this Board should be prepared to give sworn testimony on relevant facts. Applicants for Variances are encouraged to read Section 1605 “Variance” of the Zoning Ordinance to establish whether or not their case merits further consideration by the board (see next page).

The following items are to be submitted with the complete application:

1. A copy of the recorded deed and/or plat, or an accurate written legal description of only the area to be considered;
2. A copy of a detailed site plan drawn to an engineer scale; and
3. Cash or check payable to “Cumberland County” in the amount of \$ _____ (see attached Fee Schedule)

NOTE: Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board of Adjustment meeting according to the board’s meeting schedule. Also, the application fee is *nonrefundable*.

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

**EXCERPT FROM
THE CUMBERLAND COUNTY ZONING ORDINANCE**

(PENDING ADOPTION)

Section 1605 VARIANCE

The Board of Adjustment may authorize in specific cases such variances from the terms of this Ordinance upon request of a property owner or his authorized agent and may require any evidence necessary to make determination of the case. Before the board may grant any Variance, the board must find that all of the following conditions exist for an individual case:

- A. Unnecessary hardship would result from the strict application of the ordinance.
- B. There are conditions peculiar to the property, such as location, size, or topography.
- C. The special circumstances are not the result of the actions of the applicant.
- D. The requested variance will be consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

In granting a variance, the board may attach and the record shall reflect such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable. The record shall also state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the Board finds to exist.

Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one calendar year from the date of such approval. The Board of Adjustment is not authorized to grant variances to a Special Use Permit or to a Conditional Zoning Permit allowed in Conditional Zoning Districts or to the specific conditions or other performance criteria imposed upon such uses.

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 120 St Jude Rd Fayetteville Nc 28312

OWNER: Brandon M. Blackman

ADDRESS: 120 St. Jude Rd Fayetteville ZIP CODE: 28312

TELEPHONE: HOME 910-977-7639 WORK _____

AGENT: _____

ADDRESS: _____

TELEPHONE: HOME _____ WORK _____

E-MAIL: _____

APPLICATION FOR A VARIANCE
As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 045638 7471000
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 2.0 Frontage: 212 ft Depth: 411 ft

C. Water Provider: well

D. Septage Provider: Septic

E. Deed Book 9216, Page(s) 787, Cumberland County

F. Existing and/or proposed use of property: _____
Residential

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: 203-B

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

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.

Brandon M. Blackman
NAME OF OWNER(S) (PRINT OR TYPE)

120 St. Jude Rd. Fayetteville N.C. 28312
ADDRESS OF OWNER(S)

firemanblackman@yahoo.com
E-MAIL

910-977-7639 HOME TELEPHONE # WORK TELEPHONE #

NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

ADDRESS OF AGENT, ATTORNEY, APPLICANT

HOME TELEPHONE # WORK TELEPHONE #


SIGNATURE OF OWNER(S)

SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

SIGNATURE OF OWNER(S)

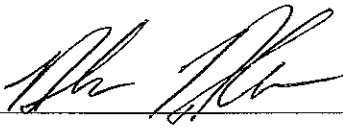
The contents of this application, upon submission, become "public record."

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 issue a final approval or denial decision on this request, or defer the request for additional information to be provided;
- If the petitioner or the representative of this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case and defer, approve, or deny the case;
- If the board's action is to deny the matter before them, the course of appeal to their decision will be that of Cumberland County Superior Court. (Affected parties of the board's decision have 30 days from proper notification which to serve notice of appeal).

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

SIGNATURE OF OWNER(S) 

PRINTED NAME OF OWNER(S) Brandon Blackman

DATE 2-24-21

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT
FEE SCHEDULE**

BOARD OF ADJUSTMENT

SPECIAL USE PERMIT	\$200
VARIANCE	
WATERSHED	
ADMINISTRATIVE REVIEW APPEALS	\$100
INTERPRETATIONS	
NONCONFORMING USES	

* Board of Adjustment fee include hearings for the County Flood Ordinance and County Watershed Ordinance

Dear Members of the Zoning Board,

I am writing to seek variance for my single-family home at 120 St. Jude road, Fayetteville NC 28312. Current zoning rules state that secondary dwellings must not be larger than the primary dwelling. I am respectfully requesting a variance to this ordinance. I was unaware and misinformed about owning your own property and building a barn on it. I unfortunately have already almost finished my pole barn that I was building to suit the needs of me and my family. My home is very small and is only 988 sq. feet. The barn I have built is 2000 sq. feet. Before starting on the barn I spoke with all the adjoining property owners who are all family/kin and none of them have displayed any objections. My home has no room for storage and I also need the room to accommodate my farm tractors, trailers, lawn equipment, vehicles and miscellaneous tools. We are also trying to secure our belongings due to continuous petty theft/drug activity in our area. I understand that I have gone about this backwards but I am trying to right my wrongs. I did not do this out of disrespect or disregard for the ordinance, I was misinformed as stated earlier and I now understand. In our particular case a building that is 988 sq. feet or smaller would not accommodate or allow for enough storage to protect our belongings. I apologize for the way I have gone about this, I truly am sorry. I am respectfully requesting you to take into consideration my family's needs and safety for a building this large. Thank you for your time in this matter.

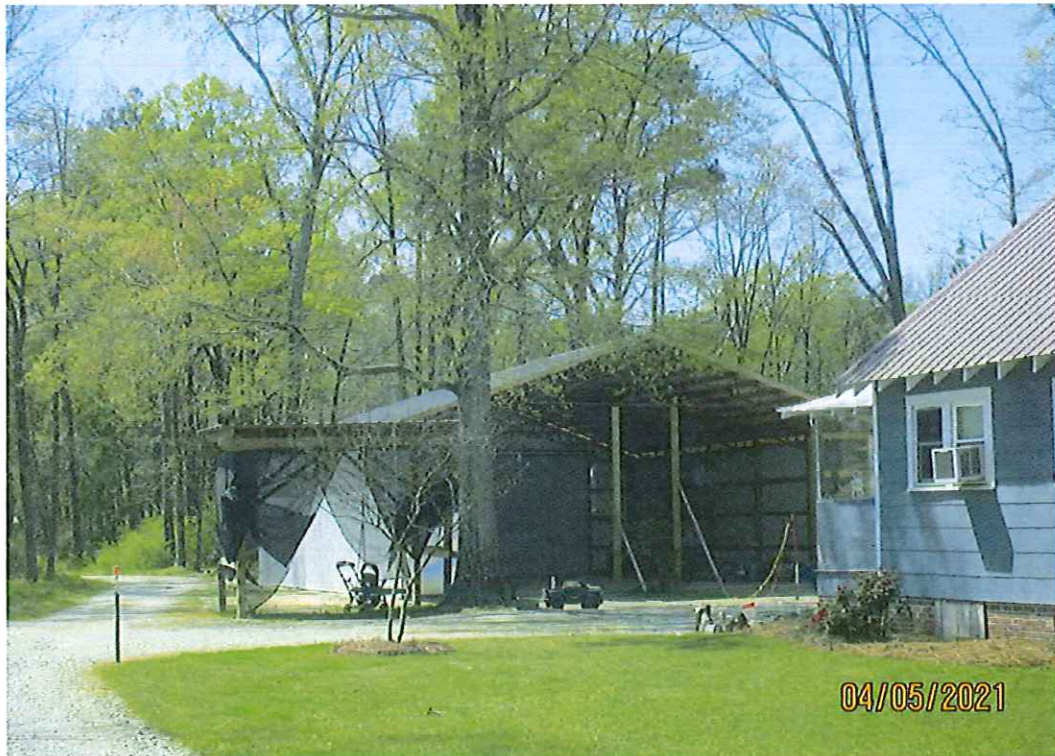
Respectfully,

Brandon Blackman

A handwritten signature in black ink, appearing to read 'Brandon Blackman', written over the printed name.

ATTACHMENTS

SITE PICTURES













MAILING LIST

OWNER_NAME	ADDRESS	CITYSTATEZIP
WYNNE, SUSAN B	159 ST JUDE RD	FAYETTEVILLE, NC 28312
BLACKMAN, MARY L LIFE ESTATE	647 JUDSON CHURCH RD	FAYETTEVILLE, NC 28312
OKELL, CHERYL ANN	170 ST JUDE RD	FAYETTEVILLE, NC 28312
BLACKMAN, BRANDON	120 ST JUDE RD	FAYETTEVILLE, NC 28312
BROWN, MELBA F HEIRS	4649 CHELTENHAM DR	FAYETTEVILLE, NC 28304
HAYES, RONALD EDWARD	4621 DOMINION RD	FAYETTEVILLE, NC 28306
HOLLINGSWORTH, KENNETH W;HOLLINGSWORTH, SYLVIA R	2637 CLINTON RD	FAYETTEVILLE, NC 28312
BLACKMAN, JOHN D;BLACKMAN, SUSAN	111 ST JUDE RD	FAYETTEVILLE, NC 28312
KNOWLES, TAMMY S.;KNOWLES, DONALD D.;STROCK, BOBBY E.;STROCK, ANN C.	2705 CLINTON RD	FAYETTEVILLE, NC 28312
BLACKMAN, JOHN D	111 ST JUDE RD	FAYETTEVILLE, NC 28312

P21-02-C

1st CLASS

EXPLANATION OF THE REQUEST **Special Use – Cell Tower in an A1 District**

Property Owner requests the BOA grant a Special Use Permit for a communication tower proposed up to 120 feet in height at a location illustrated on Exhibit "A". The proposed site is owned by the tower applicant, and is located on approximately 12.47 acres located west of the intersection of Burnett Road and Main Street, next to the town line for the Town of Godwin. The Cape Fear River lies approximately 2,000 feet to the west of the parcel.

A communication tower with an A1 zoning district must obtain a Special Use approval from the Board of Adjustment, per Section 403, County Zoning Code, as shown in Exhibit "B". A communication tower falls under the Use Matrix category of "Tower". A communication tower in an A1 zoning district must comply with the development standards and requirements set forth in Section 927 of the Zoning Code, including submittal of a site plan. Refer to Exhibit "C" for the development standards and requirements set forth in Section 927. The applicant's proposed special use site plan appears in Exhibit "D". For any tower located within an A-1 zoning district, the height of a tower is not restricted but the special setback standards for a tower apply. (Section 297.G)

- Exhibits
- A. Site Location/Zoning
 - B. Use Matrix, Sec. 403, Zoning Code
 - C. Section 927, Towers
 - D. Special Use Site Plan
 - E. Existing and Adjacent Uses
 - F. Soil and Utilities
 - G. Northeast Cumberland Land Use Plan
 - H. Special Use Permit
 - I. Sec. 1606 Applicant Response and application
- Attachment: mailing list

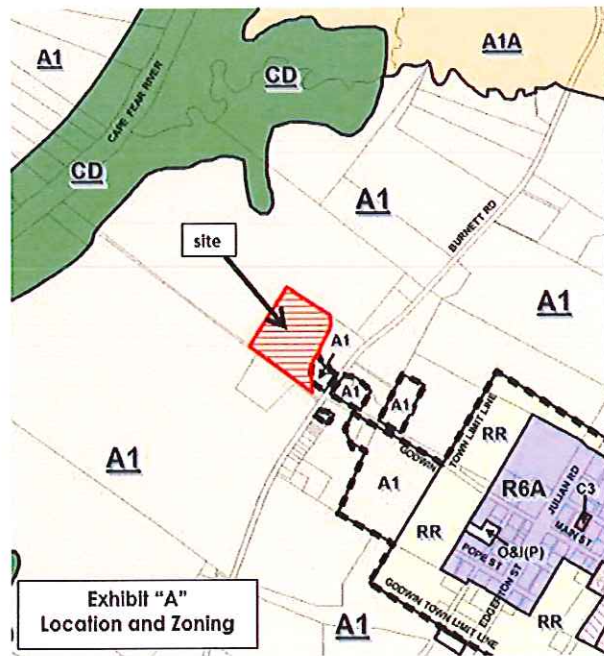


Exhibit "A"
Location and Zoning

PROPERTY INFORMATION

OWNER/APPLICANT: Duke Energy Progress, Inc, Owner
Ryan Woods, Agent

ADDRESS/LOCATION: 7481 Barnett Road, west of the intersection of Barnett Road and Main Street, next to the town line of Godwin. REID: 0593266319000

SIZE: 12.47 +/- acres comprised from one parcel.

ROAD FRONTAGE: None. Access occurs from a driveway crossing two other small parcels abutting the subject site, both are also unincorporated and owned by Duke Energy.

