



**PITT COUNTY
PLANNING DEPARTMENT
DEVELOPMENT SERVICES BUILDING**
1717 W. 5th STREET
GREENVILLE, NORTH CAROLINA 27834-1696
TELEPHONE: (252) 902-3250
FAX: (252) 830-2576

JONAS HILL
DIRECTOR

AGENDA

The Pitt County Board of Adjustment will hold its regular monthly meeting at 5:30 p.m. on Tuesday, August 27, 2024 in the EUGENE JAMES AUDITORIUM of the Pitt County Office Building, 1717 W. 5th Street, Greenville, North Carolina.

1.	CALL TO ORDER/ROLL CALL	
2.	PRAYER AND PLEDGE OF ALLEGIANCE	
3.	APPROVAL OF MINUTES OF JULY 23, 2024 MEETING	3

SPECIAL USE PERMIT REQUEST – BEN ROGERS

4.	JEROME BRANCH, JR. SPECIAL USE PERMIT REQUEST TO OPERATE A RESIDENTIAL DAY CARE FACILITY: Located at 3022 Old Creek Road	16
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INFORMATIONAL ITEMS

5.	NEXT MEETING DATE – TUESDAY, SEPTEMBER 24, 2024
6.	ADJOURN

**MINUTES
OF
PREVIOUS
MEETING**

PITT COUNTY BOARD OF ADJUSTMENT
DRAFT MINUTES – July 23, 2024
GREENVILLE, NORTH CAROLINA

The Pitt County Board of Adjustment met in a regular session on Tuesday, July 23, 2024 at 5:30 p.m. in the EUGENE JAMES AUDITORIUM of the Pitt County Office Building, 1717 W. 5th Street, Greenville, North Carolina.

1. CALL TO ORDER

Chairman Jackson-Gilbert called the meeting to order at 5:32 p.m. and welcomed guests.

2. PLEDGE OF ALLEGIANCE

Sharon Gray led the Board in a moment of prayer and Rita Jack-Gilbert led the Pledge of Allegiance.

The following members were present:

Jack Brock, II
Sharon Gray
Rita Jackson-Gilbert
Johnny Pinner

Alternate Members

Wanda Wynne
Jackie Hinton

The following member was absent:

Molly Holdeman

Staff in Attendance:

Jonas Hill, Planning Director
Tabitha Auten, Administrative Assistant II
Eric Gooby, Senior Planner
Ben Rogers, Planner II
William Lowery, Planner I
Matt Gibson, County Attorney

3. APPROVAL OF MINUTES OF APRIL 23, 2024 MEETING

UPON MOTION by Jack Brock, II, seconded by Johnny Pinner, the Pitt County Board of Adjustment voted unanimously to approve the minutes of the April 23, 2024 meeting.

SPECIAL USE PERMIT REQUESTS

4. JACQUELINE HALEY SPECIAL USE PERMIT REQUEST TO OPERATE A DAY CARE CENTER: Located at 3850 Old River Road

Ms. Auten swore in the witnesses for the Jacqueline Haley Special Use Permit request.

Mr. Rogers advised the Board that Planning staff received a petition from Jacqueline Haley requesting a Special Use Permit to operate a day care center. The property is identified as Tax Parcel 49031 and is located at 3850 Old River Road. Mr. Rogers noted that the surrounding area is predominately residential consisting primarily of manufactured homes on individual lots. There is an existing church on the site (New Hope Fellowship Church) and the proposed day care center will be operated out of a new 28' X 72' building at the rear of the property.

Mr. Rogers advised the Board of the following:

- The proposed use is a day care center for children, and therefore will not materially endanger the public health or safety.
- The proposed day care center is located on the same property as an existing church and will not substantially injure the value of adjoining or abutting properties.
- The day care center is in an area that is predominately residential. The proposed use will be in harmony with the surrounding area.
- The site is in conformance with the Envision Pitt County 2045 Comprehensive Land Use Plan and will not impede the County thoroughfare plan.

Mr. Rogers noted that the request also meets the guidelines for granting a Special Use Permit as per the Pitt County Zoning Ordinance. Therefore, Planning staff recommends approval of a Special Use Permit for operation of a day care center on parcel 49031 located at 3850 Old River Road with the following additional conditions:

- The proposed use shall operate only between the hours of 6:30am to 11:00pm, Monday through Friday.
- A site plan, prepared in accordance with Appendix B of the Zoning Ordinance, must be approved by Pitt County Planning.
- The proposed use shall comply with the requirements of the Pitt County Stormwater Ordinance for Nutrient Control.
- The proposed use shall comply with any applicable requirements from Pitt County Inspections to occupy the proposed structure, and comply with all applicable Environmental Health requirements for wastewater disposal.
- Obtain required license from the North Carolina Department of Health and Human Services Division of Child Development and Early Education.

Chairman Jackson Gilbert opened the public hearing for the Jacqueline Haley Special Use Permit request to operate a day care center.

Mr. Brock asked if staff had received any input from the surrounding property owners.

Mr. Rogers advised the Board that staff had not received any input from surrounding property owners in opposition or support. Mr. Rogers also stated that about 60 notices were sent out to property owners within 500 feet of the property.

Ms. Gray asked if there was any farmland located around the property.

Mr. Rogers advised the Board that when referring back to the existing land use map there is land for agricultural use on the outer portions of the map, but most of it is undeveloped rather than agricultural.

Ms. Gray asked were there any environmental studies completed.

Mr. Rogers advised the Board that environmental health staff reviewed the property for septic system purposes. Mr. Rogers also stated that one of the additional conditions is that the proposed property comply with the Pitt County Stormwater Ordinance for Nutrient Control.

Ms. Wynne asked how many children would be receiving care at the proposed day care.

Mr. Rogers advised the Board that by definition by the PCZO a "Day Care Center" is a child care center where three or more pre-school aged children or nine or more school-age children are receiving child care.

Jacqueline Haley stated the building size would be a factor in the number of children receiving care at the center.

Ms. Wynne asked how many children Ms. Haley anticipated the day care center would care for.

Jacqueline Haley stated that she anticipated 15 or more children would receive care at the proposed day care center.

Chairman Jackson Gilbert closed the public hearing for the Jacqueline Haley Special Use Permit request to operate a day care center.

UPON MOTION by Jack Brock, II, seconded by Wanda Wynne, the Pitt County Board of Adjustment voted unanimously that the application is complete and complies with all of the applicable requirements of the Zoning Ordinance.

UPON MOTION by Sharon Gray, seconded by Johnny Pinner, the Pitt County Board of Adjustment voted unanimously to approve the Special Use Permit subject to the development standards of Section 8. (Z.) of the Pitt County Zoning Ordinance with the following additional conditions:

- The proposed use shall operate only between the hours of 6:30am to 11:00pm, Monday through Friday.
- A site plan, prepared in accordance with Appendix B of the Zoning Ordinance, must be approved by Pitt County Planning.
- The proposed use shall comply with the requirements of the Pitt County Stormwater Ordinance for Nutrient Control.
- The proposed use shall comply with any applicable requirements from Pitt County Inspections to occupy the proposed structure, and comply with all applicable Environmental Health requirements for wastewater disposal.
- Obtain required license from the North Carolina Department of Health and Human Services Division of Child Development and Early Education.

5. JEROME BRANCH, JR. SPECIAL USE PERMIT REQUEST TO OPERATE A RESIDENTIAL DAY CARE FACILITY: Located at 3022 Old Creek Road

Wanda Wynne, First Alternate, recused herself from the Jerome Branch, Jr. Special Use Permit Request due to a potential conflict of interest.

