

Members:

Ed Donaldson, Chairman
Melree Hubbard Tart, Vice-Chair
Horace Humphrey
Joseph M. Dykes
Randy Newsome



Alternates:

William L. Tally
Carrie Tyson-Autry
Yvette Carson
Vickie Mullins
(Vacant)

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

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

TENTATIVE AGENDA

APRIL 18, 2013

7:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, April 18, 2013, at 7:00 p.m. in Hearing Room #3 of the Historic Courthouse at 130 Gillespie Street, Fayetteville, North Carolina. The agenda is as follows:

1. ROLL CALL
2. SWEAR IN STAFF
3. ADJUSTMENTS TO THE AGENDA
4. APPROVAL OF THE MARCH 21, 2013 MINUTES
5. ABSTENTIONS BY BOARD MEMBERS
6. PUBLIC HEARING DEFERRALS
7. BOARD MEMBER DISCLOSURES
8. POLICY STATEMENT REGARDING APPEAL PROCESS
9. PUBLIC HEARING(S):
 - A. **P13-02-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW AN OUTDOOR FIRING RANGE, IN A RR RURAL RESIDENTIAL DISTRICT ON 34.68+/- ACRES, LOCATED AT 3802 PLEASANT VIEW DRIVE, SUBMITTED AND OWNED BY REGINALD MARK AND JACQUELINE TART KIRBY.**
10. DISCUSSION
11. UPDATE(S)
12. ADJOURNMENT

P13-02-C
SITE PROFILE

P13-02-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW AN OUTDOOR FIRING RANGE, IN A RR RURAL RESIDENTIAL DISTRICT ON 34.68+/- ACRES, LOCATED AT 3802 PLEASANT VIEW DRIVE, SUBMITTED AND OWNED BY REGINALD MARK AND JACQUELINE TART KIRBY.

Site Information:

Frontage & Location: 650' +/- on Pleasant View Drive (SR 1836)

Depth: 2050'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Residential and woodland

Initial Zoning: RR – April 26, 1979 (Area 8)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North & West: A1 & RR; East: SF-15(Fayetteville), RR, R10, R6A; South: C(P), C3, RR, R5A

Surrounding Land Use: 2-cemetery, public utility (salt house), motor vehicle storage yard, residential (including manufactured homes and manufactured home park) and woodlands

Eastover Land Use Plan: One acre residential lots

Special Flood Hazard Area (SFHA): None

Soil Limitations: Yes, hydric soils: St-Stallings loamy sand; and JT-Johnston loam

Water/Sewer Availability: Well/Septic

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

School Capacity/Enrolled: Armstrong Elementary: 450/420; Mac Williams Middle: 1270/1231; Cape Fear High: 1425/1589

Municipal Influence Area: City of Fayetteville

Average Daily Traffic Count (2010): 3,100 on Baywood Road (SR 1831); 15,000 on NC HWY 24

Highway Plan: There are no road improvements/constructions specified for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program

County Zoning Ordinance Reference: Section 920 Recreation or Amusement, Outdoor Recreation for Profit (Outdoor Firing Range)

