



**Members:**

Marva Lucas-Moore  
Linda Amos  
Robert Davis  
Vickie Mullins  
Greg Parks

**Alternates:**

Kenneth Turner  
Gary Silverman  
Brenez Orozco  
Jovan Bowser  
Donald Brooks

TENTATIVE AGENDA  
AUGUST 15, 2024  
6:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, August 15, 2024, at 6:00 p.m. in Hearing Room #3 of the Historic Courthouse at 130 Gillespie Street, Fayetteville, North Carolina. The agenda is as follows:

1. INVOCATION & PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. BOARD RECOGNITIONS
4. SWEAR IN STAFF
5. ADJUSTMENTS TO THE AGENDA
6. APPROVAL OF THE JUNE 20, 2024 MINUTES
7. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)
8. PUBLIC HEARING DEFERRALS/WITHDRAWALS
9. POLICY STATEMENT REGARDING APPEAL PROCESS
10. PUBLIC HEARING(S):
  - A. **BOA-2024-0010:** Consideration of a Special Use Permit to allow for a Day Care Facility in an RR Rural Residential District on 1.00 +/- acres, located at 2501 Clinton Road; submitted by Claudia Elliott and Geordyn Elliott (Owner).
  - B. **BOA-2024-0011:** Consideration of a Special Use Permit to allow a Community Center use in an R6A Residential District on 0.46 +/- acres, located at 1429 McArthur Road; submitted by Annie Hasan (Agent) on behalf of Khalil Hasan (Owner).
  - C. **BOA-2024-0012:** Consideration of a Special Use Permit to allow a special occasions events business as a Recreation/Amusement Outdoor Activities use in a RR Rural Residential District on 7.02 +/- acres, located at 2410 Sunnyside School Road; submitted by Maria Kruger (Owner).
11. OTHER BUSINESS:
  - A. BOA Regular Member Recommendations
  - B. BOA Alternate Member Recommendations
12. DISCUSSION/UPDATE(S):
13. ADJOURNMENT



## Board of Adjustment

MINUTES  
20 June 2024  
6:00 PM

### Members Present

Marva Lucas-Moore-Acting Chair  
Vickie Mullins  
Donald Brooks-Alt  
Gary Silverman- Alt

### Absent Members

Gregory Parks-Chair  
Linda Amos, Vice-Chair  
Robert Davis  
Breezy Orozco-Alt  
Jovan Bowser-Alt  
Kenneth Turner-Alt

### Staff/Others Present

David Moon  
Timothy Doersam  
Amanda Ozanich  
Robert Hasty (Asst County Attorney)

Vickie Mullins motioned to appoint Marva Lucas-Moore as acting Chair. Donald Brooks second the motion. All are in favor.

Chair Lucas-Moore called the meeting to order at 6:01 p.m. in Public Hearing Room #3 of the Historic Courthouse.

#### 1. ROLL CALL

Chair Lucas-Moore stated the procedures and then called roll. Mr. Moon made note of the absence of Gregory Parks, Linda Amos, Breezy Orozco, Jovan Bowser, and Kenneth Turner. Mr. Moon stated we do have a quorum.

#### 2. INVOCATION

Vickie Mullins stated the invocation.

#### PLEDGE OF ALLEGIANCE

Recited by all.

#### 3. SWEAR IN OF STAFF

Chair Lucas-Moore swore in staff David Moon and Timothy Doersam.

#### 4. ADJUSTMENTS TO THE AGENDA

There were none.

#### 5. APPROVAL OF THE MAY 16, 2024, MINUTES

Vickie Mullins made a motion to approve the minutes from May 16, 2024, meeting as written, seconded by Donald Brooks. Approved by All.

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS:

Mr. Moon read the policy statement.

9. PUBLIC HEARING(S)

Chair Lucas-Moore read:

- A. **BOA-2024-0008:** Consideration of a Special Use Permit to allow a telecommunication tower in an A1 Agricultural District on a portion of a 14.91 +/- acres, located at 5226 Austin West Road; submitted by Sydney Poe (Agent) on behalf of Billie Jo and Franklin Monroe (Owners).

**David Moon:** I am David Moon, deputy director of planning and inspections, case of BOA 2024008 is located in the southeast corner of the county along Austin West Road. The applicant is Billy Joe and Franklin Monroe, the agent at Sydney Poe's request is for a special use permit for a communication tower on approximately 1.43 acres.

So, the board understands the procedures for this evening, and we have some alternate sitting on the dyes. I will go through the procedures and detail following the typical process. A tower is any fabricated structure device including, but not limited to a relay station for commercial operations such as cable television communication, radio television stations and their operation of such uses. Tower shall not include structures that support antennae or some devices that support or facilitate hand radio or some band communications. Based on the county zoning ordinance under its use matrix within Section 403, a communication tower is located within A1 zoning district requires a special use permit approved by the Board of Adjustment.

A special use is those uses which a permit is required for the proposed activities, which are essentially compatible with other uses or activities, permanent and zoning district such as present unique challenges or possess unique characteristic or qualities that require conferences review at a public hearing by the County Board of Adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions.

The board will consider 4 criteria in determining whether the special use request, in this case the communication tower, is compliant with the county's zoning code.

The special use criteria include that the use will not materially endanger the public health or safety if located according to the plan submitted and proposed. Two, the use meets all required conditions and specifications. Three, the use will maintain or enhance the value of adjoining or abutting properties. Or the use is a public necessity. Four, the location character use of developed according to the plan as submitted and recommended will be in harmony with the area in which is located and is in general conformity with the Cumberland County's most recent land use plan, either conferences or detailed area plan. The burden of proof is on the applicant to demonstrate compliance with these 4 criteria. The applicant has provided a written response within the staff report under Exhibit J. Providing the arguments for compliance with these four criteria and the applicant is present this evening also to further support their reason for compliance with these criteria.

Ultimately, the Board of Adjustment has the authority to approve, deny, or approve with conditions in granting the special use permit. If necessary, the board can establish reasonable terms and conditions. These conditions in terms are set forth in the staff report under the proposed special use permit. The staff has contacted the applicant and they have agreed to the conditions that appear on the diocese this evening.

That completes my portion of the presentation to endorse some planner with the planning inspection Department will provide a description of the site and the request. Thank you.

**Timothy Doersam:** Good evening, ladies and gentlemen. My name is Timothy Doersam. I'm a planner one here with Cumberland County Current Planning. I'll be here to present the details of the site plan and some of the characteristics of the land and surrounding land use.

The site plan that was presented to us by the agent, Sydney PO, we have here the approximate lease area of the cell tower. The circular area you see outlined here is the fall down radius. We require this to make sure that in the event that the structure may fall, which of no one wants, would not either damage any existing structures or that it would fall onto another person's property. They are showing here that with the fall down area, at the height of the tower, including the additional 10 feet of antennae, that it would not damage any structures or fall onto another person's property.

They're also showing the access utility easement that would run from Turnbull Rd. through Austin West rd to access the site for maintenance. And they are again showing the lease area, which is a square in the center there that the tower would be located at.

This is a close up of the entrance from Austin West Road that leads to the lease area, which is a 100 by 100 square, and they are showing that this is a 30-foot-wide ingress egress and utility easement that they will be using to access the site which they have agreed to also maintain in case emergency vehicles must respond to the site.

On this slide, we see the surrounding characteristics and uses for both the project site and for abutting parcels. Many of the lands to the north and West is wooded areas. The parcel that the leased area is on has a manufactured home. And other parcels abutting it have manufactured, single family homes with a church, a budding Turnbull Road.

This slide shows the zoning districts that are in the immediate area, the majority of which are A1 agricultural, with a few areas that are zoned RR rural residential.

This slide shows the soils and utilities out in that area. As you can see here along Terminal Rd. there are no water and no sewer lines present. And with regards to soils for the project area, there are only hydric inclusion soils located in the area.

The parcel and surrounding areas are all located within the farmland category for the Southeast Cumberland Land use plan. And here we see a picture showing the entrance to Austin West Road along Turnbull Rd.

This is showing from Austin West Road, the entrance of the easement onto the subject's property that leads into the lease area further down. This is an east view looking down Turnbull Rd. With the entrance to the ingress and egress easement on the left-hand side. This is a Southview from Turnbull Rd. looking away from the property across to this farmland field. And this is a West view of Turnbull Rd. with the subject property to the right.

And again, this is showing the proposed site plan that has been submitted to current planning for your consideration for the special use permit showcasing the leased area as the red square and also showcasing the 30-foot ingress egress and utilities that will be used for the company to access for both construction and maintaining of this site.

And this is a close up of the interior of these properties to show exactly where the structural belong with equipment locations for the cell companies to put their equipment when they put up the antenna.

Some of the key conditions will be that within this 10,000 square foot area, only one tower shall be constructed and in operation at any given time. The tower is approved for a height of 273 feet with a 10-foot-tall lightning rod attached for a total of 283 peaks. The driveway from Austin West Road to the tower side will be maintained for emergency vehicle access. No additional vegetation buffers would be required because the site itself is sufficiently screened by existing wooded areas surrounding site and they will be preserved as well to maintain that screen buffers. Prior to any site construction activity, the applicants will submit a site plan with the building permits to the county Code Enforcement division and the societies permits expiration date will be two years from the date of approval if no reasonable efforts to follow through with the conditions and construct the tower have been made.

The board of adjustments has the authority to approve, deny, or approve with conditions the special use request as authorized under NC General Statute Chapter 160 D. That concludes our presentation.

**David Moon:**

Madam Chair, after review of the special use site plan, the county planning staff has found that it is in compliance with the county zoning code and the future land use plan.

**Chair Lucas-Moore:** Does the board have any questions of staff?

**Mr. Brooks:** This is one tower to be constructed and in operation at any given time? Are there other towers to be constructed?

**David Moon:**

Correct only one tower. Any additional tower would require an amendment to the special use permit, which would have to appear before this board. So, this special use only applies to 1 tower. Multiple of antennas can be attached to the tower and multiple communication companies can have access to those antennas if they sign an agreement with the tower contractor. Whoever owns that tower.

**Mr. Brooks:** there is no utilities only Well and septic?

**David Moon:** Yes, cell towers typically don't have a need for water or sewer at the site. In the event there's a fire, the fire trucks or water storage trucks would have to come out to the site to attend to any fire that should occur.

**Mr. Silverman:** I have a question. This is on exhibit D in the packet. Section 927, Item 4 certification of registered engineer power has structural integrity and capacity to support. Is that certification required to be in this packet?

**David Moon:**

No. That occurs at the time of the building permit for the tower after it is constructed, the project engineer would submit a certificate saying that it is structurally sound.

**Chair Lucas-Moore**

Yeah. So, I'd like to open up to the public hearing at this time.

**Tom Johnson:** Although my name is Tom Johnson, I'm an attorney for the applicant. I'm with the law firm of Williams Mullen at 301 Fayetteville St. Ste. 1700 in Raleigh.

**Chair Lucas-Moore:** Do you swear when you testify here to tell the truth, the whole truth and nothing but the truth?

**Tom Johnson:** I do. Thank you very much. Again, I represent the owners who are here, as well the agent on the application of the special use permit, I do ask initially that the application and all associated documents be admitted into evidence to support the special use permit.

And the second thing is, I will reaffirm that we accept the conditions that are listed in the staff report to the special use permit. We are willing to abide all of those conditions and many of those conditions address those things like what was asked about the structural. I'll give a little bit of an idea about the process on that. We apply and we try to get the special use permit. We don't spend a lot of money ordering the tower from the tower company who provides the structural. So basically, the tower companies that make them provide us a structural based upon soil reports that determine what type of foundation needs to be used. And in the sandy soil of this part of the country, these foundations are pretty big tubes of concrete in the ground to hold them, but they're designed based upon where they're located. So, it's based upon the soils it's based upon the wind and ice loading that may occur due to weather events and that's all based upon where it is located.

Here obviously, you're subject to having some hurricanes. The building code calculates those winds and then in the wintertime you may have storms where you'll have ice storms and winds combined and it accommodates that too. And that's all under the State Building code and the International Building Code. But like I say, it's the tower companies. Once you order the tower that provides all of that information. I did want to make that clear.

This is much needed in that area. I've been talking to the Monroes, the property owners. They said they've got landline service, but if the weather's bad, there's no landline service and you can't get 911 and that's why we're here tonight is to build this tower for Verizon antenna. In order for these folks to have access to emergency services and communications.

I've done this for over 35 years and times have changed and it's gone from people having landlines to people relying on their wireless service. That's what they use not only for voice communication, for text communication and for access to the Internet. I understand there's virtually no Internet access in this part of the county because again, likely because of the lack of landline and cell service, so that's why it becomes important. If you dial 911, you want to be able to get someone on your wireless phone. If you're traveling, you expect that to happen, and it's supposed to. The folks that have dropped their landlines, that is what they rely on. That's why we're trying to overtime, get towers in all parts of the state and all parts of the county to provide that reliable service. And so that's what this is about.

If you look at the findings you see that. I mean the first thing is you know that it will not materially endanger the health of public safety. Public health and safety? Well, this enhances public health or safety by having access to emergency services and emergency service providers also use these towers. There's a federal program called first net. I've been working with some of the sites. A lot of the first responders rely on First Net for communications.

Public health and safety is built into your ordinance because, as Tim mentioned earlier, we've got the fall zone area that is there for safety purposes in case of some catastrophic failure. Now typically our experiences as these towers go into a failure they will bend; they will not fall flat. And that's from experience with various hurricanes and significant storms overtime and in fact in big storms, either Tornado hit, or the tower gets hit with flying debris against it. Or during a hurricane if flying debris hits the tower. It's not the tower that loses out, and I personally was involved in Hurricane Floyd, where the only communication was wireless. Everything else was out.

An important part of our infrastructure, we don't need water or sewer. We will need electric and fiber optic cable or microwave and that depends on what we decide to do to this site that works the best. So, there'll be a microwave link, microwave link to an adjoining tower or fiber optic cable. That's the way the service gets provided.

2nd criteria you have is to meet all the required conditions and specifications you just heard. As the planning director said that if we meet all of those, checked all those boxes through the ordinance and we meet those requirements. The use will maintain our enhanced value of adjoining our budding properties or it's a public necessity. You have an impact statement in the record says that it will not adversely impact adjoining properties. I have Michael Berkowitz here. Who's the appraiser that did that report in case someone has questions about that. But he clearly has found that it will not adversely affect the adjoining property values.

The last condition #4 is the harmony finding. It's just the same harmony with the development in the area. The way the law is in North Carolina, if you allow it as a special use in the district, it's considered automatically in harmony. It's presumed to be in harmony unless there's substantial evidence presented to the contrary. So, in this case we're in harmony. In harmony with the land, and certainly in harmony with the plans of the county that wants infrastructure available to the community. This is the telecommunications that we have in this day and age over landlines and so this is the infrastructure we need. 27:22

The nice part about this site is we're putting it in a wooded area where we're tucking it in existing vegetation. So, we don't have to do landscaping, which we really like to do. There is the utility easement from the main road from Turnbull to get the electric to the site.

We will maintain the entrance to comply with fire codes. That's one of the conditions we have to be able to support the fire vehicles and we have to have the clearance, width wise and height wise to support the vehicles and we've got that and that's a condition. So, we know we need to meet that under the fire code. If there were ever fire here, this is computer equipment that operates this. The utility cabinet, if there was a fire it would be burnt up before the fire Department gets there. In reality, just like any other computer equipment, if you've ever had your house struck by lightning as low voltage stuff, just burn up, but it really doesn't cause a fire per se. Yeah, there's a remote chance that somebody working on that tower could need rescue at some point. That happens, and so there would need to be

a rescue truck there to help somebody who's on the tower working because workers have had situations where they need rescuing on the tower and rightly, so.

It is a secure site. It has combinations and barbed wire. It is secure so people can't get in there and to keep them off the site itself. It is surrounded with fence. I am happy to answer any questions you may have. The Monroes are here to answer any of the questions you may have. Mr. Berkowitz is here with the report and can answer any questions you may have about his report. I do ask that based on the evidence before you, you approve the special use permit.

**Chair Lucas-Moore:** Thank you. Does anyone have any questions?

Mr. Brooks: What is the radius?

**Tom Johnson:** In terms of coverage?

Brooks: Yes

**Tom Johnson:** You know, I find that there is no set coverage radius on this because it's based upon usage. So, if it is a high usage time the area strains but if it's low it doesn't, but it will cover several miles in any direction. The strength of the signal will vary as you get further away. I'll give you an example. There was an earthquake that effected Raleigh, everything was shaking. You could not get a phone call out, but you could get a text message out. It just depends on how busy. Everybody was trying to figure out what was going on.

**Vickie Mullins:** Is Verizon the only one allowed to use this tower?

**Tom Johnson:** Not allowed to use it. Your ordinance requires that we provide it to co-locators, and we will. Verizon will be the first Tennent. In my experience you will see team mobile, you'll see ATT. I guess in this area you have US cellular to, but I think T-Mobile has bought their wireless asset, so that will be one company. It's built so that others can and that's the whole idea. I am representing the tower company and it's just like somebody builds a building and rents out offices. They are building this tower to rent out space. They are going to want as many tenants as they can.