Jackie Hinton, Second Alternate, replaced Wanda Wynne as voting member.

Ms. Auten swore in the witnesses for the Jerome Branch, Jr. Special Use Permit requests.

Mr. Rogers advised the Board that Planning staff received a petition from Jerome Branch, Jr. requesting a Special Use Permit to operate a residential day care facility. The property is identified as Tax Parcel 27136 and is located at 3022 Old Creek Road. Mr. Rogers noted that uses in the area are predominantly agricultural and residential uses. There is an existing church (Lion of Judah Community Church of God) and vacant commercial building on the subject property. Mr. Rogers noted that the in-home day care is proposed to operate out of the church's existing residential parsonage at the rear of the property.

Mr. Rogers advised the Board of the following:

- The proposed use is a residential day care for children, and therefore will not materially endanger the public health or safety.
- The proposed residential day care is located in an existing residential structure and will not substantially injure the value of adjoining or abutting properties.
- The day care is in a residential structure and is located in an area that is predominately agricultural. The proposed use will be in harmony with the surrounding area.
- The site is in conformance with the Envision Pitt County 2045 Comprehensive Land Use Plan and will not impede the County thoroughfare plan.

Mr. Rogers noted that the request also meets the guidelines for granting a Special Use Permit as per the Pitt County Zoning Ordinance. Therefore, staff recommends approval of a Special Use Permit for operation of a residential day care facility on parcel 27136 located at 3022 Old Creek Road with the following additional conditions:

- The proposed use shall operate only between the hours of 6:30am to 12:00am, Monday through Friday.
- The proposed use shall comply with any applicable requirements from Pitt County Inspections to occupy the proposed structure, and comply with all applicable Environmental Health requirements for wastewater disposal.
- Obtain required license from the North Carolina Department of Health and Human Services Division of Child Development and Early Education.

Chairman Jackson Gilbert opened the public hearing for the Jerome Branch, Jr. Special Use Permit request to operate a residential day care facility.

Christian Porter of Colombo Kitchin Attorneys advised the Board that he would be representing several adjacent property owners to the proposed residential day care facility, including Mr. Mitchell Briley, the owner of Triple Oak Farms located south of the proposed day care center. Mr. Porter added that he and his clients believe that the proposed property may result in endangering public health or safety and reducing the value of adjacent property. Mr. Porter also stated that the use of the property was not the concern, but the location is not suitable for this type of use given the surrounding uses of the property.

Mr. Porter presented the Board with various Safety Data Sheets for chemicals used by Triple Oak Farms.

Mr. Porter referred to the Safety Data Sheets for the chemicals used by Triple Oak Farms, stating that each chemical is stamped with “Caution: Keep out of reach of children”. Mr. Porter added that each of the chemicals are used and applied according to EPA guidelines. Mr. Porter also stated that currently this is primarily an agricultural area with other factors such as weather conditions limiting farming, however, the proposed use is a “difficult to evacuate site” creating additional requirements for Triple Oak Farms to comply with. Mr. Porter continued that the “difficult to evacuate sites” have increased buffer requirements from 300 feet to a quarter of a mile or 1,320 feet, and that this would burden his client and potentially cause the site to not be used for agricultural purposes.

Mr. Porter concluded by summarizing his statements, stating that farmers have limited land for agricultural use due to the current growth of Pitt County and in this case the area is primarily for agricultural use. Mr. Porter also stated that if the proposed Special Use Permit was approved, the concerns of his client relate to the health and safety of the children receiving care at the day care facility due to the chemicals and products used on the farm, and that his client was also concerned with their ability to continue to use their land because of the restrictions that would be added with the presence of the proposed day care facility.

Mr. Brock asked what chemicals would be restricted from use if the proposed Special Use Permit was approved and what kind of evidence of the economic impact do they have to support their claim.

Mr. Porter stated that the Tri-Pic 100 Fumigant and the Pic-Clor 60 are the chemicals that have the “difficult to evacuate site” restrictions which would move the buffer to 1,320 feet. Mr. Porter added that those chemicals would only be able to be applied when the proposed site will not be in use for a minimum of 36 hours, so effectively if the proposed day care facility operates Monday-Friday the only day that the chemicals could be applied is on Saturday. Mr. Porter added that the problem with this is that with factors such as weather conditions, his client cannot be positive that this can be completed on Saturday. Mr. Porter continued, stating that adding upon current restrictions and placing limitations on the chemicals that may be used on the farm may limit the crops that can be grown on his client’s property.

Mr. Brock asked if the chemicals with difficult to evacuate site restrictions are needed by the landowner to plant certain crops.

Mitchell Briley of 1138 Whichard Cherry Lane, Greenville stated that the chemicals allow the farmers to treat microorganisms, specifically crucial to them planting tobacco. Mr. Briley also stated that with the added restrictions it would restrict him from using portions of his property.

Mr. Brock asked if the difficult to evacuate site restrictions only applied to the Tri-Pic 100 Fumigant and the Pic-Clor 60.

Mr. Briley stated that the difficult to evacuate site restrictions only applied to the Tri-Pic 100 Fumigant and the Pic-Clor 60.

Mr. Brock asked if single-family residents were established in the area and if the difficult to evacuate site restrictions would be applied to them.

Mr. Briley stated that the buffer zone is not as large for single-family residents. Mr. Brock also stated that he believed the buffer would be around 300 feet.

Mr. Porter stated that the buffer zone varies depending upon the number of acres being treated with the chemicals and the amount of the chemical being applied.

Mr. Pinner asked if the property owners within 500 feet of Mr. Briley’s property have any children.

Mr. Briley stated that he was not sure if any property owners within 500 feet of his property have any children.

Chairman Jackson-Gilbert asked how long has the church been located on the adjacent property.

Mr. Briley stated that he was unsure how long the existing church had been located on the adjacent property.

Mr. Porter stated that the church is being used as a residence and that the restrictions do not apply to the current conditions surrounding Mr. Briley’s property.

Mr. Brock asked that if the restrictions are due to the day care facility being state licensed or if the number of children effect the restrictions applied.

Mr. Porter stated that the regulations do not specifically mention the number of children under the day care's care, but the regulations do specifically state that if the day care facility is state licensed, then the restrictions would apply.

Ms. Gray asked if the Department of Health and Human Services license day care facilities based on environmental studies that are done.

Mr. Porter stated that he was not sure how exactly the licensing process for state licensed day care facilities worked. Mr. Porter also stated that in relation to this case the day care being state licensed would increase the buffer zone as previously mentioned.

Ms. Gray asked if there are any other chemicals that could be applied rather than the two that require additional restrictions.

Mr. Briley stated that at this time there is nothing being sold that has the same effect as the subject chemicals.

Mr. Brock asked what agency enforces the subject regulations.

Mr. Porter stated that each chemical has guidelines that come from the EPA and the manufacturer about how the chemical is used and applied.

Mr. Brock asked if the farmer violated the guidelines what would be the outcome.

Mr. Porter stated that the farmer would be at risk or liable for failure to properly apply the subject chemicals.

Chairman Jackson-Gilbert asked if the landowner was also the farmer.

Mr. Briley stated that yes, he is the landowner and the farmer.

Jerome Branch Jr. stated that he would like to clarify the church owns the two parcels (77631 & 77630) directly south of the church and are currently being farmed by the Tripp family.

Mr. Brock asked if Planning staff had any opinions on the concerns Mr. Porter and Mr. Briley raised.

