

**HENDERSON COUNTY PLANNING BOARD  
MEETING SUMMARY  
August 15, 2024, at 5:30 PM**

**Planning Board Members Present:**

Hunter Marks, Chair  
Rick Livingston, Vice Chair  
Jim Miller  
Robert Griffin  
Jason Davis  
Bruce Hatfield  
Linda Bradley  
Bill Lapsley, BOC Liaison

**Planning Board Members Not Present:**

Trey Ford  
Jared Ownbey

**Staff Present:**

Autumn Radcliff, Planning Director  
Janna Bianculli, Senior Planner  
Carlos Martinez, Planner I  
Russ Burrell, County Attorney

**Meeting called to order:** Mr. Hunter Marks called the meeting to order at 5:30 pm.

**Roll Call:** Roll call was taken.

**Informal Public Comment:** The Planning Board heard from five members of the public on concerns with the Special Use Permit that was approved by the Board of Adjustment for an assisted living residence for First Contacts drug rehab home and the need for this use to be listed separately in the LDC and for specific districts only and not in residential districts. The Board heard from one citizen on the need for more soil and erosion control regulations for runoff soil. The Board also heard from two nearby neighbors on the rezoning application for the ETJ removal that was approved by the City of Hendersonville. There were several handouts that were provided to the Board by the speakers.

**Adjustment of Agenda:** None.

**July 18, 2024, Meeting Summary:** No change to the meeting summary was noted.

**Rezoning Application (#R-2024-04) Stoney Mountain Road – ETJ Removal:** Mr. Carlos Martinez stated that rezoning application #R-2024-04, is for a portion of PIN: 9650-90-0668 owned by CMH Homes, Inc. It is located on Stoney Mountain Road and is currently split-zoned between the City of Hendersonville R-20 and the County R-1 (Residential One) district. The owner has requested the 2.52-acre portion of the property in the Extra-territorial Jurisdiction (ETJ) be removed, and the City approved this request on August 1, 2024. Per G.S. 160D-202, the county must rezone this portion of the parcel that is being relinquished from the city's jurisdiction. Planning Staff initiated the application on July 23, 2024, to rezone the approximately 2.52 acres of land to an R1 district to be consistent with the adjacent County R1 zoning and the 2045 Comprehensive Plan.

The Board asked staff questions about the process and application. After some discussion, Mr. Robert Griffin made a motion to recommend that the Board of Commissioners approve the rezoning request to R1. Mr. Jason Davis seconded the motion. All voted in favor.

**LDC Rewrite Update:** Ms. Autumn Radcliff explained that the Planning department has been working on several projects and Commissioner items that have caused delays in the LDC

rewrite, but that staff is still moving forward. She stated that work was being done at the department level and that a consultant is assisting with the mapping of the existing land use map that is necessary. She said that staff has also been reviewing the document for needed changes. She said that the Board will be reviewing sections at future meetings once the information is ready.

She stated that the Board had requested at a previous meeting that staff work with existing community groups, like the Etowah group, to receive public input on the rewrite. To address public outreach for the process, staff has developed a public participation plan. Ms. Janna Bianculli provided copies of the public participation plan and provided the Board with an overview of the purpose, goals, and outreach tools. The Planning Board was in agreement with the Public Participation Plan.

The Board requested staff look at language in the rewrite stating that if no definition was identified in the LDC, the Webster Dictionary would be used as a resource. The Board also asked if the County could make a list of general information that could be made public to make citizens aware of what the County does not control such as, the county does not maintain roads and that NCDOT is responsible for reviewing Transportation Improvement Analysis's (TIA).

**Staff Updates:** Ms. Autumn Radcliff stated that the BOC will review the Implementation Plan at the September 3<sup>rd</sup> meeting that the Planning Board approved. She stated that the Ecusta Trail is still on schedule to be completed mostly by this December and the bridges have been installed and paving continues. The Farmland Preservation Taskforce, with Hunter serves as the Board's liaison, is in the process of recommending amendments to Chapter 45, and other recommendations to preserve farmland. Ms. Radcliff stated that the taskforce may have recommendations related to the LDC as it moves forward, and she would keep the Board informed. She also stated that staff has been working on Broadband expansion that the Commissioners set aside ARPA funds for and related grants.

Commissioner Lapsley provided the Board with an update on recent actions by the Board of Commissioners. He stated that with a 3-2 vote, the Board is moving forward with a sports complex at Berkeley Park that will include additional soccer fields needed in the county. He stated that this is something the Board has been working towards for a long time.

**Adjournment:** The meeting was adjourned at 6:38 pm with no further business.

## Soil Erosion and Sedimentation Control for Land-Disturbing Activities on Less than One Acre

A new “Subpart” should be added to the Land Development Code addressing land-disturbing activities on less than one acre of land.

The current Subpart E. Soil Erosion and Sedimentation Control appears to apply to only areas of one acre or more. There is a statement in Subpart E, 42-253. Scope and Exclusions, which states:

1. For the purpose of the subpart, an erosion control plan shall be required for:
  1. Any land-disturbing activity which uncovers one or more acres (43,560 square feet) of land.

Temporary ground cover should be required in order to minimize soil erosion and sedimentation from smaller lots. Such ground cover should cover all exposed soil and be in place 30 days once the basic structure is in place. This would mean when the structure has a roof and a drainage system is in place.

There is a home in Golf Mountain Estates in Etowah that has been under construction on a half-acre lot and the exterior of the home has been completed for several months. Several rain storms this past spring and summer have washed soil, and rocks and other debris from the lot onto the road and surrounding properties as well. Temporary ground cover applied once the exterior of the home was in place would have reduce the wash-out the amount of runoff. A silt fence has been in place, but has not been sufficient to prevent significant runoff even when appearing to be properly maintained.

Growth continues in the county and more buildings will be constructed on lots of less than one acre and on hillsides making the need for an explicit subpart dealing with smaller lots necessary.

A new and separate Subpart should be included so there is no question about what applies for lots less than an acre. Some of the existing sections covering topics such as inspections and penalties should be the

same for both subparts. While a formal plan may not be required for lots less than one acre, temporary ground cover should still be required in addition to silt fencing and any other measures required as part of the building permit process.

Finally, both subparts should clearly state in the opening paragraph what they apply to.

Regardless of the size of a development lot, it is in the public interest to avoid the adverse impacts of soil erosion and runoff to the maximum extent reasonably possible.

Prepared by Ward Seguin

## Henderson County Planning Board August 15, 2024 5:30PM

Good evening. My name is Konnie Hall. My husband Kirk and I live in the Fork Creek Community of Saluda where we own and operate Orchard Lake Campground which hosts many families and children. We have hosted families and children for 29 seasons at no cost to Henderson County plus our guests spend lots of money in our county.

Our community supports the need for drug rehab facilities in appropriate locations and operated by qualified organizations.

I am asking that drug rehab facilities licensed or unlicensed not be a permitted use in residential areas nor in close proximity to facilities with children. Also, separate zoning categories should be set up for licensed and unlicensed drug rehab facilities as well as halfway/transition houses.

Separate categories would ensure that there would not be misclassification issues in the future. The Tracy Grove community and the Fork Creek Community do not believe that a drug rehab facility should be called an assisted living facility. Superior Court Judge Warren in April, 2024 agreed and ruled on behalf of the Fork Creek Community that a drug rehab facility should fall under a mental health facility. The Tracy Grove Community understandably and erroneously assumed that First Contact Ministries assisted living facility was for the elderly. The Fork Creek Community had to Google Craig Halfords name and call him to figure out that the assisted living facility was really for drug rehab. Shouldn't there have been transparency on the part of Henderson County and First Contact from the very beginning?

I've given you a summary of questionnaires completed by both Fork Creek Community residents and Orchard Lake campers. Individual questionnaires are available upon request. The results overwhelmingly show that a drug rehab facility is not appropriate in a residential community nor adjoining a campground full of children. The Mud Creek Community and the Tracy Grove community both expressed the same sentiments.

I believe that between these three communities, First Contact and Henderson County, First Contact Ministries has chosen to waste hundreds of thousands of dollars of county money, our money, grant money, taxpayers money and donors money in legal fees as well as a great deal of frustration, stress and time over several years on all parts on this zoning issue. Henderson County has the power to ensure this never happens again.

There are those in Henderson County government and elsewhere who have supported this facility in a residential community. However these supporters do not live in our community and to my knowledge have not advocated that a drug rehab facility be in their community on property that adjoins theirs. Would the families of addicts support a drug rehab facility on property adjoining them?

Polk County has listened to us and is in the process of changing their zoning laws to protect the residents of Polk County. Will Henderson County do what is right and do the same?

Let me reiterate that licensed and unlicensed drug rehab facilities should not be a permitted use for residential communities nor near facilities with children. Now is the time for you and Henderson County to make the appropriate changes.

Thanks for your time.

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION PH12-1,  
FILE NO: 23 CVS 288  
HENDERSON COUNTY, C.C.O.

KIRK A. HALL and KONNIE F. HALL,  
INDIVIDUALLY, and as CO-  
TRUSTEES OF THE KIRK A. HALL and  
KONNIE F. HALL JOINT LIVING TRUST  
DATED MARCH 6, 2015, KIRK A. HALL  
TRUSTEE OF THE KIRK A HALL and KONNIE  
F. HALL JOINT LIVING TRUST, DATED  
MARCH 6, 2015, HANNAH HALL,  
LUCINDA A HEMENWAY, and NANCY  
ALLISON HULL,

Petitioners

Vs.

ORDER ON:

1. Petitioners Rule 60(a) Motion  
Dated 4 April 2024
2. First Contact's Motion for a  
Stay Pending Appeal and  
Alternative Motion for  
Reconsideration dated  
2 April 2024

HENDERSON COUNTY and FIRST  
CONTACT MINISTRIES, Inc.,  
Respondents

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THIS MATTER came on to be heard upon the Petitioners' Rule 60(a) Motion dated 4 April 2024, First Contact's Motion for a Stay Pending Appeal dated 2 April 2024, and First Contact's Alternative Motion for Reconsideration dated 2 April 2024. Having considered the arguments of counsel with respect thereto along with the Motions submitted, this Court hereby clarifies, under Rule 60(a), that the ALR Ruling finally and completely resolves First Contact's application for a special-use permit for an Assisted Living Residence, and that the Evidentiary Ruling will govern any proceedings on remand after the completion of First Contact's appeal. Further,

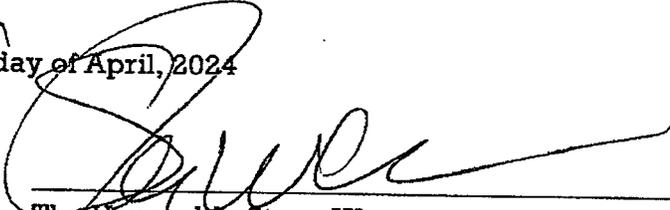
this Order is entered for the purposes of ensuring, under N.C.G.S. § 160D-1402(1), that First Contact's appeal of the ALR Ruling is not mooted by voluntary compliance with the Court's Order. As a result, the Court orders as follows:

1. The Court's previous Order on Petition for Writ of Certiorari, which was erroneously dated "February 22, 2023," is hereby corrected under Rule 60(a) to reflect that the order was issued on February 22, 2024, nunc pro tunc.
2. The Court's previous Order concluded that:
  - a. The subject permit was wrongfully issued as a matter of law in that under Land Development Code of Henderson County, § 42-391, First Contact's use is a "Mental Health Facility," rather than an "Assisted Living Residence" (the "ALR Ruling"). See N.C.G.S. 160D-1402(k)(3)(b).
  - b. The Board's consideration of the application was affected by errors of law relating to the evidence that was considered and excluded (the "Evidentiary Ruling"). See N.C.G.S. § 160D-1402(k)(3).
3. Because the ALR Ruling finally and completely resolved First Contact's application for a special-use permit for an Assisted Living Residence, no further Board proceedings (other than the revocation of the permit) are required with respect to First Contact's application. However, if not for the ALR Ruling, the Evidentiary Ruling would have required remand to the Board for further evidentiary proceedings.
4. Petitioners' Rule 60(a) Motion is GRANTED, and First Contact's Alternative Motion for Reconsideration is DENIED. The Court hereby and corrects the February 22, 2024 Order to direct as follows:
  - a. This matter is remanded to the Board with instructions to revoke First Contact's permit. Any future special-use permit application for First Contact's proposed use must comply with paragraph 1 of the February 22, 2024 Order.
  - b. If the ALR Ruling is not affirmed on appeal, this matter will be remanded to the Board with instructions to proceed under the terms set out in paragraphs 2 and 3 of the February 22, 2024 Order.

5. Respondent's Motion for Stay Pending Appeal is GRANTED. Under N.C.G.S. § 160D-1402(1), and to prevent First Contact's appeal of this Court's February 22, 2024 Order from becoming moot, this Court stays the effect of that Order until such time as further review of said Order is complete and enjoins Respondents from conducting further proceedings under the terms of that Order. See *Estates v. Chapel Hill*, 130 N.C. App. 664 (1998). This stay and injunction may be lifted by consent of all Respondents or by further Order of this Court.

It is so Ordered.

This the 17<sup>th</sup> day of April, 2024



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The Honorable Steve Warren  
Superior Court Judge Presiding

STATE OF NORTH CAROLINA  
HENDERSON COUNTY

SUPERIOR COURT DIVISION  
FILE NO. 23-CVS-288

Kirk A. Hall and Konnie F. Hall,  
individually and as co-trustees of  
The Kirk A. Hall and Konnie F.  
Hall Joint Living Trust; Hannah  
Hall; Lucinda A. Hemenway; and  
Nancy Allison Hull,

Petitioners,

vs.

Henderson County and First  
Contact Ministries, Inc.,

Respondents.

**First Contact's Notice of Appeal  
to the Court of Appeals  
of North Carolina**

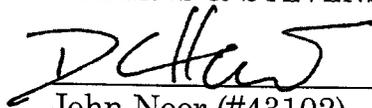
Respondent First Contact Ministries, Inc. hereby gives notice of its appeal to the Court of Appeals of North Carolina from the following orders of this Court:

- The "Order on Petition for Writ of Certiorari" issued by Judge Steve Warren February 22, 2024 and filed February 27, 2024.