**Mr. Silverman:** I have a few questions. Is the tower company this vertical bridge, VTBS, will they be the ones that will construct the tower?

**Tom Johnson:** They are the owners. They will hire a general contractor to construct the tower to their specifications.

**Mr. Silverman:** So vertical bridge will prepare the specifications for the contractor.

**Tom Johnson:** Like I said earlier, there will be soil testing to determine the foundation and that would be designed and presented to your building department, and they would issue the building permit.

Mr. Silverman: will this be one of those towers that you see around that have the cables?

**Tom Johnson:** No this will be a self-supporting tower. This is a lattice tower, so it has the cross members on it. It's not a single pole. When we get to these heights in rural areas, we really need the height to get the coverage, it's a lattice tower.

**Mr. Silverman:** I think you mentioned already, there would be an enclosure around it, obviously you hear about vandalism around these. So, there would be an enclosure?

**Tom Johnson:** There will be an enclosure of chain-link fence with 3 strands of barbed wire and it is locked.

**Mr. Silverman:** and my last question, you said in this area there is no cell service. So, how do people in this area, if there is an emergency, how do they get the police or fire. Do they have to drive?

**Tom Johnson:** So, I can have the Monroes talk about it. They told me this before. They have a landline, and they can use it that way, if the landline is working. If the landline goes down, they don't have that.

**Mr. Silverman:** So, there is a telephone line, but sometimes it doesn't work.

**Tom Johnson:** The weather effects it and it may not work. Weather is when you need it but unfortunately, weather effects it.

**Mr. Silverman:** So, it works when you don't need it.

**Tom Johnson:** correct. Also, the internet service is important. With wireless coming in they can have some access to the internet.

**Mr. Silverman:** Who provides the landline. Is it an existing telephone company.

**Tom Johnson:** I don't know who that would be. There are various companies that provide the lines that connect the tower, or if they can't get a good line in there because of where it is they use microwave links to another tower.

**Mr. Silverman:** from the timeline, this is an estimate of course, but from the time that all the final permits are given to start the construction, how long would it take to get it up and running?

**Tom Johnson:** it really doesn't take long, I mean it depends on weather, but it could be 60 days. What they do is they have to do the grading, then they must drill the foundation, put the rebar in the foundation, the county has to come and inspect that rebar to make sure everything is ok. They pour the concrete and there will be a pad with big bolts coming up for each of the three legs of the tower and a crane comes in and the tower comes in on a truck and they stack it like, and erector set. Like the old days of erector sets and that's what they will do. They will stack it up that way and they'll put in an electrical meter for Verizon and then they will come in and put there antennas on.

**Mr. Silverman:** actually, the process is quite routine. It's been done repeatedly. Well, Thank you.

**Tom Johnson:** Multiple times and you are certainly welcome.

**35:20 Mr. Brooks:** So, there are no cellular out there?

**Tom Johnson:** So, I won't say any but at times you can get a signal, but I don't know what. The Monroe's can speak about that, if you want them to come and be sworn in and speak to that they can.

**Mr. Brooks:** another question I'd like to ask is if another company put an antenna on the tower, does that have to get approved by the board or once the tower is approved then additional companies can use that tower with their antenna?

**David Moon:** the special use permit shows that additional communication antennas can be attached to the tower and there are 3 sites on the ground for different utility supporting structures. So, each provider has its own, the applicant can probably explain it better, but their own ground equipment to service the communications tower.

**Tom Johnson:** There is no additional special use required by county or state law or even federal law for antennas to attach to the tower. Still must come and apply for building permit or generally it's just an electrical permit, but to put those antenna's on there and to put the ground equipment on the ground. It's a seamless process for them to go do that. So, there's a very easy process to putting the antenna's on once the towers built.

**Mr. Silverman:** besides Verizon, how many other carriers do you expect?

**Tom Johnson:** Well, the major carriers in this area would be Verizon, ATT, T-Mobile, US cellular, although I think T-Mobile and US cellular are going to be one because of some recent negotiations they have had.

**Mr. Silverman:** So, there will be multiple carriers on top?

**Tom Johnson:** We anticipate that just because of the need for service in this area. What happens is that one carrier decides in their budget to say, we need a tower here and contracts for the tower company to build the tower. Verizon has done that in this instance.

**Mr. Silverman:** and then the carrier pays rental costs or whatever to the tower company.

**Tom Johnson:** Correct. Tower company pays rent to the landowner and then each carrier that gets on the tower pays rent and pays for utilities and property taxes. That equipment is subject to property tax that they pay on and it benefits the county.

**Marva Lucas-Moore:** are there any more questions?

**David Moon:** Madam chair there are 4 others listed to speak. They are part of Mr. Johnsons team. Was there any interest in those others to speak?

**Tom Johnson:** Mr. Berkowitz is signed up and he is only here if you have any questions about his report. The Monroes aren't interested in speaking unless you have a question of them as the landowners.

**David Moon:** and a Frank Dorado.

**Marva Lucas-Moore:** Thank you sir. Can you state your name, first, last and your address.

**Frank Dorado:** My name is Frank Dorado. 5255 Austin West Rd.

**Marva Lucas-Moore:** Do you swear to tell, testify to the truth the whole truth and nothing but the truth sir?

**Frank Dorado:** I think her cleared a couple of things but I'm still hesitant on some of the stuff. I just found out when they put the sign up about this meeting and a tower going up. I think that he said that one, the property taxes wouldn't go up, or will they? My second question is from Turnbull rd. and it is hard to see because it's not picked up, but from Turnbull rd, when you go thru Turnbull road from Austin west to get that access, who's going to maintain that road? From where that red line starts to the tower, who is going to maintain that road? If there bringing heavy equipment thru, that's my question because that is the road we use. My neighbor and brother-in-law. The other thing is that Verizon, they said that it's going to be a Verizon tower. I contacted Verizon a couple of years ago and they said that they had a tower a couple of miles down the road. My question is they told me they turned around and did a survey and told me I had good signal. I do get signal from Verizon if I'm outside. Now with the tower being that close, is it going to overshoot the people that are close to that? You understand what I am saying, overpower and we don't get the signal there. The other thing is that I heard that spectrum is coming back out there, and they are going to run lines. Are they going to be running powerlines on their lines or are they putting their own lines in?

**Marva Lucas-Moore:** Who sir

**Frank Dorado:** Spectrum the telephone company. A couple of weeks ago they had surveyors out there and said they were going to run new lines that were fiber optic. I don't know how true it is. So, how many more people are going to be piggy backing off of...so where they say electrical, are they going to be putting more poles, telephone poles in our yards to get to that tower? That's another question of mine. That's basically what I am asking. I want to know my property taxes, who's going to maintain that road or are they just going to from that ingress from Monroes to that tower and we would be responsible for the rest of the road?

**Marva Lucas-Moore:** Do you live past the Monroes or where?

**Frank Dorado:** I live if you turn around...

**Tim Doersam:** I believe it is this property.

**Frank Dorado:** Where he has his line right there that's my property. If you turn around and come down, that's my property. I gave up 60' of my land for that road easement when I turned around and bought the land. Basically, if you start at that black line on the right-hand side as I'm looking at it all the way past the brown and I'm on the right hand side and they are across the street.

**Mr. Silverman:** you use the red road to get to your property?

**Frank Dorado:** Right. Yes.

**Mr. Silverman:** who maintains it now?

**Frank Dorado:** its self-maintained and when the farmers come out to use it then they sometimes maintain it.

**Mr. Silverman:** is it gravel road?

**Frank Dorado:** some of it is crush and run and some of it is this sand so if you go and get heavy equipment in there then and like he said you don't know when it is going to be constructed, but if it is during the winter months and you are running heavy equipment in there you are going to rut the road. I don't have a problem with the tower. My thing is one the property taxes going up and who's maintaining the road.

**Chair Lucas-Moore:** Staff, do you all want to answer some of the questions?

**David Moon:** since most of the questions are involving the type of services, like electrical lines that might or might not be associated with the tower, it would be best for the attorney representing to speak and if I need to address more I can.

**4454 Tom Johnson:** Number one, your taxes won't go up. It's just our folks will pay taxes. There is no reason why your taxes would go up. The road, good news, the tower company is going to be using that road along with Verizon or whomever else uses it. So, they will help maintain it because they need to maintain it for their service. If there is a problem with the equipment during construction and if you have a concern there will be a number on that tower you can call, but when they go out to build the tower they will fix it and they are going to add more stone to it so they can get to the tower because they don't want their equipment getting stuck on the road. They don't want to damage it.

The service is poor, and Verizon recognizes it and that is why they want the tower. I understand what you are saying. It just must come around in the budget cycle for Verizon to give it priority to be built. So there a lot of sites that need service. Verizon takes a given number in a year and says we are going to build those this year. Next year they come up with another budget to build more. Good news they are building this one and you will probably have the best Verizon service. If you have Verizon, you will have good Verizon service. It's not going to overshoot you. You are going to be in good hands.

Spectrum being out there, I speculate, I don't know for sure because I haven't talked with my client, but I am willing to bet that spectrum is going to be providing the fiber here and they are out there surveying to provide fiber because they are one of the fiber providers for these towers. They may be or they may not be, but since they were out there that is what I would think.

**Mr. Brooks:** I have a question about maintaining the road. You said they probably will or will they, is it written down that they will maintain the road.

**Tom Johnson:** Yes, it is in the conditions.

**David Moon:** It is condition #7. It states that a driveway for Austin West Road to the tower shall be maintained to allow access to emergency vehicles and overhead clearance of 14 feet shall be maintained over the driveway. To provide access for emergency vehicles the state fire code has certain specifications requiring that the road accommodate a weight of at least 75,000 lbs. So, at the time of a building permit, the applicant for the building permit, site plan for the cell tower, will have to demonstrate that the roadway meets the state fire code for access.

**Mr. Brooks:** So, the Tower owner will have to provide the money for upkeep of the road?

**Mr. Silverman:** The tower company or the property owners.

David Moon: ultimately it is the property owner is responsible and then the property owner establishes a contract or lease agreement with the tower company.

Tom Johnson: the condition is on the permit of the tower company. So, we must maintain it. That is a condition of our permit not. Yes, the landowner owns the land, but it is a condition of this special use permit. We must maintain it so the fire equipment can get to the site. Otherwise, we can't get a building permit because the county fire marshal has to sign off.

**48:47Mr. Brooks:** could you put that map back up there again. The other property owners that have access to that road. Would they incur any costs to maintain that road. Is it all the property owners or just the one that owns the property for the tower?

**David Moon:** They are responsible for helping to maintain that roadway.

**Mr. Brooks:** ok all the property owners, not just the property owner for the tower.

**David Moon:** All the property owners, but where you see the road dogleg to the west, the property owner and the tower owner are responsible for maintaining that. However, at the time the building permit is issued and before the letter from the engineer, certifying that the tower has been constructed the engineer will also have to provide to our code enforcement division a letter certifying that the roadway from Turnbull to the tower site meets the state fire code for access.

**Mr. Brooks:** I understand that, but it involves other landowners that doesn't need it just where the land where the tower is, it's all the land surrounding the area or that road.

**Tom Johnson:** it will end up benefiting the landowners because the tower company has the habit of maintaining it to a certain standard. So, they are going to benefiting. From what I understand they don't have a road maintenance agreement, it's a private road. So, they contribute proportionally, if there is a problem, but in this case the tower is going in and the tower company has to make sure it is maintained to a certain standard for fire equipment to get in there. These landowners are going to benefit from it being done that way.

**Mr. Brooks:** I understand that but from what it says is that the property owners would be responsible for the road, and it looks like there are multiple property owners that are butting up to this road, not just one. If that is going to be and upgraded road, is that going to incur any cost to those property owners?

**Tom Johnson:** no, if the tower company is required to upgrade to meet fire code it is on the tower company and if the tower company damages it, it is on the tower company.

**Mr. Silverman:** so, the tower company will incur the cost to achieve that minimum standard regardless of any contribution from the property owners.

**Tom Johnson:** because it is a condition of the permit and therefore have to do it. Because a fire marshal will not sign off until it is stamped.

**Chair Lucas-Moore:** Any additional questions? There is a question in the back. Can you come back up to the podium, please.

**Frank Dorado:** If you pull back up where it says a number 3 statement. That number 3 that says a driveway from Austin West rd to the tower is what they maintain. But what I am asking is from Turnbull Road going to that tower, are we responsible for that and maintaining it? So, if they tear up the road and all of a sudden, we have to maintain it and it costs us money. Then we liable for it? They are only liable for Austin west rd. which is the road in front of my

house. So, from there until the access, who is going to cover that the property owners and if that is us then me personally don't think that tower should be there unless they fix the road. They can put the tower but the heavy equipment that's coming in there, if you are bringing heavy equipment, after you leave with the heavy equipment, they got ruts and everything on Austin west road and they say they are not responsible for it and here, I'm tearing up cars.

**Chair Lucas-Moore:** the attorney did address that issue a second ago, but for clarification I am going to have him come back to make sure you understand completely, and we can move forward.

**Frank Dorado:** if he goes and turns and changes that #3 there from Turnbull Road to the adjacent site, then I don't have a problem.

**Tom Johnson:** in addition to those conditions there is a condition that fire code is going to require that we have it all the way to Turnbull Road and to make sure it is up to standard, and we can't get a building permit unless the fire Marshall signs off on it. Number 2, if we damage that road, we will fix it. If I need to put it in there as a condition, I will but we will fix it. We damage it because of our equipment going in there we will definitely fix it, but the fire marshal is going to make sure that happens. We won't be able to get sign off on the final, I don't know that it is necessarily called a Certificate of Occupancy, but the final sign off by the county without that road being so that we can get access.

**Chair Lucas-Moore:** thank you. So, does this address your question?

**Frank Dorado:** Yes

**Chair Lucas-Moore:** Ma'am, did you sign up to speak? Can we allow if they did not sign up to speak.

**David Moon:** that is up to your discretion. If they did not sign up, then the board or the chair can allow additional speakers, or you can deny it.

**Rob Hasty:** You can decide to allow a speaker, my only advice is that you be consistent with meetings.

**Chair Lucas-Moore:** yes, I think it is an important protocol to sign up to speak before the meeting and if you didn't sign up to speak then we should stick with protocol.

**David Moon:** There are no more speakers. You may close the public hearing and open for a Motion and a discussion from the board.

**Chair Lucas- Moore:** At this time, we will close the public hearing for BOA-2024-0008. Currently, what is the pleasure of the board. Does the board want to make a motion on the special use.

**5659Vickie Mullins:** I would like to make a motion to approve the special use and the special use site plan based on a finding that the special use criteria have been satisfied by the applicant's response provided in Exhibit J and the information presented by staff this evening.

**David Moon:** Ms. Mullins: Did your motion include the applicants offer to maintain the access road form Turnbull to the tower if the road is damaged?

**Vickie Mullins:** Yes.

**Chair Lucas-Moore:** You would like to add that to your motion?

**Vickie Mullins:** Yes.

**Chair Lucas-Moore:** We have a motion on the floor. Do we have a Second?

**Mr. Brooks:** I second.

**Chair Lucas-Moore:** All in favor say I. Motion Carries.

**Vickie Mullins Motioned to approve the SUP. Mr. Brooks 2<sup>nd</sup>. All are in favor.**

Members Vote	In Favor
Vickie Mullins	YES
Donald Brooks-Alt	YES
Marva Lucas-Moore	YES
Gary Silverman- Alt	YES

### Hearing Item B. (5820)

**Chair Lucas-Moore:** We will move onto case.

- B. **BOA-2024-0009:** Consideration of an amendment to Special Use Permit P18-05-C to expand an existing Recreational Vehicle Park and Campground in an A1 Agricultural District on 10.69 +/- acres, located at 7288 Lane Road; submitted by Kerry Pope (Owner).

**David Moon:** Deputy Director of planning and inspections. The special use request before you this evening is in the north central, northeastern area of the county in the linden area. The applicant is Kerry and Audrey Pope. They are also the owner of the property, and the request is to amend and existing special use permit. Permit P18-05-C to expand and existing RV park and campground. The proposed area for the amended special use is 10.69 acres. The original and existing special use permit covers and area approximately 4 acres. The campground RV park is land upon which shelters, tents, cabins, open air cabins, travel trailers, recreation vehicles which are erected or located for temporary occupancy by transients or vacationers. They may include such permanent structures as are normally associated with the operation of a campground.