Mr. Rogers advised the Board that Planning staff believes the proposed use will not materially endanger the public health or safety and that staff does not feel the proposed use will damage the value of adjacent properties.

Mr. Brock asked if Planning staff could look into the issues raised prior to the Board voting on the matter.

Mr. Rogers advised the Board that staff could review the areas of concern for the Board prior to a vote.

Mr. Brock asked Planning staff how long it would take to prepare the requested information.

Mr. Rogers advised the Board that Planning staff will have the requested information for the scheduled meeting on August 27, 2024.

Chairman Jackson Gilbert closed the public hearing for the Jerome Branch, Jr. Special Use Permit request to operate a residential day care facility.

UPON MOTION by Jack Brock, II, seconded by Sharon Gray, the Pitt County Board of Adjustment voted unanimously to continue the public hearing until the August 27, 2024 scheduled Board of Adjustment meeting to give Planning staff an opportunity to research the information presented by Mr. Porter and Mr. Briley regarding chemicals used for farming operations near day cares.

VARIANCE REQUEST

6. VARIANCE REQUEST FROM MINIMUM FRONT BUILDING SETBACK FROM THE REQUIREMENTS OF TABLE 6-1 AND SECTION 6(3)(B) OF THE PITT COUNTY ZONING ORDINANCE

Mr. Gooby advised the Board that Planning staff received a petition from Tucker Farms, Inc. requesting a variance from the requirements of Table 6-1 and Section 6(3)(b) of the Pitt County Zoning Ordinance. The property is identified by the Tax Assessor's Office as Parcel Number 17616, and is located at 3038 King Farm Road in the Fountain Township.

Mr. Gooby advised the Board that a double-wide manufactured home was placed on the property and approved of occupancy in 2021. The home has an 8' X 18.5' front porch and 4' X 6' steps constructed of brick and concrete. Mr. Gooby noted that the applicant provided a survey by Parker and Associates Land Surveying, P.A. that indicates the manufactured home meets the minimum required road setback, however, almost the entirety of the front porch and steps is encroaching within the setback.

Mr. Gooby presented the Board with the following timeline of the case:

- October 6, 2020 Applicant applied for an Improvement Permit to Pitt County Environmental Health for evaluation of a new septic system.
- October 8, 2020 Pitt County Planning staff issued a Notice to Proceed with Environmental Health Application for a four (4) bedroom 28' X 80' doublewide manufactures home. A minimum front

setback of 40 feet was entered on the face of the Notice to Proceed.

- April 20, 2021 Environmental Health staff issued an Improvement Permit and Authorization to Construct for the septic system. A plot plan is included on the Authorization to Construct which indicates the front corner of the home is to be located 60 feet from the edge of the property of King Farm Road and the septic tank is to be located seven (7) feet behind the home.
- May 19, 2021 Environmental Health staff issued an Operation Permit for the septic system which includes a plot plan identical to the Authorization to Construct.
- May 25, 2021 Planning staff issued a Zoning Permit for a 28' X 76' doublewide manufactured home. A minimum front setback of 40 feet was entered on the face of the permit.
- May 25, 2021 Pitt County Inspections issued a Manufactured Home Permit to Edward Strickland Mobile Home Movers to set the home on the property.
- July 29, 2021 Inspections staff completed the final inspections on the home and issued a "Certificate of Occupancy" indicating the home has been inspected and is approved for occupancy.
- October 10, 2021 Inspections staff inspected the underpinning on the home and issued a Certificate of Compliance.
- September 30, 2022 Carl Parker of Parker and Associated Land Surveying, P.A. emailed surveys of the property showing the encroachment as well encroachments for three other homes placed on the property.
- November 2, 2022 Planning staff met with the applicant and Carl Parker to discuss the encroachments and advised them of the variance application process and procedures.
- June 10, 2024 Variance application submitted by Tucker Farms, Inc. to Planning staff to allow the existing porch to remain within the encroachment area.
- July 2, 2024 Mailed notice sent to all property owners within 500 feet of the subject property.
- July 23, 2024 Board of Adjustment Hearing

Mr. Gooby advised the Board that as per Section 13(B)(1)(b) of the Pitt County Zoning Ordinance, a variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the Zoning Ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the Zoning Ordinance will be observed, public safety and welfare secured, and substantial justice done. Mr. Gooby noted that the Board may grant the variance upon a showing of

all the following:

- Unnecessary hardship would result from the strict application of the ordinance;
- The hardship results from conditions that are peculiar of the property, such as location, size, or topography. Hardships that are the results of personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be basis for granting a variance;
- The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;
- The request variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved;
- The variance will neither result in the extension of a nonconforming situation in violation of Section 13.0 of the Zoning Ordinance nor authorize the initiation of a nonconforming use of land.

Mr. Gooby advised the Board that before granting a variance, the Board of Adjustment must take a vote and vote affirmatively (by 4/5 majority) on the required findings stated in subsection 13(B)(1)(b). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in subsection 13(B)(1)(b) shall include a statement of the specific reasons or findings of fact supporting such motion.

Mr. Gooby advised the Board that a motion to deny a variance may be made on the basis that any one or more of the five criteria set forth in subsection 13(B)(1)(b) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reason or findings of act that support it. The motion is adopted as the Board of Adjustment's decision if supported by more than one fifth of the Board's membership (excluding vacant seats).

Mr. Gooby advised the Board that granting a variance, the Board may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties, provided such conditions are reasonably related to the condition or circumstance that gives rise to the need for a variance. Mr. Gooby noted that no change in permitted uses may be authorized by a variance.

Mr. Gooby advised the Board that upon Planning staff's review of the records in the case, as well as the findings or previous case law and precedent, it is staff's opinion that the variance request should be granted based upon the following:

- The home was approved for occupancy by Pitt County Inspections and has been occupied for approximately three years. Strict application of the ordinance and denial of the variance would require the home to be moved and would result in unnecessary hardship to current occupants of the home;
- Pitt County Environmental Health designed the location of the septic system. The approved location of the home and septic system on the Improvement and Operation Permits did not account for the front porch. Furthermore, the existing septic tank is

located behind the home and would require the home to be moved farther than necessary to comply with the setback requirement. This condition is peculiar to this property and would result in further hardship to the applicant and occupants of the home;

- The applicant reasonably relied upon the plot plan for the home prepared by Pitt County Environmental Health as well as subsequent inspections and approvals by Pitt County Inspections to occupy the home. These actions were not taken by the applicant and do not constitute a self-created hardship;
- As determined by the Courts in previous similar cases, the requested variance will not cause any harm to the public or property and is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved;
- The variance will neither result in the extension of a nonconforming situation in violation of Section 13.0 of the Zoning Ordinance nor authorize the initiation of a nonconforming use of land.

Mr. Gooby advised the Board that Planning staff recommends approval of the variance.

Chairman Jackson Gilbert opened the public hearing for the Tucker Farms, Inc. variance request.

Ms. Auten swore in the witnesses for the Tucker Farms, Inc. variance request.

Mike Baldwin, Baldwin Design Consultants, P.A representing Mr. Chap Tucker stated that he believes his client's request satisfies the criteria clearly.

Chairman Jackson Gilbert closed the public hearing for the Tucker Farms, Inc. variance request.

UPON MOTION by Johnny Pinner, seconded by Jack Brock, II, the Board of Adjustment voted unanimously that the home was approved for occupancy by Pitt County Inspections and has been occupied for approximately three years, therefore strict application of the ordinance would result in unnecessary hardship to the current occupants of the home.