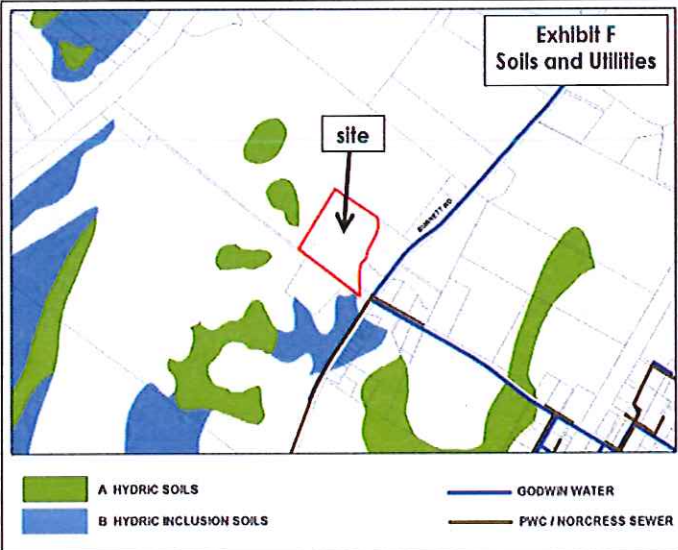
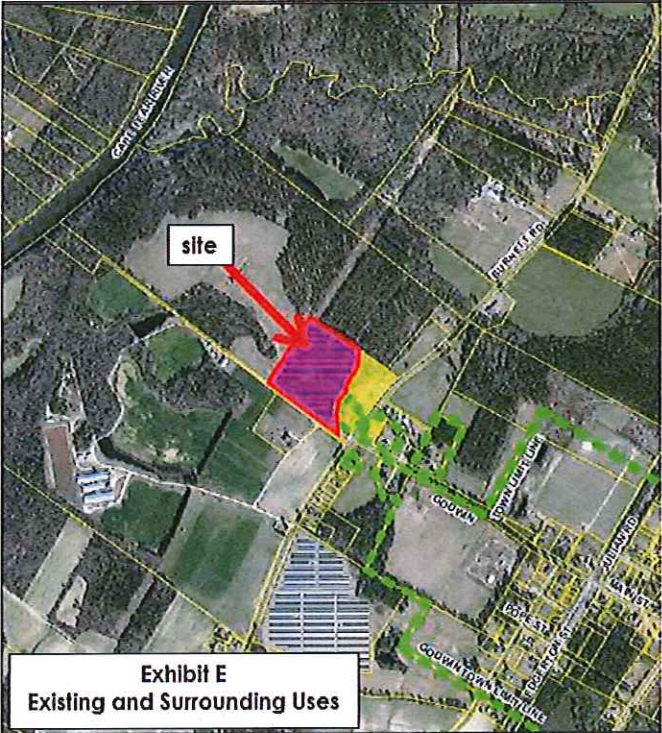
EXISTING LAND USE: The property currently functions as a public utility substation for Duke Energy, as shown in Exhibit "D" (site plan) and "E" (existing use and surrounding uses.)

SURROUNDING LAND USE: Uses in the surrounding area and adjacent properties comprise farmlands, timberlands, and single-family homes on large parcels. Surrounding uses are shown on Exhibit "E".

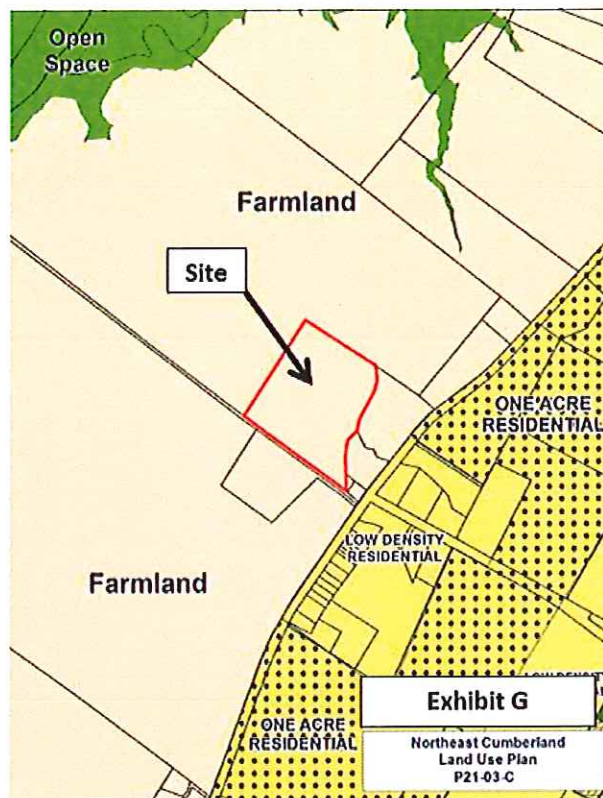
OTHER SITE CHARACTERISTICS: The property is located within a 100-Year Flood Zone nor situated within a watershed. There are no hydric and hydric inclusion soils on the property, as shown on Exhibit "F".

DEVELOPMENT REVIEW: This parcel was created by Deed Bk. 2424, Pg. 761 on 1/30/1974. No other recent development applications are on record for this property.

MINIMUM YARD SETBACKS: The proposed tower would meet the required setbacks for the A1 zoning district ("Towers in any residential or agricultural district shall be set back from all adjacent property lines and/or lease lines a distance of not less than the height of the tower. The distance shall be measured from the base of the tower." Section 927.C.1, Zoning Code.)



COMPREHENSIVE PLANS: The 2030 Growth Vision Plan designates this area as "Urban". Located in the *Northeast Cumberland Land Use Plan* area, the subject property is designate as "Farmland". The Land Use designations are illustrated in Exhibit "F". **The request is consistent with the Northeast Cumberland Land Use Plan.**



IMPACTS ON LOCAL INFRASTRUCTURE

TRAFFIC: The subject property is located outside of FAMPO boundaries. Access to the existing sub-station and the proposed tower occur from a driveway connection to Burnett Road, near the intersection with Main Street. Only employees from Duke Energy access the gated site.

UTILITIES: No water and sewer services are provided at the sub-station site for lack of need. Exhibit "F" provides information on utilities available to the subject property.

ECONOMIC DEVELOPMENT: The staff from the Fayetteville Economic Development Commission have not identified any concerns.

EMERGENCY SERVICES: No issues were identified at this time by Emergency Services.

SPECIAL DISTRICTS: The subject property is not located within five miles of Fort Bragg Military base and is not located within or near the Fayetteville Regional Airport Overlay District.

Applicable Codes

Use and development of the subject site must occur consistent with Section 927 of the Zoning Code, Case No. 21-23 Site Plan (Exhibit "X"), and Special Use Conditions (Exhibit "X").

FINDINGS OF FACT

The proposed Special Use Permit is provided in Exhibit "H".

Pursuant to Section 1606.C. Special Use Permits, Consideration of Application, the Board of Adjustment must establish a finding of fact for the following criteria to approve the special use:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended.
2. The use meets all required conditions and specifications.
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

Applicant's response to each of these criteria are provided within Exhibit "I".

MOTION

The BOA is requested to take action/motion based on the findings of fact, as supported by the Special Use Site Plan (Exhibit "D") and Special Use Condition (Exhibit "H"). Any motion to approve the special use includes approval of the Special Use Permit conditions and the Special Use Site Plan.

Attachments:
Notification Mailing List

EXHIBIT "B" USE MATRIX

SECTION 403 USE MATRIX
CAMBERLAND COUNTY ZONING ORDINANCE
 P = PERMITTED USE
 S = SPECIAL USE (Sec. 1606, 3d of Adjustment)
 Z = CONDITIONAL ZONING (Art. V, County DOC)

LAND USES	ZONING CLASSIFICATIONS																			
	CD	AL	ALA	RD	RD24	RD	RD4	RD4	RD	RD	RD4	RD4	RD4	RD4	RD4	RD4	RD4	RD4	RD4	RD4
SAWMILL AND/OR PLANING OPERATION (Sec. 924)	P	P																		
SCHOOL, business and commercial for nurseries or other medical or oriented professions, trade, vocational & fine arts																				
SCHOOLS, public, private, elementary or secondary (Sec. 916)	P	P																		
SECOND-HAND, PAWVN AND FLEA MARKET (Sec. 923)																				
SEPTAGE DISPOSAL SITE	Z																			
SEXUALLY ORIENTED BUSINESSES (Sec. 924)																				
SHEET METAL FABRICATOR																				
SOUAR MADM	P																			
SOLID WASTE DISPOSAL FAC. (Sec. 925)	S	S																		
SPECIAL INFORMATION SIGNS (Sec. 1304 D)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
STORAGE-FUNNIBARILE																				
STORAGE-OPEN																				
STORAGE-WAREHOUSE																				
STRAWING POOLS, incidental to a principal use, Sec. 1002C	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
TAILORING (Dressmaking)																				
TAXICAB STAND OPERATION	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
TELEPHONE SWITCHING/BOOSTER STATION																				
THEATER PRODUCTIONS, indoor, which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Section 924																				
THEATER PRODUCTIONS, outdoor (Sec. 926), which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Section 924	S	S																		
TIRE RECAPPING																				
TOWER (Sec. 927)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
TRADES CONTRACTOR ACTIVITIES, with or without outside storage of equipment or supplies																				
TRAILER RENTALS, including terminal activities, handling and/or storage, incidental to same, but excluding mini-warehousing as defined herein																				



SECTION 403 USE MATRIX

EXHIBIT "C"

SECTION 927, ZONING CODE

C. All structures on the site shall comply with the dimensional requirements for the zoning district.

D. The site shall be maintained to prevent odors, rodents and any other nuisances.

E. The site shall have direct access to a paved public street.

F. Access roads leading to any part of the operation shall be constructed in such a manner as to not impede traffic on any public or private street and shall be paved or constructed with gravel or crushed stone surface and maintained in a dust-free manner.

G. All environmental health rules and regulations, including Federal and State laws, shall be complied with.

H. One identification sign, as defined in Section 1302, shall be permitted in accordance with Article XIII.


SECTION 926. THEATER PRODUCTIONS, OUTDOOR.

A. One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) Planned Local Business District.

B. The site shall have direct vehicular access to a collector or higher-level street.

C. In non-commercial districts, hours of operation shall be between sunrise and sunset. Noise levels shall not pose a nuisance to neighboring properties.

D. All outdoor lighting shall be turned off between 11:00 p.m. and sunrise, except lighting used for walkways, roads, parking lots and security. In these cases, fully shielded lights must be used.



SECTION 927. TOWERS.

A. A communication tower and associated equipment totally concealed within a building or structure so as to be architecturally indiscernible shall not be regulated as a tower under this section.

B. The applicant, owner, or developer of a tower that is to be at least 75 feet in height shall submit a site plan with the application for permits to authorize construction or erection of the tower. The site plan shall include:

1. Identity of the proposed or intended user(s) of the tower.
2. The certification of a registered engineer that the tower has the structural integrity and/or capacity to support or to accommodate more than one use or user.
3. The statement and supporting information and documentation by the applicant, owner, or developer that no structures or facilities suitable for collocation are available within the coverage area.
4. The statement of the owner indicating the intent and willingness to permit shared use of the and the potential for or limitations on the number of other users that the proposed tower can accommodate.
5. Elements and design that meet all requirements of this ordinance and the County Subdivision Ordinance.

C. Setbacks as prescribed below are intended for the assurance of public safety and protection of the property rights of adjacent property owners and shall not be less than the minimum required and shall not be varied by the Board of Adjustment:

1. Residential/Agricultural Zones. Towers in any residential or agricultural district shall be set back from all adjacent property lines and/or lease lines a distance not less than the height of the tower. The distance shall be measured from the base of the tower.

2. Commercial/Industrial Zones. Any tower shall be set back from property and/or lease lines a minimum of 50 feet or one foot of setback for each two feet of tower height, whichever is greater.

D. Structures located near towers shall not encroach upon the setbacks of the towers, unless such towers are of monopole design and construction, in which case buildings and structures may be located within the setback distances.

E. A chain link fence at least ten feet in height and located at least ten feet from the base of the tower shall enclose the tower base.

F. A buffer area at least 25 feet wide shall surround the tower compound. The buffer shall shield the compound area from the entire tract. No structures, including guyed wires or anchors, may be constructed or located within the buffer. The buffer area shall be planted with evergreen trees that will attain a minimum height of 25 feet within four years, and be spaced no greater than 20 feet apart. The inner fringe of the buffer area shall be planted with an evergreen hedge that shall have an initial height of at least three feet and an expected attainment of six feet in height within four years of planting. The hedge shall constitute a complete shield or visual blockage. If the Coordinator determines that a natural buffer already

exists on site that substantially complies with the purpose and intent of this performance standard to an equal or greater degree, such an alternative natural buffer shall be considered adequate. If an alternative natural buffer is used, the user shall be responsible to ensure that the buffer remains compliant for as long as the tower remains. If a buffer is altered to an extent where it no longer serves to shield or obscure the compound from view, the applicant or tower user(s) shall install buffers as required by this section.

G. The applicant, owner or developer shall certify that the proposed will be constructed and operated in accordance with all applicable Federal, State and local laws and ordinances, including but not limited to all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines.

H. Prior to the issuance of a building permit for a tower, the applicant, owner or developer shall submit drawings sealed by a licensed engineer and a certification letter from the licensed engineer who prepared the plans that the tower will meet all applicable Federal, State and local building codes and structural standards.

