



# Town of Fairview

## PLANNING AND ZONING BOARD

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### Agenda

February 19, 2019 @ 6:30 p.m.

**Meeting will be in the Council Meeting Room**

1. Roll Call and Determination of Quorum --- Vice Chair Helms
2. Public Comments
3. Report on Council actions: ---Ed Humphries
  - a. Griffin
  - b. Size of house
  - c. Town Council Retreat
4. Business:
  - a. Review Major Development Permit MS-CUP 19-011 requested by Helms Partners Inc. to develop a subdivision of 6 lots at 8216 Old Ferry Road, Monroe. The subdivision name will be Old Ferry Estates
  - b. Discussion on Conditional Zoning
  - c. Update on 601 and Brief intersection
5. Approval of Previous Minutes:
  - a. December 18, 2018---Regular meeting
6. Public Comments
7. Adjourn

**Discuss**  
**MS-CUP**  
**19-011**

**Town of Fairview  
Staff Report for:**

Planning Board

DATE—2-19-2019

|                                 |   |
|---------------------------------|---|
| <b>--CASE #: MS CUP 19-011</b>  |   |
| <b>Applicant(s):</b>            | Helms Partners<br>3721 Ridge Road<br>Indian Trail NC 28079  |
| <b>Property Owner(s): N/A</b>   | Drew and Katie Helms<br>1504 Tom Helms Road<br>Monroe NC 28110<br>And<br>Craig and Sherrie Rushing<br>4936 Campobello Dr<br>Monroe NC 28110<br>And<br>Doug and Cindy Helms<br>3721 Ridge Road<br>Indian Trail NC 28079  |
| <b>Requested Action:</b>        | To approve: 5 new homes and upfit existing home (total 6) on 9.753 acres located at 8216 Old Ferry Road Monroe NC 28110. This will form a <b>Major Subdivision</b> . Parcel # 08120033  |
| <b>Existing Zoning:</b>         | RA-40   |
| <b>Requested Zoning:</b>        | MS CUP 19-011 to build a 6 home subdivision   |
| <b>Location:</b>                | 8216 Old Ferry Road Monroe NC 28110   |
| <b>Property Size:</b>           | 9.753 Ac  |
| <b>Tax Parcel(s):</b>           | 08114010C   |
| <b>Purpose/Narrative:</b>       | Partnership wants to build 5 new homes and upfit existing home (total 6 lots) on 9.753 acres located at 8216 Old Ferry Road Monroe NC 28110. This will form a <b>Major Subdivision</b> (6 six lots or more). Parcel # 08120033. The subdivision will be "Old Ferry Estates" |
| <b>Surrounding Area Zoning:</b> | Residential and Farming   |
| <b>Existing Conditions:</b>     | All homes will have wells and septic fields with permits from Union County Environmental<br>There is an existing home on the property, and it will be part of the subdivision.  |

|  |  |
|--|--|
|  | <p>All drives will connect to Old Ferry Road and review by NCDOT.</p> <p>All septic fields will be on the lot with no easements on other lots.</p>   |
| <b>Land Use Plan Recommendation:</b>                               | <p>Must have CUP under the present Fairview Land use ordinance. All requirements for <b><u>Major Subdivision</u></b></p>   |
| <b>Compliance with Zoning Ordinance:</b>                           | <p>Yes: Major Subdivision Conditional Use Permit required</p>  |
| <b>Staff Comments on Conditional Use Permit Application:</b>       | <p>Application complete</p> <p>Map complete</p>  |
| <b>Staff Recommendation on Conditional Use Permit Application:</b> | <p>Staff recommends recommending to Council for approval with conditions</p> <p>Conditions are the covenants for the subdivision</p> <p>A copy of which will be recoded with the plat.</p> <p>The covenants are conditions for the approval by Fairview only and the regulatorily responsibility will be the property owners</p> |

# Town of Fairview

7400 Concord Highway  
Monroe NC 28110

#  
MSCUP19010

## MAJOR DEVELOPMENT PERMIT APPLICATION

|  |  |   |
|--|--|---|
| Name of Development:<br><u>Old Ferry Estates</u> | Date of Submission:<br><u>2-2-2019</u> | Check if Conditional Use Permit is associated with this application: <u>yes</u> |
|--|--|---|