UPON MOTION by Sharon Gray, seconded by Johnny Pinner, the Board of Adjustment voted unanimously that the existing septic tank is located behind the home and would require the home to be moved farther than necessary to comply with the setback requirement, therefore the hardship results from conditions that are peculiar to the property, and does not result from conditions that are common to the neighborhood or the general public.

UPON MOTION by Jack Brock, II, seconded by Sharon Gray, the Board of Adjustment voted unanimously that the applicant reasonably relied upon the plan for the home prepared by Pitt County Environmental Health as well as subsequent inspections and approvals by Pitt County Inspections to occupy the home, therefore the hardship did not result from actions taken by the applicant or the property owner.

UPON MOTION by Johnny Pinner, seconded by Jack Brock, II, the Board of Adjustment voted unanimously that the requested variance will not cause any harm to the public or property, therefore the request is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved.

UPON MOTION by Wanda Wynne, seconded by Johnny Pinner, the Board of Adjustment voted unanimously that the variance will neither result in the extension of a nonconforming situation in violation of Section 13.0 of the Zoning Ordinance nor authorize the initiation of a nonconforming use of land.

UPON MOTION by Sharon Gray, seconded by Jack Brock, II, the Board of Adjustment voted unanimously to approve the request by Tucker Farms, Inc. to vary the minimum front building setback requirement to allow the encroachment of the existing front porch on the home located at 3838 King Farm Road, Parcel 17616, with the following additional condition:

- The front porch shall not be enlarged or modified in any manner that will increase its footprint as it exists at the time the variance is granted.

INFORMATIONAL ITEMS

5. NEXT MEETING DATE – TUESDAY, JULY 23, 2024

6. ADJOURNMENT

There being no further business, the Pitt County Board of Adjustment adjourned at 6:36pm.

Respectfully submitted,
/s/Jonas Hill
Executive Secretary



SPECIAL USE PERMIT REQUEST

SPECIAL USE PERMIT REQUEST

Board of Adjustment Summary Sheet

MEETING DATE: August 27, 2024 (Continued from July 23, 2024)

APPLICANT: Jerome Branch, Jr.

TAX PARCEL: 27136

REQUEST: Special Use Permit to operate a Residential Day Care Facility

APPLICATION DATE: June 24, 2024

ATTACHMENTS:

1. Special Use Permit Application
2. Property Owner's Consent
3. Notice to adjacent property owners
4. List of adjacent property owners
5. Staff Report
6. Information request sent to the North Carolina Department of Agricultural & Consumer Services from Jonas Hill
7. Letter from Patrick N. Farquhar (Deputy Director of Pesticide Programs, North Carolina Department of Agriculture & Consumer Services - Pesticide Section)

**BOARD OF ADJUSTMENT SCHEDULED
PUBLIC HEARING DATE (CONTINUED
FROM JULY 23, 2024):**

August 27, 2024



Received

JUN 24 2024

Pitt County
Planning Dept.SPECIAL USE PERMIT APPLICATION
PITT COUNTY, NORTH CAROLINA
 1717 W. 5th Street
 Greenville, NC 27834-1696
 Phone: (252) 902-3250
 Fax: (252) 830-2576

 Staff Use Only
 Parcel #: 27136
 Permit #: SUP 24-04

OWNER/APPLICANT INFORMATION

OWNER: Lion of Judah Community Church of God

DATE: June 24, 2024

PHONE #: 252-341-7902

APPLICANT: Jerome Branch Jr.

ADDRESS: 3014 Old Creek Road Greenville NC 27834

PHONE #: 252-531-0828

ADDRESS: 3022 Old Creek Rd. NC 27834

PROJECT INFORMATION

PROPERTY LOCATION: 3022 Old Creek Road, N.C. 27834

ZONING DISTRICT: (Parcel #27136) Rural Residential

PURPOSE OF SPECIAL USE: The purpose of this Special Use permit is to have an in-home/residential Family Childcare.

NEW STRUCTURE: YES/NO NO

SIZE:

OTHER INFORMATION: Operating hours 6:30 am to 12:00 a.m (1st & 2nd shift) 8 children per shift

UTILITIES

WATER: Greenville Utilities

ELECTRIC: Greenville Utilities

SEWER/SEPTIC: Greenville Utilities

NATURAL GAS: Greenville Utilities

DEVELOPMENT STANDARDS

	REQUIRED	PROPOSED
LOT SIZE		
LOT WIDTH		
BUILDING HGT		
DENSITY		

	REQUIRED	PROPOSED
FRONT SETBACK		
RIGHT SETBACK		
LEFT SETBACK		
REAR SETBACK		

OTHER DEVELOPMENT STANDARDS AS REQUIRED BY ZONING ORDINANCE SECTION 8:

SIGNAGE

	REQUIRED	PROPOSED
SIGN AREA		
SIGN HEIGHT		
SETBACK		
SIGN TYPE:		
Additional Sign Info:		

PARKING

	REQUIRED	PROPOSED
SPACES		
ANGLE		
ADDITIONAL STANDARDS:		

FLOOD INSURANCE RATE MAP INFORMATION:

Community No.	Panel No.	Suffix	Date of Firm	Firm Zone	Base Flood Elevation

FLOODPLAIN COMMENTS:

FLOODPLAIN MANAGER'S SIGNATURE:

NOTE: All land disturbing activities of one acre or more are required to submit a Soil Erosion and Sedimentation Control Plan to the Pitt County Planning Department prior to any land disturbing activities.

The undersigned hereby agrees to conform to all county regulations, applicable state laws and the conditions of this permit. The undersigned further states that all information given herein is true and authorize county staff to enter onto the property to ensure all applicable rules and regulations are being met.

The applicant should respond to the following issues that the permit-issuing board must find are met in order to issue a Special Use Permit. Answers should be supported by facts.

1. The use will not materially endanger the public health and safety;

The purpose of the family childcare is to provide care and education for children during work hours for parents. This will not cause any harm or materially endangerment of public health and safety.

2. The use will not substantially injure the value of adjoining or abutting property;

The property is a home that is occupied by residence. Because the property is being occupied, the residence will assure to keep the value of the property up by proper maintenance. Thus, the use will not substantially injure the value of adjoining or abutting property.

3. The use will be in harmony with the neighborhood or area in which it is to be located (compatible with surrounding area);

The daycare will provide much care and value to this community. There are several neighborhoods in this community and working class families will benefit greatly. The use will be in harmony with the neighborhood and surrounding areas.

4. The use will be in general conformity with the land use plan, thoroughfare plan, or other plans officially adopted by the Board of County Commissioners;

The use of this property will be in general conformity with the land use plan. The existing property meets the standards for the operation of a family childcare.

OWNER/APPLICANT SIGNATURE:

Jerome Branch Jr.

DATE: June 24, 2024

OFFICE USE ONLY: SPECIAL USE PERMIT

Fee Amount \$250.00 Date Paid 6-24-24

PARCEL #: 27136

SITE PLAN:

BOARD OF ADJUSTMENT DECISION: APPROVED
DENIED

MEETING DATE: 7-23-24

ZONING OFFICER SIGNATURE: Ben Rogen

DATE: 6-24-24

CONDITIONS/COMMENTS:

Lion of Judah Community Church of God
3014 Old Creek Road
Greenville, NC 27834
Email: lionofjudahcc@gmail.com
Telephone: (252) 341-7902



Lion of Judah Community Church of God
Board of Trustee
3014 Old Creek Road, Greenville NC 27834

Attention: Board of Directors

Subject: Approval to start a in home daycare in the church parsonage.