I. *Repealed.*

J. The tower's height shall not exceed 450 feet. When a tower is located on a building or structure, the combined height of the building or structure and the tower shall not exceed 450 feet, except in the A1 Agricultural District. The height of a tower located in the A1 Agricultural District shall not be restricted. However, a tower located in the A1 Agricultural District must meet all applicable setbacks.

K. The exterior appearance of any building or structure associated with a tower and located in a residential zone shall maintain a residential architectural quality including, without limitation, a pitched roof and frame or brick veneer construction.

L. No building or structure associated with a tower and located in a residential zone may be used as a work site for any worker. However, periodic maintenance, inspection and renovation of the facility shall be permitted.

M. Each applicant, owner or developer shall demonstrate that the use will not be detrimental or injurious to the property values of the surrounding neighborhood. In zoning districts where the tower is a use by right, the applicant, owner or developer may satisfy the requirement by submitting a statement signed by a licensed appraiser or real estate broker which expresses an opinion that the use will not be detrimental or injurious to the property values of the surrounding neighborhood.

N. *Repealed.*

O. To protect the public from unnecessary exposure to electromagnetic radiation, the applicant, developer, owner or operator of the tower shall document that the power density levels do not exceed federally approved-levels or American National Standards Institute (ANSI) standards, whichever is stricter.

P. If lighting is required by the FAA, it shall meet or exceed the FAA standards. To the extent allowed by FAA regulations and standards, strobes shall not be used for nighttime lighting. To the extent permitted by Federal statutes, regulations and standards, the lights shall be oriented so as not to project directly onto surrounding residential property. Prior to issuance of a building permit, the applicant, developer or owner shall submit documentation from the FAA that the proposed lighting is the minimum lighting required by the FAA.

Q. A tower not used for a period of at least six months shall be determined to be abandoned and shall be removed. The owner of the tower shall remove any abandoned, unused or structurally unsound tower within 90 days of receiving notice requiring removal. The Coordinator may establish a shorter period of time for the removal of a tower that is structurally unsound.

R. The owner or operator of a tower shall submit a statement signed and sealed by a licensed engineer that the tower will be structurally sound.

S. If the Coordinator determines a tower is not structurally sound, the owner or operator of the tower shall, within 60 days or a shorter time period if required by the Coordinator, complete repairs to restore the structural soundness of the tower.

T. The owner, applicant, or developer shall camouflage the tower so that it blends into the surrounding area. Methods of camouflage include paint, architectural design or structure, and other means.

U. No outside storage on the site of the tower shall be permitted.

V. All tower sites shall comply with the provisions of the County Subdivision Ordinance. *(Amd. 02-19-08; Amd. 01-19-10)*

EXHIBIT "D"

SITE PLAN

PLANS PREPARED FOR
DUKE ENERGY
 401 SOUTH MAIN STREET
 RALEIGH, NC 27601
 OFFICE: (800) 452-2777

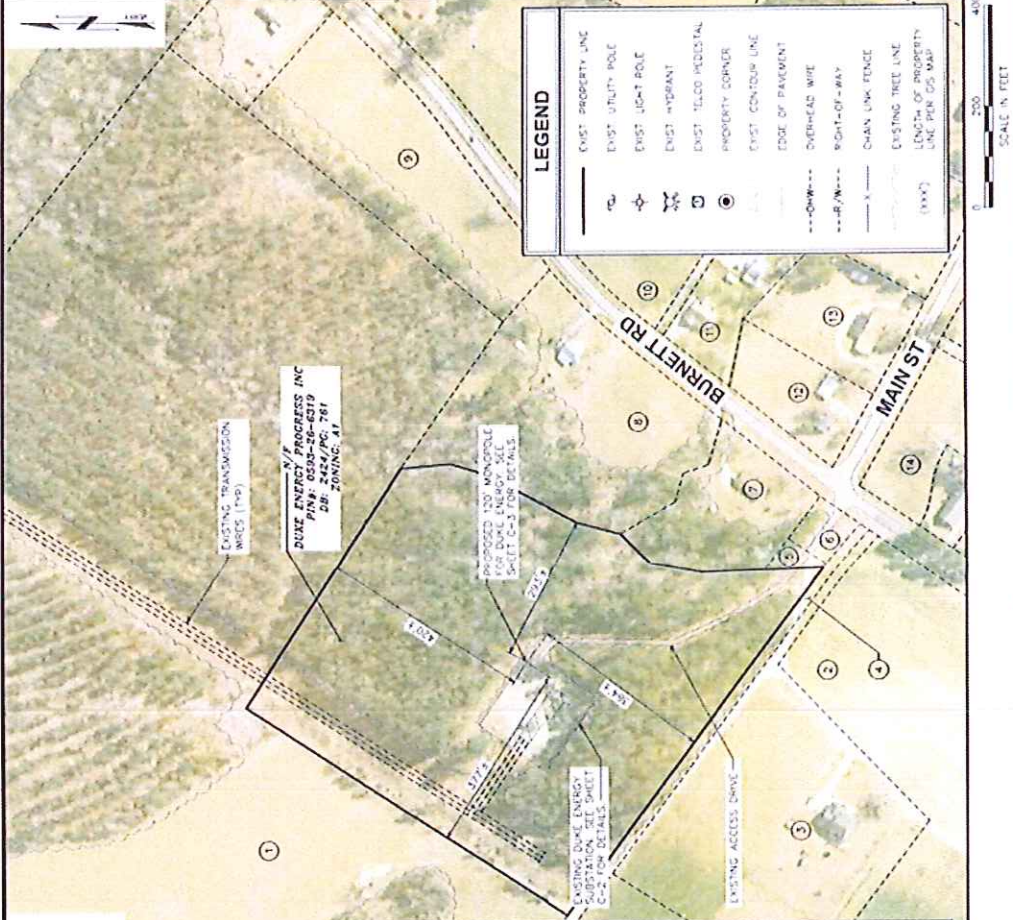
PROJECT INFORMATION:
GODWIN 115 SUB
 7481 BURNETT RD
 DUNN, NC 28334
 (GUMBERLAND COUNTY)

PLANS PREPARED BY:
TOWER ENGINEERING PROFESSIONALS
 305 TRYON ROAD
 RALEIGH, NC 27603
 OFFICE: (919) 861-6351
 WWW.TOWERENG.COM

SEAL
PRELIMINARY
 DO NOT REPRODUCE FOR CONSTRUCTION

DESIGNER	DATE	ISSUED FOR
DRAWN BY	DATE	CHECKED BY

SHEET TITLE
SITE PLAN
 SHEET NUMBER
C-1
 TOTAL SHEETS
0



SITE PLAN
 1. TOWER ENGINEERING PROFESSIONALS DO NOT SURVEY, AND DOES NOT CERTIFY THE PROPERTY INFORMATION. ALL INFORMATION IS TAKEN FROM GIS AND COUNTY PUBLIC INFORMATION.
 2. TEP DOES NOT GUARANTEE, OR ENSURE, THE PRECISION, ACCURACY, OR CORRECTNESS AND ADEQUACY OF ANY INFORMATION PROVIDED FOR EXAMINES, LOSS OF REVENUE, OR FAILURE THAT MIGHT OCCUR.

EXISTING TRANSMISSION WIDES (TYP)
 N/F
DUKE ENERGY PROGRESS INC
 PIN: 0593-26-8379
 ZONING: A1
 PROPOSED 120 MVA POLE SUBSTATION DET SHEET C-2 FOR DETAILS
 EXISTING DUKE ENERGY SUBSTATION DET SHEET C-2 FOR DETAILS
 EXISTING ACCESS DRIVE

ADJACENT PARCEL INFORMATION

SITE #	PARCEL ID	OWNER	DEED BK/PC	ZONING
1	0593-17-0917	WALKER, WILLIAM A II TRUSTEE	5267/236	A1
2	0593-05-6972	SPRING MEADOW FARM	5267/290	A1
3	0593-25-2898	RAMBO, B. ANDERLY JOYNER	5179/779	A1
4	0593-07-2436	BEUL MARIE W. WARRICK, W	4227/276	A1
5	0593-25-8835	DUKE ENERGY PROGRESS	2424/291	A1
6	0593-25-8789	DUKE ENERGY PROGRESS INC	2424/294	A1
7	0593-29-3907	WISE, DILLIAM P WISE, LINDA F	3019/286	A1
8	0593-35-1278	MATTHEWS, JOYCE H	4742/878	A1
9	0593-36-6613	WALKER, WILLIAM A II TRUSTEE	5267/292	A1
10	0593-36-3371	HAWKES, WILLIAM ROBERT JR & TAMMY NORMAN	9137/345	A1
11	0593-35-4887	TEW, JAMES ROYNE	2952/854	A1
12	0593-35-1864	JOYNER, ZEPHYRUS RANDALL & JOYNER, AMBERLY ANN	6381/635	A1
13	0593-35-3716	WISE, DILLIAM P & WISE, LINDA F	3020/285	A1
14	0593-35-0087	WISE, DILLIAM P & WISE, LINDA F	4329/756	A1

SITE PLAN
 SCALE: 1" = 200'

PLANS PREPARED FOR:




DUKE ENERGY.
 401 SOUTH WILMINGTON STREET
 RALEIGH, NC 27601
 OFFICE: (800) 452-2777

PROJECT INFORMATION:

GODWIN 115 SUB
 7451 BURNETT RD
 DUNN, NC 28324
 (CURBERLAND COUNTY)

PLANS PREPARED BY:



TOWER ENGINEERING PROFESSIONALS
 326 TRYON ROAD
 RALEIGH, NC 27603
 OFFICE: (919) 861-6351
 WWW.TEPENGINEERING.COM

SCALE

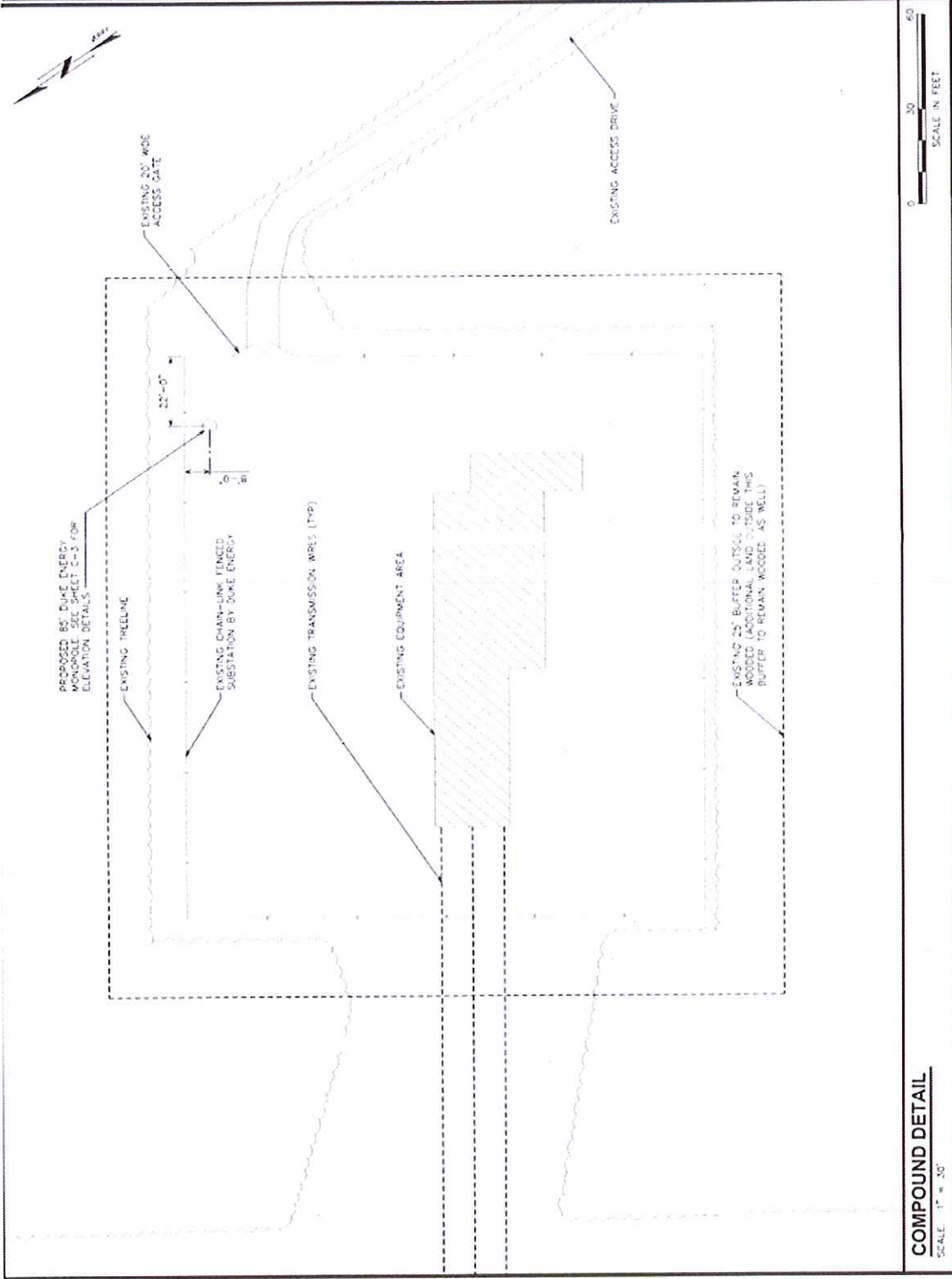
PRELIMINARY
 DO NOT USE FOR
 CONSTRUCTION