|  |                                       |
|--|---------------------------------------|
| <b>Applicant Information</b>                           |                                       |
| Contact Name: <u>Doug Helms / Helms Partners Inc.</u>  |                                       |
| Contact Phone/Fax: <u>704-363-8765</u>                 | Email: <u>helmspartners@yahoo.com</u> |
| Address: <u>3721 Ridge Road Indian Trail, NC 28079</u> |                                       |
| Engineer/Surveyor: <u>Gary Brooks</u>                  | Phone: <u>704-754-0867</u>            |

|   |  |
|---|--|
| <b>Owner Information</b>  |  |
| If different from applicant, specify legal relationship of the applicant to the owner that entitles the applicant to make application and provide contact info below: |  |
| Contact Name: <u>Drew &amp; Katie Helms</u>   | <u>Craig &amp; Sherrie Rushing</u>         |
| Address: <u>1504 Tom Helms Rd. Monroe NC 28110</u>  | <u>4936 Campobello Dr. Monroe NC 28110</u> |
| Contact Phone/Fax: <u>704-201-8790</u>  | <u>704-502-2769</u>                        |

|  |
|--|
| <b>Provide summary statement of the development proposed:</b>  |
| <u>To build 5 new homes and upfit existing home on 9.753 acres located at 8216 Old Ferry Road Monroe NC 28110 for single family units.</u> |

|  |   |
|--|---|
| <b>Property Information</b>                                  |   |
| Property Location: <u>8216 Old Ferry Rd. Monroe NC 28110</u> |   |
| Tax Parcel Number: <u>08 12 00 33</u>                        |   |
| Existing Zoning: <u>RA-40</u>                                | Proposed Zoning: <u>RA 40 Major Develop. Permit</u> |
| Existing Use: <u>Framing</u>                                 | Proposed Use: <u>Homes</u>                          |
| Existing Buildings Floor area:                               | Proposed Buildings Floor area: <u>1600</u>          |
| Property Size (square feet) <u>424,864 sq. ft</u>            |   |

|   |
|---|
| Fee amounts: (per Land Use Administrator)   |
| Attached? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>                         |
| Checklist Completed and attached? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |

I, the undersigned owner or authorized representative, hereby submit this application with the attached information and understand that any engineering review fees incurred by the Town will be paid by me. The information and documents provided are complete and accurate to the best of my knowledge.

|   |                        |                 |
|---|------------------------|-----------------|
| <u>Douglas D Helms</u>                          | <u>Cynthia L Helms</u> | <u>2-3-2019</u> |
| SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE |                        | DATE            |

**BELOW TO BE COMPLETED BY TOWN OF FAIRVIEW**

It is anticipated that this plat will be reviewed by (date):

|   |
|---|
| Anticipated Planning Board Date: <u>2/19/2019</u>               |
| This Permit is   approved / denied   by Town Council on (date): |
| Signature of Authorized Town Official: <u>[Signature]</u>       |

**Parcel Number**

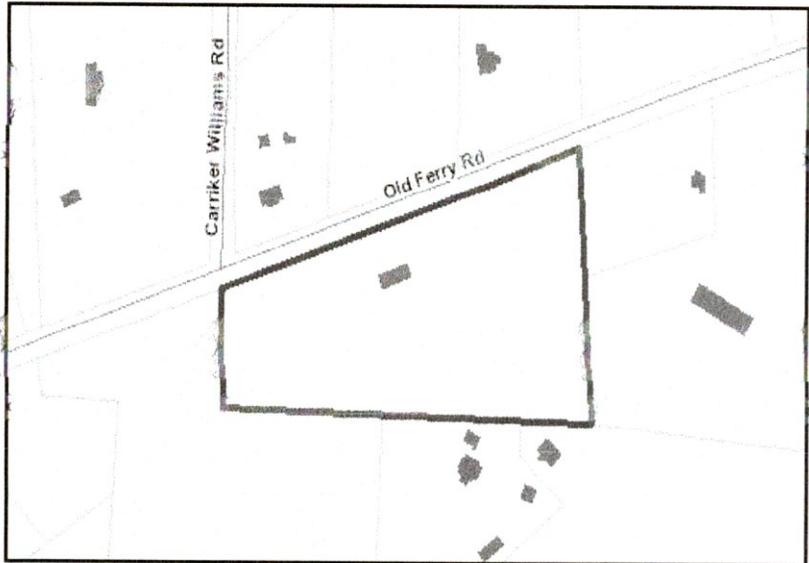
08120033

**Owner**

HELMS  
DOUGLAS  
OSCAR ET  
AL

**Mailing Address**

4936 CAMPOBELLO DR  
MONROE  
NC, 28110



**Account Information**

|                |              |                |                             |
|----------------|--------------|----------------|-----------------------------|
| Land Value     | \$105,300.00 | Subdivision    |                             |
| Building Value | \$111,100.00 | Description    | 7223-751                    |
| Total Value    | \$216,400.00 | Situs Address  | 8216 OLD FERRY RD           |
| Acreage        | 9.7000       | Property Class | RESIDENTIAL - SINGLE FAMILY |