To whom it may concern,

After having arrived to this conclusion, we the Lion of Judah Community Church give Jerome Branch, Jr. permission to operate a family childcare in the parsonage. Mr. Branch is given full permission to see this special permit used of the property of Lion of Judah Community Church of God, for the purpose of an in-home (residential) daycare that will include any other activities that will be related to the daycare as long as it is needed and established. There is a no specified date, however, Jerome Branch, Jr. do have permission for the use of the property to operate his daycare business for as long as necessary.

Trustee Signature

Applicant Signature

Handwritten signatures of Jerome Branch, Jr. and his wife, C. Bell. Jerome's signature is in cursive, and C. Bell's signature is in a stylized font.

Date: 7/7/24

Date: 7/7/24



Jonas Hill, Planning Director

Notice of Public Hearing

TO: Property Owner
FROM: Ben Rogers, CZO, Planner II
RE: **Public Hearing for Special Use Permit**
DATE: July 2, 2024

You are receiving this notice because there is a Special Use Permit request within 500 feet of your property. **JEROME BRANCH, JR.** is requesting a Special Use Permit to operate a residential day care at property identified as Tax Parcel 27136 and is located at 3022 Old Creek Road. The Pitt County Board of Adjustment will hold a public hearing for this request on **Tuesday, July 23, 2024, at or shortly after 5:30 p.m.** This meeting will be held in the Eugene James Auditorium in the Pitt County Administration Building located at 1717 W. 5th Street, Greenville, NC.

The public hearing will be held using **quasi-judicial** procedures. The purpose of the hearing is to establish **facts** related to the Special Use Permit request prior to consideration by the Board of Adjustment, not to gather opinions about the desirability or popularity of the request. Those persons wishing to speak to the Board shall be considered **witnesses** and shall provide testimony **under oath**. Testimony must be supported by **substantial, competent, and material evidence**. Cross examination of witnesses is permitted. Please be aware that members of the Board may **not** discuss particulars of the case with any party outside of the public hearing.

If you need additional information about the request, please see the contact info below:

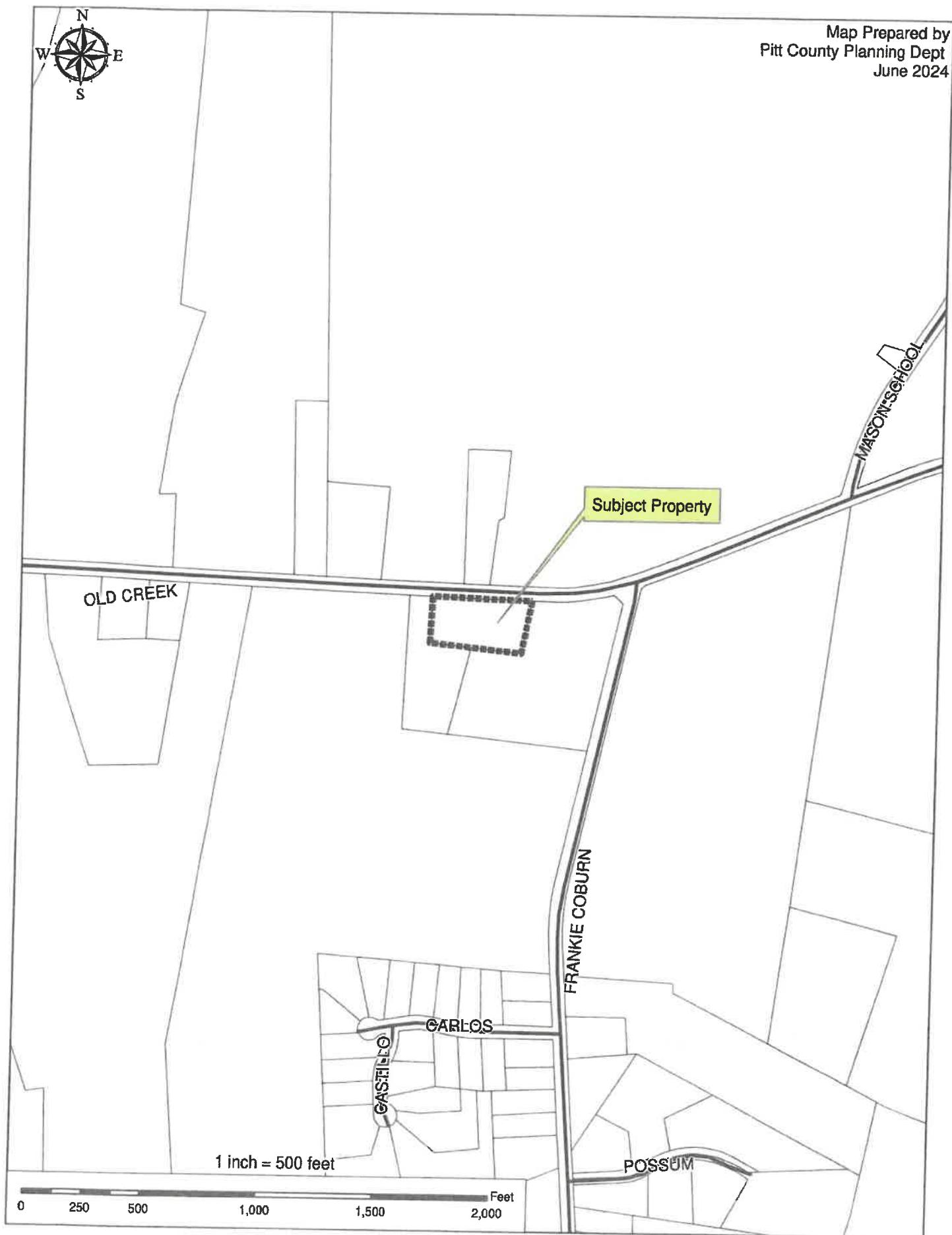
Contact Info:

Ben Rogers, CZO, Planner II
 Phone: (252) 902-3250
 Email: ben.rogers@pittcountync.gov

Mailing Address:

Pitt County Planning Department
 1717 West Fifth Street
 Greenville, NC 27834





ADJACENT PROPERTY OWNERS WITHIN 500'

ATTACHMENT 4

JEROME BRANCH JR
3022 OLD CREEK ROAD
GREENVILLE NC 27834

BRANCH WILLIAM JUDSON
BRANCH EUNICE OLIVA
3007 OLD CREEK RD
GREENVILLE NC 27834

CHURCH OF GOD EASTERN NORTH
CAROLINA STATE OFFICE
BOYD KENNETH TRUSTEE ETAL
PO BOX 100
KENLY NC 27542

LEE KEVIN ARTHUR
2955 OLD CREEK RD
GREENVILLE NC 27834

TRIPLE OAK FARMS INC
5170 US HY 264 E
GREENVILLE NC 27834

WYNNE AUBREY M
WYNNE WANDA L
2961 OLD CREEK RD
GREENVILLE NC 27834

WYNNE AUBREY MCDANIEL
BRANCH EUNICE OLIVIA WYNNE ETAL
PO BOX 225
BETHEL NC 27812



SPECIAL USE PERMIT

STAFF REPORT

JEROME BRANCH, JR.