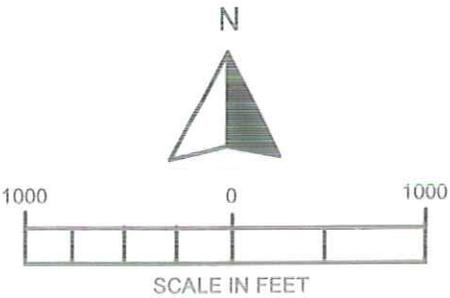
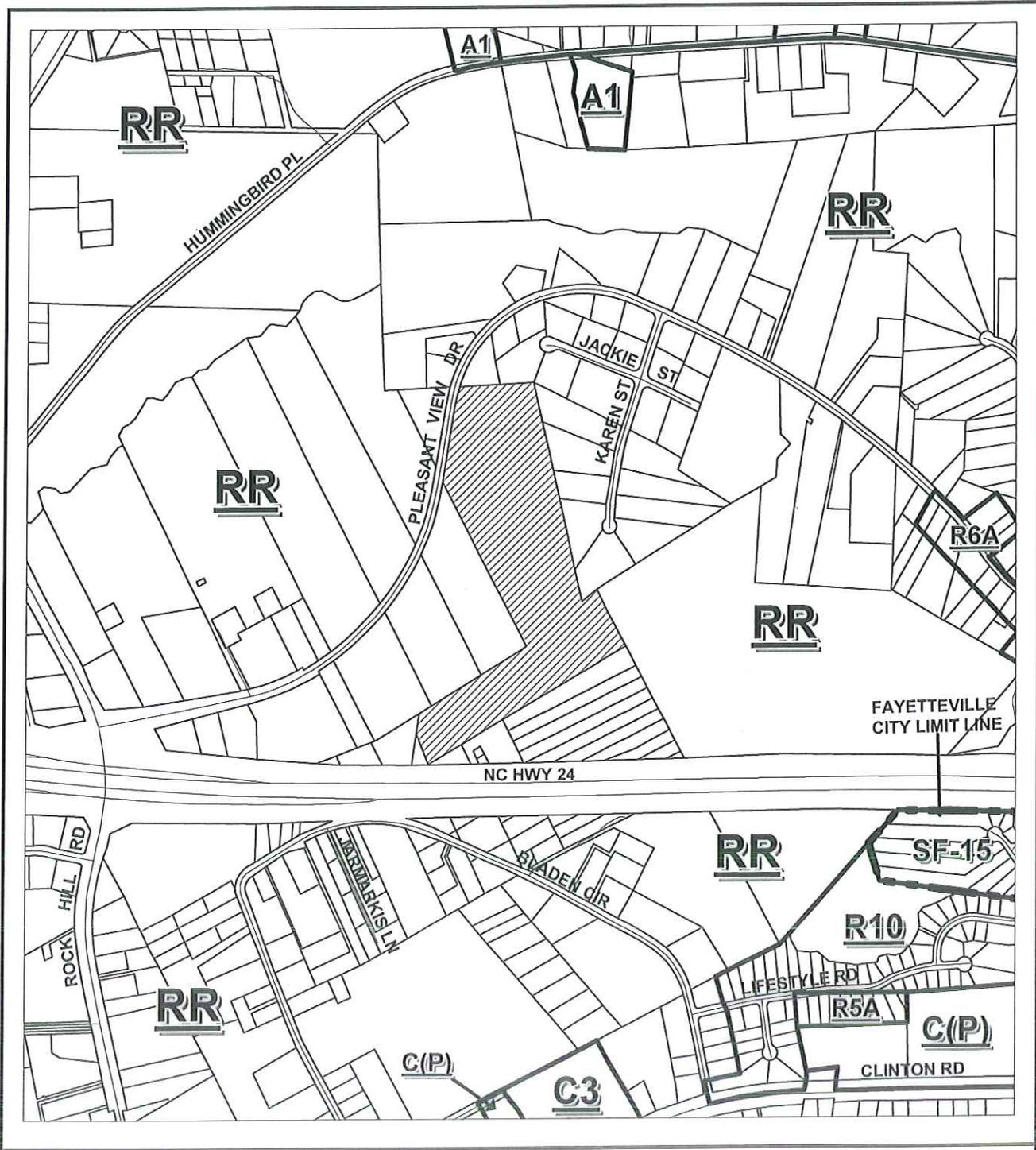
Notes:

1. Contents of Application:
 - a. Proposed classes: firearm training, defensive handgun, care of fire arm, safety training, and home safety training
 - b. 1 instructor (owner/NRA certified)
 - c. Employees: 2 (owner and employee)
 - d. Days of operation: 7 days a week, by appointment
 - e. Hours of operation: 7:00 am to 8:00 pm
 - a. No sign proposed

2. Summary of request: Applicant proposes 2 shooting lanes. First shooting lane will be 300' with a berm of 45'x24' (1,080 sq ft), and second shooting lane will be 50' with a berm of 45'x36' (1,620 sq ft). Berms are constructed of dirt at least 9' high on all sides, 45' deep, and 24'- 36' wide.