**Sales Information**

| Sale Date  | Sale Amount  | Book & Page | Grantor            |
|------------|--------------|-------------|--------------------|
| 08/27/2018 | \$320,000.00 | 7223 751    | EUDY GARY L ET AL  |
| 10/05/2017 | \$0.00       | W17E 0980   | EUDY BETTY R       |
| 10/04/2017 | \$0.00       | 6699 521    | EUDY BETTY R HEIRS |

**Location Information**

|                          |          |                      |   |
|--------------------------|----------|----------------------|---|
| Municipal Administration | Fairview | 12 Mile Service Area | No  |
| County Zoning Code       | CITY     | School               | <a href="#">School Assignment Information</a> |
| Zoning Administration    | Fairview | Census Tract Number  | 202.04  |
| ETJ                      |          | FEMA Panel           | 5551  |
| Fire District            | Fairview | FEMA Zone            |   |
| Soils                    | CmB,BaB  |                      |   |

**Building Information - [View Real Property Site](#)**

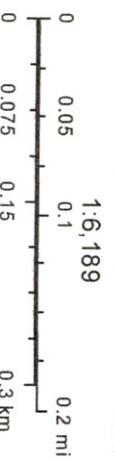
|                   |      |                  |               |
|-------------------|------|------------------|---------------|
| Total Living Area | 1626 | Type of Building | DWELLING      |
| Year Build        | 1968 | Improvement Type | Single family |

**District Voting Assignments (Jurisdictions)**

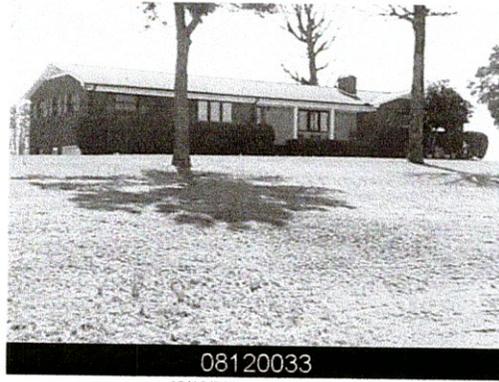
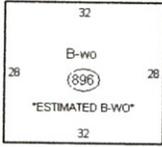
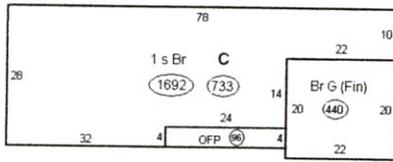
|                   |                                  |                 |    |                        |    |
|-------------------|----------------------------------|-----------------|----|------------------------|----|
| Polling Place     | Bethlehem<br>Presbyterian Church | School District | 4  | Congressional District | 8  |
| Precinct District | #12                              | State House     | 55 | Senate District        | 36 |