Based on section 403 of the county zoning ordinance a RV vehicle and campground require a Special Use permit within the A1 zoning district and that special use must be approved by the board of adjustment. The other criteria and the 4 criteria were already presented I the previous presentation. I will not go through those. The applicant has provided a written response regarding those 4 criteria on their behalf to demonstrate compliance with zoning ordinance. Again, the board of adjustment has the authority to approve, deny or approve with conditions. This application is to amend and existing special use permit. Should you deny the request, the existing special use permit still occurs, and a campground will occur on the site. They are requesting to expand the special use are to accommodate additional RV vehicles or campsites.

Tim Doersam will give a description of the site plan and information about the surrounding area.

**Timothy Doersam:** Good evening. My name is Timothy Doersam with Cumberland County current planning. I am a planner 1 and I will be providing a description of the site plan presented to us, along with the area and surrounding uses. Here on this slide, we see the special use permit for the campground expansion. In the solid lines you see the 10 pads there for RV parking that are already existing. There are 14 additional pads for a total of 24 pads on the site.

Here we see the surrounding uses. Most of the land area around the subject area is farmland and wooded areas. To the southwest is a single-family residence that is a part of the owners own property. Then farther to the south is also additional farmland.

**David Moon:** We're going to pause momentarily because the battery is about to die in the recorder, so we're going to let Amanda change the battery and then we'll commence with the presentation.

**Amanda Ozanich:** Alright, you can go ahead.

**Timothy Doersam:** ok, on the zoning slide we see zoning districts with the surrounding area, the majority of which is A1 but there is some A1 conditional zoning to the north and some rural residential to the west.

This is a close up of the county GIS that shows where the current RV parking campground site is. Due to the angle that the photos are taken, they're not 100% accurate to where the actual property lines are. So, the RV spot that's encroaching past that property line may not be 100% accurate. It could be well within the actual area of the special use.

This is a full view where you see the driveway from Lane Rd. that goes all the way past that residence and continues forward and goes towards the campground. We can see that will for the owners, allow for uninterrupted access to the existing campground site.

**Mr. Silverman:** Does the owner live there?

**Timothy Doersam:** Yes, sir. The house that's in the middle, that's about halfway point is the owner's house. Here is a photo showing the farmlands to the West and the wet areas to the north. It's also to show that for the campground, with the abundance of wooded areas, they provide a lot of natural screening and buffers, and any existing neighboring residences with the nearest neighboring residents about 1400 feet away.

Here we see the entrance from Lane Rd., into the pathway leads to the RV park where you can turn into it and again it's been well maintained and is paved accordingly.

Here we can see the soils. There are no water or sewer lines in the area. The RV Park uses a well and septic system and for the soils there is a small amount of hydric soils in the northern corner and then there are some additional Hydric inclusion soils.

For the land use plan, the area is located purely within the farmland classification with some open space towards the South that is not encroached within the existing RV park area or the proposed expansion area.

Here is the recombination plant that was recorded last year in June for the owners to have the 10.69 acres of land for their proposed expansion. This is over at the register deeds and has been reported in their system.

Here we have a photo of the entrance to lane rd., and this is a photo of actual RV park as it currently exists that was taken by our graphics team earlier this month.

Here is an eastern view of Lane Rd. with the entrance way to the subject property on the left-hand side. This is a South view of from Lane Rd. looking across from the property to an adjacent parcel. This is the Western side of lane rd. with the entrance to the subject property on the right-hand side.

So once again, the board of adjustments has authority granted by the NC General Statute, Chapter 160 D, to approve, deny, or approve with conditions, this amendment to an existing special use permit. And that concludes our presentation. Thank you.

**David Moon:**

Madam Chair and board, the staff has found that the special use site plan is consistent with the zoning code subject to the special use conditions that are included in the proposed special use permit. Also, the staff report is submitted for the record as exhibit A and the presentation before you is exhibit B, the slide show presentation. I also wanted to point out, as you may have noticed, is the flag lot, the roadway leading to the campsite near the campsite doesn't match up with the actual platted property lines. So, there is a condition in the special use permit that the owner must provide a cross access easement where the driveway goes on to the other legal parcel. I wanted to point that out because the roadway if you could zoom into another picture. There so you can see the roadway doesn't follow the yellow line, which is the property lines for the original special use permit. So, there is a requirement that a cross access easement has to be provided over that existing driveway.

**Mr. Silverman:** do you mean it's on another person's property?

**David Moon:** They are two separate parcels that are owned by the current applicant, but they could always sell one of those parcels, so the cross-access easement is placed on there in the event that the other property is sold.

**Mr. Brooks:** So, the owner owns both properties?

**David Moon:** I believe so, but the applicant can testify to that.

**Mr. Brooks:** Could you go back to where you had the box and the lines. Yeah, so the RV park is the one in the middle of the road and if you will, arms on the line, you expand to the.

**Tim Doersam:** Through the rest of the rectangle. Yes, sir.

**Mr. Silverman:** Where in the county is this?

**Timothy Doersam:** So, this is in the northern part of the county where the red star is.

**Vickie Mullins:** I have a question. On the picture, when you were saying that we could see if the applicant owns both wouldn't that mix, you know?

**David Moon:** Well, a special use only applies to the area that you see highlighted in red and the current campsite is owned by the applicant. I can't confirm it, but some of the property may be owned by another member of the family. But when the property owner has an opportunity to speak, he can clarify that.

**Mr. Silverman:** Does the applicant own all that land on both sides of the red of the access road?

**Timothy Doersam:**

The applicant owns this parcel that my mouse is on along with the parcel of the RV park. The western half of it is for a different property owner, I believe. So, it is these two parcels that the applicant has ownership of currently.

**01:12:24 Mr. Brooks:** So, what is the current layout with the road you are speaking of? If you just show me.

**David Moon:** There's two parcels parcel one would be the current area highlighted in red, and then I'll call it parcel 2 would be the remainder of the property owned by the applicant. Which means if the

campsite were sold to another camp site operator, the road would be going on another property owners' site. So that is why staff asked for the cross-access easement.

**Mr. Brooks:** ok.

**Chair Lucas-Moore:** Alright, any more questions? I open it up to the public hearing. Anyone signed up to speak?

**David Moon:** Kerry Pope is the first to speak.

**Chair Lucas-Moore:**  
Your first name, last name and the address, Sir.

**Kerry Pope:** First name is Kerry D Pope. My address is 2740 Chimney Point in Linden, NC.

**Chair Lucas-Moore:** Do you testify to tell the truth, the whole truth and nothing but the truth?

**Kerry Pope:** yes, ma'am.

Yes, Great questions and thank you for giving the opportunity to speak before you tonight. As stated by Mr. Moon and Mr. Doersam, the property, you followed the flagship lot, it was a 3.62-acre lot. Obviously, we knew to extend that special use permit. We did the recombination through some guidance from the from the office and that would allow that special use permit just to apply over to that 10.692 acres. We do own both parcels. That was a great question. We do own both parcels. We are willing to give an easement if that's the conditions for us. So, no issues there. You know, obviously that just would require an easement from my wife and myself, so no issues there. We're good with the conditions presented before us. We've been in business now for about 4yrs and you noticed that I stated that I am a resident of Linden. That was actually a home site, so we are giving people a little piece of heaven that we have out there, and they really enjoyed it. It's a good farm environment. Native grasses, when I say native grasses, if you are familiar with the area, Bermuda hay, we've got planted timber. People tell me they didn't know that there were that many stars when they look up there. So, it's a little piece of heaven up there. We just wanted to extend it. We are trying to give anybody any trouble in 4 years. We have met some good people. We just wanted to continue what we started out there and we provide a pretty good service. We do employ local vendors and we are helping the local economy and pay our taxes and that is what the driving force behind it when we started it. I'd, you know, just ask for the board to consider it and go forth with an approval. Thank you. Any questions for me?

**Mr. Silverman:** I have a couple of questions. Who uses this? You know of people come out; they make reservations. Or how long do they use? Comes out there. And how long do they stay?

**Kerry Pope:** So, it's, you know it, it said transient in nature, they don't stay long. When I say they don't stay long, what you end up having is you know the latest ones is the GF over certain projects you have various folks up you know coming into the Goodyear Tire Company. We're very close to Fort Bragg, so we have vendors coming in from Goodyear. They'll come in and do a project and they'll roll. Same thing with the military, you know, we'll get guys that will come there, and they'll stay. I would say a lot of a lot of what happens is people moving to the Community. And their house is not ready, right. They move up from Florida. Their house is not ready. They're waiting for that house to close. But they're house sold. So then that's that transient piece of it. So, you know, I hate the...

**Mr. Silverman:** they come with their own RV's or trailers?

**Kerry Pope:** They come with the RVs, or sometimes they borrow one from a friend. So, I've seen that happen as well. So, they pull in and they borrow one from a friend. They'll stay in it, and when their house closes and you know, they just go back to, they're moving to their house. So, had some people that have stayed there and moved local who fell in love with the community and just ended up staying, you know what I'm saying, staying here. So, we've had. We've had all kinds. Primarily it is you know, you see the construction, the whole driving force behind this initially was a big project that was slated for the area and you know that was cancelled and it just turned into something else. But you, you find it. So, when you put it out there and then you get good reviews from the farm and this the peaceful setting. It just drives for Peak customers.

Mr. Silverman: What about current utilities? I believe it was brought out this septic tank or current utility ability to support the additional expansion.

**Kerry Pope:** Yes, Sir. So, in the initial phase. Fred Thomas was the site evaluator. I mean, I could date it back when my house was located down. We took some existing facility that our House that was there actually we had a House fire burned down and my wife said she's not going to move back there because obviously, you know, we had a house fire and that just had some bad memories. But so, we had existing facilities. But to answer your question, so environmental health has come out and the soil, if you've looked at it, it's on a little ridge to Sand Ridge and according to Tom, now I've not had the site evaluation for the new lots, but for the other lots we can get a quarter acre lots out there. So, our soil that is really, really good for that area. So obviously we go through the environmental health. I mean there's conditions in there as far as your septic, what you can and can't have, there's a pretty rigid condition there with the septic and the RVs, but our soil conditions take care of that from a septic perspective. As far as the well, obviously working through the county health depart. From it, obviously that would fall right in within the guidelines with that from our...

**Mr. Silverman:** is there electric lines out there?

Kerry Pope: Electric lines are overhead. Yes, Sir. They follow pretty much. It was an existing power line that served my house and all we've ended up doing to it is anything that has been set has been an overhead pole with an underground surface, so I have talked with the with the utility company going forward. If we were able to, you know this is approved, we would come up here and it would all be underground, as well. For the for the electric utility.

**Chair Lucas-Moore:**

Any additional questions? Staff have any more questions?

**David Moon:**

We've completed our presentation.

**Chair Lucas-Moore:**

Thank you, Sir. I am closing the public hearing. Board, I'm now opening it up for discussion.

**Vickie Mullins:** I would like to make a motion to approve the special use and the special use site plan based on a finding that the special use criteria has been satisfied by the applicant's response provided in Exhibit J and the information presented by staff this evening.

**Chair Lucas-Moore:**

I would like to add to included exhibit A&D into your motion and conditions to provide the access easement to the road.

**David Moon:**

The access easement, that's already a condition of the special use permit.

**Chair Lucas-Moore:**

I have a motion on the floor. Do I have a second?

**Mr. Brooks:** I will second.

Chair Lucas-Moore: All in favor?

**Vickie Mullins Motioned to approve the SUP. Mr. Brooks 2<sup>nd</sup>. All are in favor.**

Members Vote	In Favor
Vickie Mullins	YES
Donald Brooks-Alt	YES
Marva Lucas-Moore	YES
Gary Silverman- Alt	YES

10. OTHER BUSINESS:

A. BOA Chair and Vice-Chair nominations and action.

a. Vickie made a motion to nominate Linda Amos as Chair. Brooks 2<sup>nd</sup>. All are in favor.

b. Vickie made a motion to nominate Marva Lucas-Moore as Vice Chair. Brooks 2<sup>nd</sup> the motion. All are in favor.

B. BOA Member Recommendations

a. Marva Lucas-Moore motioned to recommend Donald Brooks to sit as a regular member, replacing Mr. Parks. Gary Silverman 2<sup>nd</sup> the motion. All are in favor of recommending Mr. Brooks to sit as a regular member.

11. DISCUSSION/UPDATE(S):

12. ADJOURNMENT: Chair Lucas-Moore adjourned at 7:46pm.



**PLANNING & INSPECTIONS**

PLANNING STAFF REPORT  
**SPECIAL USE CASE # BOA-2024-0010**  
**Board of Adjustment Meeting:**  
**August 15, 2024**

**Jurisdiction: County-Unincorporated**  
**Location: 2501 Clinton Rd**

**REQUEST Special Use – Adult Day Care Facility**

Property Owner requests the BOA grant a Special Use Permit for an adult day care on approximately 1.00 +/- acre property zoned RR Rural Residential District, located at 2501 Clinton Rd, as shown in Exhibit "A". A parcel zoned RR must obtain a Special Use Permit for a Day Care Facility, as illustrated in Exhibit "B" (Use Matrix) (attached). The proposed adult day care facility will have up to 10 daily clients with two employees on-site. Eight parking spaces with two being ADA spaces are proposed while utilizing the smaller building on the property as an office, as illustrated in Exhibit "E" (attached).

- Exhibits**
- A. Site Location/Zoning
  - B. Use Matrix, Sec. 403, Zoning Code
  - C. Section 901, Individual Uses
  - D. Section 906 Day Care Facilities
  - E. Special Use Site Plan
  - F. Existing and Adjacent Uses
  - G. Soil and Utilities
  - H. Southeast Cumberland Land Use Plan
  - I. Special Use Permit Conditions/Permit Attachment: mailing list/application

As the existing structures were constructed for residential use, a single family stick-built home and a detached garage, the buildings will likely require modifications to comply with a change of use to day care, including a fire suppression system. Change of use of the building to adult day care will likely require improvement to compliance with the State Building and Fire Codes, including American Disabilities Act standards.

**PROPERTY INFORMATION**

**OWNER/APPLICANT:** Claudia D. Elliott and Geordyn L. Elliott (Owners)

**ADDRESS/LOCATION:** 2501 Clinton Rd

**REID:** 0456290435000

**SIZE:** 1.00 Acres

**ROAD FRONTAGE:** 150' street frontage off Clinton Rd.

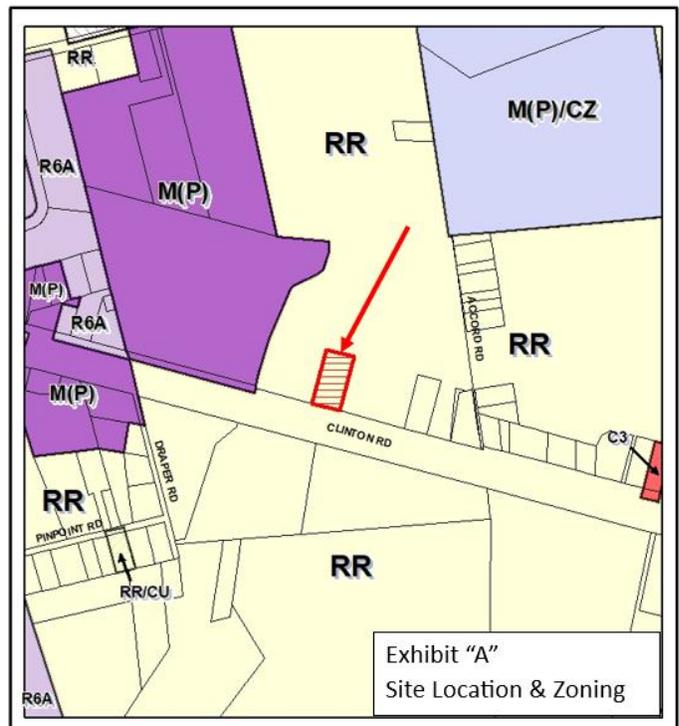
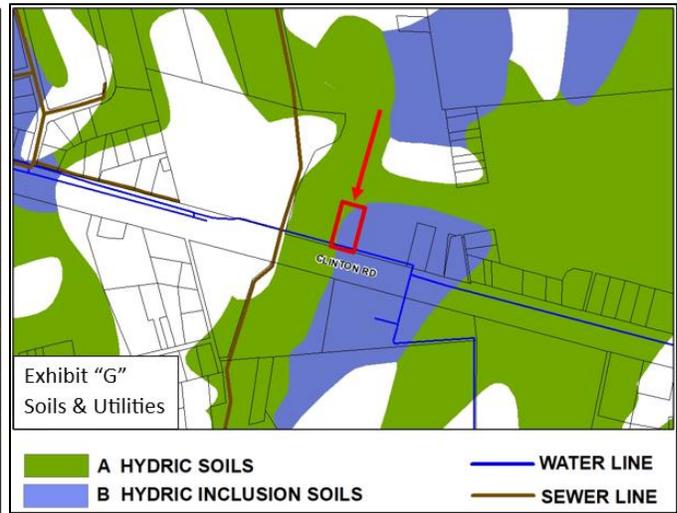




Exhibit "F"  
Existing & Surrounding Uses



**EXISTING LAND USE:** Property was previously used for a residential home with two structures currently existing on the site – a residential building and a detached garage, as shown in Exhibit "F" (existing use and surrounding uses.)