REV.	DATE	ISSUED FOR	DRAWN BY	CHECKED BY

SHEET TITLE:

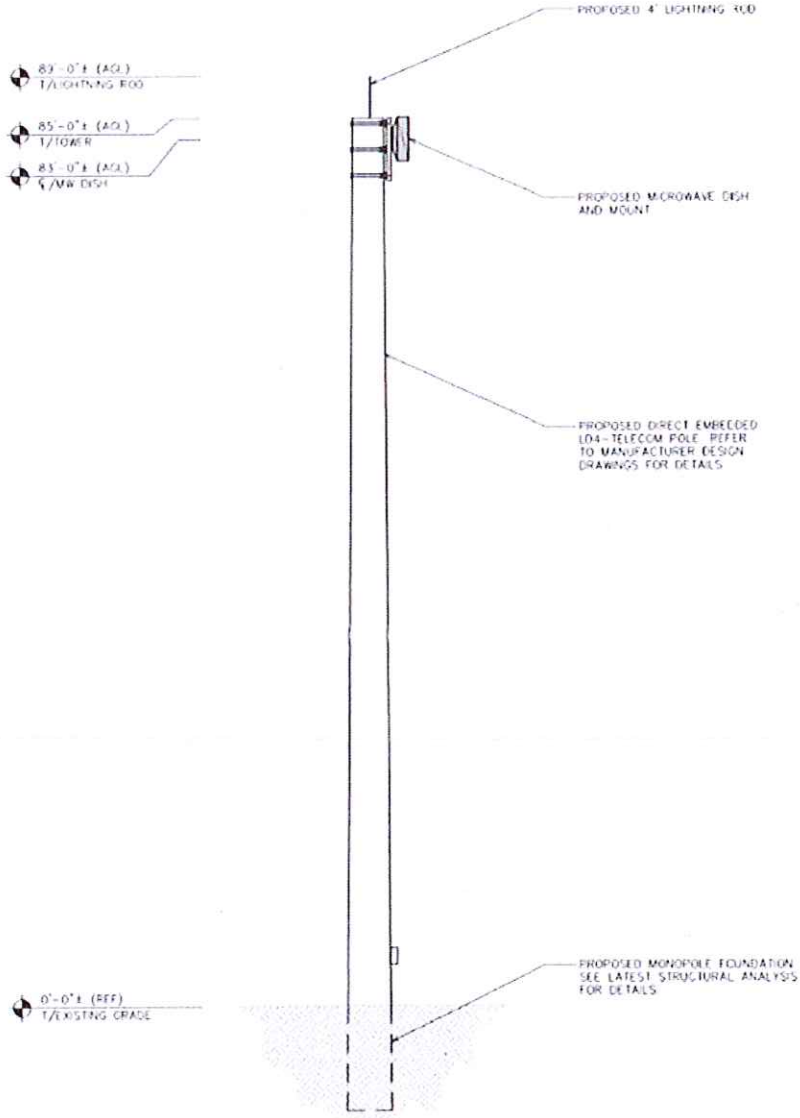
COMPOUND DETAIL

SHEET NUMBER	REVISION
C-2	0
TITLE	DATE



NOTES:

- 1 TOWER TO REMAIN A GALVANIZED COLOR
- 2 TOWER SHALL NOT BE LIT UNLESS REQUIRED BY THE FAA



TOWER ELEVATION

SCALE: 3/32" = 1'-0"



<p>C-3</p> <p>TOWER ELEVATION</p>	<p>SHEET NUMBER: C-3</p> <p>REVISION: 0</p>	<p>PRELIMINARY DO NOT USE FOR CONSTRUCTION</p>	<p>TOWER ENGINEERING PROFESSIONALS 3281 RYON ROAD RALEIGH, NC 27613 OFFICE: (919) 861-8331 WWW.HDRGROUP.COM</p>	<p>GODWIN 115 SUB</p> <p>7481 BURNETT RD DUNN, NC 28534 (CAMBERLAND COUNTY)</p>	<p>PLANS PREPARED FOR:</p> <p>DUKE ENERGY</p> <p>401 SOUTH WASHINGTON STREET RALEIGH, NC 27601 OFFICE: (800) 442-2777</p>
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EXHIBIT "H"
Special Use Permit Conditions

Special Use Permit- Board of Adjustment
DRAFT
(Communication Tower Special Use Permit and Site Plan)
Ordinance Related Conditions

P21-03-C: Consideration of a Special Use Permit to Allow a Communication Tower up to 120 feet in height in an A1 Agricultural District on 12.47+/- Acres, Located Northwest of the Intersection off Burnett Road and Main Street, Submitted by Duke Energy Progress Inc. (owner)

The Special Use Permit requested is approve subject to the contents of the application, site plan appearing in Exhibit "A" and the following conditions.

Permit-Related:

1. The owner/developer(s) of these lots must obtain detailed instruction on provisions of the County Zoning Code and permits required to place any structure within this development from the County Code Enforcement Section, at the Historic Courthouse at 130 Gillespie Street, Fayetteville, N.C. For additional information, the developer should contact the Code Enforcement Section. (Chpt. 4, County Code & Sec. 107, County Zoning Ord.)
2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for ay building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits. (NCGS § 130A-338 & Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)
3. The *Special Flood Hazard Area* (SFHA) exists on this tract. The SUP Site Plan does not appear to place any development within the SFHA. Any development within SFHA must have first flood elevations, including all mechanical and electrical equipment above base flood elevation (BFE) plus two feet of freeboard. Proper Floodplain Development Permits are required, issued by the County Engineer, prior to any building/permit application. A copy of the approved Floodplain Development Permit must be provided to County Code Enforcement at the time of building/zoning permit applications. [Sec. 6.5-21, County Code]
4. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Department of Energy, Minerals and Land Resources, NC Department of Environmental Quality (DEMLR NCDEQ). If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy. (Note: If any retention/detention basins are required for state approval of this plan, three copies of a revised plan (and \$25/\$50 revision fee) must be submitted and approved by Planning & Inspections.) (Sec. 2306.D, County Subdivision Ord. & 2006-246, NC Session Law)
5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application. [Sec. 4-8(b)(2), County Code]
7. Driveway Permit Required. Construction of any new connection or alteration of any existing connection to Burnett Road may require an approved Driveway Permit. For additional information contact the NC Department of Transportation's (NCDOT) Division 6/District 2 office.
8. Prior to issuance of a building permit for the tower, the applicant/owner or developer must submit to the Code Enforcement Sections, drawings sealed by a licensed engineer and a certification letter from the licensed engineer

establish a shorter period of time for removal in the event the tower is determined to be structurally unsound (Section 927.Q. Towers, County Zoning Ordinance).

23. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site and landscape areas are 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. (Sec. 1403, County Zoning Ord.)

Advisories:

- Any revision or addition to this plan necessitates re-submission for review and approval prior to the commencement of the change.
- 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.
- 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.
- 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:

- This conditional approval is contingent upon continued compliance with the County's Subdivision and Development Ordinance and Zoning Ordinance. Development of the property must comply with all applicable local, state and federal laws and ordinances.
- The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

"Public water and/or sewer services are not available as of the date of the recording of this deed. On-site sewer disposal systems must be approved by the County Health Department."

If you need clarification of any conditions, please contact the Current Planning Section of Cumberland County; otherwise, contact the appropriate agency.

EXHIBIT I"
APPLICANT'S RESPONSE TO SPECIAL USE CRITERIA AND APPLICATION
(Section 1606.C. Special Use Permits)

Godwin 115 Special Use Permit

Pursuant to Section 1606.C. Special Use Permits, Consideration of Application, the Board of Adjustment must establish a finding of fact for the following criteria to approve the special use:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended.
The proposed monopole has been designed by a design professional to ensure the integrity of the tower can withstand the proposed loads. Additionally, the tower is setback from each property line over two times the tower height. Ensuring if there was an integrity failure, the monopole and associated debris would not extend past any property line.
2. The use meets all required conditions and specifications.
This tower will follow all specifications and conditions set by the Cumberland County UDO.
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
The proposed monopole will aid Duke Energy's ability to provide power to the surrounding area. This monopole will enhance Duke's ability to monitor the site and, in some cases, manipulate the site. This installation can lessen down time during certain outages.
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.
This monopole will be installed on an existing substation and will be used to aid in its function. This monopole installation will not change the use of the property and should prove to be a benefit to the surrounding properties.

Sincerely,

Ryan Woods

Tower Engineering Professionals

(919) 943-0397

rjwoods@tepgroup.net



County of Cumberland
BOARD OF ADJUSTMENT

CASE #: 21-03-C

CUMBERLAND COUNTY BOA
MEETING DATE: MAY 20, 2021

DATE APPLICATION
SUBMITTED: 4-1-21

RECEIPT #: 76879

RECEIVED BY: JB

**APPLICATION FOR
SPECIAL USE PERMIT**

The Cumberland County Board of Adjustment meetings are held on the third Thursday of each month in the Historic Courthouse, 130 Gillespie Street - Hearing Room 3. The Planning and Inspections Department will advertise the public hearing and a notice will be mailed or delivered to surrounding residents or property owners that may be affected by the proposed Special Use Permit request.

The Board of Adjustment is a quasi-judicial review board and all persons wishing to appear before this Board should be prepared to give sworn testimony on relevant facts. Applicants for Special Use Permits are encouraged to read Section 1606 "Special Use Permits" of the Zoning Ordinance to ensure the technical requirements of the Ordinance are met before submission to the Board of Adjustment (see next page).

The following items are to be submitted with the complete application:

1. A copy of the recorded deed and/or plat,
2. If a portion of an existing tract, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
4. Cash or check payable to "Cumberland County" in the amount of \$ 3,250.00 (see attached Fee Schedule)

NOTE: Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board of Adjustment meeting according to the board's meeting schedule. Also, the application fee is *nonrefundable*.

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

EXCERPT FROM THE CUMBERLAND COUNTY ZONING ORDINANCE

Section 1606 SPECIAL USE PERMIT (portion of)

B. Procedure. Special Use Permit shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Section 403, Use Matrix, as Special Uses. Uses specified as a Special Use in Section 403 shall be permitted only upon the issuance of a Special Use Permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a Special Use Permit shall submit a complete application and three copies of a site plan (drawn in accordance with the specifications listed in Section 1402) to the Planning and Inspections Staff. The Staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule. The Planning and Inspections Staff shall also notify the Commanders of Fort Bragg, and Pope U.S. Army Field of any application affecting the use of property located within a five miles or less of the perimeter boundary of said bases in accordance with the N.C. Gen. Stat §153A-323.

Developers are encouraged to discuss their Special use plans with the Planning and Inspections Staff before submission. The Staff shall assist the developer upon request by reviewing Special use plans to insure that the technical requirements of this Ordinance are met before submission to the Board of Adjustment.

All applications and site plans shall provide information indicating compliance with the development standards for individual uses as listed in Article IX of this Ordinance, as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the Special Use provide to the contrary.

C. Consideration of Application. The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this Article and may grant or deny the Special Use Permit requested. On granting a Special Use Permit, the Board shall find that:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;
2. The use meets all required conditions and specifications;
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

Any special use permit granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified within one calendar year from the date of such approval.

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 7481 BURNETT RD, DUNN, NC 28334

OWNER: DUKE ENERGY PROGRESS, INC

ADDRESS: 401 S. WILMINGTON STREET, RALEIGH, NC ZIP CODE: 27601

TELEPHONE: HOME (800) 452-2777 WORK (704) 868-6302

AGENT: RYAN WOODS

ADDRESS: 326 TRYON RD, RALEIGH, NC 27603

TELEPHONE: HOME (919) 661-6351 WORK (919) 943-0397 (primary)

E-MAIL: rjwoods@tepgroup.net

APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance



A. Parcel Identification Number (PIN #) of subject property: 0593-26-6319
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 12.47 Frontage: 789' +/- Depth: 694' +/-

C. Water Provider: n/a

D. Septage Provider: n/a

E. Deed Book 2424, Page(s) 761, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: Public Utility (use will not change)

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

This property will remain as a public utility use (substation). The proposed tower is for Duke Energy's internal use. No outside collocations are planned, since the tower will be inside the existing substation fence. The proposed monopole will upgrade Duke Energy's network allowing them to remotely monitor and control aspects of the substation

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.