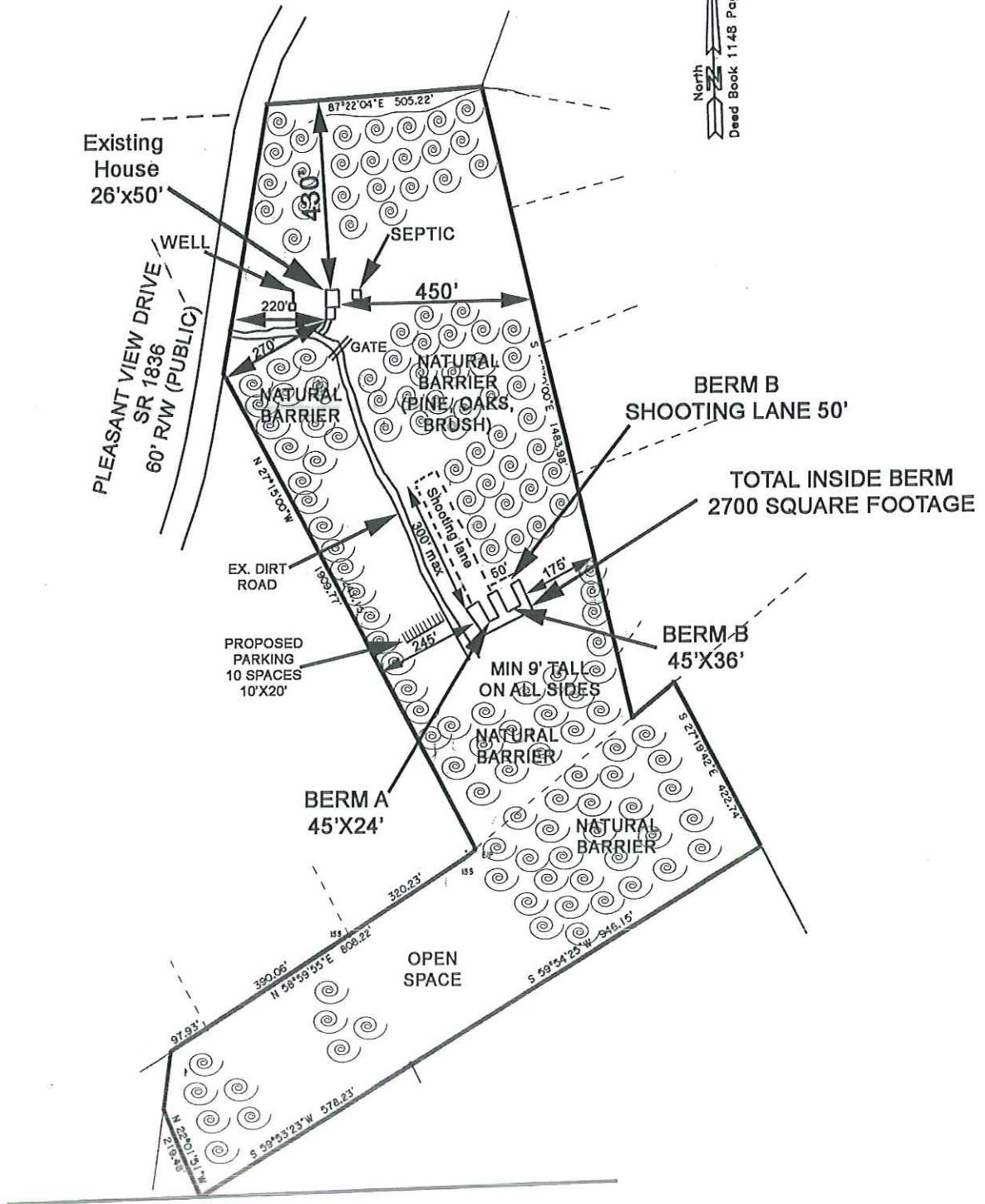
First Class and Record Owners' Mailed Notice Certification