**SURROUNDING LAND USE:** Uses in the surrounding area and adjacent properties predominantly are, residential homesites, wood lands, and a container sales business. Surrounding uses are shown on Exhibit "F" and described as:

- North: Undeveloped and woodlands.
- East: Single-family residential homes and woodlands.
- South: Woodlands and water tower.
- West: Maxwell Container Sales and single-family residential homes.

**OTHER SITE CHARACTERISTICS:** The 1.00 +/- acre site is not within the 100-year Flood Zone. The entire property is not situated within a watershed. There are hydric and hydric inclusion soils on the subject parcel, as shown on Exhibit "G".

**MINIMUM YARD SETBACKS:** The adult day care shall meet the required setbacks for the RR zoning district: 30' front, 15' side, & 35' rear.

**COMPREHENSIVE PLANS:**

This property is located in the Vander Land Use Plan. The future land use classification of the property is Light Commercial.

**OVERLAY DISTRICTS:** None

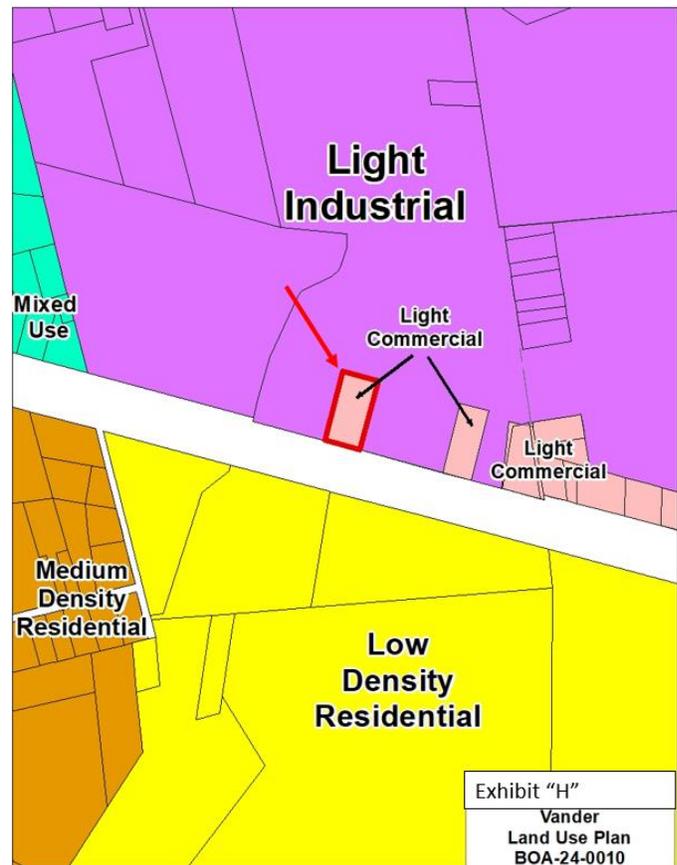


Exhibit "H"  
Vander  
Land Use Plan  
BOA-24-0010

## IMPACTS ON LOCAL INFRASTRUCTURE

**TRAFFIC:** FAMPO found that the new development should not generate enough traffic to significantly impact Clinton Road.

**UTILITIES:** Public water and sewer services are located and available along Clinton Road. Exhibit "G" provides information on utilities available to the subject property.

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

**EMERGENCY SERVICES:** Cumberland County Fire Marshal's office has reviewed the request and provided comments that are addressed as conditions within the Special Use Permit.

**SPECIAL DISTRICTS:** The subject property is not located within five miles of Fort Liberty 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 Sections 901 and 906 of the Zoning Code, the Special Use Site Plan (Exhibit "E"), and Special Use Conditions (Exhibit "I")

## KEY SPECIAL USE CONDITIONS

1. The Special Use Permit shall only be for an adult day care facility.
2. The building on the property labeled on the Special Use Site Plan as an "office" shall be an accessory office used for the operation and management of the adult day care business. It shall not be used have any day care clients or participants unless otherwise authorized by the State and sufficient parking spaces are provided.
3. Minimum of two off-street parking spaces, plus one off-street parking space for each employee, shall be provided. Off-street parking shall be provided in accordance with the standards of Article XII.
4. A 5' wide sidewalk shall be established from the ADA parking spaces to the building entrance and shall allow for an unobstructed traversal from the ADA parking space to the adult day care facility.

## FINDINGS OF FACT

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

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.

Staff finds the Special Use Site Plan to be consistent with the Zoning Code.

**MOTION**

The BOA is requested to take action/motion based on the findings of fact, as supported by the Special Use Site Plan (Exhibit "E") and Special Use Conditions (Exhibit "I"). 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 "C"**  
**SECTION 901, INDIVIDUAL USES**

**SECTION 901. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES.**

The development standards of this article are additional to other requirements in this ordinance. If there is a conflict with another section of this ordinance or any other Federal, State or local regulation, the most restrictive requirement shall apply. These development standards are use-specific and apply as minimum development standards for the use regardless of the type of approval or permit otherwise required by this ordinance. All non-residential uses listed within this article require site plan review and approval in accordance with Article XIV unless this article specifically requires approval of a Special Use Permit or Conditional Zoning District. Those uses requiring approval as a Special Use Permit (Section 1606) or a Conditional Zoning District (Article V) shall also be subject to these standards and any additional standards or conditions required by the approval.

*(Amd. 11-20-06; 04-18-11)*

In addition to the specific criteria listed for each use, the following are to be considered as minimum criteria for every non-residential use:

A. All parking and loading areas shall comply with the minimum provisions established in Article XII, Off-Street Parking and Loading;

B. All lighting shall be directed internally and shall comply with Section 1102.M;

C. Noise generated by any use shall not substantially or detrimentally affect the ability of surrounding property owners to reasonably enjoy the use of their properties and shall not contradict those standards of Chapter 9.5, Cumberland County Code, Article II, entitled: "Noise" (Noise Ordinance);

D. When any non-residential use is adjacent to residentially zoned properties, a screening buffer shall be provided in accordance with Section 1102.G of this ordinance;  
*(Amd. 01-19-10; Amd. 06-18-12)*

E. Unless otherwise specified within these individual sections, all signage shall be in compliance with Article XIII, Sign Regulations, for the specific district in which the subject property is located;

F. All new non-residential development shall comply with the landscaping provisions of Section 1102.N; and

G. Compliance with all Federal, State, and local regulations, including the County Subdivision Ordinance, is mandatory.

**EXHIBIT "D"**  
**SECTION 906, ZONING CODE**

**SECTION 906 DAY CARE FACILITIES**

A. For day care facilities located within any residential or agricultural zoning district, the following provisions must be complied with:

1. Minimum lot size shall be 20,000 square feet.
2. The required minimum setbacks shall be as follows:
  - a. Front yard: 30 feet from any public or private street;
  - b. Rear yard setback: 35 feet;
  - c. Side yard setbacks: 20 feet; and
  - d. Corner lots: shall provide a minimum of 30 feet from both streets.

3. Subject property must abut and have direct access to a major or minor thoroughfare or higher street classification, as identified in the Highway Plan, for all day care facilities located in residential districts.

B. Day care facilities allowed in zoning districts other than residential districts shall comply with the district dimensional requirements of the zoning district.

C. Minimum of two off-street parking spaces, plus one off-street parking space for each employee, shall be provided. Off-street parking shall be provided in accordance with the standards of Article XII.

D. There shall be sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any off-street parking area.

E. All children's outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards, provided the yards are not adjacent to a street. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the most currently adopted North Carolina State Building Code.

*(Amd. 11-20-06; Amd. 02-19-08; Amd.01-09-10; Amd. 02-01-21)*



**EXHIBIT "I"**  
**SPECIAL USE PERMIT BOA-2024-0010**

**Special Use Permit- Board of Adjustment**  
**(Adult Day Care Facilities Special Use Permit and Site Plan)**  
**Ordinance Related Conditions**

**BOA-2024-0010:** Consideration of a Special Use Permit to allow an adult day care facility on a 1.00 +/- acre parcel in an RR Rural Residential Agricultural District, located at 2501 Clinton Rd, Submitted by Claudio Elliott (owner).

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

**Applicability:** This Special Use Permit shall only apply to a 1.00 +/- acre parcel at PIN 0456-29-0435 (as shown in the record of the Cumberland County Register of Deeds as of May 13, 2022) as such area is shown on the of the attached Special Use Site Plan (Exhibit "A").

**Permitted and Prohibited Uses:**

1. The Special Use Permit shall only be for an adult day care facility.

**Development Standards:**

2. Use and development of the site shall occur consistent with the Special Use Permit and the Special Use Site Plan provided in Exhibit "A" and shall be in conformance with the zoning and subdivision ordinances adopted by Cumberland County. If any inconsistency or conflict occurs between this Special Use Permit and County Zoning or Subdivision Ordinances, the Special Use Permit shall supersede.
3. Subject property must abut and have direct access to a major or minor thoroughfare or higher street classification, as identified in the Highway Plan, for all day care facilities located in residential districts.
5. The building on the property labeled to be used as an office shall n as an "office" shall be an accessory office used for the operation and management of the adult day care business. It shall not be used have any day care clients or participants unless otherwise authorized by the State and sufficient parking spaces are provided.
4. A final site plan with a landscape plan consistent with the County Zoning Ordinance, including Section 1102.G, and this Special Use Permit, must be submitted to and approved by the Current Planning Section prior to any clearing, grading or construction activity, or any use of the site for a day care. Note: a special use site plan is not a final site plan. Any building permit application must also be submitted to the County Fire Marshal.
5. Landscaping conforming to Section 1102.N in the County Zoning Ordinance shall be shown on the final site plan submitted to the Current Planning Division.

**Infrastructure and Utilities**

6. All lighting installed shall comply with all provisions of Section 1102.M., of the County Zoning Ordinance.

7. All environmental health rules and regulations, including Federal and State laws, shall be complied with.
8. Driveway Permit required.

Site plan should depict the proposed geometrics for the proposed ingress and egress driveways.

Change of use of subject properties and/or construction of any new connection or alteration of any existing connection shall require an approved Driveway Permit. 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/developer's expense.

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.

9. If any right-of-way dedication is required by NCDOT, a recorded plat referenced above shall identify any such right-of-way dedication and sight distance easements. (Sec. 2402, County Subdivision Ord.)
10. Minimum of two off-street parking spaces, plus one off-street parking space for each employee, shall be provided. Off-street parking shall be provided in accordance with the standards of Article XII.
11. A sufficient paved driveway must accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any off-street parking area.
12. A 5' wide sidewalk shall be established from the ADA parking spaces to the building to allow for an unobstructed traversal from the ADA parking space to the adult day care facility.
13. That site and soil evaluations be conducted on the property per the standards of the County Environmental Health Department. Note: All Health Department requirements shall be met prior to issuance of final permits. Note- application for a septic permit does not ensure that a permit can be written.
14. Water Infrastructure: The County Health Department must approve water plans if not connected to central water system. Property not served by public water system is required to be large enough and of such physical character to comply with the Health Department's minimum standards. A copy of the Health Department approval must be provided to Code Enforcement at the time of the building permit application. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Sec. 2306A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)
15. Sanitary Sewer Infrastructure: Authorization for wastewater system construction required before other permits to be issued. The County Health Department must approve sewer plans. Lots not served by public sewer systems are required to be large enough and of such physical character to comply with the Health Department's minimum standards. Site and soil evaluations must be conducted on the property by the County Environmental Health Department. A copy of the Health Department approval must be provided to Code Enforcement at the time of the building permit application. (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.)
16. 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.)

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. Prior to permit application, the developer must provide to the Code Enforcement Section documentation of NC Department of Environmental Quality (NCDEQ) approval of the Sedimentation and Erosion control plan for this project. NCDEQ requires a Sedimentation and Erosion control plan be submitted and approved 30 days prior to land disturbing activities if said land disturbing activity will exceed one acre.

If a plan is not required, per 15ANCAC 04B.0105 "Person conducting land disturbing activity shall take all reasonable measures to protect public and private property from damage cause by such activities." Sedimentation and erosion control measures will need to be installed to protect adjacent properties. [Sec. 4-8(b)(6), County Code; originally under County jurisdiction relinquished to NCDEQ around 2000].

#### **Development Review Process:**

19. Applicant shall submit a final site plan and landscape plan to the Current Planning Section prior to any construction activity, including clearing and grading, demonstrating compliance with the requirements and information required herein in this. No activity on the site shall occur until a final site plan has been approved by the Current Planning Section.
20. The Special Use Site Plan shall be consistent with Article XIV in the County Zoning Ordinance.
21. All applicable State agency permits to operate a day care, including septic system permits, must be obtained from the Department of Health and other applicable state agencies prior to commencing operation of the day care, and prior to any clearing or grading activities for any associated construction activity.
22. When applying for building permits for any proposed structure on this site, provide a copy of the approved final site plan and Special Use Permit. and approval prior to permit application to The Code Enforcement Section.
23. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinance for the RR zoning district must be complied with, as applicable.

#### **Other Conditions:**

24. 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.
25. Any revision or addition to this plan necessitates re-submission for review and approval. Depending on the substantiality, such requested revisions or additions may require either Board of Adjustment approval or the Planning & Inspections Department administrative approval prior to the commencement of the change.
26. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.

27. 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 specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.
28. 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.)
29. 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].
30. 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.)
31. All noise standards found in Chapter 9.5 of the Cumberland County Code, Article II Noise Ordinance shall be adhered to for all activity on the site under this Special Use Permit.
32. The applicant or owner is required to record this Special Use Permit, at the expense of the applicant, at the County Register of Deeds. Final site plan permits and building permits shall not be approved by the County until the applicant or owner has complied with this condition.

**Effective Date/Expiration:**

33. This special use expires two years from the date the County Board of Adjustment approves the Special Permit No. BOA-2024-0010 if no activity proceeds in good faith to commence the special use. The Board of Adjustment may approve an extension of this special use permit for up to two years if a written request for an extension is submitted at least thirty days prior to the expiration date.

Issued by:

\_\_\_\_\_  
David B. Moon, AICP, CZO

\_\_\_\_\_  
Date

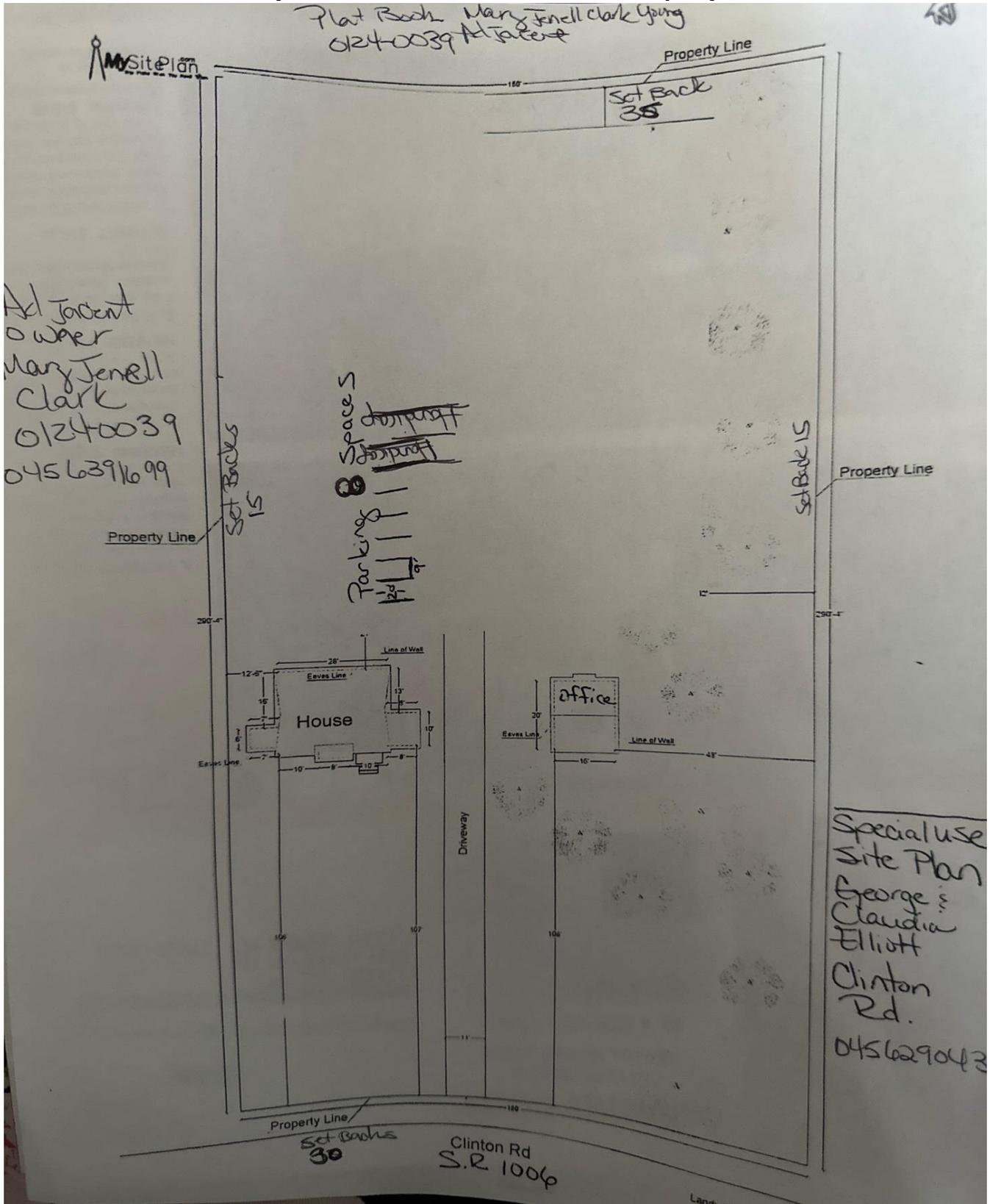
The above Special Use Conditions are accepted by Claudia Elliott at the August 15, 2024 BOA hearing, as documented by the official hearing minutes for that date.