Under N.C.G.S. § 1-278, First Contact also appeals from any intermediate order involving the merits and necessarily affecting the appealed-from order.

This the 26th day of March, 2024.

ROBERTS & STEVENS, PA



John Noor (#43102)

jnoor@roberts-stevens.com

David Hawisher (#55502)

dhawisher@roberts-stevens.com

PO Box 7647

Asheville, NC 28802

(828) 252-6600

*Counsel for First Contact*

## Certificate of Service

I hereby certify that I served the foregoing document on all parties by USPS mail to the address(es) listed below.

Brian Gulden  
Jonathan Dunlap  
The Van Winkle Law Firm  
PO Box 7376  
Asheville, NC 28802  
*Counsel for Petitioners*

Charles Burrell  
1 Historic Courthouse Square,  
Suite 5  
Hendersonville, NC 28792  
*Counsel for Respondent Henderson  
County*

This the 26th day of March, 2024.

ROBERTS & STEVENS, PA



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David Hawisher



Official Notification by  
Henderson County for a  
**SPECIAL USE PERMIT**

Craig Halford has applied for a special use permit with Henderson County to operate an Assisted Living Residence at 4353 Fork Creek Road on PIN: 9574 72-3601. The applicant is not proposing to add any new structures to the subject area.

**HENDERSON COUNTY**  
**BOARD OF ADJUSTMENT**  
**PUBLIC HEARING**

**September 28, 2022 at 4:00 pm**

King Street Meeting Room  
100 N. King Street, Hendersonville, NC  
For Information Call 697-4819  
Or Visit [heplanning.gov](http://heplanning.gov)



**FORK CREEK COMMUNITY QUESTIONNAIRE**  
 (Fork Creek Road, West Fork Creek Road, Mine Mountain Road, & Roads off these)

This questionnaire is to permit you to voice your opinion on the proposed men's drug rehabilitation facility located at 4353 Fork Creek Road across from the small pond per the Special Use Permit applied for by Craig Halford of First Contact Addiction Ministries on August 31. Special Use Permits are required where individual consideration of location, design, configuration and/or operation of a use at a proposed site are necessary to ensure site appropriateness, compatibility with surrounding uses and the protection of the public health, safety, and welfare. The applicant must exhibit:

*75 Questionnaires*

- a. Not materially endanger the public health, safety, or welfare.
- b. Not substantially injure the value of property or improvements in the area; and
- c. Be in harmony with the surrounding area.

Did you know that there is a Special Use Permit request by Craig Halford of First Contact Addiction Ministries to operate a men's drug rehab facility at 4353 Fork Creek Road?.....	yes	48	no	27
Do you support or oppose a men's drug rehabilitation facility at 4353 Fork Creek Road?.....	support	0	oppose	75
Did anyone related to First Contact Addiction Ministries ever reach out to you personally regarding the 4353 Fork Creek Road men's drug rehabilitation facility?.....	yes	11	no	64
Do you think such a facility will materially endanger the public health, safety or welfare of the Fork Creek Community?.....	yes	74	no	0
Do you think such a facility will substantially injure the value of your property?.....	yes	74	no	0
Do you think such a facility will facilitate less, same, or more harmony in the neighborhood?..	Less	74	Same	0
	More			0
Do you think your sense of security will be less, same, or more with this facility?.....	Less	74	Same	0
	More			0
If this permit were approved will you consider additional safety measures such as locking your doors, an alarm system, additional lighting less, same, or more as a result of this facility?..	Less	2	Same	2
	More			70
Have you experienced any adverse physical or mental symptoms (anxiety, trouble sleeping, fear, etc.) that you attribute to becoming aware of this proposed facility?.....	yes	44	no	25
Would you recommend to someone else to buy or build in the Fork Creek Community on adjacent or in close proximity to 4353 Fork Creek Road if this SUP is approved?.....	yes	0	no	74
Do you anticipate a drug rehabilitation facility to be a liability or an asset to this community?..	Liability	74	Asset	0
Are you a business owner? If so, do think this could affect your business?.....	Positively	0	Negatively	18
	N/A			33

Signed Kirk A. Hall Tabulated By \_\_\_\_\_

Name Kirk A. Hall Date: \_\_\_\_\_

Address \_\_\_\_\_

Phone number \_\_\_\_\_ Email address \_\_\_\_\_

Comments: \_\_\_\_\_

Please return in person or by mail by Thursday, November 10 to: the Orchard Lake Campground Office, located at 460 Orchard Lake Road, Saluda, NC 28773

# OLC -Questionnaire for Extended Stay and Seasonal Guests

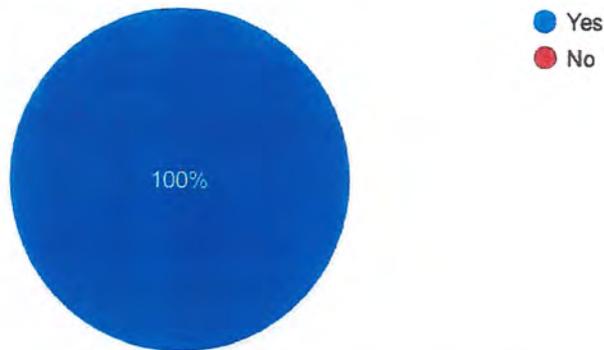
52 responses

[Publish analytics](#)

Do you consider yourself to be a camper at Orchard Lake Campground?

 [Copy](#)

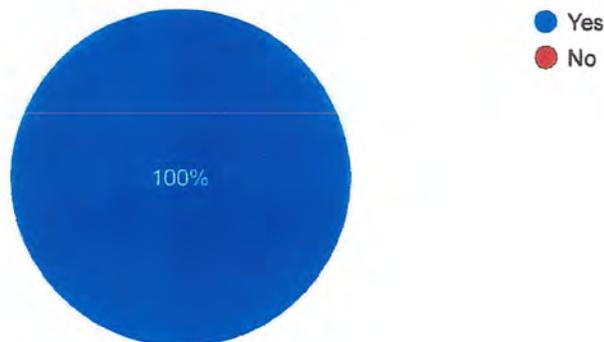
52 responses



Is safety and security at Orchard Lake Campground important to you?

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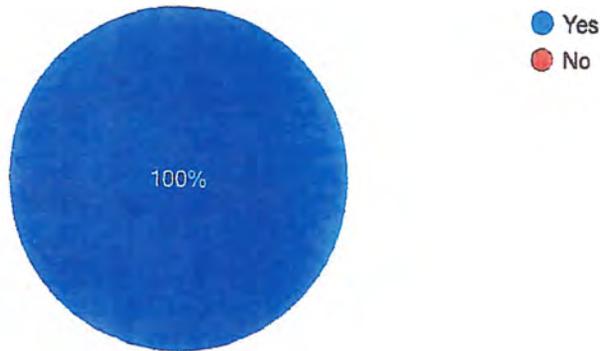
52 responses



Is Orchard Lake currently considered to be a safe campground to you?

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52 responses

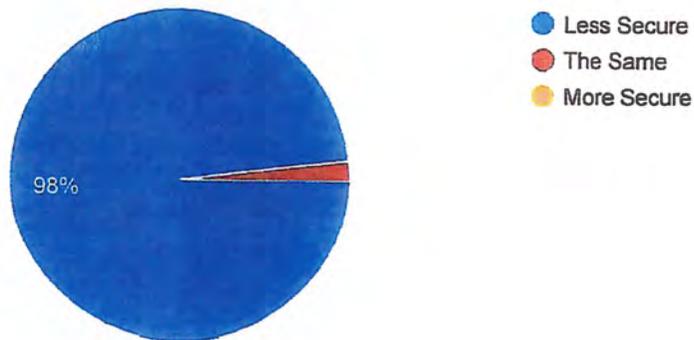


There is a proposal for a men's drug rehab facility on property adjoining Orchard Lake Campground.

If the proposed drug rehab facility is approved will your perceived sense of security and safety at Orchard Lake Campground be

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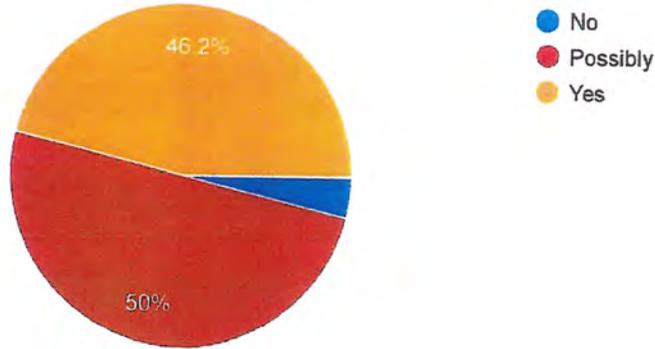
51 responses



If the proposed drug rehab facility is approved will it affect whether you will continue to be a camper at Orchard Lake Campground?



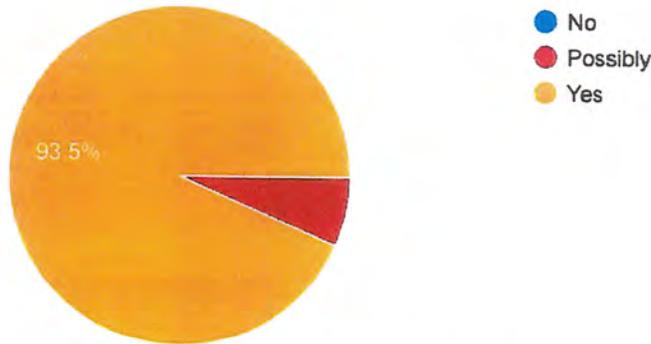
52 responses



If you remain at Orchard Lake Campground will you take additional security measures such as locking doors, keeping a closer watch on children, etc?



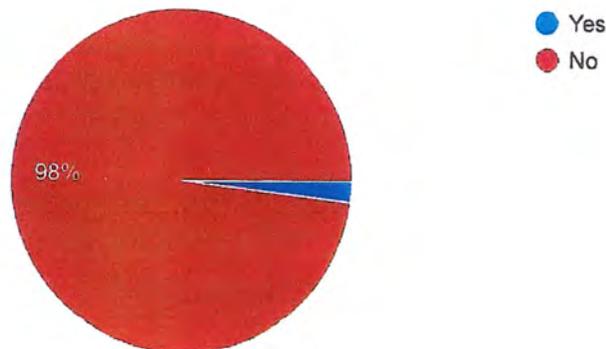
46 responses



Do you think a men's drug rehabilitation facility is in harmony with Orchard Lake Campground?



51 responses



## Comments

28 responses

(crossed out security question response)

Everybody deserves a second chance. But there are those that don't abide by it. Rehabs need to be where they can be monitored close to hospitals. Not Campgrounds where families feel safe and secure.

My wife will not be staying in Orchard Lake Campground if rehab approved, safety reasons

I, Keith Mull, do not support a rehab facility being located next to Orchard Lake Campground. With a facility like this will bring a bad element to the area. I would fear for the protection of my family especially with the small law enforcement Saluda has.

There is nowhere else for these people to go. They will raid our campground.

We are very concerned about this facility being next door to the campground.

We will never feel safe leaving our children to walk freely near an establishment like this!!!

My main reason for being a seasonal camper at OL is for the enjoyment of my grandchildren, ages 10 to 1. I don't not worry about their safety now but if a facility were to adjoin the property all that sense of security & safety for them would be no more. It definitely will effect my remaining at OL.

I think the drug rehab facility should be placed somewhere with more security available, not out here in our quiet neighborhood.

**NOT A GOOD IDEA!**

Children should be able to be safe. Parents should not have to worry about this type of facility.

We have camped consistently at Orchard Lake since 2008. We have raised our kids there and I frequently camp there alone. I feel this is currently a safe place for families, children and elderly. This would be the equivalent of building such a facility beside a school. While such facilities are incredibly important, it SHOULD NOT be build beside a family and child play area.

I am all for people getting the help they need, however I fully believe the location will not benefit the rehab center, nor anyone around it. I worry not only for my safety, but the safety of the men seeking treatment at said facility souly due to its location.

see original document



I feel the idea behind a "detox before admitted" facility falls in line w the camp ideology of being good to everyone no matter their life previous. This place has been good to me & seeing that kindness spread through the community is comforting.

Don't need to answer (talking about security question)

Those establishments do not belong in a residential area with families and children.

I don't feel like a drug rehab facility would be good in this area.

I don't know (see note on original document). I like to have more information.

Most likely we will leave. This is disappointing news. Safety and security are our primary reasons for choosing OLC. We will probably leave if this happens.

I have always felt safe at Orchard Lake. If a rehab facility opens this close to OLC, we would definitely be worried. I bring young kids to camp with me and this is a scary prospect. I understand rehab is needed just not at this location.

couldn't answer the security question due to the fact that I can't stay if the rehab is approved.

The very reason my family and I have chosen to buy a camper and go to Orchard Lake is for its safety and family atmosphere. This is the opposite of what we are coming to a campground for.

Addiction facilities will require more security to insure safety at all parts of the campground.

The rezoning sign says "Assisted Living Residence." That is very deceptive. The ministry that is trying to buy the property does not have the staff or certificate to get accreditation. This alone should prevent the sale.

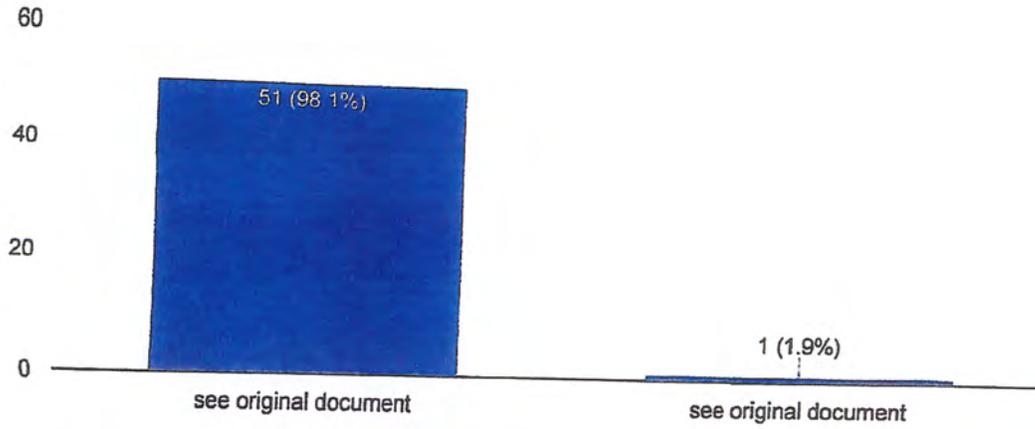
While I support treatment, I'm a retired social worker, there a numerous acreages that could house residential rehab, programs without being so close to families recreating; Families go camping to relax and children are given a certain measure of freedom, not so with a men's facility so close.