February 12, 2019

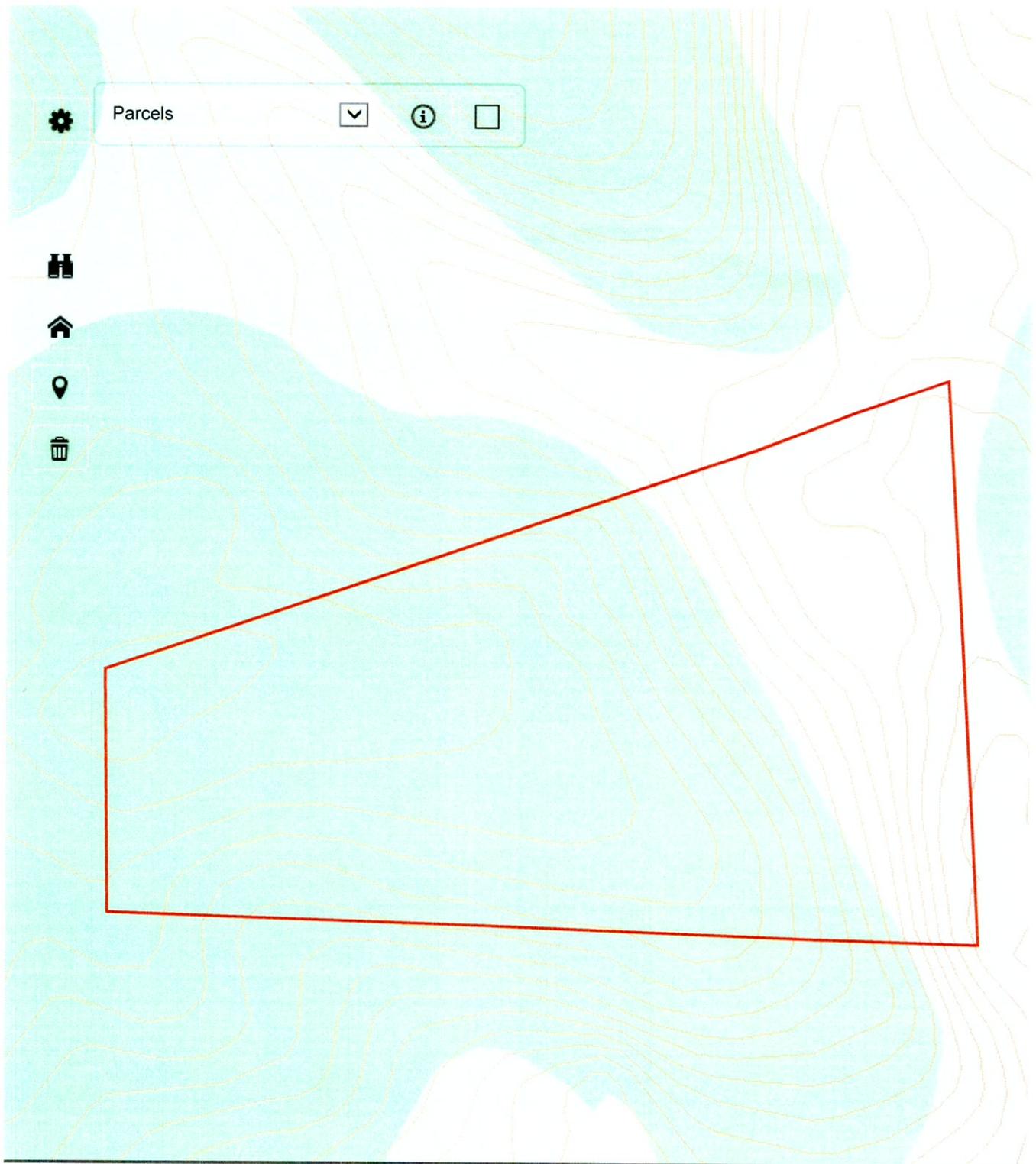


1:6,189  
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community



4/23/2018 12:00:00 AM





1 Results 40m 200ft



9



AT 11:24 am  
BOOK 07223  
START PAGE 0751  
END PAGE 0752  
INSTRUMENT # 24269  
EXCISE TAX \$640.00  
KSE

Excise Tax: \$ 640.00

Tax Lot No: \_\_\_\_\_ Parcel Identifier No. 08-120-033  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 by \_\_\_\_\_

Mail after recording to Helms Robison Lee & Bennett, P.A.  
This instrument was prepared by R. Kenneth Helms, Jr. (est)

Brief Description for the index Old Ferry Road

## NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made August 24, 2018 by and between

GRANTOR

**GARY L. EUDY and spouse,  
ANGELA W. EUDY;  
SUSAN EUDY CLONTZ and spouse,  
JIMMY ALAN CLONTZ; and  
RICHARD L. EUDY (Unmarried)**

GRANTEE

**DOUGLAS OSCAR HELMS and spouse,  
CYNTHIA LOWERY HELMS;  
ANDREW HEATH HELMS and spouse,  
KATIE MCGEE HELMS; and  
SHARON HELMS RUSHING and spouse,  
TIMOTHY CRAIG RUSHING**

**c/o 4936 Campobello Dr.  
Monroe, NC 28110**

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Goose Creek Township, Union County, North Carolina and more particularly described as follows:

**BEGINNING at a wild cherry tree, a corner of the B.N. Deese estate lands and running thence with the Deese estate property line, South 85-37 E. 916 feet to an iron stake by a sweet gum; thence N. 0-45 W 630 feet to a point in the center of county road 1607; thence with the center line of said road as follows: 1<sup>st</sup>, S. 74 W. 735 feet; 2<sup>nd</sup>, S. 73-40 W. 202 feet to a point in center of said road and on a line of the B.N. Deese estate lands; thence with the Deese estate line, S. 1-45 W. 298 feet to the BEGINNING, and containing 9.7 acres, more or less, as surveyed by T. C. Dove, R.L.S. on October 8, 1966.**