DUKE ENERGY PROGRESS INC

NAME OF OWNER(S) (PRINT OR TYPE)

401 S. WILMINGTON STREET, RALEIGH, NC 27601

ADDRESS OF OWNER(S)

Adam.Spry@duke-energy.com

E-MAIL

(800) 452-2777

HOME TELEPHONE #

(704) 868-6302 (PRIMARY)

WORK TELEPHONE #

RYAN WOODS - TOWER ENGINEERING PROFESSIONALS (Agent)

NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

326 TRYON RD, RALEIGH, NC 27603

ADDRESS OF AGENT, ATTORNEY, APPLICANT

RJWOODS@TEPGROUP.NET

E-MAIL

(919) 661-6351

HOME TELEPHONE #

(919) 943-0397 (PRIMARY)

WORK TELEPHONE #

Adam C Spry
SIGNATURE OF OWNER(S)

Adam C Spry
Digitally signed by Adam C Spry
Date: 2021.03.26 09:28:20
-04'00'

SIGNATURE OF OWNER(S)

Ryan Woods
SIGNATURE OF AGENT, ATTORNEY
OR APPLICANT

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) Adam C Spry Adam C Spry Digitally signed by Adam C Spry
Date: 2021.03.26 09:28:42 -04'00'

PRINTED NAME OF OWNER(S) Adam Spry- DUKE ENERGY PROGRESS Energy, LLC

DATE _____

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT
FEE SCHEDULE**

BOARD OF ADJUSTMENT

SPECIAL USE PERMIT
VARIANCE
WATERSHED
ADMINISTRATIVE REVIEW APPEALS
INTERPRETATIONS
NONCONFORMING USES

* Board of Adjustment fee include hearings for the County Flood Ordinance and County Watershed Ordinance

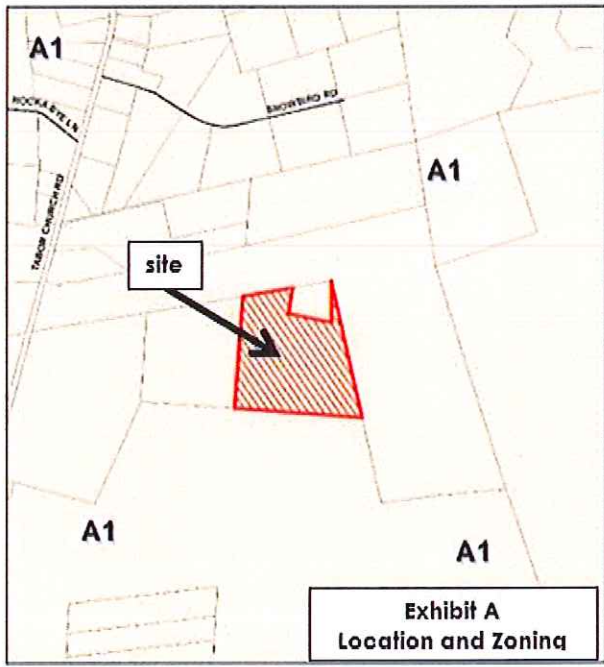
EXPLANATION OF THE REQUEST **Special Use – Cell Tower in an A1 District**

Property Owner requests the BOA grant a Special Use Permit for the replacement of an existing guyed-wire communication tower having with a lattice communication tower that is 350 feet in height. The existing tower is 291 feet in height. Location of the existing and replacement tower are located on the same parcel as denoted in Exhibit "A". at a location illustrated on Exhibit "A". The proposed site is owned by the tower applicant,

A communication tower within an A1 zoning district must obtain a Special Use approval from the Board of Adjustment, per Section 403, County Zoning Code, as shown in Exhibit "B". A communication tower falls under the Use Matrix category of "Tower". A communication tower in an A1 zoning district must comply with the development standards and requirements set forth in Section 927 of the Zoning Code, including submittal of a site plan. Refer to Exhibit "C" for the development standards and requirements set forth in Section 927. The applicant's proposed special use site plan appears in Exhibit "D". For towers located within an A-1 zoning district, the height of a tower is not restricted but the minimum setback standards set forth in Section 297.G of the Zoning Code apply.

Applicant requests to keep the existing tower in place until the new tower is erected and fully operational. A letter explaining this request is provided with the application and addressed in the proposed Special Use Permit. Refer to the exhibits for this information.

- Exhibits
- A. Site Location/Zoning
 - B. Use Matrix, Sec. 403, Zoning Code
 - C. Section 927, Towers
 - D. Special Use Site Plan
 - E. Existing and Adjacent Uses
 - F. Soil and Utilities
 - G. Southeast Cumberland Land Use Plan
 - H. Special Use Permit
 - I. Sec. 1606 Applicant Response and application
- Attachment: mailing list



PROPERTY INFORMATION

OWNER/APPLICANT: Duke Energy Progress, Inc, Owner (Dale Brooks, rep.)
Toby Coleman (Smith Anderson Law Firm), Agent

ADDRESS/LOCATION: 7773 Tabor Church Road, approximately 1.75 miles east of the Cape Fire River and 1.75 miles north of the Bladen County line in southcentral Cumberland County. REID: 0461407094000

SIZE: 33.39 +/- acres comprised from one parcel. The property owner, Duke Energy, also owns two parcels to abutting to the north and east of the subject site that have a combined 146 acres.

ROAD FRONTAGE: None. Access occurs from a private driveway leading to Tabor Church Road. Driveway is located entirely on property owned by Duke Energy.

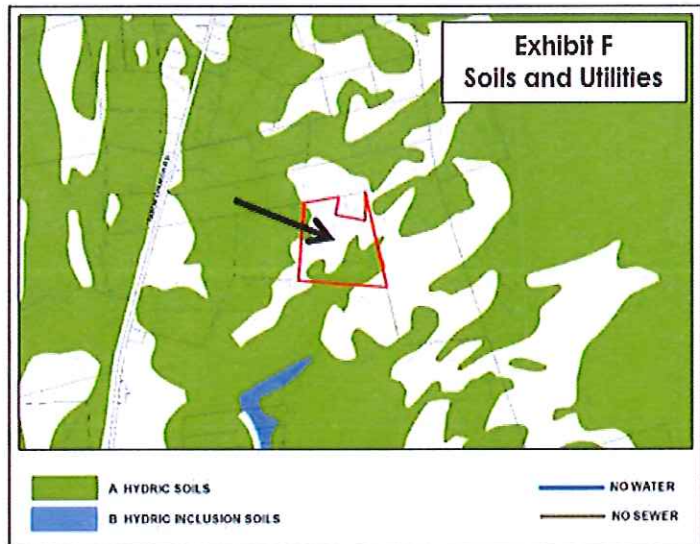
EXISTING LAND USE: The property currently has an existing communication tower with a height of approximately 291 feet, together with ground equipment within a gated compound. Site serves as an existing utility site for Duke Energy, as shown in Exhibit "D" (site plan) and "E" (existing use and surrounding uses.)

SURROUNDING LAND USE: Uses in the surrounding area and adjacent properties comprise primarily undeveloped forested lands. Single family homes on large lots are located along Snowbird Road and Tabor Church Road to the north, the nearest of which is approximately 1,775 feet away. Surrounding uses are shown on Exhibit "E". A Duke Energy substation covers approximately 27.5 acres on the abutting parcels it owns to the north and west.

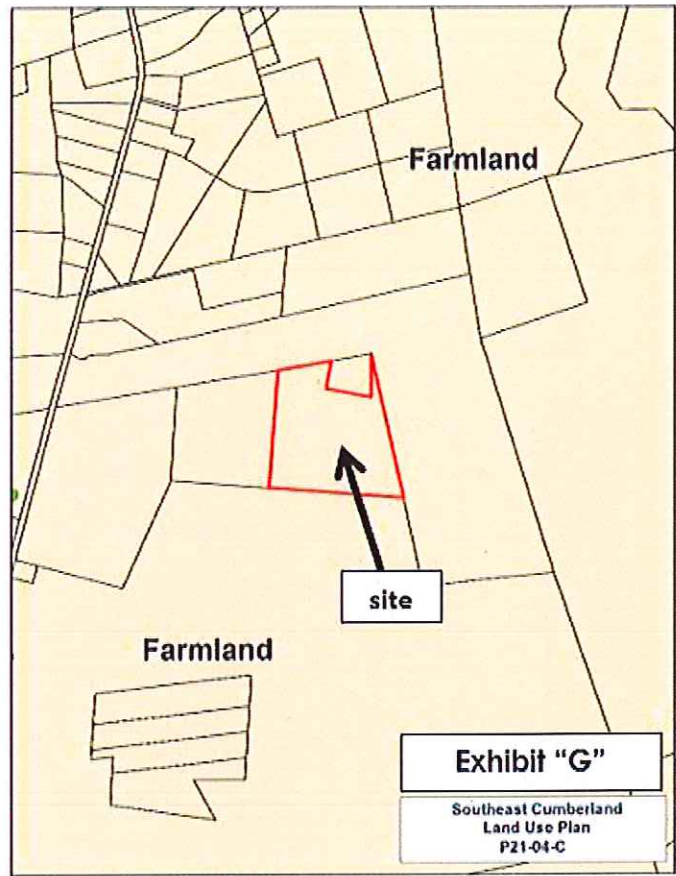
OTHER SITE CHARACTERISTICS: The property is not located within a 100-Year Flood Zone nor situated within a watershed. There are hydric soils present on the property but not in the area where the proposed new tower will be located, as shown in Exhibit "F".

DEVELOPMENT REVIEW: The subject property is situated on a lot that was created by Plat Book 140, Page. 115 on 1/25/2018. Records of the Planning & Inspections Department do not have any prior development cases for this property.

MINIMUM YARD SETBACKS: The proposed tower meets the required setbacks for the A1 zoning district, as set forth in Section 927C.1 of the Zoning Code ("Towers in any residential or agricultural district shall be set back from all adjacent property lines and/or lease lines a distance of not less than the height of the tower. The distance shall be measured from the base of the tower." Section 927.C.1, Zoning Code.) Proposed location of the tower is approximately 485 feet east of the western lot line and at least 525 feet north of the southern lot line. The nearest public road, Tabor Church Road, is approximately 2,790 feet to the west.



COMPREHENSIVE PLANS: The 2030 Growth Vision Plan designates this area as "Rural Areas." Located in the Southeast Cumberland Land Use Plan area, the subject property is designate as "Farmland". The Land Use designations are illustrated in Exhibit "G". **The request is consistent with the Southeast Cumberland Land Use Plan.**



IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITES

TRAFFIC: The subject property is located outside of FAMPO boundaries. Access to the existing sub-station and the proposed tower occur from a driveway connection to Tabor Church Road, near the intersection with Main Street. Only employees from Duke Energy access the gated site. Tabor Church Road, the nearest public street, is approximately 2,800 feet to the west.

UTILITIES: No water and sewer services are provided at the sub-station site for lack of need. Exhibit "F" demonstrates that water and sewer lines are not located near the subject site.

ECONOMIC DEVELOPMENT: The staff from the Fayetteville Economic Development Commission have not identified any concerns.

EMERGENCY SERVICES: No issues were identified at this time by Emergency Services.

SPECIAL DISTRICTS: The subject property is not located within five miles of Fort Bragg Military base and is not located within or near the Fayetteville Regional Airport Overlay District.

Applicable Codes

Use and development of the subject site must occur consistent with Section 927 of the Zoning Code, Case No. 21-24 Site Plan (Exhibit "D"), and Special Use Conditions (Exhibit "H").

Applicant has submitted the following to demonstrate compliance with Section 927: special use site plan, Determination of No Hazard to Air Navigation, Avigation Study, Structural Design Report, Plan for Replacement of Existing Tower, and Tower Input Data.

FINDINGS OF FACT

The proposed Special Use Permit is provided in Exhibit "H".

Pursuant to Section 1606.C. Special Use Permits, Consideration of Application, the Board of Adjustment must establish a finding of fact for the following criteria to approve the special use:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended.
2. The use meets all required conditions and specifications.
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

Applicant's response to each of these criteria are provided within Exhibit "I".

MOTION

The BOA is requested to take action/motion based on the findings of fact, as supported by the Special Use Site Plan (Exhibit "D") and Special Use Condition (Exhibit "H"). Any motion to approve the special use includes approval of the Special Use Permit conditions and the Special Use Site Plan.