Case: SUP 24-04

ACTION REQUESTED: Special Use Permit to operate a Residential Day Care Facility

APPLICANT INFORMATION

Property Owner:

Name: Lion of Judah Community Church of God
Address: 3014 Old Creek Road
City, State, ZIP: Greenville, NC 27834

Applicant

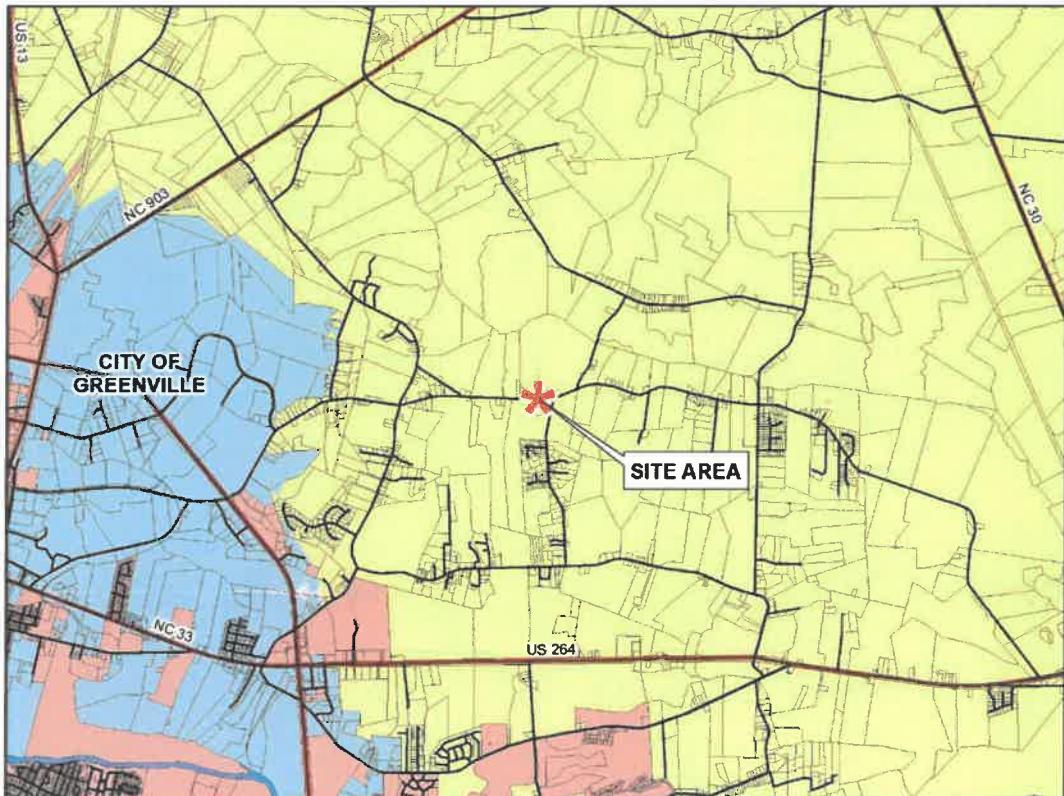
Name: Jerome Branch, Jr.
Address: 3022 Old Creek Road
City, State, ZIP: Greenville, NC 27834

SITE DATA

Location: 3022 Old Creek Road

Parcel Number: 27136
Township: Pactolus
Property Address: 3022 Old Creek Road
Total Size: 2.27 acres
Frontage: 425' along Old Creek Road
Current Use: Institutional
Existing Structures: Church, Stick-Built Home, Accessory Structure, Vacant Commercial Structure

VICINITY MAP



GENERAL DESCRIPTION OF AREA

The uses in the area are predominantly agricultural and residential uses. There is an existing church (Lion of Judah Community Church of God) and vacant commercial building on the subject property. The in-home day care is proposed to operate out of the church's existing residential parsonage at the rear of the property.



Existing Land Use

SITE PHOTOS



View of subject property.



View of existing church on subject property.



View of vacant commercial structure on subject property.



View to the east along Old Creek Road.



View to the west along Old Creek Road.



View of adjacent agricultural use along Old Creek Road.



View of adjacent agricultural use along Old Creek Road.



View of residences across Old Creek Road.

ZONING ORDINANCE REVIEW

CURRENT ZONING: *Rural Residential (RR)*

Description: Intended to accommodate low density, single-family residential uses and their associated, supporting public and institutional uses in areas that generally do not have access to public or community water or sewer systems.



Zoning Map

Proposed Use: Day Care Facility, Residential

Zoning Ordinance Development Standards:

Section 8. (Z.) Day Care Center, Child or Adult; Day Care Facility, Residential

1. *Where Required*
RA, RR, R40, SR, MFR, OI, and GC districts.
2. *Security Fencing*
Outdoor activity area(s) for children shall be enclosed by a security fence of at least 6 feet in height and shall be located outside of the road setback.
3. *Location*
Centers on a site greater than 3 acres shall access to a collector or thoroughfare road.
4. *Hours of Operation*
In residential districts, the use shall not be operated on a 24 hour basis. Outdoor activities shall only be permitted during daylight hours.

ENVISION PITT COUNTY 2045 COMPREHENSIVE LAND USE PLAN

FUTURE LAND USE DESIGNATION: *Suburban Residential*

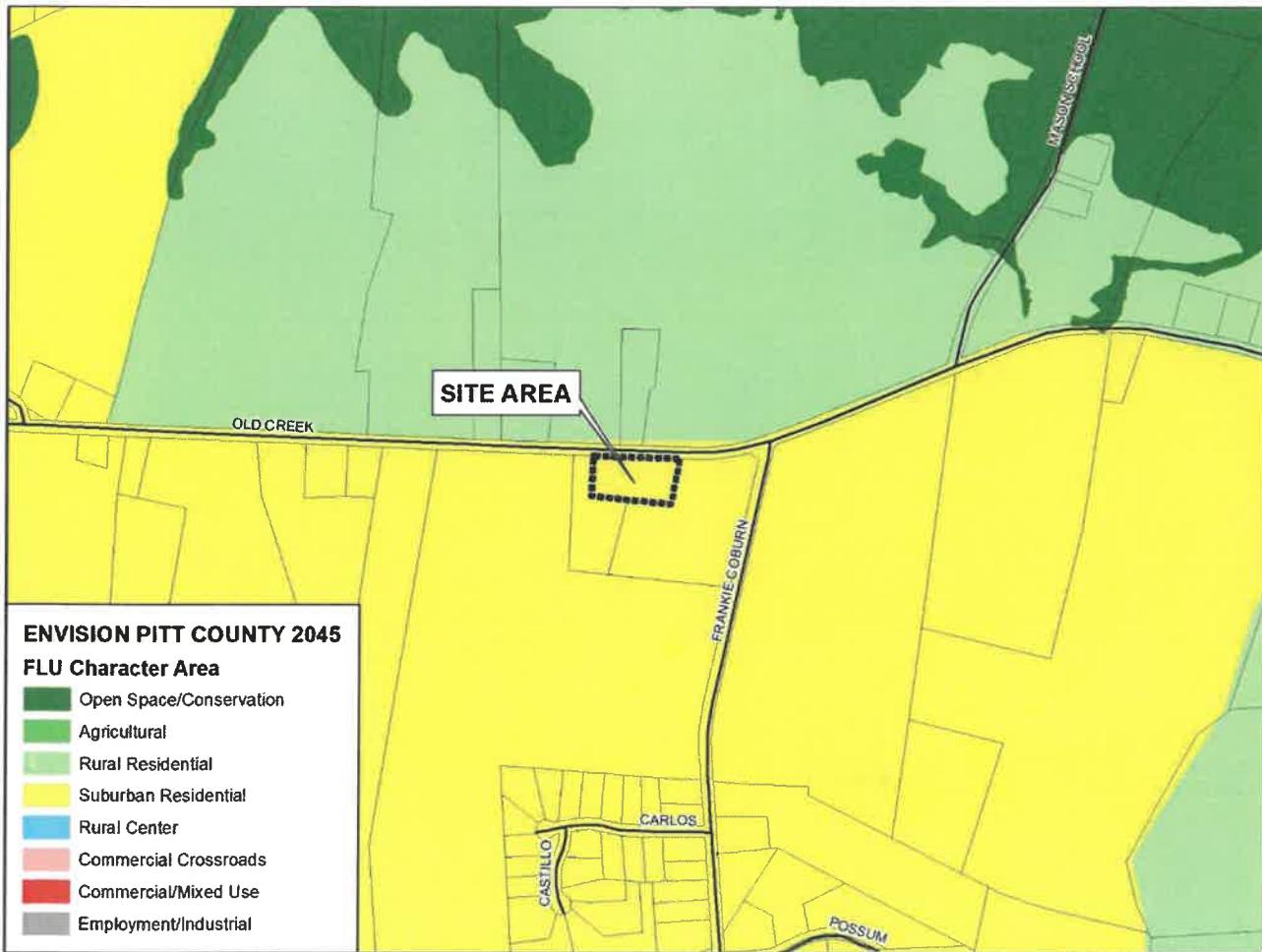
Description: This designation contains primarily single-family detached homes in neighborhoods with interconnected streets. Non-residential uses within this character area should be located with frontage and access to a major highway or secondary road, at major intersections, or proximity to similar uses with spatial separation or buffers between incompatible uses. Non-residential development should be designed in a context-sensitive manner and may be considered on a case-by-case basis in a conditional zoning district.