Definitely not (in reference to question about harmony). My grandchildren ride bikes, go all over the campground by themselves. This will definitely affect whether they will in the future. Many times I'm by myself in the back woods. I'll worry about my safety.



### Signed

52 responses



### Date

37 responses



## Henderson County Planning Board August 15, 2024 5:30PM - Special Use Permits

Good Evening. My name is Kirk Hall.

SUP's in Henderson County are approved far too often with the will of current residents and just plain common sense all too often ignored.

In our situation, the SUP application itself contained far too many problems to even begin to speak of today.

Words used in Henderson County zoning law need to be defined. I've given you a list of common sense definitions.

Henderson County generally and problematically only allows parties that own adjoining property to obtain standing. The words area and public are in the law but in no way are they defined as adjoining.

In our situation ZBA members, several with a real estate background indicated pro property owner development rights. A sitting commissioner signed off on the major site plan review application. Quasi judicial hearings were permitted to be turned into regular courtroom hearings. The chairman of the ZBA was not qualified to be a judge, nor was he qualified to determine who should be expert witnesses. If ZBA hearings are conducted like that of a courtroom all the parties with standing deserve a trained judge.

The job of the ZBA is to determine whether or not the applicant has met the qualifications of safety and security, harmony and affect on value. In our case the ZBA made comments like we really need to push this through, Henderson County really needs this, they have not been able to get their facility in the past. It is not the job of the ZBA to determine whether or not Henderson County needs a drug rehab facility but rather whether the qualifications have been met for the applied location.

With respect to safety and security, it must be remembered that safety and security includes perceived safety and security. For example, if a weatherman calls for a storm to hit Henderson County, the safety and security of Henderson County residents has been affected whether there is a storm or not.

With respect to harmony, in our case the ZBA could not define harmony. When Matt Champion was asked, he said to look it up in Websters. Well we did and the ZBA refused this common sense definition and refused evidence that the harmony requirement was not met. Harmony must not be assumed because the commissioners, TRC or planning board have approved the application to move forward. Communities must have a real voice in harmony.

With respect to affect on value, the ZBA refused to permit a retired CPA to comment on the value of his own property. Also refused was an experienced commercial real estate analyst. The ZBA also refused to permit testimony from a real estate expert in the area of rehab facilities as concurred by Superior Court Judge Warren.

The SUP approved for our community came with conditions. The most important conditions for the protection of our community were that Henderson County specified what misdemeanor and felony convictions participants could have. However Henderson County refuses to monitor the very conditions they placed into the SUP. Had the ZBA known that the conditions were not enforceable would they have still voted to approve the SUP?

So as you should be able to see. There are many problems with the existing SUP process. The question now is whether or not Henderson County will listen to us, your constituents and make appropriate changes.

Thanks for your time.



Kirk Hall <khallolc@gmail.com>

4353 Fork Creek Road

Wed, Nov 9, 2022 at 7:59 AM

Matt Champion <mchampion@hendersoncountync.gov>  
To: Kirk Hall <khallolc@gmail.com>  
Cc: Russ Burrell <rburrell@hendersoncountync.gov>

Hi Kirk,

Henderson County does not define "Harmony" in the Land Development Code. I don't believe North Carolina General Statutes does either.

The Henderson County Land Development Code can be found at this link (Land Development Code | Henderson County North Carolina (hendersoncountync.gov).  
Special Use Permits are found in Section 42-355 Special Use Permits.

Craig was denied a special use permit at the Mud Creek location for a different project. The applicant was attempting to construct a new facility and not occupy an existing structure. The meeting recordings from the hearings are on the link the County Attorney sent out.

[Quoted text hidden]

*11-16-22 Matt reminded this in person on 11-16-22 @ the Board of Commissioners meeting. Matt also suggested we look it up in Websters.*

*Kirk Hall  
11-17-22*

## **DEFINITIONS**

**(Words are important especially in the context of this hearing so we need to define them.)**

**Area (Not defined in relation to value of property. E.g does not define it as only adjoining property)**

-A particular geographic region.

**Compatability (Not defined by Henderson County)**

-capable of existing together in harmony

-speaks to relational harmony between people

**Harmony (Not defined by Henderson County. See Matt Champion Email)**

-Agreement, accord

-Tranquility

-A relationship characterized by a lack of conflict or by agreement.

-Agreement in action, opinion, feeling, etc.

-Disharmony=lack of harmony, discord, incongruity

-Note it is not defined as being best friends with Craig and his organization but it does require communication. Nor is it defined as in this situation as someone who cuts their grass or otherwise maintains their property.

**Public**

-of, relating to, or affecting all the people or the whole area of a nation or state

-of or relating to people in general

**Safety**

-Freedom from risk or danger; safety, or injury

-Freedom from doubt, anxiety, or fear; confidence

-Something that gives or assures safety.

-The condition of being safe from undergoing or causing hurt, injury or loss both real and perceived.

**Security**

-The quality or state of being secure

-Freedom from danger

-Freedom from fear or anxiety

**Transparency**

-Fine or sheer enough to be seen through

-Free from pretense or deceit

-Readily understood

-Honesty and openness

-Transparency implies openness, communication and accountability



## 42-355. Special Use Permits

- A. Purpose. Special Use Permits are required where individual consideration of location, design, configuration and/or operation of a use at a proposed site are necessary to ensure site appropriateness, compatibility with surrounding uses and the protection of the public health, safety and welfare. Development standards shall be used as the basis for developing conditions for a permit; however, individualized conditions may also be imposed throughout the application process. Any use identified which requires a permit shall not be permitted without the approval of the Zoning Board of Adjustment (ZBA) in accordance with the requirements and procedures set forth in this subsection.
- B. Permit Issuance. The ZBA shall grant permits. The Zoning Administrator shall issue permits.
- C. Application.
1. Pre-application Conference. Each applicant for a permit shall meet with the Zoning Administrator in a pre-application conference no later than two (2) calendar weeks prior to the date the application is due. The purposes of this conference are to provide information to the applicant regarding the review process and assist in the preparation of the application.
  2. Application. Each application for a permit shall be submitted along with the appropriate fee(s) and site plan, to the Zoning Administrator on or before the first business day of the month. Applications may be modified by Zoning Administrator as necessary, who may require the applicant to supply additional information pertaining to the permit.

presented that the site standards would not be met or that a condition is necessary. The applicant may be required, in his/her rebuttal, to show that the proposed use will:

- a. Not materially endanger the public health safety or welfare;
- b. Not substantially injure the value of property or improvements in the area and
- c. Be in harmony with the surrounding area.

Additionally the applicant may be required, in his/her rebuttal, to show that the proposed use shall be located and developed in such a manner as to:

- a. Comply with all applicable local, state and federal statutes, ordinances and regulations;
- b. Be in accordance with the Comprehensive Plan, Long Range Transportation Plans and Comprehensive Transportation Plans of the County and/or Long Range Transportation Plans and Comprehensive Transportation Plans of any municipality of the County;
- c. Minimize the effects of noise, glare, dust, solar access and odor on those persons residing or working in the neighborhood of the proposed use; and
- d. Minimize the environmental impacts on the neighborhood including the following groundwater, surface water, wetlands, endangered/threatened species, archeological sites, historic preservation sites and unique natural areas.

Finally, the applicant may be required, in his/her rebuttal, to show that satisfactory provision/arrangement has been made (where applicable or required) concerning:

- a. Ingress and egress to property and proposed structures thereon (with particular reference to automotive/pedestrian safety/convenience and traffic flow/control);
  - b. Off-street parking and loading areas;
  - c. Utilities (with particular reference to locations, availability and compatibility);
  - d. Buffering and landscaping (with particular reference to type, location and dimensions); and
  - e. Structures (with particular reference to location, size and use).
2. Conditions. The ZBA may, in granting a permit, prescribe: (1) additional conditions; (2) additional safeguards; (3) a time limit within which the use

**HENDERSON COUNTY  
MAJOR SITE PLAN REVIEW APPLICATION**

**CONTACT INFORMATION**

**Property Owner:**

Name: Linda M. Neufeld Phone: \_\_\_\_\_

Complete Address: 280 Bob White Trail, Fayetteville, PA 17222

**Applicant:**

Name: Craig Halford Phone: 828-435-2180

Complete Address: 106 Chadwick Ave, Hendersonville, NC 28792

**Agent:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Complete Address: \_\_\_\_\_

Agent Form (Circle One):    Yes    No

**Plan Preparer:**

Name: David Hill Phone: 828-693-1409

Complete Address: 403 West Blue Ridge Road, East Flat Rock, NC 28726

**GENERAL INFORMATION**

Date of Application: 8/31/2022

Site Plan Attached (Circle One): Yes  No

**PARCEL INFORMATION**

PIN: 9594-72-3601

Tract Size (Acres): 27.02

Zoning District: Residential Three (R3)

Fire District: Raven Rock/Saluda Fire

Supplemental Requirement# SR 1.1

Watershed: Colt Creek WS-II P

Permitted by Right No

Floodplain: N/A

Special Use Permit Yes

Location / Property to be developed: Property is located at 4353 Fork Creek Rd, Saluda, NC 28773

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*

**County Use Only**

Fee: \$ \_\_\_\_\_ Paid: \_\_\_\_\_ Method: \_\_\_\_\_ Received by: \_\_\_\_\_



Official Notification by  
Henderson County for a  
**SPECIAL USE PERMIT**

Craig Halton has applied for a Special Use Permit with Henderson County to operate an Annual Meeting Residence at 4353 Park Creek Road on P11-05-04-72-1601. The proposed use and proposed to add an...  
...structure to the existing...  
...uses.

**HENDERSON COUNTY**  
**BOARD OF ADJUSTMENT**  
**PUBLIC HEARING**

**September 28, 2022 at 4:00 pm**

King Street Meeting Room  
100 N. King Street, Hendersonville, NC  
For Information Call 697-4819  
Or Visit [hcplanning.gov](http://hcplanning.gov)



Published on Henderson County North Carolina (<https://www.hendersoncountync.gov>)

## Subpart D. Table of Permitted and Special Uses

### 42-61. Table of Permitted and Special Uses

Table of Permitted Uses

USE TYPE	GENERAL USE DISTRICT										
	P=Permitted; S=Special Use Permit										
	R1	R2	R2R	R3	R4	OI	LC	CC	RC	I	SR
<b>1. RESIDENTIAL USES</b>											
Assisted Living Residence	S	S	S	S	S	P	P	P	P		1.1
Bed and Breakfast Inn	P	P	P	P	P	P	P				1.2
Continuing Care Retirement Community	S	S	S	S	S	P	P	P	P		1.3
Dwelling, Manufactured Home (multi-section)	P	P	P	F							
Dwelling, Manufactured Home (singlewide)			P	F							
Dwelling, Mobile Home			P	F							
Dwelling, Multifamily	S	S	S								
Dwelling, Single Family Detached	P	P	P	F							
Dwelling, Two Family Attached	P	P	P	F							
Family Care Home	P	P	P	F							
Fraternity and/or Sorority House	P										
Hospice Residential Care Facility	S	S	S	S	S	P	P	P			1.10
Manufactured Home Park			S	S	S						1.11
Nursing Home	S	S	S	S	S	P	P	P	P		1.12
Personal Storage Structure	P	P	P	P	P	P	P	P	P	P	1.13
Rooming and Boardinghouse	S	S	S	S	S		P	P			1.14
<b>2. ACCESSORY USES</b>											
Childcare Facility (as an accessory for a principal business)			S	S	S	P	P	P	P	P	2.1
Drive-Thru Window				S	S	P	P	P	P		2.2
Dumpster(s)	P	P	P	P	P	P	P	P	P	P	2.3

Assisted Living Residence  
 ↓  
 Extended Care Facility  
 (A licensed care facility)  
 ↓  
 Mental Health Facility  
 (14b licensable facility)

regulations/provisions of this Chapter ; or (8) any decision made by a planning agency or governing body. An appeal must be made within 30 days of an official written determination by the Zoning/Subdivision/Soil Erosion and Sedimentation Control Administrator or an official decision made by a planning agency or governing body.

**Applicant.** The party submitting an application, petition or seeking other approval required by this Chapter. An applicant includes a firm, association, organization, partnership, corporation, company, trust, individual or governmental unit or any other entity usually defined in legal usage as a *person*.

**Approving Authority. (Soil Erosion and Sedimentation Control)** the Division or other State or a local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provisions of the Act.

**Area of Shallow Flooding.** A designated AO Zone on a community's *Flood Insurance Rate Map (FIRM)* with *base flood* depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**Area of Special Flood Hazard.** (See *Special Flood Hazard Area (SFHA)*).

**Asphalt Plant.** An establishment (portable or nonportable) engaged in petroleum refining; manufacturing involving various compositions of asphalt and tar with other materials (asphalt-type roofing materials, asphalt/tar paving mixtures, asphalt paving block and various other compositions of asphalt or tar with other materials); and the recycling of old asphalt into asphalt-type material.

**Assisted Living Residence.** A group housing and services program for seven (7) or more unrelated persons, by whatever name it is called, that makes available, at a minimum, one (1) meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department of Health and Human Services may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from *nursing homes* subject to provisions of NCGS §131E-102 (NCGS §131D-2(1d)). *Extended care facilities* with seven (7) or more residents (excluding *hospice residential care facilities* and *nursing homes*) shall, for the purposes of this Chapter, be included with and permitted in the same fashion as an assisted living residence.

**Automobile and Equipment Service.** An establishment primarily engaged in providing service to automobiles and equipment. An automobile and equipment service may include auto inspection stations and/or tire recapping as accessory

**Entertainment Complex.** An establishment that is conducted exclusively for entertainment. Entertainment complexes include some form of live entertainment and may include food services, beverage services, etc. *Accessory structures and uses* necessary to the operation of the complex may be included in this definition, as determined by the *Zoning Administrator*. This definition does not include *adult theatres/live entertainment* or cinema complexes.