EXHIBIT "B"
USE MATRIX

SECTION 403 USE MATRIX
CUMBERLAND COUNTY ZONING ORDINANCE
 P = PERMITTED USE
 S = SPECIAL USE (Sec. 1606, 2d of Adjustment)
 Z = CONDITIONAL ZONING (Art. V, County BOC)

LAND USES	ZONING CLASSIFICATIONS																						
	ED	AL	ALA	ROB	BAEA	ROD	RESA	RR	RD	ROA	RES	RTS	RC	RAA	RS	RA	QAZP	QUP	ESP	CPA	MUP	MPY	
SAWMILL AND/OR PLANING OPERATION (Sec. 926)	P	P																					
SCHOOL, business and commercial for nurses or other medically oriented professions, trade, vocational & fine arts																	P	P	P	P			
SCHOOLS, public, private, elementary or secondary (Sec. 916)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
SECOND-HAND, PAVIN AND FLEA MARKET (Sec. 923)																							
SEPTAGE DISPOSAL SITE	P																						
SEXUALLY ORIENTED BUSINESSES (Sec. 924)																							
SHEET METAL FABRICATION																							
SOLAR PANEL	P																						
SOLID WASTE DISPOSAL FAC. (Sec. 925)	S	S																					
SPECIAL INFORMATION SIGNS (Sec. 1204 D)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
STORAGE-FLAMMABLE																							
STORAGE-OPEN																							
STORAGE-WAREHOUSE																							
SWIMMING POOLS, incidental to a principal use, (Sec. 1002 C)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
TAILORING (Dressmaking)																							
TACTICAL STAND OPERATION																							
TELEPHONE SWITCHING/BOGGER STATION	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
THEATER PRODUCTIONS, indoor, which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Section 924																							
THEATER PRODUCTIONS, outdoor (Sec. 926), which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Section 924	S	S																					
TIRE RECAPPING																							
TOWER (Sec. 927)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
TRADES CONTRACTOR ACTIVITIES, with or without outside storage of equipment or supplies																							
TRAILER RENTALS, including terminal activities, hauling and/or storage, incidental to same, but excluding mini-warehousing as defined herein																							



SECTION 403 USE MATRIX

EXHIBIT "C"

SECTION 927, ZONING CODE

C. All structures on the site shall comply with the dimensional requirements for the zoning district.

D. The site shall be maintained to prevent odors, rodents and any other nuisances.

E. The site shall have direct access to a paved public street.

F. Access roads leading to any part of the operation shall be constructed in such a manner as to not impede traffic on any public or private street and shall be paved or constructed with gravel or crushed stone surface and maintained in a dust-free manner.

G. All environmental health rules and regulations, including Federal and State laws, shall be complied with.

H. One identification sign, as defined in Section 1302, shall be permitted in accordance with Article XIII.

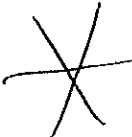
SECTION 926. THEATER PRODUCTIONS, OUTDOOR.

A. One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) Planned Local Business District.

B. The site shall have direct vehicular access to a collector or higher-level street.

C. In non-commercial districts, hours of operation shall be between sunrise and sunset. Noise levels shall not pose a nuisance to neighboring properties.

D. All outdoor lighting shall be turned off between 11:00 p.m. and sunrise, except lighting used for walkways, roads, parking lots and security. In these cases, fully shielded lights must be used.



SECTION 927. TOWERS.

A. A communication tower and associated equipment totally concealed within a building or structure so as to be architecturally indiscernible shall not be regulated as a tower under this section.

B. The applicant, owner, or developer of a tower that is to be at least 75 feet in height shall submit a site plan with the application for permits to authorize construction or erection of the tower. The site plan shall include:

1. Identity of the proposed or intended user(s) of the tower.
2. The certification of a registered engineer that the tower has the structural integrity and/or capacity to support or to accommodate more than one use or user.
3. The statement and supporting information and documentation by the applicant, owner, or developer that no structures or facilities suitable for collocation are available within the coverage area.
4. The statement of the owner indicating the intent and willingness to permit shared use of the and the potential for or limitations on the number of other users that the proposed tower can accommodate.
5. Elements and design that meet all requirements of this ordinance and the County Subdivision Ordinance.

C. Setbacks as prescribed below are intended for the assurance of public safety and protection of the property rights of adjacent property owners and shall not be less than the minimum required and shall not be varied by the Board of Adjustment:

1. Residential/Agricultural Zones. Towers in any residential or agricultural district shall be set back from all adjacent property lines and/or lease lines a distance not less than the height of the tower. The distance shall be measured from the base of the tower.

2. Commercial/Industrial Zones. Any tower shall be set back from property and/or lease lines a minimum of 50 feet or one foot of setback for each two feet of tower height, whichever is greater.

D. Structures located near towers shall not encroach upon the setbacks of the towers, unless such towers are of monopole design and construction, in which case buildings and structures may be located within the setback distances.

E. A chain link fence at least ten feet in height and located at least ten feet from the base of the tower shall enclose the tower base.

F. A buffer area at least 25 feet wide shall surround the tower compound. The buffer shall shield the compound area from the entire tract. No structures, including guyed wires or anchors, may be constructed or located within the buffer. The buffer area shall be planted with evergreen trees that will attain a minimum height of 25 feet within four years, and be spaced no greater than 20 feet apart. The inner fringe of the buffer area shall be planted with an evergreen hedge that shall have an initial height of at least three feet and an expected attainment of six feet in height within four years of planting. The hedge shall constitute a complete shield or visual blockage. If the Coordinator determines that a natural buffer already

exists on site that substantially complies with the purpose and intent of this performance standard to an equal or greater degree, such an alternative natural buffer shall be considered adequate. If an alternative natural buffer is used, the user shall be responsible to ensure that the buffer remains compliant for as long as the tower remains. If a buffer is altered to an extent where it no longer serves to shield or obscure the compound from view, the applicant or tower user(s) shall install buffers as required by this section.

G. The applicant, owner or developer shall certify that the proposed will be constructed and operated in accordance with all applicable Federal, State and local laws and ordinances, including but not limited to all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines.

H. Prior to the issuance of a building permit for a tower, the applicant, owner or developer shall submit drawings sealed by a licensed engineer and a certification letter from the licensed engineer who prepared the plans that the tower will meet all applicable Federal, State and local building codes and structural standards.

I. *Repealed.*

J. The tower's height shall not exceed 450 feet. When a tower is located on a building or structure, the combined height of the building or structure and the tower shall not exceed 450 feet, except in the A1 Agricultural District. The height of a tower located in the A1 Agricultural District shall not be restricted. However, a tower located in the A1 Agricultural District must meet all applicable setbacks.

K. The exterior appearance of any building or structure associated with a tower and located in a residential zone shall maintain a residential architectural quality including, without limitation, a pitched roof and frame or brick veneer construction.

L. No building or structure associated with a tower and located in a residential zone may be used as a work site for any worker. However, periodic maintenance, inspection and renovation of the facility shall be permitted.

M. Each applicant, owner or developer shall demonstrate that the use will not be detrimental or injurious to the property values of the surrounding neighborhood. In zoning districts where the tower is a use by right, the applicant, owner or developer may satisfy the requirement by submitting a statement signed by a licensed appraiser or real estate broker which expresses an opinion that the use will not be detrimental or injurious to the property values of the surrounding neighborhood.

N. *Repealed.*

O. To protect the public from unnecessary exposure to electromagnetic radiation, the applicant, developer, owner or operator of the tower shall document that the power density levels do not exceed federally approved-levels or American National Standards Institute (ANSI) standards, whichever is stricter.

P. If lighting is required by the FAA, it shall meet or exceed the FAA standards. To the extent allowed by FAA regulations and standards, strobes shall not be used for nighttime lighting. To the extent permitted by Federal statutes, regulations and standards, the lights shall be oriented so as not to project directly onto surrounding residential property. Prior to issuance of a building permit, the applicant, developer or owner shall submit documentation from the FAA that the proposed lighting is the minimum lighting required by the FAA.

Q. A tower not used for a period of at least six months shall be determined to be abandoned and shall be removed. The owner of the tower shall remove any abandoned, unused or structurally unsound tower within 90 days of receiving notice requiring removal. The Coordinator may establish a shorter period of time for the removal of a tower that is structurally unsound.

R. The owner or operator of a tower shall submit a statement signed and sealed by a licensed engineer that the tower will be structurally sound.

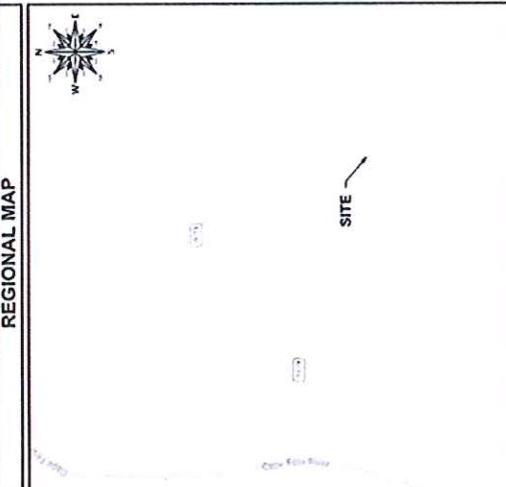
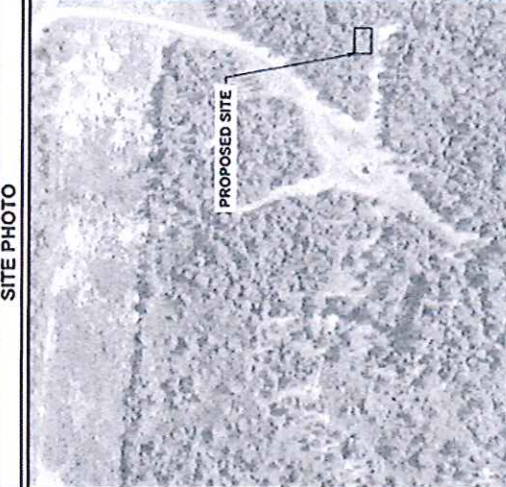
S. If the Coordinator determines a tower is not structurally sound, the owner or operator of the tower shall, within 60 days or a shorter time period if required by the Coordinator, complete repairs to restore the structural soundness of the tower.

T. The owner, applicant, or developer shall camouflage the tower so that it blends into the surrounding area. Methods of camouflage include paint, architectural design or structure, and other means.

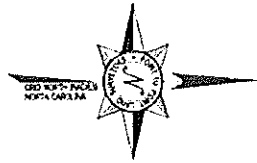
U. No outside storage on the site of the tower shall be permitted.

V. All tower sites shall comply with the provisions of the County Subdivision Ordinance. *{Amd. 02-19-08; Amd. 01-19-10}*

EXHIBIT "D" SITE PLAN

<p>REGIONAL MAP</p> 	<p>SITE NAME: CUMBERLAND TOWER</p> <p>SITE NUMBER: NCFAY096</p> <p>SITE ADDRESS: 7773 TABOR CHURCH ROAD FAYETTEVILLE, NC 28301</p> <p>LATITUDE & LONGITUDE: N 34° 52' 35.06", W 78° 47' 04.41°</p>	<p>SITE PHOTO</p> 	<p>PREPARED BY: ETS ENGINEERING & SURVEYING 1277 WELINGTON COURT FAYETTEVILLE, NC 28301 910.782.2700 • FAX 910.782.0621 www.ets-engineering.com</p> <p>PREPARED FOR: DUKE ENERGY</p> <p>SITE NAME: CUMBERLAND TOWER</p> <p>SITE NUMBER: NCFAY096</p> <p>SITE ADDRESS: 7773 TABOR CHURCH ROAD FAYETTEVILLE, NC 28301 LATITUDE & LONGITUDE: N 34° 52' 35.06", W 78° 47' 04.41°</p>																																																																																																																																								
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P21-04-C



SURVEYOR CERTIFICATION

I HEREBY CERTIFY THAT THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT AND THE RULES AND REGULATIONS OF THE SURVEYING BOARD OF GEORGIA.

[Signature] DATE: 10/29/2020

0. Daniel L. Hatcher, Surveyor License No. 10000, State of Georgia, License Expiration 8/31/21
 This map was prepared by a licensed surveyor and is not intended to be used for any purpose other than that for which it was prepared. It is not to be construed as a warranty of accuracy or as a representation of value. The surveyor assumes no liability for any errors or omissions in this survey.