All or a portion of the property herein conveyed        includes or XX does not include the primary residence of a Grantor. //

A map showing the above described property is recorded in Plat Cabinet N/A, File N/A.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

APPLICABLE ZONING; ANY EASEMENTS AND RIGHTS OF WAY FOR SERVICE LINES, ROADS AND UTILITIES AS MAY BORDER OR CROSS THE PROPERTY INCLUDING, IF APPLICABLE, THE SUBDIVISION STREETS AS SHOWN ON RECORDED PLAT; ANY EASEMENTS RESERVED IN THE RESTRICTIVE COVENANTS, INCLUDING HOMEOWNERS ASSOCIATION PROVISIONS; APPLICABLE RESTRICTIVE COVENANTS OF RECORD AND STREET ASSESSMENTS; 2018 REAL PROPERTY TAXES; SUBJECT TO MATTERS THAT COULD BE REVEALED BY A CURRENT ACCURATE PHYSICAL AND BOUNDARY SURVEY AND ACTUAL INSPECTION OF THE PROPERTY.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Gary L. Eudy (SEAL)  
Gary L. Eudy

Susan Eudy Clontz (SEAL)  
Susan Eudy Clontz

Angela W. Eudy (SEAL)  
Angela W. Eudy

Jimmy Alan Clontz (SEAL)  
Jimmy Alan Clontz

Richard L. Eudy (SEAL)  
Richard L. Eudy

NORTH CAROLINA, UNION COUNTY.

SEAL-  
STAMP

I, the undersigned, a Notary Public of the County and State aforesaid, certify that **GARY L. EUDY and spouse, ANGELA W. EUDY; SUSAN EUDY CLONTZ and spouse, JIMMY ALAN CLONTZ; and RICHARD L. EUDY (Unmarried)**, Grantors, personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing instrument for the purpose stated therein and in the capacity indicated.

This 24 day of August, 2018.



Russell Z. Asti Notary Public  
(Typed or printed name of Notary)

My commission expires: 10/21/2019

# Helms Partners, Inc. Douglas O. Helms

3721 Ridge Road Indian Trail, NC 28079

704-363-8765 – President - Douglas O. Helms

## Authorization to Act as Agent for Owners

Any application/document/permit requiring a signature must be signed by the property owner or their authorized agent. This form shall be provided by the owner to allow specified individuals to act as agent for the owner. This form also allows the specified individuals to sign or receive any application/document/permit on behalf of the owner and allows the authorized agent to make decisions on behalf of the owner pertaining to modifications permits in the field. It is the responsibility of the owner to assure that any and all permit conditions stated on permits issued by Union County Services are followed.

I, Andrew Helms, Katie Helms, Craig Rushing, Sharon Rushing  
and Cynthia Helms am the legal owners of the property located at 8216 Old Ferry Road,  
Monroe, NC 28110. The tax parcel identifications number is 08120033, located in Union County, North  
Carolina.

I do hereby authorize Helms Partners Inc. / Doug Helms (print agent and company name, if  
applicable), to act as an agent on my behalf in applying for/signing/obtaining any of the documents  
associated with Union County Services.

Andrew Helms

Signature of Owner

2-1-2019

Date

Katie Helms

Signature of Owner

2-1-2019

Date

Timothy Craig Rushing

Signature of Owner

2-2-2019

Date

Sharon Helms Pushing

Signature of Owner

2-2-2019

Date

Cynthia Lowery Helms

Signature of Owner

2-3-2019

Date

Debra D Helms Helms Partners LLC

Signature of Authorized Agent

2-3-2019

Date

**Helms Partners, Inc. Douglas O. Helms**

3721 Ridge Road Indian Trail, NC 28079

704-363-8765

Mr. Ainsworth,

We have purchased 9.700 acres located at 8216 Old Ferry Road, Monroe NC. 28110. This property has the original home and will be updated to sell. There will be a total of 6 homes including the original home. The accesses that we need for driveways will all face Old Ferry Road. I am enclosing a copy of the survey for the above spec homes. We are planning to present our proposal to the Fairview Town Council in February so they can be ready the third Monday of March, 2019 to present. If you should need additional information please feel free to contact Doug Helms at 704-363-8765. He will be the contractor/builder in charge. Thank you so much.