**Erosion.** The wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.

**Erosion and Sedimentation Control Design Manual.** (See Design Manual, Erosion and Sedimentation Control).

**Evergreen.** A plant with foliage that persists and remains green year-round.

**Expressway.** Expressways generally feature characteristics of high mobility and moderate to low accessibility. Moving through-traffic is an important element; however, access points are allowed, but limited. Traffic signals are not permitted, but *driveway* connections are permitted. Typically, roadways in this category have a minimum of four (4) travel lanes, are median-divided facilities, and generally have posted speed limits of 55 to 60 miles per hour.

**Extended Care Facility.** A licensed care facility that provides continuing services to residents and which shall include: *family care homes, hospice residential care facilities, assisted living residences, adult care homes, mental health facilities, multiunit assisted housing with services, nursing homes and continuing care retirement communities.*

1. **Family Care Home.** A care home (for persons of any age) having two (2) to six (6) residents (based on NCGS §131D-2(A)(5)). *Extended care facilities* with two (2) to six (6) residents shall, for the purposes of this Chapter, be included with and permitted in the same fashion as a family care home (see *Family Care Home* for full definition).
2. **Hospice Residential Care Facility.** A freestanding licensed hospice facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual and special needs of terminally ill patients and their families in a group residential setting.
3. **Assisted Living Residence.** A group housing and services program for seven (7) or more unrelated persons, by whatever name it is called, that makes available, at a minimum, one (1) meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. *Extended care facilities* with seven (7) or more residents (excluding *hospice residential care facilities* and *nursing homes*) shall, for the purposes of this Chapter, be included with and permitted in the same fashion as an assisted living residence (see *Assisted Living Residence* for full definition).

4. **Adult Care Home.** An *assisted living residence* in which the housing management provides 24 hour scheduled and unscheduled personal care services to residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies (see *Adult Care Home* for full definition).
5. **Mental Health Facilities.** A facility that provides services to individuals who are mentally ill, developmentally disabled, or substance abusers for one or more minors or for two (2) or more adults. These services shall be residential services provided for 24 consecutive hours or more. Facilities for individuals who are substance abusers include chemical dependency facilities.
6. **Multiunit Assisted Housing with Services.** An *assisted living residence* in which hands on personal care services and nursing services (which are arranged by housing management) are provided by a licensed home care or hospice agency, through an individualized written care plan (see *Multiunit Assisted Housing with Services* for full definition).
7. **Nursing Home.** A facility, however named, which is advertised, announced or maintained for the express or implied purpose of providing nursing or convalescent care of seven (7) or more *persons* unrelated to the licensee (see *Nursing Home* for full definition).
8. **Continuing Care Retirement Community.** A *continuing care retirement community* involves the furnishing to an individual (other than an individual related by blood, marriage or adoption to the *person* furnishing the care) of lodging together with nursing services, medical services or other health related services, under an agreement effective for the life of the individual or for a period longer than one (1) year (see *Continuing Care Retirement Community* for full definition).

**Fall Zone.** The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

**Family Care Home.** A care home (for persons of any age and which includes, but is not limited to *adult care homes, hospice residential care facilities, or nursing homes*) having two (2) to six (6) residents (based on NCGS §131D-2(a)(5)). *Extended care facilities* with two (2) to six (6) residents shall, for the purposes of this Chapter, be included with and permitted in the same fashion as family care homes.

**Family Childcare Home (FCCH).** *Childcare* arrangement in the provider's home that may have no more than five (5) preschool children present at any one (1) time. The program may enroll up to eight (8) children if at least three (3) of the children are *school aged*.

**Farm, Agritourism.** A working farm or ranch that welcomes visitors who come to purchase agricultural products or value-added agricultural products, learn about

(2) of the following: (1) a *water supply system* service connection; (2) a *sewage disposal system* connection; or (3) electric service equipment.

**Manufactured/Mobile Home Graveyard.** A parcel of land having an *accessory use* consisting of the storage or keeping of three (3) or more wrecked, dismantled, scrapped, ruined or dilapidated *manufactured/mobile homes, recreational vehicles or park model homes*, which are not occupied by humans.

**Manufacturing and Production Operations.** An establishment engaged in the mechanical, physical or chemical transformation of raw materials, substances or components into new products. Manufacturing and production operations are often described as plants, factories or mills and characteristically use power-driven machines and materials-handling equipment. Establishments that transform materials or substances into new products by hand may also be included in this sector. Manufacturing establishments may process materials or may contract with other establishments to process their materials for them. Both types of establishments are included in manufacturing. Almost all manufacturing and production operations have some captive research and development or administrative operations, such as accounting, payroll or management.

**Map Amendment.** (See *Amendment, Map*).

**Market Value.** The *structure* value, excluding the land value and that of any *accessory structures* or other improvements to the *lot* (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of *structure* (actual cash value) or adjusted assessed values.

**Materials Recovery Facilities (Recycling).** An establishment primarily engaged in (1) operating facilities for separating and sorting recyclable materials from non-hazardous waste streams (i.e., garbage (all putrescible wastes, including animal offal and carcasses, and recognizable industrial byproducts, but excluding sewage and human waste)) and/or (2) operating facilities where co-mingled recyclable materials, such as paper, plastics, used beverage cans and metals are sorted into distinct categories.

**Mean Sea Level.** The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988 or other vertical control datum used as a reference for establishing varying elevations within the *floodplain*, to which *Base Flood Elevations (BFEs)* shown on a *FIRM* are referenced. Refer to each *FIRM* panel to determine datum used.

**Mental Health Facilities.** A facility that provides services to individuals who are mentally ill, developmentally disabled, or substance abusers for one or more minors or for two (2) or more adults. These services shall be residential services

provided for 24 consecutive hours or more. Facilities for individuals who are substance abusers include chemical dependency facilities (based on NCGS §122C-3.(14)b.)).

**MHP. Manufactured Home Park.** (See *Manufactured Home Park*).

**Mining and Extraction Operations.** An establishment primarily engaged in mining, mine site development and beneficiating (i.e. preparing) metallic and nonmetallic minerals, including coal. This includes ore extraction, quarrying and beneficiating (e.g. crushing, screening, washing, sizing, concentrating and floating customarily done at the mine site).

**Model Home/Sales Office, Temporary.** A *structure* used on a temporary basis for the purposes of generating sales within a *residential development*.

**Motor Sports Facility.** A facility, track or course upon which motor sports racing or racing practice is conducted.

**Motor Sports Facility, Major.** A motor sports facility having a seating or standing capacity of 500 or more patrons/spectators. Standing capacity (for the purposes of this definition) shall be computed based on three (3) persons for each 200 square feet of space intended for spectator use.

**Motor Sports Facility, Minor.** A motor sports facility having a seating or standing capacity of less than 500 patrons/spectators and not considered to be a recreational motor sports facility. Standing capacity shall be computed based on three (3) persons for each 200 square feet of space intended for spectator use.

**Motor Sports Facility, Recreational.** A motor sports facility designed and operated primarily for racing practice purposes. Recreational motor sports facilities do not provide: seating, cover, concessions or restrooms for spectators/patrons and shall have a capacity of less than 100 spectators and/or riders.

**Motor Vehicle.** A *vehicle* which is or is designed to be self-propelled and/or is designed or used for transporting *persons* or property. This definition includes watercraft but excludes aircraft.

**Multi-Tenant Development.** A development in which there exists a number of individual and/or separate activities and in which there are shared facilities (such as parking areas or pedestrian mall areas) (example: *Shopping Malls*, etc.).

**Multiunit Assisted Housing with Services.** An *assisted living residence* in which hands-on personal care services and nursing services (which are arranged by housing management) are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one (1) licensed

c. They have been placed in the program by the local educational agency.

In no event shall a child be considered an eligible toddler after the beginning of the school year immediately following the child's third birthday, unless the Secretary and the State Board enter into an agreement under G.S. 115C-107.1(c).

The early intervention services that may be provided for these children and their families include early identification and screening, multidisciplinary evaluations, case management services, family training, counseling and home visits, psychological services, speech pathology and audiology, and occupational and physical therapy. All evaluations performed as part of early intervention services shall be appropriate to the individual child's age and development.

(13c) Eligible psychologist. – A licensed psychologist who has at least two years' clinical experience. After January 1, 1995, "eligible psychologist" means a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(14) **(Effective until contingency met – see note)** Facility. – Any person at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of individuals with mental illnesses or intellectual or other developmental disabilities or substance abusers, and includes all of the following:

a. An "area facility," which is a facility that is operated by or under contract with the area authority or county program. For the purposes of this subparagraph, a contract is a contract, memorandum of understanding, or other written agreement whereby the facility agrees to provide services to one or more clients of the area authority or county program. Area facilities may also be licensable facilities in accordance with Article 2 of this Chapter. A State facility is not an area facility.

b. A "licensable facility," which is a facility for one or more minors or for two or more adults that provides services to individuals who have mental illnesses or intellectual or other developmental disabilities or are substance abusers. These services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 consecutive hours or more. Facilities for individuals who are substance abusers include chemical dependency facilities.

c. A "private facility," which is a facility that is either a licensable facility or a special unit of a general hospital or a part of either in which the specific service provided is not covered under the terms of a contract with an area authority.

d. The psychiatric service of the University of North Carolina Hospitals at Chapel Hill.

e. A "residential facility," which is a 24-hour facility that is not a hospital, including a group home.

f. A "State facility", which is a facility that is operated by the Secretary.

g. A "24-hour facility," which is a facility that provides a structured living environment and services for a period of 24 consecutive hours or more and includes hospitals that are facilities under this Chapter.

h. A Veterans Administration facility or part thereof that provides services for the care, treatment, habilitation, or rehabilitation of individuals with mental illnesses or intellectual or other developmental disabilities or substance abusers.

(14) **(Effective once contingency met – see note)** Facility. – Any person at one location, or in the case of an opioid treatment program facility licensed to operate an opioid treatment program medication unit, an opioid treatment program mobile unit, or both, any person at one or more locations, whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of individuals with mental illnesses or intellectual or other developmental disabilities or substance abusers, and includes all of the following:

a. An "area facility," which is a facility that is operated by or under contract with the area authority or county program. For the purposes of this subparagraph, a contract is a contract, memorandum of understanding, or other written agreement whereby the facility agrees to provide services to one or more clients of the area authority or county



Kirk Hall &lt;khallolc@gmail.com&gt;

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## Update

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**Matt Champion** <mchampion@hendersoncountync.gov>

Fri, Mar 15, 2024 at 2:31 PM

To: Kirk Hall &lt;khallolc@gmail.com&gt;, John Mitchell &lt;JMitchell@hendersoncountync.gov&gt;, Chris Todd &lt;ctodd@hendersoncountync.gov&gt;

Good afternoon, Kirk,

My apologies for the delayed response. I've been waiting on responses from Craig, John Noor, and the County Attorney before responding to your request.

Here is what I can answer at this moment.

Henderson County Code Enforcement can respond to inquiries of potential violations as it pertains to what is covered under the Land Development Code (LDC) and the Nuisance Ordinance. In order to respond to specific inquiries from the public, I need evidence of a wrongdoing that would constitute my enforcement action. With this being said, you were unable to provide specific instances that First Contact was out of compliance with the conditions placed upon their special use permit with regards to the occupants. I did consult First Contact's Attorney, John Noor, and he has informed me that First Contact is in compliance with regards to the number of occupants and the specific conditions placed on occupants of the facility. As of today, First Contact has a total of 4 participants within the facility. Your recent email detailing another structure being pulled on the property did warrant a site visit. I inspected the property in question on February 28, 2024, and found a carport that had been installed on the property along with a small pre-fabricated storage structure. Both of these are violation of the special use permit. I consulted John Noor and First Contact of the violations and what the options are moving forward. First Contact decided to break down the carport structure, which was completed as of March 14, 2024. The smaller pre-fabricated storage structure will be moved off the subject area within a few weeks. Below you will find a permit history of when First Contact applied for and received approval for the various steps converting the existing structure to the assisted living facility. You can view the various permits online through our public portal after you create an account Henderson County, NC Public Portal ([smartgovcommunity.com](https://smartgovcommunity.com)).

### **Permits (all permits applied for required various inspections that were completed before permit closure):**

1. First Contact received a zoning permit approval for a change of use permit from the residential structure to an assisted living facility on February 2, 2023.
2. First Contact received a zoning permit approval for a 30'X50' pre-fabricated garage/workshop for the existing concrete slab on February 27, 2023.
3. First Contact received a commercial interior renovation/alteration/upfit permit from the Building and Inspections Department on March 13, 2023, for the work inside the existing structure.
  - a. The CO was issued and permit closed on August 28, 2023 after complying with all the required inspections
4. First Contact received a commercial new construction permit from the Building and Inspections Department on March 14, 2023, for the pre-fabricated garage/workshop.
  - a. The CO was issued and permit closed on June 23, 2023.
5. First Contact received a county fire alarm and detection system permit on August 8, 2023, for the existing structure's renovations and alterations.
  - a. The Fire Marshall's Office approved the permit on August 9, 2023.
6. First Contact received a expansion of existing septic system permit from Environmental Health on January 18, 2023.
  - a. The permit was approved and closed on April 6, 2023.
7. First Contact received a new well permit from Environmental Health on April 6, 2023.
  - a. The permit was approved and closed on June 26, 2023.

**Zoning Inspection (Building inspections required with associated permits are completed by the Henderson County Permits and Inspections Department):**

1. Chris Todd and myself performed a site inspection on June 12, 2023. Purpose of the visit was to inspect the security cameras and door/window alarms throughout the structure. First Contact was found to be in compliance with that specific condition listed in the order.

As of today, the County is unaware of what First Contact will do with regards to the recent court ruling. First Contact has 30-days to appeal that recent decision. The County Attorney has been in contact with First Contact's Attorney and will direct myself and the Zoning Board of Adjustment of the next steps pending any appeal process as it relates to the court ruling. First Contact is still operating under the special use permit that was granted by the Zoning Board of Adjustment, but has been advised not to increase the number of occupants from what is currently within the facility.