GPS NOTES

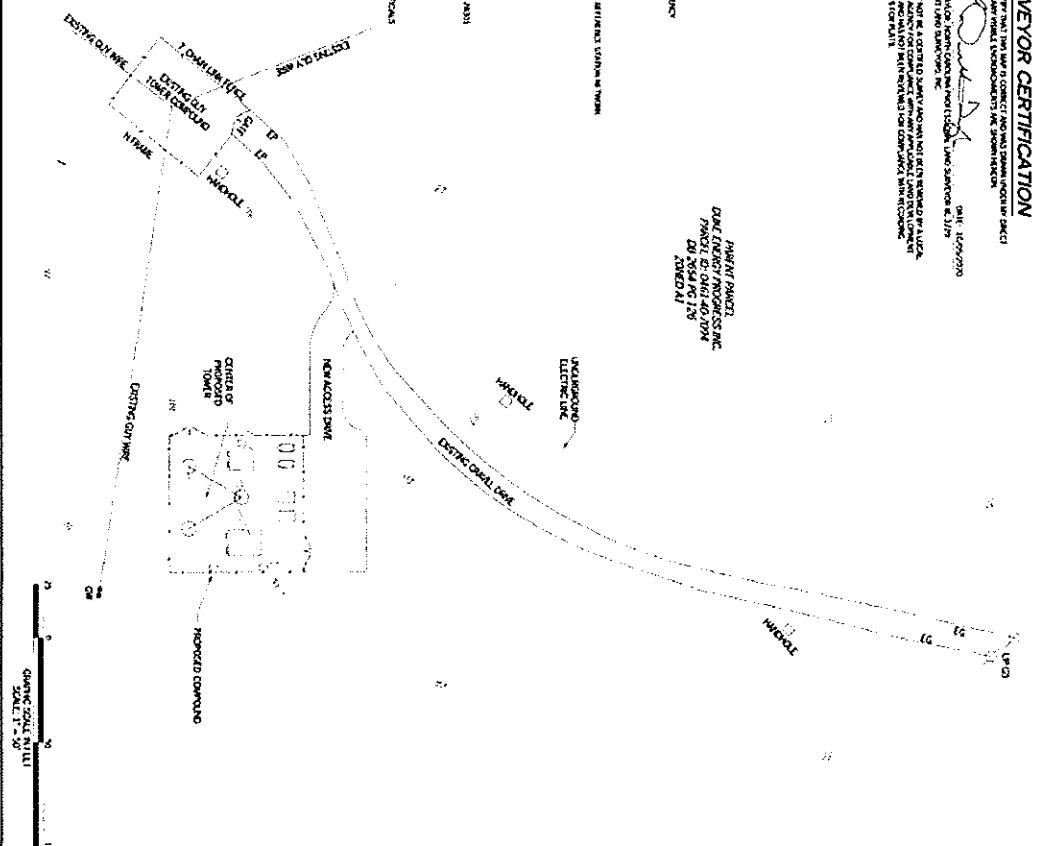
THE FOLLOWING CITY UTILITIES WERE LOCATED BY THE SURVEYOR USING GPS SURVEYING TECHNIQUES. THE SURVEYOR HAS VISUALLY VERIFIED THE LOCATION OF THE UTILITIES AND HAS LOCATED THEM TO THE CENTERLINE OF THE UTILITY. THE SURVEYOR HAS NOT VISUALLY VERIFIED THE LOCATION OF THE UTILITIES AND HAS LOCATED THEM TO THE CENTERLINE OF THE UTILITY. THE SURVEYOR HAS NOT VISUALLY VERIFIED THE LOCATION OF THE UTILITIES AND HAS LOCATED THEM TO THE CENTERLINE OF THE UTILITY.

PARENT PARCEL

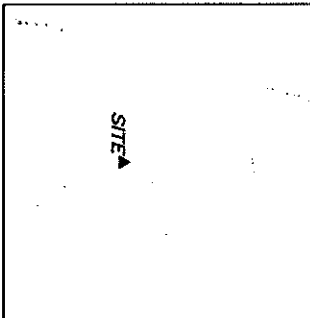
OWNER: DANIEL HATCHER
 3771 SUPER CHARGE ROAD (NORTH-CENTRAL ROAD)
 MARIETTA, GA 30067-1078
 AREA: 1.575 ACRES PER PARCEL
 ZONING: AU
 ALL ZONING INFORMATION SHOULD BE SHARED WITH THE PROPERTY OWNER'S OFFICIALS.
 METERS: 0.000000, 0.000000, 0.000000, 0.000000

SITE INFORMATION

ADDRESS: 36° 23' 58" (NAD 83) 81.81818181818181
 COORDINATE: 78° 47' 00" (NAD 83) 78.78787878787878
 AT CENTER OF PROPOSED TOWER
 ELEVATION AT CENTER OF PROPOSED TOWER = 87.8' ASL



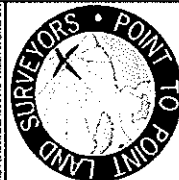
Know what's below.
 Call before you dig.



GENERAL NOTES

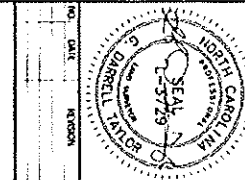
1. THIS SURVEYING SERVICE WAS PROVIDED FOR THE CLIENT'S INFORMATION AND IS NOT INTENDED TO BE USED FOR ANY OTHER PURPOSE. THE SURVEYOR ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN THIS SURVEY. THE SURVEYOR HAS NOT VISUALLY VERIFIED THE LOCATION OF THE UTILITIES AND HAS LOCATED THEM TO THE CENTERLINE OF THE UTILITY. THE SURVEYOR HAS NOT VISUALLY VERIFIED THE LOCATION OF THE UTILITIES AND HAS LOCATED THEM TO THE CENTERLINE OF THE UTILITY.

SP. OF C. PURPOSE SURVEY PREPARED BY:
POINT TO POINT LAND SURVEYORS
 Firm License Number: C-4145
 100 Governors Trace, Ste. 103
 Peachtree City, GA 30269
 (678) 565-4440 (F) 678-565-4497
 (A) p2pls.com



ETS
 ENGINEERING & SURVEYING, P.L.C.
 123 W. MARKET ST. SUITE 150
 CUMBERLAND

DESIGNED BY: PA	CHECKED BY: PA	DATE: OCTOBER 4, 2020
1	1	1





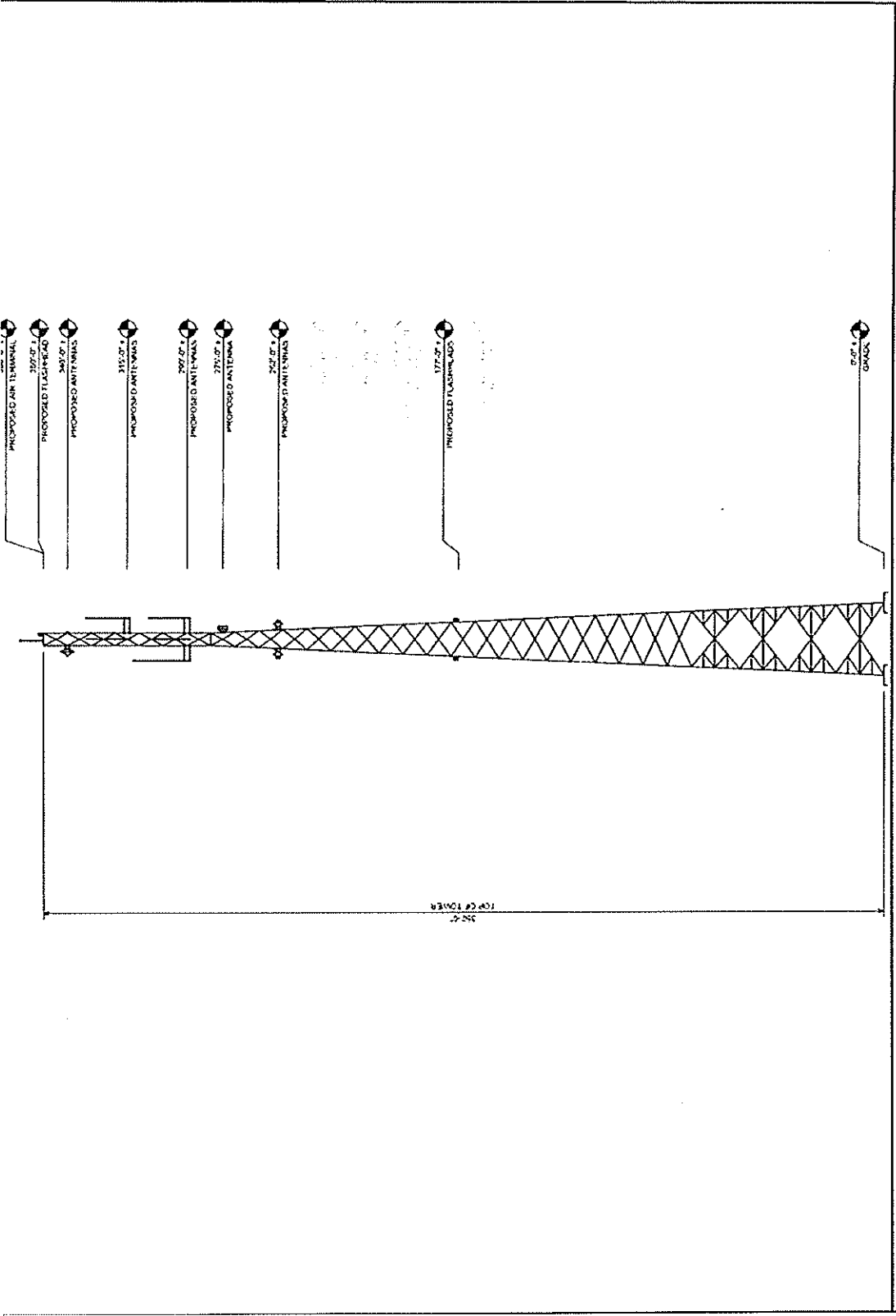
CUMBERLAND TOWER
 SUTL. NAME
 SUTL. NUMBER
 NCFAY096
 SUTL. ADDRESS
 179 LINDSEY ROAD
 FAYETTEVILLE, NC 28401
 SUTL. PHONE
 919.762.2770



REV.	DATE	DESCRIPTION
0	11/12/2009	CONSTRUCTION
1	10/20/2009	CLIENT COMMENTS
2		
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14		

DESIGNED BY: JAC
 CHECKED BY: JAC
 SHEET TITLE: TOWER ELEVATION
 SHEET # C-2
 COMMENT REV # 1
 DATE 12/20/09

P21-04-C



TOWER ELEVATION
 1" = 40'

ATTACHMENTS
EXHIBIT "H"
Special Use Permit Conditions

Special Use Permit- Board of Adjustment
DRAFT
(Communication Tower Special Use Permit and Site Plan)
Ordinance Related Conditions

P21-04: Consideration of a Special Use Permit to Allow a 350-Foot-High Lattice Structure Communication Tower to Replace an Existing 291 Foot High Guyed-Wire Communication Tower in an A1 Agricultural District on 33.79 +/- Acres, Located at 7773 Tabor Church Road, Submitted by Duke Energy Progress Inc (Owner) (Reid: 0461407094000)

The Special Use Permit requested is approve subject to the contents of the application, site plan appearing in Exhibit "A" and the following conditions.

Permit-Related:

1. The owner/developer(s) of these lots must obtain detailed instruction on provisions of the County Zoning Code and permits required to place any structure within this development from the County Code Enforcement Section, at the Historic Courthouse at 130 Gillespie Street, Fayetteville, N.C. For additional information, the developer should contact the Code Enforcement Section. (Chpt. 4, County Code & Sec. 107, County Zoning Ord.)
2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for ay building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits. (NCGS § 130A-338 & Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)
3. The *Special Flood Hazard Area* (SFHA) exists on this tract. The SUP Site Plan does not appear to place any development within the SFHA. Any development within SFHA must have first flood elevations, including all mechanical and electrical equipment above base flood elevation (BFE) plus two feet of freeboard. Proper Floodplain Development Permits are required, issued by the County Engineer, prior to any building/permit application. A copy of the approved Floodplain Development Permit must be provided to County Code Enforcement at the time of building/zoning permit applications. [Sec. 6.5-21, County Code]
4. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Department of Energy, Minerals and Land Resources, NC Department of Environmental Quality (DEMLR NCDEQ). If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy. (Note: If any retention/detention basins are required for state approval of this plan, three copies of a revised plan (and \$25/\$50 revision fee) must be submitted and approved by Planning & Inspections.) (Sec. 2306.D, County Subdivision Ord. & 2006-246, NC Session Law)
5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application. [Sec. 4-8(b)(2), County Code]
7. Driveway Permit Required. Construction of any new connection or alteration of any existing connection to Tabor Church Road may require an approved Driveway Permit. For additional information contact the NC Department of Transportation's (NCDOT) Division 6/District 2 office.
8. Prior to issuance of a building permit for the tower, the applicant/owner or developer must submit to the Code Enforcement Sections, drawings sealed by a licensed engineer and a certification letter from the licensed engineer

who prepared the plans that the tower will meet all applicable Federal, State and local building codes and structure standards applicable to a communication tower (Section 927. H, Towers, County Zoning Ordinance.)

9. Prior to issuance of the finance permit for the tower, the owner/operator of the tower shall submit a signed and sealed engineer's statement that the tower is structurally sound.
10. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans. (Sec. 107.B, County Zoning Ord.; & Secs. 2005 & 2007 County Subdivision Ord.)
11. A driveway from Tabor Church Road to the tower site shall be maintained to allow access by emergency vehicles, and an overhead clearance of 13 feet six inches shall be maintained over the driveway.

