

IN THE MATTERS OF THE APPLICATIONS OF  
PACIFICA HERITAGE LLC, Applicant,  
to the  
HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT,  
Permit Authority,  
Regarding  
“Assisted Living Residence”

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The Henderson County Zoning Board of Adjustment held a quasi-judicial hearing May 27, 2020, to consider the application SUP-20-02, seeking a special use permit to allow use of certain property for an assisted living residence. The application was submitted by the property owner. Having heard all of the evidence and arguments presented at the hearing, the Zoning Board of Adjustment makes the following findings of fact:

1. A quasi-judicial hearing was held by the Henderson County Zoning Board of Adjustment on the special use permit application SUP-20-02. A quorum of members of the Zoning Board of Adjustment was present. The members present and participating were:

Ronald S. Kauffman, Chair  
Bob Pierce  
Hilliard Staton  
Steve Dozier  
Louise St.Romain

2. All members of the Zoning Board of Adjustment affirmed their ability to make an impartial decision in this matter, and no party or member objected to any other member’s participation in this hearing.

3. Notice of the quasi-judicial hearing, pursuant to the Henderson County Code (“the Code”) was duly and timely given in accord with the provisions of §42-371. This included mailing all adjacent property owners to the boundary of the subject property and the posting of notice on the subject property.

This application was filed by Pacifica Heritage LLC (the “Applicant”). Abbie Hawkins attended via Zoom.com as agent of the property to be included in the special use, which property consists of Henderson County PIN 9650854125. This property is currently zoned Residential One.

4. At the commencement of this hearing, the Chair stated that the Board recognized the Applicant and the Henderson County Zoning Administrator as parties to this hearing and inquired whether any person or entity sought to become a party to this action. Rob Dull, John Kinnaird and Drew Kepley were witnesses for the applicant. Robbie Parris, Shirley McGee, Teresa Garren Keegan and Lisa Shaw were accepted as parties in opposition to the application.

5. In order to grant any special use, the Board must find 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.

6. In addition, the Board must find that the proposed use meets the specific standards for each specific special use set out in the Henderson County Land Development Code, Chapter 42 of the Henderson County Code. The use proposed here is “Assisted Living Residence”. The use proposed requires a special use permit in Residential One zoning districts. The specific standards for the proposed use are set out in Supplemental Regulation SR 1.1 of the Land Development Code, found at Section 42-63 thereof. The standards are as follows:

- (1) Site Plan. Major *Site Plan* required in accordance with §42-231 (Major Site Plan Review).
- (2) Lighting. *Lighting mitigation* required.
- (3) Accessibility. *Roads* shall be maintained for motor/emergency *vehicle* access (in accordance with 10A NCAC 13F .0303).

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- (4) Certification, Licensure and Permitting. *Certificate of Need* (in accordance with NCGS §131E-178) required (where required for the specific facility type by the state).
- (5) Solid Waste Collection. The facility shall provide a suitable method of solid waste disposal and collection consisting of either private collection from individual *uses* or the *use* of dumpsters (installed and/or operated to meet all local and state statutes, ordinances and regulations (including Chapter 165 of the Henderson County Code, *Solid Waste*) and thereafter certified by the Department of Public Health). Where dumpsters are used, Screen Class One (1), Two (2) or Three (3) shall be provided consistent with the requirements of §42-182 (Screen Classification).

7. A motion was made by Bob Pierce to grant the special use permit with the following conditions:  
The emergency access to Hyder Farm Dr must be eliminated. The owner must erect a Screen Class 3 surrounding the use. Hilliard Staton seconded the motion. All members voted aye.

From the foregoing, the Zoning Board of Adjustment concludes as follows:

1. All parties were properly before the Board, and all evidence presented herein was under oath, and was not objected to by any party. All evidence relied upon in this Order was credible and reliable.
2. The Zoning Board of Adjustment has jurisdiction to hear this matter.
3. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.
4. The application for the special use permit should be granted.

**IT IS THEREFORE ORDERED** by the Henderson County Zoning Board of Adjustment that Henderson County special use permit application SUP-20-02 is hereby granted.

IT IS THEREFORE ORDERED by the HENDERSON COUNTY BOARD OF ADJUSTMENT as follows:

**The Applicant's Special Use Permit has been GRANTED. The Applicant must adhere to the conditions established in this Order:**

1. Applicant must agree to in writing the provisions of this order.
2. Applicant must comply with all the requirements in Supplemental Requirement 1.1.
3. Applicants are bound to the site plan as presented and including conditions in this Order.
4. Any Amendments, changes or modifications of this Order must be approved by this Board.
5. Failure to comply with the conditions in this order may result in the revocation of this Permit.

Announced May 27, 2020, and approved in final form, this the 24<sup>th</sup> Day of June 2020.

THE HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT

By: \_\_\_\_\_  
RON KAUFFMAN, Acting as Chair

Attest:

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TOBY LINVILLE, Zoning Administrator