Again, my apologies for the delayed response.

Thank you,

Matt

**Matt Champion, MPA CZO**

Project Development Planner &

Zoning Administrator



100 N. King Street

Hendersonville, NC 28792

Office: (828) 694-6555

[Quoted text hidden]

HENDERSON COUNTY  
ZONING BOARD OF ADJUSTMENT  
FILE SUP-22-07

In the Matter of Special Use Permit Application  
SUP-22-07 Assisted Living Residence,  
FIRST CONTACT MINISTRIES, INC., Applicant.

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O R D E R

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THIS MATTER was heard in a quasi judicial hearing before the Henderson County Zoning Board of Adjustment (the "ZBA") on September 28, 2022, October 26, 2022, November 21, 2022 and December 14, 2022. After hearing all the evidence, and after public deliberation, the ZBA makes the following findings of fact:

1. The ZBA was made up of the following members for the hearing of this matter:

Steve Dozier, Vice Chairman (acting Chair)  
James Hysong  
Carlos Ruiz de Quevedo

Mark Casoria  
Andrew Riddle

Willard Fishburne acted as alternate, and heard all the evidence. After the vote of the Board on December 14, 2022, and prior to the Board's review of the draft order in this matter, Mr. Hysong's term expired. At the meeting reviewing the order on January 25, 2023, Mr. Fishburne acted as a full member of the Board.

2. This hearing was held pursuant to Henderson County Code §42-355, and pursuant to N.C. Gen. Stat. §160D-705(c), on the application filed by Craig Halford ("Halford") on behalf of First Contact Ministries, Inc. (the "Applicant"), regarding real estate located at 4353 Fork Creek Road in Saluda, Henderson County, North Carolina (the "subject property").

3. The Applicant is a party to a contract to purchase the subject property from its current owner, Linda M. Neufeld (the "Seller"). As owner of the subject property, the ZBA recognized the Seller's party status.

4. Cindy Hemenway owns a parcel adjacent to the subject property, which she uses as her residence. Hemenway identified reasons for why the damage she would suffer from the granting of the special use permit sought are distinct from the public at large. Those reasons were accepted by the ZBA, which allowed Hemenway party status.

5. Nancy Allison Hull owns a parcel adjacent to the subject property, which she uses as her residence. Hull identified reasons for why the damage she would suffer from the granting of the special use permit sought are distinct from the public at large. Those reasons were accepted by the ZBA, which allowed Hull party status.

6. Kirk Hall, Konnie Hall and Hannah Hall own (Kirk Hall and Konnie Hall) and manage (Hannah Hall) parcels adjacent to the subject property, which they operate as a recreational

vehicle park. The Halls identified reasons for why the damage they would suffer from the granting of the special use permit sought are distinct from the public at large. Those reasons were accepted by the ZBA, which allowed the Halls party status.

7. The subject property is Henderson County PIN 9594-7203601, and is 27.02 acres, more or less, in size. The subject property is located in a Residential Two Rural ("R2R") zoning district under Chapter 42 of the Henderson County Code (the "LDC"). The area surrounding the subject property to the west, north and east inside North Carolina is also located in R2R zoning, and the property to the south of the subject property is a part of the Greenville, South Carolina, watershed.

8. The subject property is currently used as a single-family structure. The major site plan supplied as a part of the Applicant's application does not show any new structures or improvements to the subject property other than replacing the detached garage at a later date. The applicant has indicated that a total of 5 to 8 rooms will be utilized to house the future residents on the property. There will be approximately 10 to 16 individuals living at the facility. This figure does not account for the staff living and working on-site. Assisted Living Facilities are classified as residential and therefore does not require buffering beyond the proposed solid waste collection facility. The subject area is also not required to provide additional parking as one would find in a commercial development.

9. The Applicant seeks a special use permit, pursuant to Henderson County Code §42-355, for use as an "assisted living residence" as that term is defined in Henderson County Code §42-391:

**Assisted Living Residence.** A group housing and services program for seven (7) or more unrelated persons, by whatever name it is called, that makes available, at a minimum, one (1) meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department of Health and Human Services may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from *nursing homes* subject to provisions of NCGS §131E-102 (NCGS §131D-2(1d)). *Extended care facilities* with seven (7) or more residents (excluding *hospice residential care facilities* and *nursing homes*) shall, for the purposes of this Chapter, be included with and permitted in the same fashion as an assisted living residence.

An "assisted living residence" is allowed use in the R2R zoning district under the LDC with a special use permit.

10. The Applicant intends to use the subject property for treatment of males suffering from substance abuse disorders under Article 2 of Chapter 122C of the North Carolina General Statutes. The Applicant is exempt from licensing requirements of Article 2 of Chapter 122C pursuant to N.C.G.S. §122C-22(a)(11).

11. Under the Henderson County Code §42-391, special uses are uses "that are generally compatible with land uses permitted in a general use district, however, because of their unique characteristics or potential impacts on the surrounding neighborhood and/or the County as a whole, require individual consideration of their location, design, configuration and/or operation at the particular location proposed. A special use must meet both the specific standards for the use as well

as the general standards for the issuance of Special Use Permits. Special uses are permitted uses which require a Special Use Permit.”

12. Henderson County Code §42-355.H. sets out the standards for the hearing of an application for a special use permit:

The ZBA shall not approve a permit unless it makes written findings that the regulations of . . . [the LDC] that set forth specific standards for the use have been met. The ZBA may consider the type of use, size of the use, size of the property and other relevant factors in evaluating the permit application. The applicant will not bear the burden of proving that all of the site standards (as listed below) have been met; however, the applicant will be required to produce evidence sufficient to rebut any evidence presented that the site standards would not be met or that a condition is necessary. The applicant may be required, in his/her rebuttal, to show that the proposed use will:

- a. Not materially endanger the public health, safety or welfare;
- b. Not substantially injure the value of property or improvements in the area; and
- c. Be in harmony with the surrounding area.

Additionally the applicant may be required, in his/her rebuttal, to show that the proposed use shall be located and developed in such a manner as to:

- a. Comply with all applicable local, state and federal statutes, ordinances and regulations;
- b. Be in accordance with the Comprehensive Plan, Long Range Transportation Plans and Comprehensive Transportation Plans of the County and/or Long Range Transportation Plans and Comprehensive Transportation Plans of any municipality of the County;
- c. Minimize the effects of noise, glare, dust, solar access and odor on those persons residing or working in the neighborhood of the proposed use; and
- d. Minimize the environmental impacts on the neighborhood including the following groundwater, surface water, wetlands, endangered/threatened species, archeological sites, historic preservation sites and unique natural areas.

Finally, the applicant may be required, in his/her rebuttal, to show that satisfactory provision/arrangement has been made (where applicable or required) concerning:

- a. Ingress and egress to property and proposed structures thereon (with particular reference to automotive/pedestrian safety/convenience and traffic flow/control);
- b. Off-street parking and loading areas;
- c. Utilities (with particular reference to locations, availability and compatibility);
- d. Buffering and landscaping (with particular reference to type, location and dimensions); and
- e. Structures (with particular reference to location, size and use).

13. After review by Henderson County’s Technical Review Committee, the following conditions were recommended should the ZBA grant a special use permit to the Applicant:

A. The Applicant must obtain a valid North Carolina Department of Transportation driveway permit.

B. The Applicant must obtain valid permits for use of existing (or new) septic systems in accord with the use sought from the Environmental Health Division of the Henderson County Department of Public Health.

C. The Applicant must provide Americans with Disabilities Act compliant parking spaces as required under that Act.

D. The Applicant must comply with all applicable North Carolina Building Code regulations regarding the use of the property and the occupancy sought (that is, the number of persons receiving treatment at the facility plus staff).

14. As a part of the Applicant's written application, the Applicant supplied a site plan showing no new structures being built on the Property except for the replacement of a separate workshop on an existing concrete pad. The existing structure on the Property would be used and maintained as a part of the proposed use. A copy of this application and site plan is incorporated into this Order by reference and made a part thereof.

15. From the staff report testified to by Matt Champion, Henderson County Zoning Administrator, there was sufficient evidence presented to the Board that the site standards for the special use sought by the Applicant were met.

16. The parties opposed to the grant of the permit (Ms. Hemenway, Ms. Hull, Mr. and Ms. Hall, and Ms. Hall, together the "opposing parties") then presented evidence regarding the standards set out in Henderson County Code §42-355.H., above.

17. Henderson County Code §42-355.H.2. states as follows:

Conditions. The ZBA may, in granting a permit, prescribe: (1) additional conditions; (2) additional safeguards; (3) a time limit within which the use shall be begun; and/or (4) a time limit within which a use shall be completed. Conditions imposed by the ZBA must fall within the prescribed statutory authority as described in this Chapter. Only those conditions mutually approved by the ZBA and applicant may be incorporated into the permit through written consent.

17. While the ZBA heard evidence from the opposing parties that emergency response times in the vicinity of the subject property are long, and that the time for road clearing in the event of a major snow event is very long, those are not endangerments of the public health, safety or welfare caused by the proposed use. With the conditions set out below, the Applicant's proposed use will not materially endanger the public health, safety or welfare.

18. With the conditions set out below, the Applicant's proposed use would not substantially injure the value of property or improvements in the area.

19. In an R2R zoning districts, the minimum structure setback requirements from lot lines vary between ten (10) feet (for side and rear yards) and ninety (90) feet from a freeway. The only road adjoining the property would require a setback under the LDC of less than fifty (50) feet. In this case, the nearest property line to the building on the property is that of the Greenville watershed property (in South Carolina), which is further from the property than the required

setback. The nearest property line of any of the opposing parties is over two hundred fifty (50) feet from the building. The area surrounding the property is heavily wooded and steep. With the conditions set out below, the Applicant's proposed use would be in harmony with the surrounding area.

20. The use proposed by the Applicant does not cause substantial problems of ingress/egress, parking, utilities, buffering and landscaping, structures, lighting, accessibility or solid waste collection as those problems are referred to in Henderson County Code §42-355.H., above.

21. The Board requires the following conditions, pursuant to N.C.G.S. §160D-705(c) and subject to Henderson County Code §42-355.H.2.:

A. The Applicant must obtain a valid North Carolina Department of Transportation driveway permit.

B. The Applicant must obtain valid permits for use of existing (or new) septic systems in accord with the use sought from the Environmental Health Division of the Henderson County Department of Public Health.

C. The Applicant must provide Americans with Disabilities Act compliant parking spaces as required under that Act.

D. The Applicant must comply with all applicable North Carolina Building Code regulations regarding the use of the property and the occupancy sought (that is, the number of persons receiving treatment at the facility plus staff).

E. The Applicant shall install a security system in the building on the exterior doors and windows of the subject property, with alarms active between 10:00 p.m. and 6:00 a.m. each night.

F. The Applicant will enforce an overnight occupancy limit of eighteen (18) persons (including staff).

G. There shall be no additional structures built on the subject property beyond that to be placed on the existing concrete slab.

H. The Applicant will insure that participants in the substance abuse treatment program wishing to leave the premises will be driven in an automobile by the Applicant to the Hendersonville city limits.

I. The Applicant will insure that the septic system on the subject property shall be sized to accommodate the overnight occupancy limit, above.

J. The Applicant will install a generator sufficient in size to power the existing structure as modified, and will insure there is sufficient fuel on hand such that in the event of an emergency the generator will be able to operate for five (5) days.

K. The Applicant will insure that no person will be permitted to reside (as a program participant or as staff or in any other role) on the subject property who has been convicted and not had their record expunged of the crimes listed on section 11 of the decree, below.

From the foregoing, the ZBA concludes as a matter of law:

1. That this matter is properly before the ZBA.
2. That the Applicant has sufficiently rebutted any evidence to the contrary such that the requirements of Henderson County Code §42-355.H. have been met.
3. That the special use application should be granted, on the conditions stated below.

**IT IS THEREFORE ORDERED** by the Henderson County Board of Adjustment, after quasi judicial hearing, public discussion, and motion made and seconded and adopted by a vote of 4-1, that Henderson County Special Use Permit Application SP-22-07 is hereby granted, subject to the following conditions (all agreed by the Applicant):

1. The Applicant must obtain a valid North Carolina Department of Transportation driveway permit.
2. The Applicant must obtain valid permits for use of existing (or new) septic systems in accord with the use sought from the Environmental Health Division of the Henderson County Department of Public Health.
3. The Applicant must provide Americans with Disabilities Act compliant parking spaces as required under that Act.
4. The Applicant must comply with all applicable North Carolina Building Code regulations regarding the use of the property and the occupancy sought (that is, the number of persons receiving treatment at the facility plus staff).
5. The Applicant shall install a security system in the building on the exterior doors and windows of the subject property, with alarms active between 10:00 p.m. and 6:00 a.m. each night.
6. The Applicant will enforce an overnight occupancy limit of eighteen (18) persons (including staff).
7. There shall be no additional structures built on the subject property beyond that to be placed on the existing concrete slab.
8. The Applicant will insure that participants in the substance abuse treatment program wishing to leave the premises will be driven in an automobile by the Applicant to the Hendersonville city limits.
9. The Applicant will insure that the septic system on the subject property shall be sized to accommodate the overnight occupancy limit, above.
10. The Applicant will install a generator sufficient in size to power the existing structure as modified, and will insure there is sufficient fuel on hand such that in the event of an emergency the generator will be able to operate for five (5) days.

11. The Applicant will insure that no person will be permitted to reside (as a program participant or as staff or in any other role) on the subject property who has been convicted of the following:

A. Any felony offense classed as Classes A through E, inclusive, as shown on the Felony Classification Under the Structured Sentencing Act compiled by the North Carolina Sentencing and Policy Advisory Commission, or is defined as a "habitual felon" or a "violent habitual felon" under N.C.G.S. Chapter 14, Articles 2A and 2B.

B. Any assault crime, whether classified as a felony or misdemeanor under North Carolina or Federal law, which inflicts serious injury, and any crime involving the use of a deadly weapon.

C. Any felony with a victim who was at the time of the commission of the crime a minor, an unborn child, or a person under a disability.

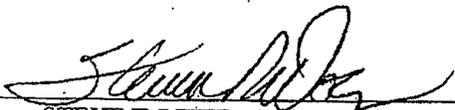
D. Any misdemeanor listed on the attachment hereto.