Cindy Helms

[helmspartners@yahoo.com](mailto:helmspartners@yahoo.com)

704-290-9290

*sent by  
email on Sunday  
2/10/2019  
w/ attachment*

# Town of Fairview

## MAJOR DEVELOPMENT PERMIT CHECKLIST

Please complete the following MAJOR DEVELOPMENT PERMIT CHECKLIST developed from Appendix A of the Town of Fairview Land Use Ordinance.

*If the item is included in the development site plan, check the space provided. If the item is not applicable or not included, please write N/A in the space provided and make any explanation in the comments area following each section.*

### Graphic Materials Required for Plans

- 1. Name of development
- 2. Title block containing the subdivision name and the name of the owner
- 3. The name, address and phone # of the subdivider/preparer of plat
- 4. The names, addresses and telephone number of all owners, mortgages, registered land surveyors, developers, land planners, architects, landscape architects, and professional engineers responsible for the subdivision.
- 5. Location (including address, township, county and state)
- 6. Date or dates survey was conducted and plat prepared
- 7. A scale drawing in feet per inch listed in words and figures (drawing shall not be at a scale less than 1" equals 200')
- 8. A sketch vicinity map with north arrow showing the relationship between the proposed subdivision and surrounding area at a scale of 1" = 2000'
- 9. A Bar graph scale
- 10. North Arrow and orientation (North arrow shall be oriented to the top of the plat where applicable)

| <u>Comments/Explanation for items not checked in section above:</u> |
|---|
|   |
|   |

### Existing Natural, Man-Made and Legal Features

- 1. Tree line of wooded areas.
- 2. Individual tree eighteen inches in diameter or more identified by common or scientific name. *TOO MANY TO LOCATE*
- 3. Orchards or other agricultural groves by common or scientific name.
- 4. Streams, ponds, drainage ditches, swamps, boundaries of floodways and floodplains. *SHOW ON PLAT*
- 5. (If the proposed development is a subdivision or mobile home park of more than fifty lots or if more than five acres of land are to be developed), base flood elevation data (See Article XVI, Part I).
- 6. Contour lines (shown as dotted lines) with no larger than five foot contour intervals. (As indicated in Subsection A-6 (2t), proposed contour lines shall be shown as solid lines.) *SHOW ON PLAT*
- 7. Vehicle accommodation areas (including parking areas, loading areas and circulation areas, see Section 290), all designated by surface material and showing the layout of existing parking spaces and direction of travel lanes, aisles, or driveways.
- 8. Streets, private roads, sidewalks, and other walkways, all designated by surface material.
- 9. Curbs and gutters, curb inlets and curb cuts, and drainage grates.
- 10. Other storm water or drainage facilities, including manholes, pipes, and drainage ditches.
- 11. Underground utility lines, including water, sewer, electric power, telephone, gas, cable television.  
*PRIVATE SEPTIC AND INDIVIDUAL WELLS*

**Town of Fairview - Major Development Permit Checklist**

- 12. Above ground utility lines and other utility facilities.
- NA 13. Fire hydrants.
- NA 14. Buildings, structures and signs (including dimensions of each).
- NA 15. Location of exterior light fixtures.
- NA 16. Location of dumpsters.
- 17. The zoning of the property, including zoning district lines where applicable.
- 18. Property lines (with dimensions identified).
- 19. Street right-of-way lines.
- 20. Utility or other easement lines.

| <b><u>Comments/Explanation for items not checked in section above:</u></b> |
|--|
|  |
|  |
|  |

**Proposed Changes in Existing Features or New Features**

- 1. The number of square feet in every lot created by a new subdivision.
- 2. Lot dimensions, including lot widths measured in accordance with Section 183.
- NA 3. The location and dimensions of all buildings and freestanding signs on the lot, as well as the distances all buildings and freestanding signs are set back from property lines, streets or street right-of-way lines (see Section 184).
- NA 4. Principal side(s) building elevations for typical units of new buildings or exterior remodeling of existing buildings, showing building heights (see Section 186) and proposed wall sign or window sign area;
- NA 5. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.
- NA 6. Elevation in relation to means sea level to which any non-residential structure will be flood-proofed.
- NA 7. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- NA 8. The location and dimensions of all recreational areas provided, with each area designated as to type of use;
- NA 9. Areas intended to remain as open space or designated buffer areas (Section 265.)
- NA 10. Streets, labeled by classification (see Section 210) and street name showing whether curb and gutter or shoulders and swales are to be provided and indicating street paving widths. Private roads in subdivisions shall also be shown and clearly labeled as such.
- NA 11. Curbs and gutters, curb inlets and curb cuts, drainage grates, and other storm water or drainage facilities, including manholes, pipes, drainage ditches, retention ponds, etc.
- NA 12. Sidewalks and walkways, showing widths and surface material.
- NA 13. Bridges.
- NA 14. Outdoor illumination with lighting fixtures sufficiently identified to demonstrate compliance with Section 242.
- NA 15. Underground utility lines, including water, sewer, electric power, telephone, gas, cable television. Water and sewer pipeline signs shall be labeled.
- NA 16. Aboveground utility lines and other facilities.
- NA 17. Fire hydrants.
- NA 18. Dumpsters.
- NA 19. New contour lines resulting from earth movement (shown as solid lines) with no larger than five foot contour intervals (existing lines should be shown as dotted lines).
- NA 20. Scale drawings of all signs requiring permits pursuant to Article XVII, together with an indication of the location and dimensions of all such signs.
- NA 21. Vehicle accommodation areas (including parking areas, loading areas, and circulation areas, see Section 290), all designated by surface material and showing the dimensions and layout of proposed parking spaces and the dimensions and direction of travel of lanes, aisles, and driveways.