Where: Near existing residential and commercial development, and in areas experiencing significant growth within the county.

Uses: Single family detached homes, manufactured homes, duplexes, some agriculture, agribusiness, limited multifamily, commercial, office, light industrial, and public/institutional uses.

Utility Access: On-site septic systems and community water service. Public sewer may be available in these areas with voluntary annexation.

Density: Varies from 1 to 3 dwelling units per acre (gross density), depending on sewer availability.



Future Land Use Map

PLANNING STAFF REVIEW AND RECOMMENDATION

The request for a Special Use Permit is in conformance with the land use plan because this land use will provide residentially based day care services without significantly impacting the character of the area. This request also meets the guidelines for granting a Special Use Permit as per the Pitt County Zoning Ordinance. Therefore, staff recommends **approval** of a Special Use Permit for operation of a Residential Day Care Facility on parcel 27136 located at 3022 Old Creek Road and recommends the following motions:

Motion 1: Acknowledge that the application is complete and complies with all of the applicable requirements of the Zoning Ordinance.

Motion 2: Approve the Special Use Permit subject to the development standards of Section 8. (Z.) of the Pitt County Zoning Ordinance and the following additional conditions:

- The proposed use shall operate only between the hours of 6:30 AM to 12:00 AM.
- Comply with any applicable requirements from Pitt County Inspections to occupy the existing structure and any proposed structures, and comply with all applicable Environmental Health requirements for wastewater disposal.
- Obtain required license from the North Carolina Department of Health and Human Services Division of Child Development and Early Education.

Public Hearing on July 23, 2024:

On July 23, 2024, the Board of Adjustment held a public hearing and heard evidence presented by Mr. Christian Porter on behalf of adjacent farm owners. Mr. Porter presented concerns about soil fumigants utilized by the farmers near the proposed residential day care facility, which is classified as a "difficult to evacuate" site per the fumigant's guidelines. Mr. Porter stated that having such a facility in close proximity to their farmland will restrict where the fumigants can be applied and would affect farm operations. After hearing the evidence presented by Mr. Porter, the Board voted to continue the public hearing to the August 27, 2024 Board of Adjustment meeting and directed staff to research the concerns.

Staff Recommendation: Approval

Board of Adjustment Public Hearing Date: 8/27/2024
(Continued from July 23, 2024)



Jonas Hill, Planning Director

August 6, 2024

North Carolina Department of Agriculture & Consumer Services
 Attn: Patrick N. Farquhur, Deputy Director – Pesticide Programs
 1001 Mail Service Center
 Raleigh, NC 27699-1001

Mr. Farquhur,

On July 23, 2024, the Pitt County Board of Adjustment held a hearing to consider a Special Use Permit for a residential child care facility (i.e., in home day care). During the hearing, an adjacent farm owner stated that the child care facility would be considered a "difficult to evacuate" site, and it would impact the operation of his farm by limiting how and where he can apply certain soil fumigants to crops such as tobacco. Per the land owner, the primary fumigants he utilizes are Pic-Clor 60 and Tri-Pic 100 Fumigant.

Given your expertise in this matter, can you please provide a signed letter on letter head attesting to the following information:

- Other than tobacco, what types of crops are these fumigants applied to?
- How are these types of fumigants applied to the crop?
- How often are these fumigants typically applied per year?
- Are there any buffering requirements between residential areas and fields where these fumigants have been applied?
- What are the restrictions for applying these fumigants near a "difficult to evacuate" site, such as a residential child care facility?
- Are farms required to provide notice to adjacent or surrounding property owners when utilizing these types of fumigants? If so, how is notice provided?
- In your expert opinion, would a residential child care facility negatively impact the operation of an adjoining farm that utilizes these types of fumigants?
- In your expert opinion, would a residential child care facility substantially injure the value of an adjoining farm that utilizes these types of fumigants?

Your assistance in this matter is greatly appreciated. If you have any questions or need additional information, please call me at (252) 902-3250.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jonas Hill'.

Jonas Hill
 Planning Director
 Board of Adjustment Executive Secretary





Steve Troxler
Commissioner

**North Carolina Department of Agriculture
and Consumer Services**
Structural Pest Control and Pesticides Division

J. Patrick Jones
Director

August 16, 2024

Mr. Ben Rogers,

The following pages contain label statements that I used to answer to the questions that you and Jonas Hill asked me to respond to. My answers were based on my review of the labels for Pic-Chor 60 Fumigant, EPA Reg. No. 8536-8-87994 and Tri-Pic 100 Fumigant, EPA Reg. No. 8536-2-87994. A couple of the questions required a little more explanation as indicated below. The remaining questions are answered in accordance with the label language provided. Two questions were outside my area of expertise as indicated on the following pages.

The question regarding buffer zones is difficult to answer. Both fumigants do require a buffer zone. The minimum size of the buffer zone is 25 feet and could go up to more than 300 feet. The size of the buffer zone is dependent on the rate of the application and the number of acres in the treatment block. Worst case scenario, if a grower was making an application that required a 300+ foot buffer, he would have to wait to make the application when the facility within that buffer zone was not occupied and would have to remain unoccupied for the 36 hours following the completion of the application. If the daycare facility is closed on Saturdays, the grower could make the fumigant application on Friday evening and the 36-hour period would end on Sunday morning. This limitation would only affect the portion of the field within the buffer zone.

Regarding growers providing notification of fumigant application to neighbors ... Growers are not required to take any Emergency Preparedness and Response Measures, including notification, if the required buffer zone is 25 feet. If the buffer zone is greater than 25 feet, the grower must either follow the directions under the Fumigant Site Monitoring section or follow the directions under the Response Information for Neighbors section.

If you have additional questions, let me know.