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Announced after deliberation at the conclusion of the public hearing on December 14, 2022, and approved in this final form after first having been submitted to all parties and approved by the Applicant, this the 25<sup>th</sup> day of January, 2023.

HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT

By:   
STEVE DOZIER, Acting Chair

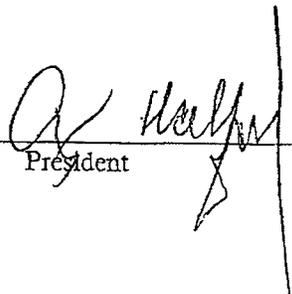
Attest:

  
MATT CHAMPION, Secretary to the Board

AGREEMENT OF THE APPLICANT:

The Applicant hereby agrees to the conditions stated above and on the attachments hereto as conditions for the grant of the special use permit, and further agrees to comply with the same.

FIRST CONTACT MINISTRIES, INC.  
Applicant

By:   
President

Henderson County Zoning Board of Adjustment  
 File SUP-22-07  
 Attachment to Order

MISD. CLASS	GENERAL STATUTES SECTION	OFFENSE
A1	14-23.6	Battery on an unborn child. <i>(Effective 12/1/11)</i>
A1	14-27.33	Sexual battery. <i>(Was G.S. 14-27.5A – Effective 12/1/15)</i>
A1	14-32.1(f)	Assaults on handicapped persons; punishments (simple assault or battery). <i>(Was Class 1 - Effective 12/1/06)</i>
A1	14-33(c)(1)	Assault inflicting serious injury or using a deadly weapon.
A1	14-33(c)(2)	Assault on a female.
A1	14-33(c)(3)	Assault on a child under 12 years of age.
A1	14-33(c)(4)	Assault on a State officer or employee.
A1	14-33(c)(5)	Assault on a school employee or volunteer. <i>(Effective 12/1/99)</i>
A1	14-33(c)(7)	Assault on a public transit operator. <i>(Effective 12/1/04)</i>
A1	14-33(c)(8)	Assault on a company police officer. <i>(Effective 7/28/05)</i>
A1	14-33(c)(9)	Assault on a transportation network company (TNC) driver. <i>(Effective 12/1/19)</i>
A1	14-33(d)	Assault inflicting serious injury or using a deadly weapon on a person with whom the person has a personal relationship and in the presence of a minor. (Statute requires a minimum of supervised probation for first offense and a minimum of 30 days in jail for second offense) <i>(Effective 12/1/03)</i> <i>(Classification effective 8/17/04)</i>
A1	14-34	Assaulting by pointing gun.

1 quasi-judicial hearing is much like a trial in court with  
 2 witnesses and chance of parties to the hearing to  
 3 cross-examine witnesses if they wish. Unlike a trial in  
 4 court, however, members of the public are also allowed, if  
 5 they wish, to testify without being called as a witness by  
 6 the party to the hearing so long as they provide competent,  
 7 substantial and relevant evidence under oath of the issues  
 8 to be decided by the Board.

9 Unlike in a public hearing when, for an example,  
 10 the board of commissioners are considering adoption or  
 11 amendment of an ordinance, only persons who could  
 12 demonstrate that they will be specifically affected by the  
 13 outcome of the decision can participate in this hearing.

14 Under North Carolina law, only persons who are  
 15 directly and substantially affected by this decision have a  
 16 right to participate in this hearing. Section 160D-1402,  
 17 paragraph C of the North Carolina General Statutes discusses  
 18 the matter, including the following persons as having  
 19 standing. Any person, one, with an ownership, leasehold or  
 20 easement interest in the property that is subject to the  
 21 decision. Or, two, an option to purchase that property that  
 22 is the subject of the decision; or, three, is the Applicant  
 23 before the Board.

24 Any person who will suffer special damages as a  
 25 result of the decision, the courts have defined special

1 MR. DOZIER: Okay.

2 MR. GULDEN: And just for the record, I will hand  
3 up that affidavit.

4 MR. DOZIER: If you would, please.

5 MR. GULDEN: Yeah. And if you need more copies --  
6 Derek, you got one?

7 MR. JONES: Yeah, I got one.

8 MR. GULDEN: All right.

9 MR. DOZIER: Yes, sir.

10 MR. JONES: If it would please the quasi-judicial  
11 body, my name's Derek Jones. I represent the Applicant.

12 And we have to object and oppose the request to move the  
13 matter. This property that we're seeking the special use  
14 permit application under is currently under contract with  
15 the sellers, and so we have a closing date that's scheduled.  
16 And that closing date was scheduled based on the date that  
17 this proceeding and body gave us our court date, today.

18 The members of the Board may remember that we were  
19 here not too long ago on an application for a different  
20 piece of property. That fell through because of a delay in  
21 a funding issue. We have the funding now, but a delay in  
22 hearing this today may likely cause the deal to go through  
23 with this property we have.

24 As Mr. Gulden said, we have notice pursuant to the  
25 land development code as required, no earlier than 25 days,

1 MR. RUIZ: That's when it becomes -- okay.

2 MR. RIDDLE: I don't know enough information to say  
3 yes or no, but we do have representatives from the county  
4 that care deeply about this, and I simply would like to  
5 suggest we have a continuance to gather more information.

6 MR. DOZIER: Well, as stated, this could end up  
7 killing that deal. I know that First Contact has had a  
8 place by Mud Creek that got denied. They got approved for  
9 one just outside the city limits. With what was stated  
10 here, this could end up killing this deal for a third  
11 option.

12 MR. RIDDLE: I personally hold some of the  
13 responsibility here with the real estate agents who knew --  
14 who should have known that having the full entitlements to  
15 do what they wanted to do would take more time. That should  
16 have -- that, I think could have been handled. I'm all for  
17 First Addiction Ministries. We need nothing more than what  
18 they have to offer in this county, and I would really hate  
19 to see the deal die, but I don't know enough information and  
20 I would like to know more.

21 MR. DOZIER: Mr. Jones, do you have another  
22 comment?

23 MR. JONES: I do. I've spoken with my client who's  
24 the Applicant. I've also spoken with Mr. Gulden. I believe  
25 we would both be in agreement to allow a short continuance,

GROSS OF CRAIG HALFORD BY MR. HALL

1 considering it. The answer now is it's highly doubtful.

2 Q. Would that ever happen?

3 A. Once we got to the property.

4 Q. Would or could that ever happen?

5 A. I can't answer that.

6 Q. Mr. Halford, do you realize that there are other  
7 zoning areas in Henderson County such as OI, LC, CC and RC  
8 that do not require this process tonight?

9 MR. JONES: So I object to relevance. The party  
10 should be focusing questions that go after the standards  
11 that the Board is asked to assess.

12 MR. DOZIER: This particular property.

13 MR. JONES: Correct.

14 MR. HALL: This is relevant to the special permit.  
15 We would not be in this meeting if it was one of the other  
16 zoning areas. I'm just asking him if he understands that  
17 there are other zoning areas that do not require this  
18 meeting.

19 MR. JONES: Which would not be relevant to public  
20 health and safety, property value, and harmony, is the point  
21 of the objection.

22 MR. HALL: It would be in relation to harmony, and  
23 in our presentation I will make that point.

24 Q. (By Mr. Hall) Mr. Halford, are you aware in your  
25 special permit application --

CROSS OF CRAIG HALFORD BY MR. HALL

1 MR. DOZIER: Hold on one second. Russ, I need some  
2 direction on that.

3 MR. BURRELL: First of all, I don't think whether  
4 what -- all you can make your decision on is this piece of  
5 property.

6 MR. DOZIER: This piece of property.

7 MR. BURRELL: Whether there are other zoning  
8 districts, I don't -- you know, there are; that's self  
9 evident, but that doesn't make a difference. You have to  
10 make your decision about this piece of property, period.

11 MR. DOZIER: Okay. We'll disallow that comment or  
12 question.

13 Q. (By Mr. Hall) Are you aware that none of the  
14 information in the application process indicates that you  
15 are a drug rehab facility? I think we partially covered  
16 that.

17 MR. JONES: I'll object to that. The assertion  
18 presented in the question, it's part of the assisted living  
19 residence definition.

20 MR. HALL: But normally people consider an assisted  
21 living residence as an elderly --

22 MR. DOZIER: But under our county guidelines it's  
23 all inclusive, so I've got to disregard that as well.

24 Q. (By Mr. Hall) How did the Fork Creek Community, in  
25 your understanding, find out that this was for a drug rehab

1 facility?

2 A. They were given notice. Notice was placed by the  
3 planning board on the property.

4 Q. That's my point. The notice does not indicate a  
5 drug rehab facility.

6 A. I don't have anything to do --

7 MR. JONES: You don't have to answer. It's not a  
8 question.

9 Q. Mr. Halford, the sign went up on Fork Creek Road on  
10 September 12th. My wife, daughter, and I watched the sign  
11 go up. It was for an assisted living facility. Who called  
12 you to set up a meeting from the neighborhood to find out  
13 more about you and who you are?

14 A. You did.

15 Q. Had you ever visited Orchard Lake Camp -- we also  
16 own Orchard Lake Campground, an adjoining facility. Had you  
17 ever visited the Orchard Lake Campground facility before  
18 your meeting?

19 A. No.

20 Q. Have you since the meeting?

21 A. No.

22 Q. Did you do a demographic study of the neighborhood?

23 A. No.

24 Q. Did you ever consider that there are single women  
25 adjoining the property and how they would be affected with

1 security before applying for the permit?

2 A. Would you state that again?

3 Q. Did you ever consider that there are single women  
4 adjoining the property and how, for security reasons, they  
5 could be affected with your facility?

6 A. I imagine that wherever we went there would be  
7 single women.

8 Q. But did you ever consider the specific single women  
9 that are adjoining the 4358 Fork Creek property?

10 A. I was not aware of who they were.

11 Q. Did the Halls ever ask you for another meeting  
12 after the September 17th meeting?

13 A. After -- after Mr. Gulden was hired.

14 Q. Did I text you and ask you for another meeting, yes  
15 or no?

16 NEW SPEAKER: He said yes.

17 Q. Okay.

18 A. Yes, you did.

19 Q. How did you respond?

20 A. I said that there was -- the opposing side hired an  
21 attorney and, therefore, any need for us communicating  
22 is -- there is no need.

23 Q. So there is no need for you to communicate with us  
24 and the Fork Creek neighborhood because attorneys are  
25 involved?

CROSS OF CRAIG HALFORD BY MR. HALL

1 MR. JONES: I'll object to relevance to these  
2 questions.

3 MR. DOZIER: Yeah, once you go under contract with  
4 an attorney, I think that client to neighbor kind of shuts  
5 off.

6 MR. HALL: We are not -- we have chosen to  
7 represent ourselves, Konnie, Hannah and me. We are not  
8 represented by an attorney. The reason we did that is  
9 because I feel like Craig and his Board of Directors deserve  
10 face-to-face interaction with us. And if I didn't have the  
11 courage to deal with them face-to-face, then I shouldn't be  
12 sitting here. So I --

13 THE WITNESS: Which I gave you two hours.

14 MR. HALL: We do not have representation.

15 MR. JONES: Which is another objection. The code  
16 doesn't require these things. So the questions are  
17 irrelevant.

18 MR. HALL: The questions are not irrelevant,  
19 because what I want to demonstrate is -- and it's very  
20 difficult to do -- is harmony in the neighborhood is one of  
21 the stipulations, and I'm going to establish -- I'm trying  
22 to establish that the neighborhood was never a concern for  
23 Craig Halford and First Contact Ministries.

24 MR. DOZIER: Russ, I need some direction here as  
25 well.

1 MR. BURRELL: I believe the statute talks about the  
2 harmony of the use. It doesn't talk about people getting  
3 along. I'm sorry. It talks about the harmony of the use in  
4 the neighborhood.

5 MR. HALL: That use -- there's a difference in an  
6 assisted living facility with elderly people. I don't  
7 believe any of the Fork Creek neighborhood would be here  
8 tonight if -- if that was the case. There's a big  
9 difference in a drug rehabilitation facility going into the  
10 Fork Creek neighborhood. It does have a direct effect on  
11 the harmony of the neighborhood. And that's why all of  
12 these people are here tonight.

13 MR. JONES: So if he wanted to ask questions of the  
14 witness regarding those things. He's asking the witness  
15 questions about did we text each other. So my objection is  
16 to the relevance based upon communication.

17 MR. DOZIER: I have to agree with the counsel.

18 MR. HALL: May I make one comment?

19 MR. DOZIER: As a question.

20 MR. HALL: If he will not talk to us, if he denies  
21 talking to us because he's got an attorney, once this  
22 facility goes in, does he continue not talking to the  
23 neighborhood because he doesn't want to? So there's a  
24 pattern -- there's a pattern I'm trying to establish that  
25 Mr. Halford is refusing to interact with the neighborhood.

CROSS OF CRAIG HALFORD BY MR. HALL

1 MR. DOZIER: I assume that's part of why we're  
2 here, that there can be some communication in the form of  
3 questions.

4 MR. HALL: Sure.

5 Q. (By Mr. Hall) Mr. Halford, the information, the  
6 whole application process, do you consider it transparent or  
7 not with respect to a drug rehabilitation center?

8 MR. JONES: And I'll object to the relevance of  
9 that question.

10 MR. DOZIER: Again, it falls under the guidelines  
11 of the county as an assisted living facility.

12 MR. JONES: And I'll say this, the law presumes  
13 that if -- if a certain use is enumerated in the table of  
14 uses in that as a special use, it's presumed to be in  
15 harmony with that zoned area. So my objection is to  
16 relevance, and if the party wants to ask questions  
17 specifically about the standards that would suggest that  
18 it's somehow not in harmony. It's presumed to be in harmony  
19 if we're only going to talk about the facility, or the type  
20 of facility it is. It's presumed to be in harmony. So he  
21 needs to ask questions of the witness that elicits some sort  
22 -- or attempt to elicit responses that says it's not in  
23 harmony.

24 MR. DOZIER: Mr. Hall.

25 MR. HALL: I understand that, but I disagree. I

1 object to what this man is saying because, again, there's a  
2 big difference between drug rehab and an elderly assisted  
3 living facility. So it seems only fair to find out more  
4 about the specific assisted living facility that he is  
5 trying to put in.