**Town of Fairview - Major Development Permit Checklist**

NA 22. Proposed plantings or construction of other devices to comply with the screening requirements of Article XIX, Part I, as well as proposed plantings of trees to comply with the shading requirements of Article XIX, Part II. Plans shall label shrubbery by common or scientific name, show the distance between plants and indicate the height at the time of planting and expected mature height and width. Plans shall label trees by common or scientific name, show the circles of the mature crowns (major trees shall be drawn at diameter = 30'; dwarf or decorative trees shall be drawn at their actual mature crown), and indicate the height at the time of planting.

**Comments/Explanation for items not checked in section above:**

**Documents and Written Information in Addition to Plans**

- 1. Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person.
- 2. Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development, as set forth in Article XV, and that all necessary easements have been provided.
- NA 3. For proposed non-residential flood proofed structures, or for enclosed areas below the lowest floor that are subject to flooding, certification from a registered professional engineer or architect that the proposed structure meets the criteria in Article XVI, Section 254(d), (f).
- NA 4. Certification and supporting technical data from a registered professional engineer demonstrating that any proposed use within a floodway if permitted under Article XVI, Section 253, shall not result in any increase in flood levels during occurrence of the base flood discharge.
- 5. Legal documentation establishing homeowners associations or other legal entities responsible for control over required common areas and facilities. *CCR - COVENANTS, COVENANTS AND RESTRICTIONS*
- NA 6. Bonds, letters of credit, or other surety devices.
- NA 7. Stamped envelopes containing the names and addresses of all those to whom notice of a public hearing must be sent to comply with Section 22, 102, or 323.
- NA 8. Complete documentation justifying any requested deviation from specific requirements established by this ordinance as presumptively satisfying design standards.
- NA 9. Written evidence of permission to use satellite-parking spaces under the control of a person other than the developer when such spaces are allowed pursuant to Section 298.
- NA 10. Written evidence of good faith efforts to acquire satellite parking under the circumstances set forth in Section 299.
- NA 11. Verification that Manufactured Goods, Class 1 and 2 uses will meet the supplementary standards set forth in Article XI. Such verification shall be made by a licensed engineer or other qualified expert unless it is utterly apparent from the nature of the proposed development that such expert verification is unnecessary.
- NA 12. Time schedules for the completion of phases in staged development, as required by Section 61.
- NA 13. The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas.
- NA 14. The traffic of a development, including its effect on pedestrian or vehicular traffic or congestion.

**Comments/Explanation for items not checked in section above:**

STATE OF NORTH CAROLINA

UNION COUNTY

RESTRICTIVE COVENANTS  
OF  
OLD FERRY ESATES

WHEREAS, RHH OF UNION, LLC, a North Carolina limited liability company (hereinafter, collectively called "Developer") are the owners of certain property in Union County, North Carolina being all of Lots \_\_ through \_\_\_\_ of Old Ferry Estates (hereinafter, each a "Lot") which is more particularly described by plat thereof recorded in Plat Cabinet \_\_\_\_ File \_\_\_\_\_, in the Union County Registry, to which reference is hereby made for a more complete description (hereinafter, collectively the "Subdivision"); and

WHEREAS, Developer desires to place and impose certain protective covenants and restrictions upon the Subdivision for the use and benefit of the individual owners, their successors and assigns and future owners of the lots in the Subdivision.