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



BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 34.68 AC.+/-	HEARING NO: P13-02-C	
ORDINANCE: COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		



NC HWY 24

**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

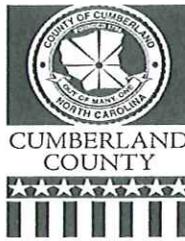
REQUEST: TO ALLOW AN OUTDOOR FIRING RANGE
CASE: P13-02-C ACREAGE 34.68 AC +/-
ZONED: RR SCALE: NTS
PARKING: 10 SPACES

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

Roy Turner,
Chair
Cumberland County

Walter Clark,
Vice-Chair
Cumberland County

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



COUNTY of CUMBERLAND

Planning & Inspections Department

February 21, 2012

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

MEMORANDUM

TO: Planning & Inspections Staff
FROM: Tom Lloyd 
SUBJECT: Outdoor Firing Ranges Review and Approval Policy

This policy is being issued in light of a recent site plan submittal by a property owner seeking approval of an outdoor firing range on his property – see Case No. 12-025 – and will be effective until such time as an ordinance amendment specifically addressing outdoor firing ranges is adopted by the County Board of Commissioners or a replacement policy is issued.

Under the terms of our zoning ordinance all legal uses of land must be allowed. Until such time that specific outdoor shooting range zoning ordinance standards are adopted or otherwise addressed, outdoor shooting ranges will be reviewed in accordance with the standards for *RECREATION/AMUSEMENT OUTDOOR (Sec. 920) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924* (hereinafter: *outdoor recreation*) as a principal use.

The provisions required for outdoor recreation are the most similar and more closely address the land use impacts that would result from an outdoor firing range than any other use specific provisions in our ordinance. The minimum ordinance standards for outdoor recreation require control measures to be in place ensuring that “objects” used on the site are **contained within the designated area**, measures are to be taken to minimize the creation of dust, and outdoor lighting must comply with the ordinance standard. In addition to these specific standards, all other applicable ordinance provisions, to include Section 901 which mandates compliance with the County’s noise ordinance, will apply to outdoor firing ranges.

cc: James Martin, County Manager
Rick Moorefield, County Attorney
Department Policy Manual

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

C. Repealed.
(Amd. 01-19-10)

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)

Sec. 9.5-96—9.5-99. Reserved.

ARTICLE IX. FIREARMS REGULATIONS

Sec. 9.5-100. Firearms.

(a) It shall be unlawful for any person to discharge a firearm within the county where the firer of such firearm:

- (1) Is, or reasonably appears to be, within 100 yards of any dwelling unit, house, trailer or building lot not his own, without the consent of the occupant of such unit, house, trailer or building;
- (2) Knows, or has reasonable grounds to believe, that the missile discharged from such firearm will strike within 200 yards of a dwelling unit, house, trailer or building which is not his own, without the consent of the occupant of such unit, house, trailer or building;
- (3) Is within 25 yards of any publicly maintained road or any public vehicular area;
- (4) Knows, or has reasonable grounds to believe, that the missile discharged from such firearm will strike within 50 yards of a publicly maintained road or any public vehicular area;
- (5) Knows, or has reasonable grounds to believe, that the missile discharged from such firearm will strike within 25 yards of the location of any person whom the firer of such firearm knows, or has reasonable cause to believe, is within the area and any such person has not consented, either expressly or impliedly, to being within 25 yards of where such missile is reasonably expected to strike.