6 MR. DOZIER: Again, it all falls under the county  
7 code as an assisted living of many different sorts: Adult  
8 care, could be day care, could be a number of different  
9 things. But it just falls under that general headline.

10 MR. HALL: I understand that. But  
11 there's -- there's a definite difference in public  
12 perception between an elderly assisted living facility and a  
13 drug rehabilitation facility for adult men, 18 to 70, who  
14 have only been off drugs a matter of hours or days. So  
15 there's a definite difference within the assisted living  
16 category for drug rehabilitation.

17 And I believe the Board, in making your decision,  
18 you need to understand -- you need to hear that, we would  
19 ask you. And I believe the Fork Creek Community deserves to  
20 hear about the specific drug rehabilitation facility that  
21 falls under the assisted living facility. That's why Fork  
22 Creek Community is represented here tonight, is because it's  
23 a drug rehabilitation facility.

24 With drug rehabilitation facilities, it does come  
25 with questions. It comes with questions of harmony,

1 questions of security, and those questions have not been  
2 answered, and they deserve to be answered by Mr. Halford, by  
3 his Board, for the Fork Creek Community. Because as it  
4 stands, my wife, Konnie and I, are the only ones that have  
5 standing to ask some of these questions on behalf of our  
6 community.

7 MR. DOZIER: Russ or Matt, you got any guidance  
8 here?

9 MR. BURRELL: I don't -- I'm kind of at a loss.  
10 While I understand that in the normal way you may talk with  
11 someone out on the street about certain things, that there  
12 might be separate categories for each of those uses that  
13 fall under this one category of use under the zoning  
14 ordinance.

15 MR. DOZIER: Of assisted living.

16 MR. BURRELL: Right. You are forced by our  
17 ordinance to deal with this particular category and all of  
18 its uses. This is one of them. It may not be the one that  
19 pops immediately to mind, but this is the law of this case;  
20 it is the ordinance that exists as this case is being  
21 determined, and they have a right to proceed under the way  
22 this ordinance reads. That's the way it reads.

23 MR. DOZIER: Okay. All right. If you've got other  
24 questions to ask, but the harmony thing, you know, we just  
25 can't have that within the guidelines of this ordinance.



1 MR. HALL: Does the ordinance specifically list  
2 drug rehabilitation facility in the ordinance?

3 MR. DOZIER: It falls under assisted living,  
4 correct, Matt?

5 MR. HALL: Does it specifically state drug  
6 rehabilitation facility in the ordinance?

7 MR. NOOR: If I can just register an objection to  
8 hopefully move this along. There are questions, and I get  
9 that, and I think I heard it in the crowd, we can't all be  
10 lawyers. And I'm not trying to silence this gentleman. But  
11 this is the opportunity for him to ask questions of this  
12 witness. And he'll have an opportunity to present his  
13 evidence and statements during his case. But if we keep  
14 doing this, we're going to be for a very long period of  
15 time. And it's not that I don't think there's an  
16 opportunity for you to present this. I just don't think  
17 what's happening right now is a cross-examination of this  
18 witness.

19 MR. DOZIER: Okay.

20 MR. NOOR: So I'd ask that we move along, that it's  
21 not relevant right now, but that he can ask questions of the  
22 witness so that we can proceed with the --

23 MR. HALL: I will move along and continue.

24 Q. (By Mr. Hall) Mr. Halford, do you know anyone in  
25 the Fork Creek Community that is in favor of this assisted

## CROSS OF KIRK HALL BY MR. JONES

1 to stipulate to that.

2 MR. JONES: Well, it would be nice if there was  
3 just one factor. There are more factors. You have a  
4 harmony factor and it's, you know, and thus the proposal for  
5 the stipulation is if it's not relevant to the proceeding,  
6 these questions and comments and concerns we've heard over  
7 and over again, then it's not relevant to any party. But if  
8 it is relevant, then I think that Mr. Hall needs to be  
9 subject to hearing from the harm extent.

10 MR. DOZIER: Well, I am certainly not an attorney,  
11 don't want to be one of you guys, but I think I've got to  
12 rule in their favor that this question is out of line.

13 MR. HALL: At this time --

14 MR. JONES: I'm not done asking questions.

15 MR. HALL: Oh, I'm sorry.

16 Q. (By Mr. Jones) Do you have a fence built around the  
17 campground to keep your residents in the campground to only  
18 allow them to enter and leave through the main entrance?

19 MR. GULDEN: Well, and I'm just going to object  
20 again just for the fact that this is -- he's asking about  
21 Mr. Hall's use of his property. And if we're going to  
22 finish this any time this year, we need to focus on the  
23 application. And that's -- unfortunately, his use of his  
24 property and a fence is totally not relevant to whether  
25 there's health, safety, or welfare related to Mr. Halford's

1 Craig. He refused.

2 MR. JONES: I'm going to object. If this is  
3 essentially the subject of whence continuing to talk about,  
4 it's not addressing any of the standards that we're here to  
5 talk about. I don't know how persuasive it is --

6 MR. DOZIER: Hannah, please hold that for me.

7 MR. JONES: -- it being somewhat complaining about  
8 the communication process. That's not part of the  
9 requirements of this process. So for that purpose, I'm  
10 objecting.

11 MR. HALL: If I may -- I'm sorry, I don't mean to  
12 interrupt you.

13 MR. DOZIER: Go ahead.

14 (Opposition Exhibit Number 27 was marked for  
15 identification.)

16 MR. HALL: It is very relevant. At this time I  
17 would like to give out a sheet of definitions. Words in  
18 this matter are very important in the context of this  
19 hearing, so we need to define them.

20 MR. DOZIER: Well, again, back to your thing with  
21 the time frame, I think it's been established that there was  
22 not a ton of communication.

23 MR. HALL: That's correct. And harmony requires  
24 communication. One of the requirements of this permit --

25 MR. DOZIER: Hannah, hold on.

1 MR. HALL: One of the requirements of this permit  
2 is that there be harmony. Harmony is not how well they cut  
3 the grass. Harmony has to do with relationship; it has to  
4 do with communication. Harmony is not defined as being best  
5 buds with Craig and his organization, but it does require  
6 communication. Nor is it defined in this situation as  
7 keeping the facility out. Harmony means there's  
8 relationship, communication. Even if we sit on two sides of  
9 the table and we disagree, at least we have communicated  
10 through the process. And there has been refusal after  
11 refusal to communicate because lawyers are involved. So on  
12 the one hand the lawyer doesn't want you to communicate with  
13 the community. On the other hand, the lack of communication  
14 is creating disharmony within the community. And there's  
15 great disharmony within the community primarily because of  
16 lack of communication.

17 MR. DOZIER: And I would think this Board would  
18 fully understand the meaning of harmony and many of the  
19 other things. We've been doing this for a while, so...

20 MR. HALL: And I don't mean to question that at  
21 all, but I do believe it's an important thing that we need  
22 to talk about.

23 MR. DOZIER: We need to talk about harmony?

24 MR. HALL: No. I would like to finish giving you  
25 my timeline of what has transpired in --

1 MR. DOZIER: And we haven't a set time, so time  
2 allotment is not of concern.

3 MR. NOOR: Mr. Dozier, on behalf of Ms. Neufeld, we  
4 would object as well for a couple of different reasons.  
5 Harmony is a standard, however, the definition that they're  
6 being provided is not the definition of harmony under 160D.  
7 Unless this Board has received training on what harmony  
8 means, it's not the definition that I'm aware of any court  
9 attaching to that term in the context of a zoning  
10 determination. Harmony relates to the proposed use in  
11 relationship to surrounding properties. It does not relate  
12 to the definition that Mr. Hall has provided. So it's  
13 irrelevant by definition. That's not what you're asked to  
14 decide today. And so I'd respect for I think your time and  
15 everyone else's, it's just not a factor or set of evidence  
16 or materials that are necessary to consider in order for you  
17 to rule or make your determination, and I would ask that you  
18 move on.

19 MR. HALL: I did email Matt Champion and asked him  
20 if there's a definition of harmony. He said there's no  
21 specific definition of harmony in Henderson County code or  
22 the North Carolina code. I saw Matt also at the  
23 commissioner's meeting a few days ago. He said, you know,  
24 there's not a definition of harmony. Look it up in  
25 Webster's to get your definition.

1 So I've got good reason for this handout defining  
2 words, what they mean in the context of this hearing, and I  
3 would like to proceed if at all possible.

4 MR. DOZIER: Thoughts from the Board?

5 MR. HALL: And in this handout there's a copy of  
6 the email from Matt Champion, as well.

7 MR. GULDEN: And just I'll put in my 2 cents. I  
8 agree with Mr. Hall, there is no definition of harmony in  
9 160D, as Mr. Noor said.

10 MR. NOOR: I didn't say it was in 160. I said the  
11 definition they've provided is not consistent with any case  
12 law or statute that defines the term we're discussing. It's  
13 not about communication; it's about a relationship with the  
14 proposed use of surrounding properties. That's what harmony  
15 is referring to. And I think every practitioner within the  
16 zoning field would have a similar definition of that term,  
17 and that it doesn't involve communication and relationship  
18 with neighbors. That's not what the standard is referring  
19 to.

20 MR. GULDEN: Notwithstanding what I think harmony  
21 stands for, Mr. Noor did say it doesn't comply with the  
22 definition of harmony in 160D. And all I'm saying is I  
23 agree with Mr. Hall, there is no definition of harmony in  
24 160D as Mr. Noor said.

25 MR. DOZIER: Well, if the State has stated that

1 there is no definition of harmony -- (inaudible) applies to  
2 this hearing.

3 MR. HALL: Well, I think.

4 MR. HYSONG: There are many facets to harmony. It  
5 may all work together. You can't just prove harmony as one  
6 thing. One effects the other, as far as I can tell.

7 MR. HALL: My opinion is that if harmony doesn't  
8 matter, then we need to strike it from the law. If harmony  
9 is not an essential part of this hearing, we need to strike  
10 it from -- as one of the requirements for this special use  
11 permit.

12 MR. BURRELL: The ordinance as it reads in  
13 42-355H(1): The applicant may be required in his or her  
14 rebuttal to show that the proposed use will, A, not  
15 materially endanger public, health, safety, and welfare; 2,  
16 not substantially injure the value of property and the  
17 purpose of the area; or, C, be in harmony with the  
18 surrounding area.

19 MR. NOOR: Surrounding area being the key there.

20 MR. HYSONG: But it all blends together.

21 MR. NOOR: I'll also note that the case law in  
22 North Carolina is clear that once your commissioners  
23 designate a piece of property in one of the uses, whether  
24 it's a special use or otherwise, is listed in the table of  
25 uses as prima facie evidence of harmony, meaning it is in

1 harmony by definition.

2 MR. HYSONG: In this proceedings, the burden of  
3 proof is on those that oppose, and they are addressing the  
4 subject of harmony. So you can't tie their hands behind  
5 them. You don't have to prove that there is harmony. They  
6 have to prove that their isn't. Let them present their  
7 case.

8 MR. NOOR: (Inaudible) -- objection.

9 MR. DOZIER: (Inaudible) -- got any advice.

10 MR. BURRELL: When I've been in your position, I  
11 have always ruled with the knowledge that a majority of the  
12 Board could overrule if they chose to. So I would do my  
13 best, though. You've heard the definition from the  
14 ordinance. How this effects that is up to you to decide  
15 whether what you're hearing -- which what you've heard is,  
16 to be fair to say, a prediction of it. You haven't actually  
17 heard all of the evidence yet. But whatever you heard is a  
18 prediction of the evidence, whether that's relevant of what  
19 the statute says or what the ordinance says or not.

20 MR. RIDDLE: Mr. Chairman, may I say one item?

21 MR. DOZIER: Sure, you may.

22 MR. RIDDLE: In title permitted uses for this  
23 zoning designation, which does not have to go through the  
24 special use permitting situation that we're in now in front  
25 of the Zoning Board, if someone were to buy the property

1 tomorrow, they could open a portable sawmill, a commercial  
2 shooting range, a hog farm, or an event center with 500  
3 people or greater. These are not -- I don't think that a  
4 commercial shooting range is harmonious with the area, but  
5 it's entitled, and they're entitled to do that. So as we  
6 debate what harmony is, let's also think about what could  
7 happen. And those are entitled permitted uses; not  
8 harmonious, but they are entitled. Thank you.

9 MR. DOZIER: We'll make some people happy, some  
10 unhappy.

11 MR. HALL: This section is short, so...

12 MR. DOZIER: Again, if it's disallowed, it's  
13 disallowed, whether it's short or length. I'm going to have  
14 to rule in their favor that this should not be admitted.

15 MR. HYSONG: I don't see why. I disagree. They  
16 have to prove there's no harmony. Give them a chance.

17 MR. CASORIA: That's what they've been doing.

18 MR. GULDEN: We just ask that under 160D, the Board  
19 has the ability --

20 MR. HYSONG: Well, you don't have to buy it. You  
21 don't have to agree with it, but you have to give them a  
22 chance to speak.

23 MR. BURRELL: Think about if you have an objection  
24 to --

25 MR. GULDEN: Yes, I would just ask the Board to

1 vote.

2 MR. DOZIER: All those that want to reject this  
3 description of harmony and the other terms that they're  
4 doing, vote -- approve that motion. I guess, is it a  
5 motion?

6 MR. BURRELL: Yeah, just --

7 MR. RUIZ: I think right now the Board is taking a  
8 straw vote to see what --

9 MR. BURRELL: Just follow --

10 MR. DOZIER: So we'll disallow the descriptions of  
11 harmony and --

12 MR. RUIZ: Just one question if I may ask Russ.

13 MR. BURRELL: Yes.

14 MR. RUIZ: As far as you have mentioned, okay, the  
15 ordinance mentions harmony but does not mention harmony in  
16 relationship to zoning issues. I mean, there's all kinds of  
17 words out there, but it's in different -- in different  
18 businesses or in different conditions it means something  
19 different. So harmony, you know, in my case I'm an  
20 architect and I'm a planner. Harmony, to me, when I'm  
21 talking in relationship to issues of zoning, is in  
22 relationship to the property and the surroundings, not in  
23 whether people get along and all this other aspect.