Sincerely,

Patrick N. Farquhar
Deputy Director of Pesticide Programs

CC: Mr. Christopher R. McLennan, Assistant Attorney General
Mr. J. Patrick Jones, Director, Structural Pest Control & Pesticides Division

Structural Pest Control and Pesticides Division
Structural Pest Control Section • Phone: (919) 733-6100 • FAX: (919) 733-0633
Pesticide Section • (919) 733-3556 • Fax (919) 733-9796
1090 Mail Service Center, Raleigh, North Carolina 27699-1090
www.ncagr.com/divisions/structural-pest-control-and-pesticides

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Pic-Clor 69 Fumigant

Other than tobacco, what types of crops are these fumigants applied to?

Vegetable Crops, Field Crops, Fruit and Nut Crops, Nursery Crops

How are these types of fumigants applied to the crop?

- Tarped Bedded and Tarped Broadcast Applications: The injection point must be a minimum of 8 inches from the nearest final soil/air interface.
- Untarped Bedded Applications: The injection point must be a minimum of 12 inches from the nearest final soil/air interface.
- Untarped Broadcast Applications: The injection point must be a minimum of 12 inches from the nearest final soil/air interface.
- Untarped Broadcast Deep Applications: The injection point must be a minimum of 18 inches from the nearest final/soil air interface.
- Deep Ripped Untarped Shallow Broadcast Applications (Not For Use in California): The injection point must be a minimum of 12 inches from the nearest final soil/air interface.

How often are these fumigants typically applied per year?

Once per crop at the beginning of the season.

Are there any buffering requirements between residential or surrounding property owners and fields where these fumigants have been applied? Yes

Buffer Zone Requirements

A buffer zone must be established for every fumigant application. The following describes the buffer zone requirements: An area established around the perimeter of each application block.

- The buffer zone must extend outward from the edge of the application block perimeter equally in all directions.
- All non-handlers, including field workers, residents, pedestrians, and other bystanders, must be excluded from the buffer zone during the buffer zone period except for transit (see Buffer Zone Exemption for Transit on Roadways).
- The buffer zone period begins at the start of the application and lasts for a minimum of 48 hours after the application is complete.

Areas not under the control of the owner of the application block

• Buffer zones must not include residential areas (e.g., employee housing, private property), buildings (e.g., commercial, industrial), outdoor residential areas (e.g., lawns, gardens, play areas) and other areas that people may occupy, UNLESS:

1. The occupants provide written agreement, prior to the start of the application, that they will voluntarily vacate the buffer zone during the entire buffer zone period, and
2. Reentry by occupants and other non-handlers must not occur until,
The buffer zone period has ended, and
Sensory irritation is not experienced upon re-entry.

Buffer Zone Distances

Buffer zone distances must be calculated using the application rate and the size of the application block.

- Buffer zone distances must be based on look-up tables in this labeling (25 feet is the minimum distance regardless of site-specific application parameters).

Are there any buffering requirements for applying these fumigants near a “difficult to evacuate” site, such as a residential child care facility? Yes

Restrictions for Difficult to Evacuate Sites

Difficult to evacuate sites are pre-K to grade 12 schools, state-licensed daycare centers, nursing homes, assisted living facilities, hospitals, in-patient clinics, and prisons.

- No fumigant application with a buffer zone greater than 300 feet is permitted within 1/4-mile (1,320 feet) of difficult to evacuate sites unless the site is not occupied by children from state-licensed day care centers, students (pre-K to grade 12), patients, or prisoners during the application and the 36-hour period following the end of the application.
- No fumigant application with a buffer zone of 300 feet or less is permitted within 1/8-mile (660 feet) of difficult to evacuate sites unless the site is not occupied by children from state-licensed day care centers, students (pre-K to grade 12), patients, or prisoners during the application and the 36-hour period following the end of the application.

Are farms required to provide notice to adjacent or surrounding property owners when utilizing these types of fumigants? If so, how is notice provided? Not necessarily

Emergency Preparedness and Response Measures

If the buffer zone is 25 feet, then the Emergency Preparedness and Response Measures are not applicable.

Triggers for Emergency Preparedness and Response Measures:

The certified applicator must either follow the directions under the Fumigant Site Monitoring section or follow the directions under the Response Information for Neighbors section if:

- the buffer zone is greater than 25 feet but less than or equal to 100 feet, and there are residences or businesses within 50 feet from the outer edge of the buffer zone, or
- the buffer zone is greater than 100 feet but less than or equal to 200 feet, and there are residences or businesses within 100 feet from the outer edge of the buffer zone, or
- the buffer zone is greater than 200 feet but less than or equal to 300 feet, and there are residences or businesses within 200 feet from the outer edge of the buffer zone, or
- the buffer zone is greater than 300 feet or the buffer zones overlap, and there are residences or businesses within 300 feet from the outer edge of the buffer zone.

Fumigant Site Monitoring

NOTE: Fumigant Site Monitoring is ONLY required if the Emergency Preparedness and Response Measures are triggered AND directions from the Response Information for Neighbors section are not followed.

From the start of the application until the buffer zone period expires, a certified applicator or handler(s) under his/her supervision must:

- Monitor for sensory irritation in areas between the buffer zone outer perimeter and residences and businesses that trigger this requirement.
- Monitoring for sensory irritation must begin in the evening on the day of application and continue until the buffer zone period expires. Monitor a minimum of 8 times during the buffer zone period, including these periods:
 - 1 hour before sunset,
 - during the night,
 - 1 hour after sunrise, and
 - during daylight hours.

Implement the emergency response plan immediately if a handler monitoring experiences sensory irritation.

Are there any buffering requirements for applying these fumigants near a “difficult to evacuate” site, such as a residential child care facility? Yes

Response Information for Neighbors

NOTE: Response Information for Neighbors is ONLY required if the Emergency Preparedness and Response Measures are triggered AND directions from the Fumigant Site Monitoring section are not followed.

The certified applicator supervising the application must ensure that residences and businesses that trigger the requirement have been provided the response information at least 1 week before the application starts.

The information provided may include application dates that range for no more than 4 weeks. If the application does not occur when specified, the information must be delivered again.

Information that must be included:

- o The location of the application block.
- o Fumigant(s) applied including the active ingredient, name of the fumigant product(s), and the EPA Registration number.
- o Contact information for the applicator and property owner.
- o Time period in which the application is planned to take place (must not range more than 4 weeks).
- o Early signs and symptoms of exposure to the fumigant(s) applied, what to do, and who to call if you believe you are being exposed (911 in most cases).
- o How to find additional information about fumigants.

In your expert opinion, would a residential child care facility negatively impact the operation of an adjoining farm that utilizes these types of fumigants?

This question is outside my area of expertise.

In your expert opinion, would a residential child care facility substantially injure the value of an adjoining farm that utilizes these types of fumigants?

This question is outside my area of expertise.

Tri-Pic 100 Fumigant

Other than tobacco, what types of crops are these fumigants applied to?

Cucumber, eggplant, Flowering Plants, Forest Nursery, Melon (all types), Nurseries, Onion, Plant Beds, Sweet Potato, Seed Beds, Strawberry, Tomato, Tree Crops, Yam

How are these types of fumigants applied to the crop?

- Bedded and Broadcast Shank Applications for most crops
- Handheld equipment for tree replanting

How often are these fumigants typically applied per year?

Once per crop at the beginning of the season.

Are there any buffering requirements between residential or surrounding property owners and fields where these fumigants have been applied? Yes

Buffer Zone Requirements

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