\_\_\_\_\_  
Claudia Elliott

\_\_\_\_\_  
Date

EXHIBIT "A" OF  
SPECIAL USE PERMIT BOA-2024-0004  
SPECIAL USE SITE PLAN

(Same as Exhibit "A" of the Staff Report)



**ATTACHMENT: NOTIFICATION LIST & PUBLIC HEARING LEGAL NOTICE**

ELLIOTT, CLAUDIA DIANETT;ELLIOTT,  
GEORDYN LEAN  
3804 WYNDFAIR DR  
FUQUAY VARINA, NC 27526

ELLIOTT, CLAUDIA DIANETT;ELLIOTT,  
GEORDYN LEAN  
3804 WYNDFAIR DR  
FUQUAY VARINA, NC 27526

CITY OF FAYETTEVILLE  
433 HAY ST  
FAYETTEVILLE, NC 28301

YARBOROUGH, GARRIS NEIL  
116 OLIVE RD  
FAYETTEVILLE, NC 28305

NOBLES, JEFFREY SCOTT  
2555 CLINTON RD  
FAYETTEVILLE, NC 28312

YOUNG, MARY JENELL CLARK  
296 SPARKS RD  
BAKERSVILLE, NC 28705

**ATTACHMENT: APPLICATION**



**County of Cumberland**  
**BOARD OF ADJUSTMENT**

CASE #: \_\_\_\_\_

CUMBERLAND COUNTY BOA  
MEETING DATE: \_\_\_\_\_

DATE APPLICATION  
SUBMITTED: \_\_\_\_\_

RECEIPT #: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

**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 \$ \_\_\_\_\_ (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**

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**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: 2501 Clinton Rd Fayetteville NC  
OWNER: Claudia Elliott  
ADDRESS: 3804 Wyndfair Dr <sup>Fuquay</sup> <sub>Varina</sub> ZIP CODE: 27526  
TELEPHONE: HOME (910) 984-7863 WORK \_\_\_\_\_  
AGENT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_  
E-MAIL: \_\_\_\_\_

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

- A. Parcel Identification Number (PIN #) of subject property: 0456290435  
(also known as Tax ID Number or Property Tax ID)
- B. Acreage: 1.00 Frontage: \_\_\_\_\_ Depth: \_\_\_\_\_
- C. Water Provider: Other
- D. Septage Provider: Other
- E. Deed Book 9381, Page(s) 780, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- F. Existing use of property: Residential Setting Currently 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.)  
Adult Day Program  
8am-5pm Monday-Friday 10 Clients Daily  
2 Employees

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.

Claudia Elliott George Elliott Geordyn Elliott  
NAME OF OWNER(S) (PRINT OR TYPE)

3804 Wyndfair Dr Fuquay Varina NC 27526  
ADDRESS OF OWNER(S)

Songbird.ce@gmail.com  
E-MAIL

910 984 7863  
HOME TELEPHONE #

WORK TELEPHONE #

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

ADDRESS OF AGENT, ATTORNEY, APPLICANT

E-MAIL

HOME TELEPHONE #

WORK TELEPHONE #

Claudia Elliott  
SIGNATURE OF OWNER(S)

SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

7/15/14  
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) Claudia Elliott George Elliott II

PRINTED NAME OF OWNER(S) Claudia Elliott George Elliott II Geordyn Elliott

DATE 5/14/2024



**PLANNING & INSPECTIONS**

PLANNING STAFF REPORT  
**SPECIAL USE CASE # BOA-2024-0011**  
**Board of Adjustment Meeting: August 15, 2024**

**Jurisdiction: County-Unincorporated**  
**Location: 1429 McArthur Rd**

**REQUEST** **Special Use – Assembly for a Community Center**

Property owner requests the BOA grant a Special Use Permit for an Assembly use for a Community Center on approximately 0.46 +/- acres located on a parcel zoned R6A Residential District, at 1429 McArthur Road, as shown in Exhibit "A". A parcel zoned R6A must obtain a Special Use Permit for an Assembly use, as illustrated in Exhibit "B" (Use Matrix). The intent by the applicant is to provide a space that community members can use for educational, recreational, or social purposes. A rezoning application requesting a change in zoning from R6A to O&I Office & Institutional District was recently denied by the Board of County Commissioners.

The development will connect to the nearby PWC waterline and utilize a septic tank. Currently, 17 parking spaces are proposed with two being ADA parking spaces. The proposed community center is approximately 1575 sq. ft. in size. A ramp will allow for access from the parking spaces to the building.

The property is located within the Cape Fear River Watershed and must obtain a Watershed Protection Permit. The final site plan details shall determine if the permit obtained is a low density or high density permit.

**PROPERTY INFORMATION**

**OWNER/APPLICANT:** Khalil Hamid Hasan, Owner;  
 Annie Hasan, Applicant

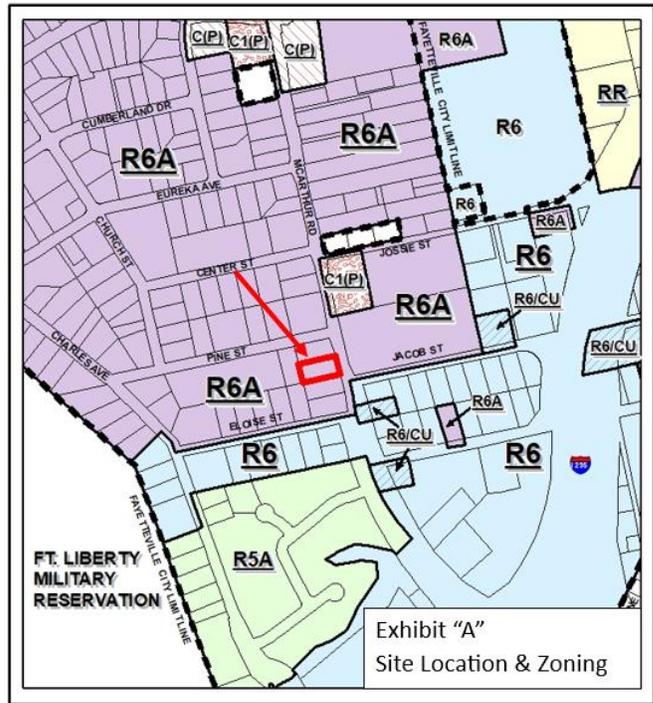
**ADDRESS/LOCATION:** 1429 McArthur Rd

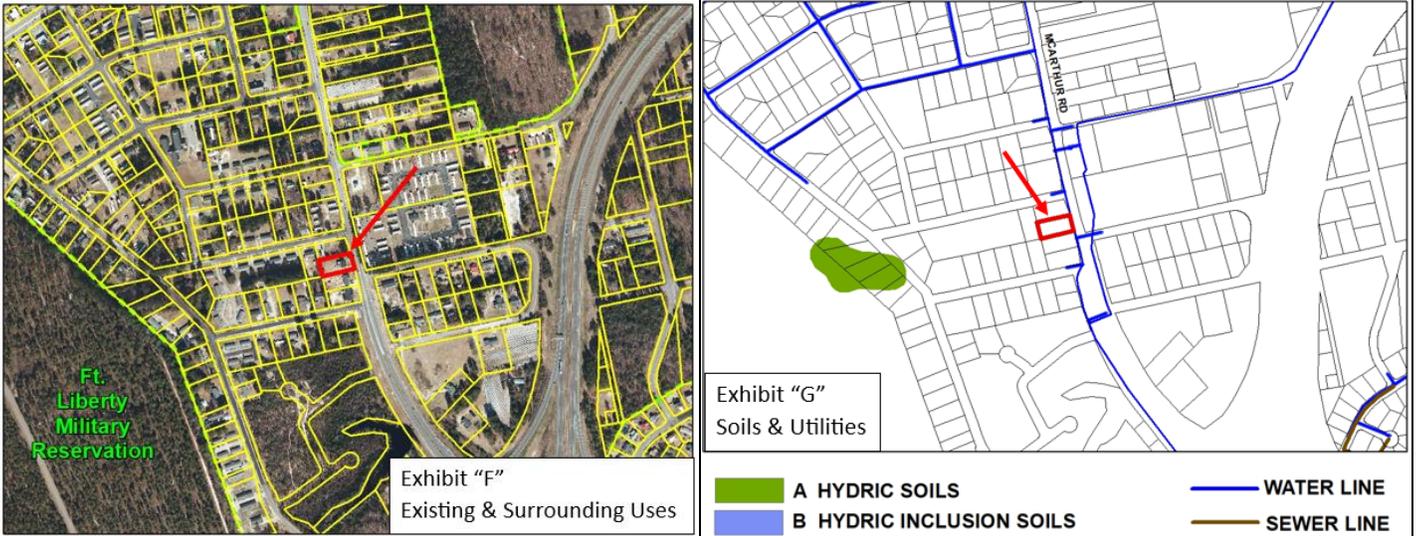
**REID:** 0520675984000

**SIZE:** 0.46 +/- acres; 20,000 sq. ft.

**ROAD FRONTAGE:** 100' of street frontage along McArthur Rd.

- Exhibits**
- A. Site Location/Zoning
  - B. Use Matrix, Sec. 403, Zoning Code
  - C. Section 901, Individual Uses
  - D. Section 916. Non-Residential Use as a Permitted Use in a Residential or Agricultural District
  - E. Special Use Site Plan
  - F. Existing and Adjacent Uses
  - G. Soil and Utilities
  - H. Southeast Cumberland Land Use Plan
  - I. Special Use Permit Conditions/Permit
  - J. Sec. 1606 Applicant Response
- Attachment: mailing list/application





**SURROUNDING LAND USE:** Uses in the surrounding area and adjacent properties predominantly are single family residences with a manufactured home park to the east. Surrounding uses are shown on Exhibit "F" and described as:

- North: Suburban Acres manufactured home park and single-family residences.
- East: Mercer Rentals manufactured home park.
- South: Child day care, single-family residences, and wooded areas.
- West: Single-family residences.

**EXISTING LAND USE:** A single family home occurs on the lot as well as a small storage shed within the rear yard, as shown is Exhibit "F2"

**OTHER SITE CHARACTERISTICS:** The 0.46 +/- acre parcel is not within the 100-year Flood Zone. The entire property is situated within the Cape Fear River watershed. There are no hydric or hydric inclusion soils on the parcel, as shown on Exhibit "G".

**MINIMUM YARD SETBACKS:** Per Section 916 in the County Zoning Ordinance, the Community Center shall comply with the yard requirements of the C1(P) Planned Local Business District: 45' front, 15' side, & 20' rear.



**COMPREHENSIVE PLANS:**

This property is located in the North Fayetteville Area Plan (2002) The future land use classification of the property is Medium Density Residential. The associated zoning districts for Medium Density Residential are R6A, R6, & R5A.

Per the North Fayetteville Area Plan:

- It is encouraged to have buffer requirements ensure 10-20 ft of vegetation around any new commercial and residential developments.
- Developments should be created to be harmonious and compatible with the natural and social environment.
- It should be discouraged to have new commercial developments in close proximity to existing residential developments

**OVERLAY DISTRICTS:** None

**IMPACTS ON LOCAL INFRASTRUCTURE**

**TRAFFIC:** FAMPO has no comments.

**UTILITIES:** Public sewer services are not available. Public water services are available along McArthur Rd. Exhibit "G" provides information on utilities available to the subject property.

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

**EMERGENCY SERVICES:** Cumberland County Fire Marshal's office has reviewed the request and provided comments that are addressed as conditions within the Special Use Permit.

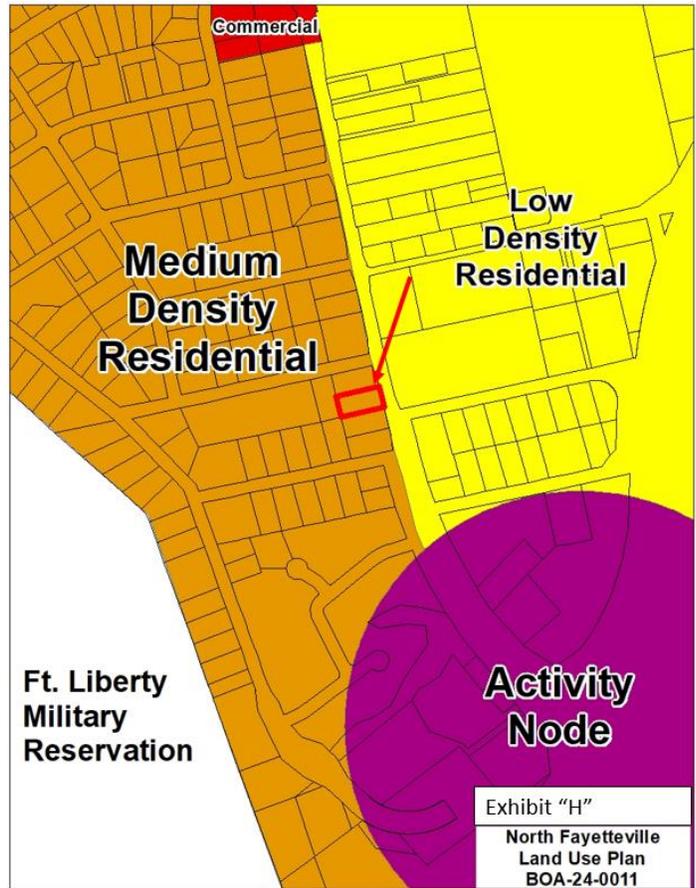
**SPECIAL DISTRICTS:** The subject property is not located within five miles of Fort Liberty Military base and is not located within or near the Fayetteville Regional Airport Overlay District.

**APPLICABLE CODES**

Use and development of the subject site must occur consistent with Sections 901 and 916 of the Zoning Code, Case No. BOA-2024-0011 Site Plan (Exhibit "E"), and Special Use Conditions (Exhibit "I")

**KEY SPECIAL USE CONDITIONS**

1. Maximum occupancy of the building is limited to 4 persons per off-street parking spaces appearing on the final approved final site plan, or according to the occupancy rate approved by the County Fire Marshal, whichever is lower.
2. The hours of operations for the Community Center shall be 8:00AM to 9:00PM from Monday-Saturday with a community center use allowed on Sunday during the allowed time period of 11:00AM to 9:00PM. Special events involving outdoor activities and temporary tents may require a special events permit from the Code Enforcement division.



3. The special use site plan shows that the septic tank and drain field are located underneath the proposed drive aisle and parking lot. The septic tank must be re-located to another part of the property, as authorized by the Environmental Health Department. The acceptable location of the septic system must be shown on the final site plan submitted to the County Current Planning division.
4. Remote Parking: If off-street parking is unavailable on-site to accommodate visitors to the Community Center, remote parking can occur at the day care facility located on the abutting lot (1425 McArthur Road) and which is owned by the same property owner. The remote parking may only be used during those times when the day care is not open for service. Remote parking shall not be used to determine building maximum occupancy rates unless a remote parking agreement reviewed by the County Planning & Inspections Department and said agreement is recorded with the Cumberland County Register of Deeds.

## **FINDINGS OF FACT**

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

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 "J".

Staff finds the Special Use Site Plan to be consistent with the Zoning Code.