(b) This section shall not apply when such firearm is used lawfully in defense of person or property in accordance with the laws of the state, when used lawfully pursuant to the lawful directions of a law enforcement officer or when used lawfully pursuant to state hunting and wildlife statutes.

(c) This section shall not apply to an indoor firing range constructed and operated according to the following provisions:

- (1) That said facility meets all applicable OSHA guidelines and requirements concerning the construction and operation of an indoor firing range.
- (2) That said facility maintain liability insurance through a company licensed in North Carolina, with a minimum of \$250,000.00 coverage and a maximum of \$10,000.00 deductible.
- (3) That the walls and ceiling of the indoor firing range be constructed such that any rounds, ammunition, or projectiles utilized in the firing range cannot penetrate the walls and ceiling or floor of said firing range. Firing booths shall be enclosed, except facing the target area, with bullet-resistant material capable of successfully resisting

ammunition or rounds used on the range. Observation areas shall be enclosed with bullet-resistant material capable of successfully resisting any ammunition or rounds used on the range.

- (4) That there be no unreasonably loud or disturbing noise outside the building resulting from the use of firearms.
- (5) That, during all hours of operation, there shall be physically on the premises, a designated range supervision who has had a minimum of ten hours instruction on firearm safety and recognition of unsafe firearm practices. Commensurate or comparable military or law enforcement training in range supervision satisfies this requirement. The range operator shall maintain documentation of such training.

(d) Each violation of this section shall be deemed a separate violation.

(e) Each violation of this section shall constitute a misdemeanor and any person convicted of the same shall be subject to a fine of not more than \$40.00 or imprisonment not exceeding 30 days and shall constitute a violation of North Carolina General Statute 14-4.

(Ord. of 10-15-79; Ord. of 3-22-88; Ord. of 4-27-93; Ord. of 11-6-95, § 2)

Sec. 9.5-101. Concealed weapon posting.

(a) *Posting of signs required.* The county manager is hereby ordered to post appropriate signage on each park, building or portion of a building now or hereafter owned, leased as lessee, operated, occupied, managed or controlled by Cumberland County, as well as the appurtenant premises to such buildings, indicating that concealed handguns are prohibited therein.

(b) *Location of signs.* Said signs shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premise, or park. The county manager shall exercise discretion in the determining the necessity and appropriate location for other signs posted on the interior of the building, appurtenant premise, or park.

(c) *Exemptions.* Subsections (a) and (b) of this section shall not apply to the following:

- (1) Military personnel when in discharge of their official duties and under orders to carry weapons;
- (2) U.S. civil officers while in discharge of their official duties;
- (3) Members of the militia and national guard when called into actual service;
- (4) Officers of the state, or of any county, city or town, charged with the execution of the laws of the state, when acting in the discharge of their official duties; and,
- (5) Off-duty, sworn law-enforcement officers, who are carrying concealed weapons in accordance with departmental standard operating procedures.

(Ord. of 11-6-95, § 3)

Secs. 9.5-102—9.5-120. Reserved.

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 3802 Pleasant View Dr. Fayetteville, NC 28312

OWNER: Reginald M & Jacqueline T Kirby

ADDRESS: 3912 Jackie St Fayetteville ZIP CODE: 28312

TELEPHONE: HOME (910) 483-9011 ^{cell} WORK (910) 818-1114

AGENT: _____

ADDRESS: _____

TELEPHONE: HOME _____ WORK _____

E-MAIL: jackiekirbycpa@nc.rr.com

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

A. Parcel Identification Number (PIN #) of subject property: 0467-31-9607
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 34.68 Frontage: 650' Depth: 2050'

C. Water Provider: Well

D. Septage Provider: septic

E. Deed Book 6627, Page(s) 0453, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: Residential & woodland

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.)