24 MR. BURRELL: Well, to read the ordinance, I'll  
25 read the relevant parts of this ordinance. The Applicant

1 may be required in his rebuttal to show that the proposed  
2 use will be in harmony with the surrounding area.

3 MR. HYSONG: Whatever that means.

4 MR. BURRELL: Well, I understood it that the Board  
5 has to determine whether it's in harmony.

6 MR. RUIZ: Now, the only question is, as was being  
7 pointed out, if they are some uses that are already titled  
8 in it that really are not in harmony with the community,  
9 because, I mean, some of the uses that you mentioned would  
10 not be in harmony.

11 MR. HALL: I do have --

12 MR. DOZIER: We're discussing --

13 MR. RUIZ: -- from the point -- from the point of  
14 planning and zoning, but they're allowed. So here we're  
15 taking one that is maybe not clearly defined and trying to  
16 make a decision. Virtually, I think I tend to agree with  
17 them, let's let them try to prove their point and then move  
18 on.

19 MR. DOZIER: Andrew?

20 MR. RIDDLE: I say that the definition of harmony  
21 is not admissible.

22 MR. DOZIER: Mark.

23 MR. CASORIA: We've heard a lot of things, and if  
24 you haven't proved your point at this point, I don't know  
25 how another definition will help.

1 MR. HALL: I have specifics that have not been  
2 brought out at this point. I've saved them for this  
3 section.

4 MR. HYSONG: The question of harmony hasn't been  
5 brought up before now. So we've talked about safety and  
6 welfare --

7 MR. CASORIA: -- is whether this is in harmony or  
8 not.

9 MR. HYSONG: That's my point. It's more than --  
10 harmony is more than one single facet.

11 MR. CASORIA: Let's hear it then.

12 MR. DOZIER: So you're agreed to hear it?

13 MR. CASORIA: Yeah, let's do it. Let's do it.  
14 It's getting late.

15 MR. DOZIER: Jim.

16 MR. HYSONG: Yes, hear it.

17 MR. DOZIER: All right. Continue on.

18 MR. HALL: Okay. I've got a handout of questions  
19 that includes harmony. Agreement, accord, tranquility, a  
20 relationship characterized by a lack of conflict or  
21 agreement. Disharmony equals lack of harmony, discord,  
22 incongruity.

23 October 19th: Kirk requested another meeting with  
24 Craig. He refused.

25 MR. DOZIER: Again, I think this has been asked and

1 answered a number of times. Can we move on to something  
2 else, like the definitions that you presented?

3 MR. HALL: This is -- this is different.

4 MR. DOZIER: But you're saying the same thing, that  
5 he did not respond to your time to meet or questions.  
6 That's the same thing we just went through.

7 MR. HALL: I'd like to read the communication,  
8 because harmony requires communication.

9 MR. RUIZ: But not harmony in the sense of zoning  
10 or dealing with the property. We're actually -- I mean, in  
11 my case I'm a little bit confused, because I come from --  
12 originally from a state where we deal with zoning in a  
13 different way, and so I'm trying to understand things I  
14 might -- Russ, am I understanding correctly that we're  
15 asking about the property?

16 MR. BURRELL: I can -- I can give you my  
17 interpretation, but what really matters is your  
18 interpretation, which is why I keep reading it again.  
19 Applicant required to show that the proposed use will be in  
20 harmony with the surrounding area.

21 MR. RUIZ: The use within the property that we're  
22 talking about?

23 MR. DOZIER: That's Applicant not proponent though.

24 MR. BURRELL: The Applicant in rebuttal if someone  
25 has shown something negative to their application. And

1 that's where we are. If the Applicant can show that the  
2 proposed use will be in harmony with the surrounding area.

3 MR. DOZIER: Again, if we can skip past the  
4 timeline of not having communications back, and let's move  
5 on to the next.

6 MR. HALL: Okay. I will say this at this point.  
7 Harmony is a requirement of the special use permit. We sent  
8 out -- we got questionnaires from 79 of the Fork Creek  
9 Community residents. We asked them numerous questions about  
10 this special use permit. Of those questionnaires, and I'm  
11 prepared to give you a copy of them today, all of them said  
12 this was not in harmony with the Fork Creek Community. So I  
13 believe the Fork Creek Community should have a say in this,  
14 and they should be able to express their opinion about  
15 whether bringing a drug -- men's drug rehabilitation  
16 facility into the community, is it fostering harmony, or is  
17 it fostering disharmony. And I think there are others in  
18 this room that would agree that the lack of communication  
19 and the lack of transparency on the part of Craig Halford  
20 and First Contact Ministries did not promote harmony. In  
21 fact, I've got another handout on transparency. That  
22 handout comes straight from the First Contact website  
23 where --

24 MR. DOZIER: But, again, you have said numerous  
25 times that there's been little to no communication. I don't

1 evidence and the presentations on either side, there is, in  
2 my mind, various stages or degrees of doubt on all three of  
3 the primary criteria that are laid out for determining  
4 whether we accept or deny this. And I don't know if I can  
5 put a number on them, but there are -- there are some very  
6 clear evidences or doubts in my mind about this in all three  
7 areas.

8 MR. DOZIER: Anything else? Mark?

9 MR. CASARIO: This has not been an easy decision.

10 I haven't come in -- I have come in with an open mind. Like  
11 many of you, I have lost sleep over this issue. I'm in  
12 favor of freedom of use of the property in the county, which  
13 is one of the reasons why I agreed to be on this Board. So  
14 I really am still trying to decide where I come down on all  
15 this. So, that's all I have to say.

16 MR. RUIZ: I've served on several Boards for many  
17 years, zoning boards, planning boards, you name it. I don't  
18 think I've ever been making a decision as difficult as this  
19 one is. On one side we have the fact that we can't deny it,  
20 we have a need in the community. We, I would imagine  
21 probably all of us know somebody who either themselves or a  
22 son, daughter, husband, whatever, are addicted to alcohol,  
23 to drugs. The fact that we have a beer, a brewery in just  
24 about every corner which is exacerbating the problem. And  
25 the fact that every time that we have an event, alcohol is

1 MR. RIDDLE: I live next to Lake House Academy in  
2 Flat Rock. And when the Lake House Academy was proposed to  
3 be an all girls juvenile delinquent center, there was a lot  
4 of fear. And I live near that. There was a lot of fear in  
5 the neighborhood. And I think fear is the -- is the  
6 motivation here. I think that if it were presented maybe in  
7 a different light to the community, things may be different.  
8 I'm not sure. If Orchard Lake Campground was not in  
9 existence and I applied to put a 160-pad campground facility  
10 right in the middle of this community, there might be  
11 opposition because of a fear of the unknown.

12 But what is true and what is a fact is that  
13 tomorrow that property could be purchased and a commercial  
14 outdoor shooting range could be put up without question.  
15 What is true is a hog farm could go there tomorrow, and  
16 without question, that's -- that's permitted. We need -- we  
17 need facilities in this county for addiction recovery from  
18 opioids. We need this. And where it goes, I'm not, you  
19 know, that's what we're here to decide. However, with the  
20 right conditions and with the right understandings, I'm  
21 open-minded to this. So it's a really tough one, but we  
22 have a -- we have a major problem in our community  
23 addressing and helping. So, I do know that. Thank you.

24 MR. DOZIER: I got to start saying no to different  
25 committees. I'm so involved in the county and stuff, I've

1 got to learn how to say no, because these are not easy  
2 decisions and processes. My thing would be that if this  
3 were approved that we put a number of conditions such as  
4 fire escapes, expanding the septic system, things of that  
5 nature. There is a true need for a alcohol, drug rehab  
6 place in Henderson County, and there's been some in the  
7 county. Some have moved onto other places, some have  
8 stayed, and there's a number of different places around  
9 Henderson County.

10 My concern has been the lack of communication  
11 between the folks opposing and Mr. Halford. And once  
12 attorneys are involved in that it's kind of quieted to some  
13 degree, I think, that you really can't discuss things too  
14 much. And I don't fully understand that. It's a difficult  
15 decision either way.

16 Just going to go back to the Board and let's have a  
17 motion one way or another, or any other discussion that we  
18 need to have at this point.

19 MR. HYSONG: I'd like to make -- I'd like to say  
20 one other thing. A number of people have mentioned that  
21 there is a need for this. I don't think we are qualified or  
22 in a position to make that kind of a call. And I don't  
23 think it's our responsibility. If there is a need, then  
24 maybe the Board of Commissioners, county commissioners would  
25 see that and they would seek attracting that kind of service

1 to this area, and locating it in an area where zoning would  
2 not be an issue.

3 MR. DOZIER: I think it would be an issue no matter  
4 where you go because of the concerns and fears of  
5 surrounding neighbors.

6 MR. HYSONG: But there are zones where that would  
7 go in without needing to go through this process is what I'm  
8 saying.

9 MR. DOZIER: Matt, is that true?

10 MR. CHAMPION: There's some areas in the county  
11 where it's permitted by (inaudible.)

12 MR. HYSONG: If we're ready, I'll go ahead and make  
13 a motion.

14 MR. DOZIER: Okay. Everyone okay with that?

15 MR. RIDDLE: Sure.

16 MR. HYSONG: I move that the application be denied.

17 MR. DOZIER: Is there a second?

18 I'll ask again, is there a second to that motion?

19 I'll ask one final time, is there a second to that

20 motion?

21 Motion dies.

22 Is there another motion?

23 Is there another motion?

24 MR. RIDDLE: I make a motion that we approve the  
25 application with conditions. Those conditions to be

1 MR. RUIZ: In writing, the conditions that no  
2 violent --

3 MR. DOZIER: Describe violent.

4 MR. RUIZ: Someone that has an arrest record of  
5 committing violent acts. So if they were caught on a DUI  
6 and arrested, that person can go here. If they were caught  
7 with opioids, that's fine. However, if they were caught in  
8 the process of a crime robbing a store, putting somebody  
9 under, you know, attacking them, et cetera, no. If I was  
10 living there, I would want a -- you know, we'll do our best.  
11 I want to make sure, no, there's no violent criminal charge,  
12 period. There's enough -- there's enough people with  
13 problems that are not violent.

14 MR. DOZIER: Autumn, can you read through those  
15 conditions?

16 MR. BURRELL: A fire escape system for the  
17 upstairs. I'm going to stop at each one and ask for a  
18 little bit more clarity if I have a question. I heard the  
19 Board talk about the idea of fire escape for each bedroom  
20 upstairs, and then I heard that go the other way. Where is  
21 it at with being a condition?

22 MR. DOZIER: I think there's got to be a rail  
23 system or something that they can get out of a window and  
24 walk through the fire escape to get out. They've got to  
25 have two ways in and out of each bedroom.

1 MS. HANNAH HALL: I would just like to remind the  
2 Board that this is not the only option for rehab for people  
3 out there looking. You are responsible to honor the health,  
4 safety, and welfare requirements for our specific  
5 neighborhood, and whatever conditions you place on this does  
6 not limit people from a rehab option. It just limits them  
7 from this option in consideration of the health, safety, and  
8 welfare of other participants on property, other staff, and  
9 the surrounding neighborhood.

10 You're talking about putting multiple people in  
11 rooms together. So, yeah, you might not consider a bar  
12 fight to be dangerous, but if that altercation happens  
13 between participants or participants and staff on property,  
14 how serious does that become? So there's a lot of  
15 applications of what someone might not consider to be  
16 serious. The only type of injury is not physical either.  
17 There's a lot of emotional, mental, and psychological injury  
18 that can happen from someone touching you. So that is also  
19 relevant to this discussion.

20 MR. DOZIER: At this point we need -- what's the  
21 question for the Board for the assault term? Physical harm?

22 MR. FISHBURN: Assault with a weapon --

23 MR. DOZIER: Physical harm?

24 MR. FISHBURN: -- causing serious physical harm, or  
25 physical harm requiring medical care.

1 MR. DOZIER: Russ?

2 MR. BURRELL: I'm not telling you where to go. I'm  
3 going to tell you that I use the words inflicting serious  
4 injury for a reason because that's language straight out of  
5 the general statutes, and there's a whole body of case law  
6 that sets out what that means. Okay. I mean, I used that  
7 language because that means something that is a defined term  
8 in North Carolina. I'm not trying to push that one way or  
9 the other. But if you're going to go that direction, I  
10 would suggest you use that kind of language. I'm not trying  
11 to push it.

12 MR. DOZIER: Yes, sir.

13 MR. HALL: Gentlemen, throughout these hearings we  
14 were told that the participants in this program were not  
15 criminals. Time after time we were told they were not  
16 criminals. They were professional people that made a poor  
17 choice with drugs, and now we have moved from what the  
18 participant, or what the Applicant described this program as  
19 to, okay, which felons can we include, which assaults can we  
20 include. But it's in direct contradiction to sworn  
21 testimony.

22 MR. DOZIER: And that is not coming from them.  
23 That is coming from this Board to try to protect the  
24 neighbors, as well. That did not come from them.

25 MS. HANNAH HALL: That is coming from them because

1 they're --

2 MR. DOZIER: No, it's not. We're the ones that are  
3 setting these guidelines now. It has not come from them.  
4 We're asking if they can agree to the stricter guidelines  
5 that we're putting forth. It did not come from them.

6 MR. HALL: But we would ask you to consider the  
7 testimony and consider the deliberations that took place.  
8 An assault is an assault. Who's going to determine what a  
9 serious assault is in this situation? And if somebody  
10 leaves the property and comes knocking on the door of my  
11 daughter, it's totally inappropriate for that to happen, and  
12 it's a real possibility. We adjoin the property. And,  
13 again, may we listen to the last three minutes of the  
14 deliberations on December 14th?

15 MR. DOZIER: What's the pleasure of the Board?

16 MR. RIDDLE: Russ, you had indicated a specific  
17 language about the assault inflicting bodily harm.

18 MR. BURRELL: Serious injury is the word.

19 MR. RIDDLE: Inflicting serious injuries. And  
20 pardon my lack of understanding here, but is -- is that  
21 currently in writing?

22 MR. DOZIER: No. It would be added to item 11.

23 MR. RIDDLE: Okay. Inflicting serious injury. I  
24 think that that needs to be added in addition to what we  
25 have here before us, as well as felonies A through E,