## **MOTION**

The BOA is requested to take action/motion based on the findings of fact, as supported by the Special Use Site Plan (Exhibit "E") and Special Use Conditions (Exhibit "I"). 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

LAND USES	ZONING CLASSIFICATIONS																						
	CD	A1	A1A	R40	R40A	R30	R30A	RR	R20	R20A	R15	RT.5	R6	R14A	R5	R5A	O&I(P)	C1(P)	C2(P)	C(P)	M1(P)	M(P)	
ACCESSORY USES, incidental to any permitted use (Sec. 1002)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
ADDRESSING SERVICE/BULK MAILING																							
AGRICULTURAL OR RURAL FARM USE	P	P	P	P	P	P	P	P	P	P	P	P	P	P									
AIRPORT OPERATIONS, minor (Sec. 902)	S																					S	S
AIRPORT OPERATIONS, major																							P
ALCOHOLIC BEVERAGE CONTROL SALES																							
APPAREL AND ACCESSORY SALES																		P	P	P			
ASSEMBLIES, Community, assembly hall, armory, stadium, coliseum, community center, fairgrounds etc. (Sec. 916)	P	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	P	P	P
AUCTION SALES, excluding livestock auctioning & motor vehicles																							
BAKERY PRODUCTION AND WHOLESALE SALES																							
BAKING, on premises and retail only																							
BANKS, SAVINGS AND LOAN COMPANY AND OTHER FINANCIAL ACTIVITIES																		P	P	P			
BARBERING AND HAIRDRESSING SERVICES/SALONS (Sec. 916)																							
BARS & NIGHT CLUBS, except as regulated by Sec. 924																							
BED AND BREAKFAST (Sec. 903), except as regulated by Sec. 924	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
BILLBOARDS (Outdoor Advertising) (Sec. 1309)																							
BINGO																							
BOOKS & PRINTED MATTER SALES, except as regulated by Sec. 924																							
BORROW SOURCE OPERATIONS (Sec. 904)	S																						
BOTTLED GAS DISTRIBUTING, bulk storage																							
BOTTLING																							
BUILDING SUPPLY																							
BUS STATION ACTIVITIES, storage terminal activities																							
CABINET MAKING AND OTHER WOODWORKING																							
CALL CENTER																							
CEMETERY, public (Sec. 916)	P		S	S				S															

CUMBERLAND COUNTY ZONING ORDINANCE  
P = PERMITTED USE  
S = SPECIAL USE (Sec. 1606 Board of Adjustment)  
Z = CONDITIONAL ZONING (Article V – County BOC)



**EXHIBIT "C"**  
**SECTION 901, INDIVIDUAL USES**

**SECTION 901. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES.**

The development standards of this article are additional to other requirements in this ordinance. If there is a conflict with another section of this ordinance or any other Federal, State or local regulation, the most restrictive requirement shall apply. These development standards are use-specific and apply as minimum development standards for the use regardless of the type of approval or permit otherwise required by this ordinance. All non-residential uses listed within this article require site plan review and approval in accordance with Article XIV unless this article specifically requires approval of a Special Use Permit or Conditional Zoning District. Those uses requiring approval as a Special Use Permit (Section 1606) or a Conditional Zoning District (Article V) shall also be subject to these standards and any additional standards or conditions required by the approval.

*(Amd. 11-20-06; 04-18-11)*

In addition to the specific criteria listed for each use, the following are to be considered as minimum criteria for every non-residential use:

A. All parking and loading areas shall comply with the minimum provisions established in Article XII, Off-Street Parking and Loading;

B. All lighting shall be directed internally and shall comply with Section 1102.M;

C. Noise generated by any use shall not substantially or detrimentally affect the ability of surrounding property owners to reasonably enjoy the use of their properties and shall not contradict those standards of Chapter 9.5, Cumberland County Code, Article II, entitled: "Noise" (Noise Ordinance);

D. When any non-residential use is adjacent to residentially zoned properties, a screening buffer shall be provided in accordance with Section 1102.G of this ordinance;

*(Amd. 01-19-10; Amd. 06-18-12)*

E. Unless otherwise specified within these individual sections, all signage shall be in compliance with Article XIII, Sign Regulations, for the specific district in which the subject property is located;

F. All new non-residential development shall comply with the landscaping provisions of Section 1102.N; and

G. Compliance with all Federal, State, and local regulations, including the County Subdivision Ordinance, is mandatory.

**EXHIBIT "D"**  
**SECTION 916, ZONING CODE**

**SECTION 916. NON-RESIDENTIAL USE AS A PERMITTED USE IN A RESIDENTIAL OR AGRICULTURAL DISTRICT (AND NOT OTHERWISE LISTED WITHIN THIS ARTICLE).**

A. Site plan review and approval in accordance with Article XIV and providing for the specific information required by this section.

B. The minimum yard requirements shall meet or exceed those required in the C1(P) zoning district.

C. Required parking shall be paved if otherwise required to be paved by this ordinance. In these circumstances, paved parking shall be provided with all parking areas and internal drives being clearly marked. In addition, no parking shall be permitted in the required front yard.

D. Buffering and/or landscaping for the use shall be provided and maintained in such a manner as to comply with the standards of this ordinance (Section 1102.G) and is dependent upon the zoning and nature of the surrounding area. The site must provide ample area and adequate open space on all sides of the structure so that the character of the neighborhood is preserved.

E. The subject property shall have direct access to a public right-of-way or approved private street. In the event a private street is the means of access, consent by the common lot owners responsible for maintenance of the private street is required. Also, the plan shall include proposed points of access, ingress, and egress and the pattern of internal circulation. Points of ingress and egress shall be located so as to minimize traffic hazards, inconvenience and congestion. The existing access streets must be able to handle the anticipated increase in traffic volume, or the developer shall cover the costs of upgrading the streets; such as, but not limited to, the addition of a turning lane.

F. Noise levels shall not exceed 60 dB(A) between the hours of 10:00 p.m. and 7:00 a.m. In any case, the noise level, regardless of the time of day, shall not become a nuisance to neighboring properties and strict compliance with the County's aforementioned Noise Ordinance is required. (Note: dB(A) refers to the sound pressure level in decibels as measured on a sound level meter using the A weighting network.)  
*(Amd. 11-20-06; Amd. 02-19-08; Amd. 01-19-10; Amd. 04-18-11)*



**EXHIBIT "I" Special Use Permit Conditions**  
**EXHIBIT "I"**  
**SPECIAL USE PERMIT BOA-2024-0011**

**Special Use Permit Conditions**

**Special Use Permit- Board of Adjustment**  
**(Assembly for a Community Center Special Use Permit and Site Plan)**  
**Ordinance Related Conditions**

**BOA-2024-0011:** Consideration of a Special Use Permit to allow a Community Center use in a R6A Residential District on 0.46 +/- acres, located at 1429 McArthur Road; submitted by Annie Hasan (Agent) on behalf of Khalil Hasan (Owners).

The Special Use Permit requested is approved subject to the contents of the application, special use site plan appearing in Exhibit "A" and the following conditions:

**Applicability:** This Special Use Permit shall only apply to Lot 2 of the Lynn Acres Subdivision (Plat Book 18, Page 40 per the Cumberland County Register of Deeds), and as such area is shown on the attached special use site plan (Exhibit "A").

**Permitted and Prohibited Uses:**

1. The special use permit shall only be for a community center which is defined as a place where people from the community can meet for social, educational, or recreational activities.
2. The hours of operations for the Community Center shall be 8:00AM to 9:00PM from Monday-Saturday with a community center use allowed on Sunday during the allowed time period of 11:00AM to 9:00PM. Special events involving outdoor activities and/or temporary tents may require a special events permit from the Code Enforcement division.
3. No activities or services consistent with a day care facility per County Ordinances will be permitted on this parcel, unless otherwise approved by the Board of Adjustment as an amendment to this Special Use Permit.

**Development Standards:**

4. Use and development of the site shall occur consistent with the Special Use Permit and the Special Use Site Plan provided in Exhibit "A" and shall be in conformance with the zoning and subdivision ordinances adopted by Cumberland County. If any inconsistency or conflict occurs between this Special Use Permit and County Zoning or Subdivision Ordinances, the Special Use Permit shall supersede.
5. Per section 1102.C, Fences and Walls, solid fences and wall within the front yard shall be limited to three (3) feet in height.
6. The final site plan must demonstrate that the parking lot driveway aisles are designed to accommodate functional and safe turning movements as determined by a registered engineer, using the acceptable best management practices.
7. Maximum occupancy of the building is limited to four persons per off-street parking spaces appearing on the final approved site plan, or to the occupancy rate approved by the County Fire Marshal, whichever is lower.

8. All buffering and landscaping for the use shall be provided and maintained to comply with Section 1102.G and 1102.N of the County Zoning Ordinance.

### **Infrastructure and Utilities**

9. All lighting installed shall comply with all provisions of Section 1102.M., of the County Zoning Ordinance.
10. All environmental health rules and regulations, including Federal and State laws, shall be complied with.
11. The special use site plan shows that the septic tank and drain field are located underneath the proposed drive aisle and parking lot. The septic tank must be re-located to another part of the property, as authorized by the Environmental Health Department. The acceptable location of the septic system must be shown on the final site plan submitted to the County Current Planning division.
12. That site and soil evaluations be conducted on the property per the standards of the County Environmental Health Department. Note: All Health Department requirements shall be met prior to issuance of final permits. Note- application for a septic permit does not ensure that a permit can be written.
13. Water Infrastructure: The County Health Department must approve water plans if not connected to central water system. Property not served by public water system is required to be large enough and of such physical character to comply with the Health Department's minimum standards. A copy of the Health Department approval must be provided to Code Enforcement at the time of the building permit application. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Sec. 2306A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)
14. Sanitary Sewer Infrastructure: Authorization for wastewater system construction required before other permits to be issued. The County Health Department must approve sewer plans. Lots not served by public sewer systems are required to be large enough and of such physical character to comply with the Health Department's minimum standards. Site and soil evaluations must be conducted on the property by the County Environmental Health Department. A copy of the Health Department approval must be provided to Code Enforcement at the time of the building permit application. (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.)
15. Driveway Permit must be obtained by the NCDOT and provided to the Code Enforcement division at the time of the building permit application. Site plan should depict the proposed geometrics for the proposed ingress and egress driveways. 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/developer's expense.

Change of use of subject properties and/or construction of any new connection or alteration of any existing connection shall require an approved Driveway Permit. 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.

16. If any right-of-way dedication is required by NCDOT, a recorded plat shall identify any such right-of-way dedication and sight distance easements. (Sec. 2402, County Subdivision Ord.)
17. Depth of the entrance driveway from the public right-of-way to the fence gate shall have sufficient length to avoid a vehicle encroaching into the right-of-way.

18. The vegetation near the driveway shall be maintained to assure that the safe line of sight occurs for attendants entering or exiting the property.
19. Adequate off-street parking and maneuvering space shall be provided on site. Paved or gravel parking is required if the project engineer determines that soil conditions and vehicle traffic requires stabilized surface. No public street, sidewalk or right-of-way, nor any other private grounds besides the abutting day care facility to the south shall be used to park or maneuver vehicles.
20. For all ADA parking spaces, each must be at least 20' long and 8' wide with an additional 5' of a striped surface to allow for unobstructed movement from the ADA parking space to the building. At least one of the ADA parking spaces shall be of sufficient size for a van to park. The final site plan shall note the appropriately paved or stabilized surface for the ADA spaces.
21. For all proposed parking spaces, the final site plan shall identify the location of all wheel-stops when gravel or grass parking is proposed, and wheel stops shall be installed prior to issuance of a certificate of occupancy if paved parking is not provided. Wheel-stops shall be concrete or preserved wood (such as railroad ties) material.
22. Remote Parking: If off-street parking is unavailable on-site to accommodate visitors to the Community Center, remote parking can occur at the day care facility located on the abutting lot (1425 McArthur Road) and which is owned by the same property owner. The remote parking may only be used during those times when the day care is not open for service. Remote parking shall not be used to determine building maximum occupancy rates unless a remote parking agreement reviewed by the County Planning & Inspections Department and said agreement is recorded with the Cumberland County Register of Deeds.
23. 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 NC Department of Environmental Quality (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.
24. 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.)
25. 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.)
26. Prior to permit application, the developer must provide to the Code Enforcement Section documentation of NC Department of Environmental Quality (NCDEQ) approval of the Sedimentation and Erosion control plan for this project. NCDEQ requires a Sedimentation and Erosion control plan be submitted and approved 30 days prior to land disturbing activities if said land disturbing activity will exceed one acre.

If a plan is not required, per 15ANCAC 04B.0105 "Person conducting land disturbing activity shall take all reasonable measures to protect public and private property from damage cause by such activities." Sedimentation and erosion control measures will need to be installed to protect adjacent properties. [Sec. 4-8(b)(6), County Code; originally under County jurisdiction

relinquished to NCDEQ around 2000].

**Development Review Process:**

27. A final site plan and landscape plan shall be submitted to the Current Planning Section prior to any construction activity, including clearing and grading, demonstrating compliance with the requirements and information required herein in this. No activity on the site shall occur until a final site plan has been approved by the Current Planning Section.
28. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinance for the R6A zoning district must be complied with, as applicable.
29. Due to the parcel being located within the Cape Fear River Watershed, an application shall submitted for and obtain a Watershed Protection Permit before any construction begins or certificate of occupancy is issued.

**Other Conditions:**

30. 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.
31. Any revision or addition to this plan necessitates re-submission for review and approval. Depending on the substantiality, such requested revisions or additions may require either Board of Adjustment approval or the Planning & Inspections Department administrative approval prior to the commencement of the change.
32. 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.
33. 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 specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.
34. 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.)
35. 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].
36. 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.)
37. In the event the BOA authorizes special events that occur after 9:00PM and before 7:00AM, noise levels shall not exceed 60 dB(A) between 10:00PM and 7:00AM, and the noise level shall never become a nuisance to neighboring properties, and strict compliance with the County's Noise Ordinance shall be required.

**Effective Date/Expiration:**

38. This special use expires two years from the date the County Board of Adjustment approves the Special Permit No. BOA-2024-0011 if no activity proceeds in good faith to commence the special use. The Board of Adjustment may approve an extension of this special use permit for up to two years if a written request for an extension is submitted at least thirty days prior to the expiration date. Once the Certificate of Occupancy has been issued for a Special Use and then the Special Use ceases to exist for a time period of one calendar year or more, a re-submittal of the Special Use application for the same use may be required if there has been a material change in the ordinance standards.

Issued by:

\_\_\_\_\_  
David B. Moon, AICP, CZO

\_\_\_\_\_  
Date

The above Special Use Conditions are accepted by Annie Hasan at the August 15, 2024 BOA hearing, as documented by the official hearing minutes for that date.

\_\_\_\_\_  
Annie Hasan

\_\_\_\_\_  
Date

**EXHIBIT "A" OF  
SPECIAL USE PERMIT BOA-2024-0004  
SPECIAL USE SITE PLAN**

**(Same as Exhibit "E" of the Staff Report)**

**“EXHIBIT J”**  
**APPLICANT’S RESPONSE TO SPECIAL USE CRITERIA AND APPLICATION**  
**(Section 1606.C. Special Use Permits)**

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

The OnTrack Wellness and Recovery Center is excited to share that our application to establish a community center has been well-received by the Cumberland County Department of Planning & Inspections. We prioritize public health and safety, and our submitted plans demonstrate a commitment to creating a secure and welcoming space for everyone. We understand the importance of public health and safety, and this statement demonstrates that the center, designed according to submitted plans, will not pose a threat.

Our commitment to the public well-being is paramount. The center will be abided to meet all building codes and accessibility standards, ensuring features like fire exits and handicap-accessible facilities. We will establish clear safety protocols, including fire drills and staff trained in first aid and CPR. Security measures will prioritize the safety of staff and visitors.

Furthermore, our staff will be trained in mental health awareness and de-escalation techniques. We will maintain a high standard of hygiene and sanitation through regular cleaning and disinfection. Open communication will be maintained with local authorities to ensure awareness of any emerging threats.

The submitted plans have undergone a thorough review, ensuring compliance with all safety regulations. We are happy to provide further details upon request. OnTrack is also committed to collaborating with the community to maintain a safe and healthy environment. We will encourage open communication with our neighbors and promptly address any concerns.

OnTrack Wellness and Recovery Center aspires to be a valuable asset. Our commitment to public health and safety will contribute to a thriving and secure environment for all.

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

The OnTrack Wellness and Recovery Center is committed to establishing a community center that adheres to all regulations and best practices outlined by Cumberland County. Our proposed facility, designed according to submitted plans, will prioritize public health and safety through features like [accessible restrooms, fire exits, emergency lighting]. We will implement comprehensive safety protocols including [fire drills, staff trained in first aid and CPR]. Security measures will ensure the well-being of both staff and visitors through [secure access control, background checks for staff, mental health awareness

training for staff, hygiene and sanitation protocols]. We are confident that the OnTrack Wellness and Recovery Center will become a valuable asset to the community, fostering a safe and healthy environment for all.

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

The OnTrack Wellness and Recovery Center believes our proposed community center will not only benefit the community as a public necessity but also enhance the value of surrounding properties. The center will offer essential services and programs that enrich residents' lives, fostering a vibrant and safe environment. This can attract families and residents seeking a strong community atmosphere, potentially increasing nearby property values. Furthermore, a well-maintained and visually appealing community center can improve the overall aesthetics of the neighborhood, making it a more desirable place to live. By addressing specific community needs and offering positive alternatives to negative activities, the OnTrack Wellness and Recovery Center is confident it will become a valuable asset, contributing to a thriving community for all.