See attached
recreation outdoor for profit

**APPLICATION FOR SPECIAL USE PERMIT (ATTACHMENT)
BOARD OF ADJUSTMENT (PART G)**

Proposed use of property includes firearm training including defensive handgun, care of firearm, safety training and home safety training. (NRA certified instructor)
Instructional classes to last 2-3 hours each. Anticipated that class frequency not to exceed 3 classes per week, by appointment only. Class size not to exceed 10 students.

Instructor: 1 (owner)

Employees: 2 employees needed to assist with targets, clean-up, etc.

Signs: No signs will be posted.

Parking: To right of range in field. (10 spaces)

Hours of operation: By appointment only 7 days per week 7am - 8pm

Firing range constructed as follows:

2 areas for shooting. Berms constructed of dirt at least 9 feet high on all sides, 15 yards deep, and 24-36 feet wide. Maximum shooting distance - 100 yards. → (one Berm)

Second Berm maximum shooting distance 50ft.

Other safety considerations:

Range is in the center of approx. 34 acres. Entire border of property (especially in the direction of fire) is surrounded by dense woods. No homes are in the direction of fire.

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) Reginald M. Kirby Jacqueline T. Kirby

PRINTED NAME OF OWNER(S) Reginald M Kirby Jacqueline T. Kirby

DATE 3/4/13

↓ Add to mailing list
Samuel Forl
ps
3-20-13

Special Use Permit - Board of Adjustment

Outdoor Firing Range

(Sec. 920. Recreation or Amusement, Outdoor Recreation for Profit)

DRAFT

Ordinance Related Conditions

Permit-Related:

1. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
2. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision Ordinance)
3. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
4. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
5. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
6. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the site plan. The following are the minimum standards for the required landscaping of this site:
 - Twelve large shade trees or 25 small ornamental trees within the front yard setback area along SR 1836 (Pleasant View Drive).

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
 - b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
7. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.
 8. 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.

Site-Related:

9. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances, the contents of the application and site plan for the RR zoning district must be complied with, as applicable.
10. Fencing, netting, berms or other control measures are required to be provided on the site to ensure that rounds/munitions are prevented from escaping the designated area.
11. Full compliance with Chapter 9.5, Article IX, Cumberland County Code, is required as applicable – see attached copy.
12. The developer is encouraged to meet or exceed the EPA's *Best Management Practices for Lead at Outdoor Shooting Ranges* and enact a reclamation or similar plan regarding lead collection and disposal.
13. The developer is encouraged to post warning signs approximately every 100 feet around the perimeter of the site to warn individuals of the ranges and to control unauthorized access to the site particularly when the ranges are in use.
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.)
15. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision Ordinance)
16. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
17. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
18. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
19. A solid buffer must be provided and maintained along the side and rear property lines where this tract/site abuts residentially zoned properties in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance. (Note: Chain link fencing cannot be used to satisfy the buffer requirement.)
20. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
21. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of one off-street parking space for each four persons in design capacity is required for this development. (Note: Based on the maximum number of ten students this development will be required to have three off-street parking spaces. The site plan shows ten spaces.)
22. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing.
23. Compliance with the County's Noise regulations is required as applicable – see Chapter 9.5, Cumberland County Code.

Advisories:

- 24. The applicant is advised to consult an expert on wetlands before proceeding with any development. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.
- 25. 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.

Other Relevant Conditions:

- 26. 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.”

Thank you for choosing Cumberland County for your business location!

If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605 with the Land Use Codes Section; otherwise, contact the appropriate agency at the contact numbers below.

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

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
Fayetteville Planning:	Marsha Bryant	433-1416
County Public Utilities:	Amy Hall	678-7637
Corp of Engineers (wetlands):	Crystal C. Amschler	(910) 251-4170
NCDENR (E&S):	Sally Castle	433-3300
Location Services:		
Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545

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

cc: Marsha Bryant, City of Fayetteville