Site-Related:

12. Development and use of the project site shall occur consistent with the Special Use Permit site plan (Exhibit "A"). All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance, and County Zoning Ordinance for the A1 zoning district for a communication tower must be complied with, as applicable.
13. Tabor Church Road shall be labeled with its State road number on all submitted future plans.
14. This conditional approval is not approval of any freestanding signs. If a freestanding sign is desired, re-submittal of the site plan is required prior to application for any freestanding sign permits. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is not approval of the size, shape, or location of any signs.) (Art. XIII, County Zoning Ord.)
15. 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 2307.A, County Subdivision Ord.)
16. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306.C, County Subdivision Ord.)
17. 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. (Sec. 1102.O, County Zoning Ord.)
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. The tower base and ground equipment shall be enclosed by a chain link fence that is at least ten feet in height (Section 927.EI, Towers, County Zoning Code.)
20. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of one off-street parking space is required for this development.
21. A 25-foot-wide buffer area shall surround the tower compound area and no structures shall be erected within the buffer area.
22. In the event the tower is not used for a period of six consecutive months, the tower shall be considered abandoned and must be removed. The owner of the tower is required to remove any abandoned, unused or structurally unsound tower within 90 days of receiving notice requiring removal. The Code Enforcement Manager may

establish a shorter period of time for removal in the event the tower is determined to be structurally unsound (Section 927.Q. Towers, County Zoning Ordinance).

23. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site and landscape areas are 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. (Sec. 1403, County Zoning Ord.)
24. The existing 291-foot-high tower may remain and function on the property until such time as the replacement tower is fully operational but for a time period not longer than one year from the date the replacement tower structure is completed.

Advisories:

- Any revision or addition to this plan necessitates re-submission for review and approval prior to the commencement of the change.
- 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.
- 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.
- 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.
- The subject property sits on Tabor Church Road and is not within the FAMPO boundaries or its Transportation Plan. For questions related to this comment, please contact Transportation Planning.

Other Relevant Conditions:

- This conditional approval is contingent upon continued compliance with the County's Subdivision and Development Ordinance and Zoning Ordinance. Development of the property must comply with all applicable local, state and federal laws and ordinances.
- The owner/developer be aware that every deed created for a lot being served by an on-site water and/or sewer system must contain the following disclosure when filed with the County Register of Deeds:

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

If you need clarification of any conditions, please contact the Current Planning Section of Cumberland County; otherwise, contact the appropriate agency.

EXHIBIT "A"
SPECIAL USE SITE PLAN
(See Exhibit "B" of the Staff Report)

EXHIBIT I"
APPLICANT'S RESPONSE TO SPECIAL USE CRITERIA
(Section 1606.C. Special Use Permits)

**Appendix 1 to Application for Special Use Permit
Cumberland County Board of Adjustment Case 21-04
PIN 0461407094000 (the "Property")**

Responses to Criteria for Special Use Permit

Applicant Duke Energy Progress, Inc. ("DEP") is seeking a Special Use Permit to authorize the replacement of the existing guyed tower on the Property with a new self-supporting tower. Duke Energy Progress has presented sufficient evidence to establish all of the criteria for the issuance of a Special Use Permit under Section 1606.C of the Cumberland County Zoning Ordinance, as follows:

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

The evidence in the record establishes that there is an existing tower on the Property that has safely operated on the Property for a number of years. The replacement of the existing tower with a new tower will not create any new public health or safety risks. The sealed Structural Design Report submitted with the Special Use Application in the record establishes that the proposed replacement tower will be structurally sound and not materially endanger the public health or safety. Further, the evidence in the record establishes that the tower will be constructed and operated in accordance with applicable federal, state, and local laws and ordinances that help ensure public health and safety is protected.

- 2. The use meets all required conditions and specifications.**

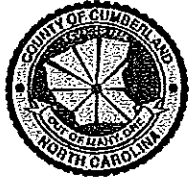
The evidence in the record establishes that the proposed use meets all required conditions and specifications set out in the Cumberland County Zoning Ordinance.

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

The evidence in the record establishes that there is an existing tower on the Property, and that the proposed replacement tower does not constitute a new use or otherwise impact surrounding properties. The evidence in the record further establishes that the Property is subject to existing power transmission lines and adjacent to a DEP substation. The evidence in the record establishes that maintaining the tower use will not impact adjoining or abutting properties.

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

The evidence in the record establishes that there is an existing tower on the Property, and that the proposed replacement tower does not constitute a new use or otherwise impact surrounding properties. The evidence in the record further establishes that the Property is subject to existing power transmission lines and adjacent to a DEP substation. The evidence in the record further establishes that the Property is zoned Agricultural (A1), and that the telecommunications tower use is permitted as a Special Use in the Agricultural zoning district. All this evidence shows that the location and character of the use is in harmony with the area and in conformity with the County's most recent Comprehensive Land Use Plan.



County of Cumberland
BOARD OF ADJUSTMENT

CASE #: P21-04-C

CUMBERLAND COUNTY BOA
MEETING DATE: _____

DATE APPLICATION
SUBMITTED: 4-13-21

RECEIPT #: 77018

RECEIVED BY: J&W

**APPLICATION FOR
SPECIAL USE PERMIT**

The Cumberland County Board of Adjustment meetings are held on the third Thursday of each month in the Historic Courthouse, 130 Gillespie Street - Hearing Room 3. The Planning and Inspections Department will advertise the public hearing and a notice will be mailed or delivered to surrounding residents or property owners that may be affected by the proposed Special Use Permit request.

The Board of Adjustment is a quasi-judicial review board and all persons wishing to appear before this Board should be prepared to give sworn testimony on relevant facts. Applicants for Special Use Permits are encouraged to read Section 1606 "Special Use Permits" of the Zoning Ordinance to ensure the technical requirements of the Ordinance are met before submission to the Board of Adjustment (see next page).

The following items are to be submitted with the complete application:

1. A copy of the recorded deed and/or plat,
2. If a portion of an existing tract, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
4. Cash or check payable to "Cumberland County" in the amount of \$3,250 (see attached Fee Schedule)

NOTE: Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board of Adjustment meeting according to the board's meeting schedule. Also, the application fee is *nonrefundable*.

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

**EXCERPT FROM
THE CUMBERLAND COUNTY ZONING ORDINANCE**

Section 1606 SPECIAL USE PERMIT (portion of)

B. Procedure. Special Use Permit shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Section 403, Use Matrix, as Special Uses. Uses specified as a Special Use in Section 403 shall be permitted only upon the issuance of a Special Use Permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a Special Use Permit shall submit a complete application and three copies of a site plan (drawn in accordance with the specifications listed in Section 1402) to the Planning and Inspections Staff. The Staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule. The Planning and Inspections Staff shall also notify the Commanders of Fort Bragg, and Pope U.S. Army Field of any application affecting the use of property located within a five miles or less of the perimeter boundary of said bases in accordance with the N.C. Gen. Stat §153A-323.

Developers are encouraged to discuss their Special use plans with the Planning and Inspections Staff before submission. The Staff shall assist the developer upon request by reviewing Special use plans to insure that the technical requirements of this Ordinance are met before submission to the Board of Adjustment.

All applications and site plans shall provide information indicating compliance with the development standards for individual uses as listed in Article IX of this Ordinance, as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the Special Use provide to the contrary.

C. Consideration of Application. The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this Article and may grant or deny the Special Use Permit requested. On granting a Special Use Permit, the Board shall find that:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;
2. The use meets all required conditions and specifications;
3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the Cumberland County's most recent Comprehensive Land Use Plan.

Any special use permit granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified within one calendar year from the date of such approval.

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 7773 Tabor Church Road, Fayetteville, NC 28301

OWNER: Duke Energy Progress Inc

ADDRESS: PO Box 1551 Raleigh, NC ZIP CODE: 27602

TELEPHONE: HOME N/A WORK 704-382-0913

AGENT: Toby Coleman, Smith Anderson

ADDRESS: 150 Fayetteville Street, Suite 2300, Raleigh, NC 27601

TELEPHONE: HOME N/A WORK 919-821-6778

E-MAIL: tcoleman@smithlaw.com

APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0461407094000
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 33.79 Frontage: None Depth: Approx. 1312ft

C. Water Provider: N/A

D. Septage Provider: N/A

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

F. Existing use of property: Existing guyed tower, otherwise vacant

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.)

Erect new lattice self-support tower to replace old existing guyed tower. Operation is for Duke Energy Progress support services and will operate 24/7. No on site employees are needed and will only have occasional visiting service technicians. Signage will be minimum standard defined in tower ordinance.

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.

Duke Energy Progress Inc

NAME OF OWNER(S) (PRINT OR TYPE)

PO Box 1551 Raleigh, NC 27602

ADDRESS OF OWNER(S)

Dale.Brooks@Duke-Energy.com

E-MAIL

N/A

HOME TELEPHONE #

704-382-0913

WORK TELEPHONE #

Toby Coleman, Smith Anderson

NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

150 Fayetteville Street, Suite 2300, Raleigh, NC 27601

ADDRESS OF AGENT, ATTORNEY, APPLICANT

tcoleman@smithlaw.com

E-MAIL

N/A

HOME TELEPHONE #

919-821-6778

WORK TELEPHONE #

Dale Brooks

SIGNATURE OF OWNER(S)

Dale Brooks

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) Dale Brooks

PRINTED NAME OF OWNER(S) _____

DATE March 31, 2021

**CUMBERLAND COUNTY BOARD OF ADJUSTMENT
FEE SCHEDULE**

BOARD OF ADJUSTMENT

SPECIAL USE PERMIT
VARIANCE
WATERSHED
ADMINISTRATIVE REVIEW APPEALS
INTERPRETATIONS
NONCONFORMING USES

* Board of Adjustment fee include hearings for the County Flood Ordinance and County Watershed Ordinance



[TRANSMITTAL/COVER LETTER]

April 9th, 2021

Rawls Howard-Planning Director
Cumberland County
130 Gillespie Street
Fayetteville, North Carolina 28301

RE: Application for Special Use Permit---Replace Tower
7773 Tabor Church Road, Fayetteville, NC (PIN 0461407094000) (the "Property")

Dear Mr. Howard:

Enclosed is an application for a Special Use Permit to permit the Property owner, Duke Energy Progress, Inc., to replace the existing tower on the Property with a new tower. See TAB #2

Also enclosed are:

- An appendix to the Special Use Permit addressing how the proposed development will comply with the standards listed in Section 927 of the Cumberland County Zoning Ordinance. See TAB #3
- A copy of the recorded deeds for the Property, along with the recorded recombination plat establishing the current Property lines; See TAB #4
- A copy of the site plan; See TAB #5 and
- A check for the \$3,250 application fee for the Special Use Permit.

If you have any questions, please do not hesitate to contact me at 980-229-6725.

Thank you,

A handwritten signature in black ink that reads "David Best".

David Best
Chase Real Estate Services



**Application for Special Use Permit
7773 Tabor Church Road, Fayetteville, NC (PIN 0461407094000)**

Application for a Special Use Permit

Application Item E: Vesting Deeds are at Book 2654, Page 126 and Book 2618, Page 631, Cumberland County registry. The Recombination Survey of the Property dated January 11, 2018 is recorded at Book 140, Page 114. See TAB #4

Information relating to Plan's Compliance with Section 927 Development Standards

In addition to the information listed in the site plan establishing compliance with the development standards set out in Section 927, Duke Energy Progress, Inc. provides the following information:

- The Structural Design Report signed and sealed by Sabre Industries' engineer Robert E. Beacom dated 5/11/2020 provides that the proposed tower will be structurally sound and have the structural integrity to support more than one user. See TABS #6 & #7
- The proposed tower will replace an existing tower, and therefore will not be adding any new towers that would raise concerns regarding colocation under Section 927(B)(3). The existing tower is the only structure within a 1-mile radius.
- The owner, Duke Energy Progress, Inc., is willing to permit shared use of the tower subject to reasonable limitations. The new tower is designed to accommodate additional equipment. See "Tower Elevation" on Sheet "C-2" of the included construction drawings as well as the included Structural Analysis Report. See TAB #5
- Duke Energy Progress, Inc., will construct and operate the tower in accordance with all applicable Federal, State, and local laws and ordinances, including but not limited to all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines. (See attached FCC and FAA letters.) See TAB #8
- The tower will be operated to ensure that the power density levels do not exceed federally approved-levels or American National Standards Institute (ANSI) standards, whichever is stricter.
- The tower will be constructed and maintained to meet the lighting standards and requirements set forth by the FAA. See TAB #8



Plan for Replacement of Existing Tower

To ensure that there is no interruption in service, the existing tower will remain in service until the new tower is fully operational.

The new tower will be upfitted with new wireless communication equipment that includes multiple antennas, a new generator, fuel tank, and the capacity to support Duke Energy Progress' future needs. This new technology will need to be tested and fine-tuned before it goes online. During this time, it is important that the old tower and equipment remain operational to ensure the highest quality of service during this transition.

Once the new tower is fully operational, the old tower will be removed from the Property by the Owner.

APPENDIX
NOTIFICATION LIST

OWNER_NAME	ADDRESS	CITYSTATEZIP
COGDELL FARMS LLC	PO BOX 53113	FAYETTEVILLE, NC 28305
WHITTED, D J HEIRS;J, WHITTED	1932 DAPHNE CIR	FAYETTEVILLE, NC 28304
DUKE ENERGY PROGRESS INC	PO BOX 1551	RALEIGH, NC 27602
DUKE ENERGY PROGRESS INC	PO BOX 1551	RALEIGH, NC 27602
DUKE ENERGY PROGRESS INC	PO BOX 30192	RALEIGH, NC 27622