**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 Cumberland County's most recent Land Use Plan, either comprehensive or a detailed area plan.**

The OnTrack Wellness and Recovery Center's proposed location aligns perfectly with the character of the surrounding area and adheres to Cumberland County's most recent Land Use Plan. Our plans, meticulously crafted, ensure the center will be in harmony with the neighborhood. The design will complement the existing architecture while incorporating features that promote accessibility and safety. Furthermore, the center's programs and services directly address needs identified in the County's Land Use Plan, fostering a healthy and vibrant community. We are confident the OnTrack Wellness and Recovery Center will be a valuable addition, contributing to the overall vision for the area.

**5. The type of activities that occur at the community center. The maximum number of participants at any event, days and hours of the facility will be open.**

The OnTrack Wellness and Recovery Center is excited to become a vibrant hub for a variety of activities designed to support your well-being! We'll offer a diverse schedule of programs throughout the week, focusing on health and fitness, youth development, senior services, job training, food drive, community watch meeting, back to school drive, and creative pursuits.

Whether you're interested in morning fitness classes, afternoon educational workshops, evening support groups, or artistic endeavors like art studios, etc.

To ensure a comfortable and safe environment for everyone, the maximum number of participants at any event will be determined by the specific activity and the designated space within the center. We aim to be accessible, so our regular operating hours will be

Sundays through Saturdays from 8:00 AM to 9:00 PM. Additionally, appointments can be made to accommodate specific programs or events requiring extended hours.

**ATTACHMENT: NOTIFICATION LIST & PUBLIC HEARING LEGAL NOTICE**

HASAN, KHALIL HAMID  
1425 MCARTHUR RD  
FAYETTEVILLE, NC 28311

CASELL, JENNIFER  
KATHLEEN;VANBUSKIRK, RICHARD D  
6121 PINE STREET  
FAYETTEVILLE, NC 28311

HASAN, KALIM  
1421 MCARTHUR RD  
FAYETTEVILLE, NC 28311

MERCER RENTALS LLC  
217 MCARTHUR RD  
FAYETTEVILLE, NC 28311

GARVIN, CHARLOTTE T  
2601 CHIMNEY ROCK RD APT 109  
HENDERSONVILLE, NC 28792

WILLIAMS, GORDON  
541 ERNESTINE FALLS  
GROVETOWN, GA 30813

CAROLINA TELEPHONE & TELEGRAPH CO  
PO BOX 7909  
OVERLAND PARK, KS 66207

**ATTACHMENT: APPLICATION**



**County of Cumberland**  
**BOARD OF ADJUSTMENT**

CASE #: \_\_\_\_\_

CUMBERLAND COUNTY BOA  
MEETING DATE: \_\_\_\_\_

DATE APPLICATION  
SUBMITTED: \_\_\_\_\_

RECEIPT #: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

**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 \$ \_\_\_\_\_ (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**

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**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: 1429 McArthur Road, Fayetteville, NC 28311
OWNER: Khalil Hamid Hasan
ADDRESS: 1421 McArthur Road, Fayetteville, NC ZIP CODE: 28311
TELEPHONE: HOME (910) 728-7325 WORK (Same)
AGENT: Annie R. Hasan
ADDRESS: 1340 McArthur Road, Fayetteville, NC 28311
TELEPHONE: HOME (910) 624-6513 WORK (910) 488-8881
E-MAIL: adhccare@gmail.com

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

- A. Parcel Identification Number (PIN #) of subject property: 0520-67-5984
B. Acreage: 0.46 Frontage: 100 Depth: 200
C. Water Provider: Public Works Commission
D. Septage Provider: Septic Tank
E. Deed Book 8246, Page(s) 311, Cumberland County Registry.
F. Existing use of property: Residential

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.) The proposed use is a community center aims to be a vibrant hub of activity, open from 8:00 AM to 9:00 PM Monday to Saturday, with potential Sunday hours for special events. Staffing needs will be met by a dedicated team of employees and volunteers to ensure smooth operations. Clear and visible signage will guide visitors to the center, providing essential information and enhancing accessibility. Adequate parking spaces, including designated spots for staff and accessibility, will be provided to accommodate visitors. The landscaping around the center will be well-maintained, with greenery and lighting creating a welcoming and inclusive environment for all community members.

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.

Khalil Hamid Hasan  
NAME OF OWNER(S) (PRINT OR TYPE)

1421 McArthur Road, Fayetteville, Nc 28311  
ADDRESS OF OWNER(S)

eagle eye cleaning solution@gmail.com  
E-MAIL

(910) 728-7325  
HOME TELEPHONE #

(Same)  
WORK TELEPHONE #

Annie R. Hasan  
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

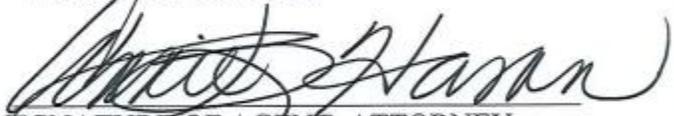
1340 McArthur Road, Fayetteville, Nc 28311  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

adhccare@gmail.com  
E-MAIL

(910) 624-6513  
HOME TELEPHONE #

(910) 488-8881  
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 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) 

PRINTED NAME OF OWNER(S) Khalil Hamid Hasan

DATE 7/9/2024



**PLANNING & INSPECTIONS**

PLANNING STAFF REPORT  
**SPECIAL USE CASE # BOA-2024-0012**  
 Board of Adjustment Meeting: August 15, 2024

**Jurisdiction: County-Unincorporated**  
**Location: 2410 Sunnyside School Road**

**REQUEST** Special Use – Recreation/Amusement Outdoor for Special Occasions Events

Property Owner requests the BOA grant a temporary special occasions business as a Recreation/Amusement Outdoor Activities on an approximately 7.02 acre parcel zoned RR Rural Residential District, located on at 2410 Sunnyside School Road, as shown in Exhibit "A". A special occasion event is a wedding, anniversary, party, reception or other similar occasion that typically occurs as a single event and on the same calendar day. This parcel was previously operated as a special occasion site, mostly for weddings and other temporary special occasions, by a previous owner. Therefore, a Special Use Permit is now required to begin hosting temporary special occasions again at this location. The temporary special occasions business will utilize the two existing buildings as both storage and preparation areas for events that are held on the parcel. A total of 35 grass parking spaces are proposed within the Special Use Site Plan with one ADA parking space placed closest to the event staging area and buildings. Three loading and unloading parking spaces are also proposed.

Motorized vehicle recreational activities or recreational rides are not proposed. The development and use of the property must also be compliant with Section 920 of the Zoning Ordinance, which appears in Exhibit "D".

Activities at the site that involve a time and activities beyond a temporary special occasions use may be defined as a Special Event by the Code Enforcement Manager and may require a special event permit.

**PROPERTY INFORMATION**

**OWNER/APPLICANT:** Mirabela Kruger (owner)

**ADDRESS/LOCATION:** 2410 Sunnyside School Rd

**REID:** 0446950871000

**SIZE:** 7.02 +/- acres.

- Exhibits**
- A. Site Location/Zoning
  - B. Use Matrix, Sec. 403, Zoning Code
  - C. Section 901, Individual Uses
  - D. Section 920 Recreation or Amusement, Public/Private & Indoor/Outdoor
  - E. Special Use Site Plan
  - F. Existing and Adjacent Uses
  - G. Soil and Utilities
  - H. Southeast Cumberland Land Use Plan
  - I. Special Use Permit Conditions/Permit
  - J. Sec. 1606 Applicant Response
- Attachment: mailing list/application

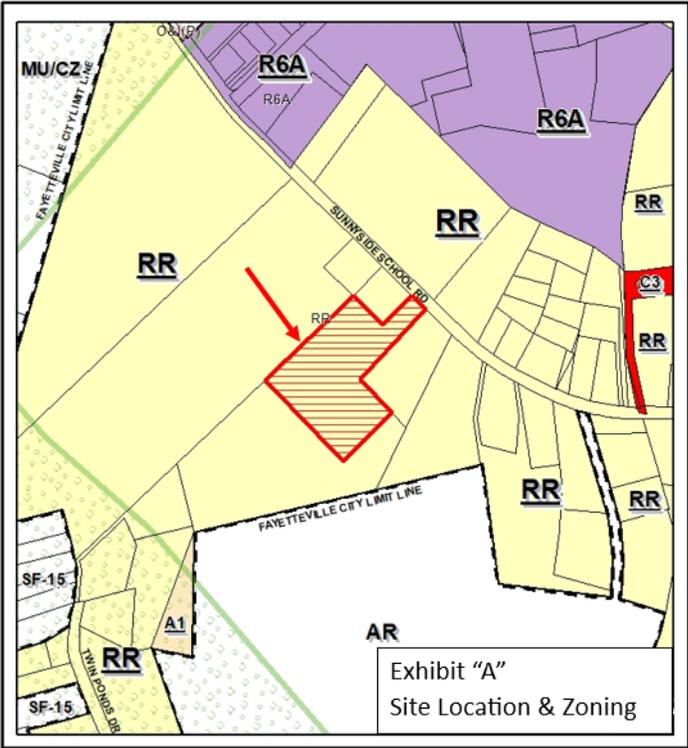


Exhibit "A"  
 Site Location & Zoning

**ROAD FRONTAGE:** Frontage along Sunnyside School Rd is approximately 98 linear feet.

**SURROUNDING LAND USE:** Uses in the surrounding area and at adjacent properties predominantly are farmland, residential homesites, and wooded lands. Surrounding uses are shown on Exhibit "F" and described as:

- North: Single-family homes and wooded lands.
- East: Single-family homes and wooded lands.
- South: Farmland.
- West: Wooded lands.

**EXISTING LAND USE:** The parcel has two existing structures and a driveway with a portion of its length having gravel surface and a portion with a soil driveway surface. At the event staging area is a swimming pool and landscaping for aesthetic purposes, as shown in Exhibit "F2" (existing use and surrounding uses.)

**OTHER SITE CHARACTERISTICS:** The 7.02 +/- acre parcel is not within the 100-year Flood Zone. The property is not situated within a watershed. There are hydric inclusion soils on the parcel, as shown on Exhibit "G".

**MINIMUM YARD SETBACKS:** The temporary special occasions business for Recreation/Amusement Outdoor Activities shall meet the required setbacks for the RR zoning district: 30' front, 15' side, & 35' rear. Minimum lot within the RR zoning district is 100'. Due to the front portion of the property fronting Sunnyside School Rd being 98', the front yard setback shall start from the point where the parcel widens to meet the 100' minimum width.

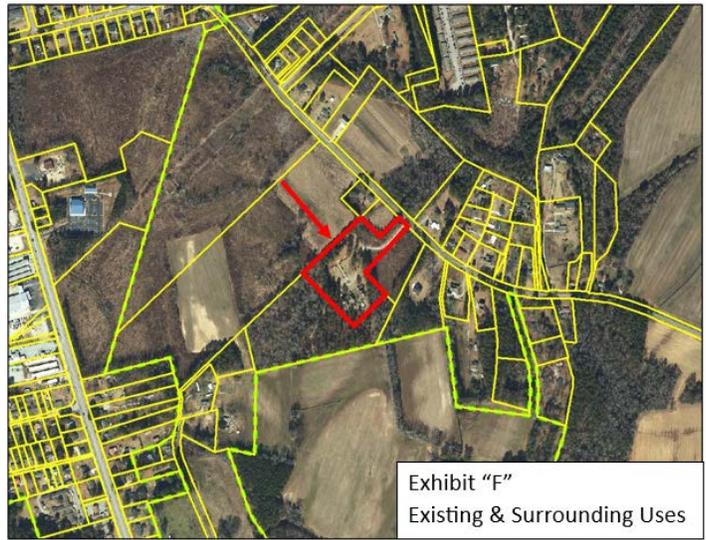


Exhibit "F"  
Existing & Surrounding Uses



Exhibit F2  
Existing Use

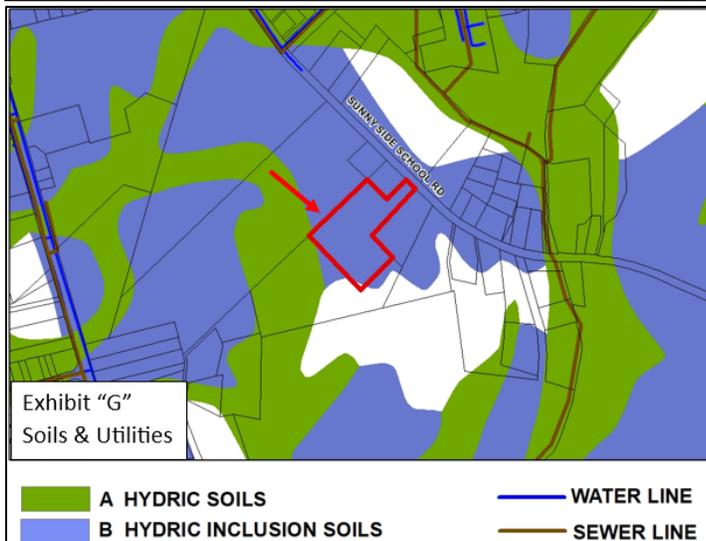


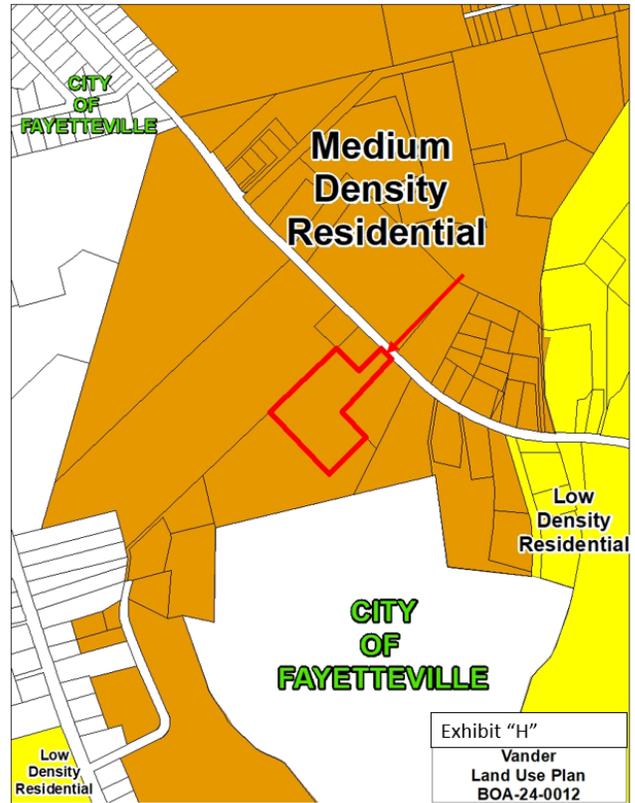
Exhibit "G"  
Soils & Utilities

**COMPREHENSIVE PLANS:**

This property is located in the Vander Land Use Plan (2017). The future land use classification of the property is Medium Density Residential. The associated zoning districts for Medium Density Residential are R6A, R6, & R5A.

- The Vander Land Use Plan encourages to provide quality, attractive development that meets market demand, is harmonious with its surrounding area, has supporting infrastructure, preserves the natural environment, and is concentrated near major intersections and existing commercial development.
- Encourage the reuse of vacant commercial structures.
- Create harmonious, compatible commercial development that respects the natural and social environment.

**OVERLAY DISTRICTS:** None



**IMPACTS ON LOCAL INFRASTRUCTURE**

**TRAFFIC:** Sunnyside School Road is classified as a Minor Arterial road in the NC DOT road classification system. FAMPO had no comments on this application.

**UTILITIES:** Public water and sewer services are not available. Exhibit "G" provides information on utilities available to the subject property and indicates that water and sewer lines are not located near the property.

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

**EMERGENCY SERVICES:** Cumberland County Fire Marshal's office has reviewed the request and provided comments that are addressed as conditions within the Special Use Permit.

**SPECIAL DISTRICTS:** The subject property is not located within five miles of Fort Liberty 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 Sections 901 and 920. of the Zoning Code, Case No. BOA-2024-0012 Site Plan (Exhibit "E"), and Special Use Conditions (Exhibit "I")

**KEY SPECIAL USE CONDITIONS**

1. No overnight lodging is allowed at the site by recreation vehicles, tents, or campers.
2. Use and development of the temporary special occasions use must occur consistent with the Special Use Site Plan and Special Use conditions.

3. Occupancy is limited to 140 participants at any given time during an event, based on 35 parking spaces (four participants per parking space).
4. Hours of operation for any event are from 6:00 am to 12:00 am (midnight) unless otherwise approved by the County Board of Adjustment or otherwise approved through a Special Event Permit issued by the Code enforcement Manager.
5. Special occasion events scheduled at the site are private events and attendees must be privately invited by the special occasion sponsor or host. Temporary private special occasions events shall not be advertised or announced to the general public. Any publicly advertised events shall require a special events permit issued by the Code Enforcement Manager at least two weeks before the event.

## **FINDINGS OF FACT**

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

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 "J".

Staff finds the Special Use Site Plan to be consistent with the Zoning Code.

## **MOTION**

The BOA is requested to take action/motion based on the findings of fact, as supported by the Special Use Site Plan (Exhibit "E") and Special Use Conditions (Exhibit "I"). 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  
Application

## EXHIBIT "B" USE MATRIX

		ZONING CLASSIFICATIONS																						
		CD	AL	AL1	R40	R40A	R30	R30A	RR	R20	R20A	R15	R7.5	R6	R6A	R5	BSA	OB&P	C1(P)	C2(P)	C(P)	M1(P)	M(P)	
<b>CUMBERLAND COUNTY ZONING ORDINANCE</b>																								
P = PERMITTED USE																								
S = SPECIAL USE (Sec. 1606 Board of Adjustment)																								
Z = CONDITIONAL ZONING (Article V – County BOC)																								
<b>LAND USES</b>																								
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
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	
RADIO OR TELEVISION STUDIO ACTIVITIES ONLY																								
RAILROAD STATION/OPERATIONS																								
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	S	S	S	S	S	S	S	S	S	
RECREATION/AMUSEMENT OUTDOOR (with mechanized vehicle operations) conducted outside building for profit, not otherwise listed & not regulated by Sec. 924			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		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S	
RECREATION 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	
REPAIR, RENTAL AND/OR SERVICING, of any product the retail sale of which is a use by right in the same district																						P	P	
RESIDENTIAL HABILITATION SUPPORT FACILITY (Sec. 922)			S	S	S			S										P	P					
RESTAURANT, operated as commercial enterprise, except as regulated by Section 924																					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 901, INDIVIDUAL USES

**SECTION 901. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES.**

The development standards of this article are additional to other requirements in this ordinance. If there is a conflict with another section of this ordinance or any other Federal, State or local regulation, the most restrictive requirement shall apply. These development standards are use-specific and apply as minimum development standards for the use regardless of the type of approval or permit otherwise required by this ordinance. All non-residential uses listed within this article require site plan review and approval in accordance with Article XIV unless this article specifically requires approval of a Special Use Permit or Conditional Zoning District. Those uses requiring approval as a Special Use Permit (Section 1606) or a Conditional Zoning District (Article V) shall also be subject to these standards and any additional standards or conditions required by the approval.

*(Amd. 11-20-06; 04-18-11)*

In addition to the specific criteria listed for each use, the following are to be considered as minimum criteria for every non-residential use:

A. All parking and loading areas shall comply with the minimum provisions established in Article XII, Off-Street Parking and Loading;

B. All lighting shall be directed internally and shall comply with Section 1102.M;

C. Noise generated by any use shall not substantially or detrimentally affect the ability of surrounding property owners to reasonably enjoy the use of their properties and shall not contradict those standards of Chapter 9.5, Cumberland County Code, Article II, entitled: "Noise" (Noise Ordinance);

D. When any non-residential use is adjacent to residentially zoned properties, a screening buffer shall be provided in accordance with Section 1102.G of this ordinance;  
*(Amd. 01-19-10; Amd. 06-18-12)*

E. Unless otherwise specified within these individual sections, all signage shall be in compliance with Article XIII, Sign Regulations, for the specific district in which the subject property is located;

F. All new non-residential development shall comply with the landscaping provisions of Section 1102.N; and

G. Compliance with all Federal, State, and local regulations, including the County Subdivision Ordinance, is mandatory.

EXHIBIT "D"  
SECTION 920, ZONING CODE

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

- A. The site shall have vehicular access to a paved public street.
  
- B. All outdoor lighting shall comply with the standards of Section 1102 M.
  
- C. 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.
  
- D. 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.
  
- E. 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)*



**EXHIBIT "I"**  
**SPECIAL USE PERMIT BOA-2024-0012**

**Special Use Permit Conditions**

**Special Use Permit- Board of Adjustment**  
**(Recreation/Amusement Outdoor Activities Special Use Permit and Site Plan**  
**for a Temporary Special Occasions Use)**  
**Ordinance Related Conditions**

**BOA-2024-0012:** Consideration of a Special Use Permit to allow a temporary special occasions event business as a Recreation/Amusement Outdoor Activities use in a RR Rural Residential District on 7.02 +/- acres, located at 2410 Sunnyside School Road; submitted by Maria Kruger (Owner).

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

**Applicability:** This Special Use Permit shall only apply to a 7.02 +/- acre parcel at PIN 0446-95-0871 (as shown in the record of the Cumberland County Register of Deeds as of March 25, 2022) as such area is shown on the attached Special Use Site Plan (Exhibit "A").

**Permitted and Prohibited Uses:**

1. Uses allowed at this parcel are temporary special occasion events that include, but are not limited to, weddings, private charity events, donation drives, private parties, fundraisers, or similar events for private groups, as well as special events advertised to the public when a special events permit has been issued by the County Code Enforcement Manager. If an event operator is uncertain the event qualifies as a special occasion or a special event, coordination with the County Code Enforcement Manager is necessary. Special occasion uses shall only include those private groups or guests who are directly invited by a host or sponsor. The Code Enforcement Manager or Fire Marshal has the authority to determine if a proposed activity qualifies as a special occasion or a special event.
2. No temporary special occasions event shall be advertised or offered to the general public. Groups, guests, and individuals must be directly invited by the special occasion event host or sponsor. Any publicly advertised events shall require a special events permit issued by the Code Enforcement Manager at least two weeks before the event.
3. Prior to any temporary special occasions event having mechanized rides, amusement rides or equipment, tents, fireworks, or other common event apparatus, the host or sponsor is advised to contact the Cumberland County Code Enforcement Division to determine if applicable permits must be obtained from the County prior to use or installation at an event.
4. Hours of operation are limited from 6:00 am to 12:00 am (midnight) daily unless otherwise approved through a special event permit approved by the Code Enforcement Manager or otherwise approved by the Board of Adjustment. Any single special occasion event shall not exceed two consecutive days.
5. No temporary overnight lodging for guests is allowed, including recreational vehicle, tents, campers, and similar accommodations. A single on-site residential home is allowed for the property owner or business employee.
6. Attendance at any single event is limited to a maximum of 140 participants at any given time for the duration of the special occasion event (based on four attendees per parking space; 35 spaces are shown in the Special Use Site Plan). A special event permit from the Code

Enforcement Manager is required if remote parking is secured on an abutting property for a special event. In such case, attendance at the event is limited to the maximum capacity allowed by the special event permit, based on the available on-site and remote parking spaces and an occupancy rate of four patrons per parking space. Any event that proposes to exceed an attendance of 140 persons at any given time must obtain a special event permit from the Code Enforcement Manager.

7. An activity not qualifying as a temporary special occasions event may be allowed if such activity qualifies as a special event and receives a special use permit, as determined by the Code Enforcement Manager.
8. Alcohol beverages served at any temporary special occasions event may require a limited special occasion, special one-time alcohol permit or other similar permit issued by the North Carolina Alcoholic Beverage Control Commission (aka NC ABC).

#### **Development Standards:**

9. Use and development of the site shall occur consistent with the Special Use Permit and the Special Use Site Plan provided in Exhibit "A" and shall be in conformance with the zoning and subdivision ordinances adopted by Cumberland County. If any inconsistency or conflict occurs between this Special Use Permit and County Zoning or Subdivision Ordinances, the Special Use Permit shall supersede.
10. If any portion of the property has activities or events conducted on dirt, appropriate measures shall be taken to minimize the creation of dust. (Section 920.C, County Zoning Ordinance)
11. 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. (Section 920.D, County Zoning Ordinance)

#### **Infrastructure and Utilities**

12. All lighting installed shall comply with all provisions of Section 1102.M., of the County Zoning Ordinance.
13. All environmental health rules and regulations, including Federal and State laws, shall be complied with, including temporary porta potties.
14. The applicant has stated that temporary bathrooms will be used during temporary special occasions events to reduce stress on the existing septic system on property; however, the applicant shall coordinate with the NC Department of Environmental Health to determine if the current well and septic systems will be adequate to serve the special events business for the scope of the events it expects to host.
15. That site and soil evaluations be conducted on the property per the standards of the County Environmental Health Department. Note: All Health Department requirements shall be met prior to issuance of final permits. Note- application for a septic permit does not ensure that a permit can be written.
16. Water Infrastructure: The County Health Department must approve water plans if not connected to central water system. Property not served by public water system is required to be large enough and of such physical character to comply with the Health Department's minimum standards. A copy of the Health Department approval must be provided to Code Enforcement at the time of the building permit application. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Sec. 2306A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)

17. Sanitary Sewer Infrastructure: Authorization for wastewater system construction is required before other permits to be issued. The County Health Department must approve sewer plans. Lots not served by public sewer systems are required to be large enough and of such physical character to comply with the Health Department's minimum standards. Site and soil evaluations must be conducted on the property by the County Environmental Health Department. A copy of the Health Department approval must be provided to Code Enforcement at the time of the building permit application. (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.)

18. Driveway Permit required.

A final site plan should depict the proposed geometrics for the proposed ingress and egress driveways.

Change of use of subject properties and/or construction of any new connection or alteration of any existing connection shall require an approved Driveway Permit.

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/developer's expense.

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.

19. If any right-of-way dedication is required by NCDOT, a recorded plat referenced above shall identify any such right-of-way dedication and sight distance easements. (Sec. 2402, County Subdivision Ord.)

20. Adequate off-street parking and maneuvering space shall be provided on site. All standard parking spaces shall be at least 20' long and 9' wide. For all ADA parking spaces, each must be at least 20' long and 8' wide with an additional 5' of a striped surface to allow for unobstructed movement from the ADA parking space to the building.

21. 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.)

22. 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.)

23. 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.

24. Prior to permit application, the developer must provide to the Code Enforcement Section documentation of NC Department of Environmental Quality (NCDEQ) approval of the Sedimentation and Erosion control plan for this project. NCDEQ requires a Sedimentation and

Erosion control plan be submitted and approved 30 days prior to land disturbing activities if said land disturbing activity will exceed one acre.

If a plan is not required, per 15ANCAC 04B.0105 "Person conducting land disturbing activity shall take all reasonable measures to protect public and private property from damage cause by such activities." Sedimentation and erosion control measures will need to be installed to protect adjacent properties. [Sec. 4-8(b)(6), County Code; originally under County jurisdiction relinquished to NCDEQ around 2000].

**Development Review Process:**

25. The final site plan must be submitted to the County Current Planning Division shall be consistent with all provisions of Article XIV, Planned District in the County Zoning Ordinance.
26. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinance for the RR zoning district must be complied with, as applicable.

**Other Conditions:**

27. 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.
28. Any revision or addition to this plan necessitates re-submission for review and approval. Depending on the substantiality, such requested revisions or additions may require either Board of Adjustment approval or the Planning & Inspections Department administrative approval prior to the commencement of the change.
29. 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.
30. 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 specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.
31. 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.)
32. 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].
33. 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.)

**Effective Date/Expiration:**

34. This special use expires two years from the date the County Board of Adjustment approves the Special Permit No. BOA-2024-0012 if no activity proceeds in good faith to commence the special use. The Board of Adjustment may approve an extension of this special use permit for up to two

years if a written request for an extension is submitted at least thirty days prior to the expiration date. Once a Certificate of Occupancy has been issued for this Special Use and the Special Use ceases to exist for a time period of one calendar year or more, the special use is no longer valid, and a new special use permit must be approved by the Board of Adjustment for the uses to recommence.

**SPECIAL USE PERMIT NO. 2024-0012**

This Special Use Permit was reviewed and approved by the Cumberland County Board of Adjustment at an advertised public hearing held on August 15, 2024.

Issued by:

\_\_\_\_\_  
David B. Moon, AICP, CZO

\_\_\_\_\_  
Date

The above Special Use Conditions are accepted by Mirabela Kruger at the August 15, 2024 BOA hearing, as documented by the official hearing minutes for that date.

\_\_\_\_\_  
Mirabela Kruger

\_\_\_\_\_  
Date

EXHIBIT "A" OF  
SPECIAL USE PERMIT BOA-2024-0004  
SPECIAL USE SITE PLAN

(Same as Exhibit "A" of the Staff Report)

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

## ATTACHMENT: NOTIFICATION LIST & PUBLIC HEARING LEGAL NOTICE

FITCH, DANIEL VINCENT;FITCH, KATHY B  
PO BOX 58294  
FAYETTEVILLE, NC 28305

FITCH, DANIEL VINCENT;FITCH, KATHY B  
PO BOX 58294  
FAYETTEVILLE, NC 28305

QUIROZ, ALEXANDER;QUIROZ, JESSICA  
2418 SUNNYSIDE SCHOOL ROAD  
FAYETTEVILLE, NC 28312

ALLSBROOK, THOMAS P HEIRS  
4214 HUMMINGBIRD PL  
FAYETTEVILLE, NC 28312

MCKNIGHT, MARY C;ALLSBROOK, WILSON  
4214 HUMMINGBIRD PL  
FAYETTEVILLE, NC 28312

MCKNIGHT, MARY C;ALLSBROOK, WILSON  
4214 HUMMINGBIRD PL  
FAYETTEVILLE, NC 28312

TARRE, PATRICK E;TARRE, AMANDA  
2443 SUNNYSIDE SCHOOL RD  
FAYETTEVILLE, NC 28312

BAILEY, MARSHALL W;BAILEY, DERENDA A  
2326 CEDAR CREEK RD  
FAYETTEVILLE, NC 28312

**ATTACHMENT: APPLICATION**



**County of Cumberland**  
**BOARD OF ADJUSTMENT**

CASE #: \_\_\_\_\_

CUMBERLAND COUNTY BOA  
MEETING DATE: \_\_\_\_\_

DATE APPLICATION  
SUBMITTED: \_\_\_\_\_

RECEIPT #: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

**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 \$\_\_\_\_\_ (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**

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**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: FAYETTEVILLE, CUMBERLAND COUNTY  
OWNER: MIRABELA KRUGER & KEVIN KRUGER  
ADDRESS: 2410 SUNNYSIDE SCHOOL RD ZIP CODE: 28312  
TELEPHONE: HOME 919 885 2400 WORK 919 348-4342  
AGENT: MIRABELA KRUGER  
ADDRESS: 12315 NORTH EXETER WAY DURHAM NC 27703  
TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_  
E-MAIL: FOFIASTUDIOCREATION@GMAIL.COM

### APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance

- A. Parcel Identification Number (PIN #) of subject property: 0446950871.000  
(also known as Tax ID Number or Property Tax ID)
- B. Acreage: 7.02 Frontage: 98 ft Depth: 824 ff
- C. Water Provider: Well
- D. Septage Provider: septic tank
- E. Deed Book 11429, Page(s) 0169-0170, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- F. Existing use of property: Residencial & weddin venue
- 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.) THE PROPERTY WILL BE USE FOR OUTDOOR RECREATIONAL EVENTS LIKE WEDDINGS, CHARITIES, FARMERS MARKET, AND GENERAL EVENTS. EVENTS WILL END BY 10PM UNLESS CLIENT EXTENDS IT BY 1 ADDITIONAL HOUR ENDIN @ 11 ONLY ON WEEKENDS. WE ARE EXPECTING 2-4 EMPLOYEES EVERYONE ELSE WILL BE SUBCONTRACTED VENDORS. EVENTS WILL BE LIMITED TO A MAX OF 120 GUEST, ALL PARKING WILL BE VALET, LUXURY PORTA Potty will be on site to avoid distress on septics. IF ALCHCOOL IS SERVED BY A LICENSED BARTENDER, SECURITY WILL BE REQUIRED ON SITE. WE WOULD LOVE TO HAVE A SIGN ON THE POST THAT IS CURRENTY THER ALREADY.

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.

Maria Mirabela Kruger & Kevin Scott Kruger  
NAME OF OWNER(S) (PRINT OR TYPE)

12315 North Fester Way, Durham NC 27103  
ADDRESS OF OWNER(S)

Fofia.studiocreation@gmail.com  
E-MAIL

919 885 2400  
HOME TELEPHONE #

919 348 4342  
WORK TELEPHONE #

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

\_\_\_\_\_  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

\_\_\_\_\_  
E-MAIL

\_\_\_\_\_  
HOME TELEPHONE #

\_\_\_\_\_  
WORK TELEPHONE #

Maria Mirabela Kruger  
SIGNATURE OF OWNER(S)

\_\_\_\_\_  
SIGNATURE OF AGENT, ATTORNEY  
OR APPLICANT

[Signature]  
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)



PRINTED NAME OF OWNER(S)

MARIA MIRABELLA KRUGER KEVIN SCOTT KRUGER

DATE

7.12.24