NOW THEREFORE, in consideration of the mutual covenants and the agreements herein Developer hereby contracts covenants and agrees with all other persons, firms or corporations now owning or hereafter acquiring any property in Old Ferry Estates subdivision and does hereby impose upon all of the lots known as Old Ferry Estates subdivision, said property being Lots \_\_\_\_ through \_\_\_\_ as shown on a map thereof recorded in Plat Book \_\_\_\_ File \_\_\_\_\_ Union County Registry the following covenants and restrictions upon each and all lots in said subdivision:

1. These covenants are to run with the land and shall be binding on all parties and all persons, firms or corporations claiming under them for a period of

twenty (20) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless and instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part

2. All of said property shall be used for single family residential purposes only and no structure shall be erected, altered, placed or permitted to remain on any residential building lot within the subdivision other than one single family dwelling of construction not to exceed two and one half stories in height and not more than one garage or accessory structure customarily incidental to residential use of the lot. Any garage and other accessory structure shall be constructed so that the outward appearance of the structure is in keeping with the general architecture as the residence on said lot. Each such garage or other accessory structure shall be no more than twenty-four (24) feet by twenty-four (24) feet. Each dwelling shall have a permanent brick rock or stone foundation with steps constructed of the same material, provided, however, that in the event that the residential structure has a wooden front porch entry way, the steps on said porch may be constructed of wood. Each dwelling shall be connected to the subdivision road or adjoining street or road by a concrete or asphalt driveway; except for Lot 3, which may have a rock or gravel driveway; provided, however, in the event the current dwelling located on Lot 3 is damaged in an amount of more than 80% of its then fair market value or is removed, any new dwelling shall be served by a driveway connected to the subdivision road or adjoining street or road by a concrete or asphalt driveway .

3. No trailer, modular home, mobile home, tent, shack, or similar structure shall be erected or maintained on any Lot.

4. No residence in the subdivision shall be erected or allowed to remain on any of the lots which is less than one thousand four hundred (1,400) square feet of heated space, exclusive of garages and porches.

5. The setback provisions noted on the subdivision plat will control, unless they are less restrictive than the Union County Zoning and Subdivision Ordinance or such rules and regulations as may apply through the Union County Planning and Zoning and or the Building and Inspection Department or any other governmental entity having jurisdiction. In the event such rules and regulations are different than designated on the recorded plat; the setbacks shall be regulated by the rules, regulations and ordinances of Union County or any other governmental entity having jurisdiction, provided that such are more restrictive. Further provided, however, that driveways and eaves shall not be considered a part of the structure for setback purposes, and the Developer, so long as it owns any property within the subdivision, shall have the right to waive any setback provision and approve any building location, provided that no portion of any structure may encroach upon another lot.

6. Easements for installation and maintenance of utilities and drainage facilities are reserved over the rear ten (10) feet of each lot, over the side five (5) feet of each lot, and the front ten (10) feet of each lot. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of surface water.
7. Developer reserves the right to re-subdivide any portion or all of the subdivision owned by the Developer. Upon combination or re-subdivision of any Lots, the easements reserved herein shall be applicable to the rear, side and front lot lines of such combined or re-subdivided Lots.
8. No chain-link fences shall be permitted within the Subdivision except as may be necessary to enclose tennis courts or other similar amenities, and even then, if chain link fence is used, it must, itself, be adequately and thoroughly screened from view by appropriate landscaping and plant-life.
9. No satellite dish or similar device may be located on any lot except a Direct Satellite Service (DSS) or satellite dish either of which is 30 inches in diameter or less. Satellite dishes must be located to the rear of the dwelling, In the event that the dish is ground mounted it shall not be visible from the street and must be fully enclosed or surrounded by an appropriate structure or by shrubbery and/or trees of sufficient size and height so as to screen said satellite dishes from view.
10. No sign of any description shall be displayed upon any Lot with the exception of signs "For Rent" or "For Sale", which signs shall no exceed two (2) feet by three (3) feet in size.
11. No portion of any Lot shall be used or maintained as a dumping ground for rubbish or other refuse. Trash, garbage and other waste shall be kept in sanitary containers. There shall be no storing of any lawn or garden equipment except within a garage or accessory building. In addition no portion of a Lot shall be used for the storage of building materials. No supplies used in a trade or business shall be stored on any Lot.
12. No unlicensed, uninspected or inoperative, stripped, partially wrecked motor vehicle or junk motor vehicle shall be permitted to be parked or shall be permitted to be kept on any Lot or any street within the Subdivision. Such vehicles may be kept on a Lot, provided it belongs to the property owner and in stored within a garage.
13. There shall be no permanent parking of any motor vehicle on any street of the Subdivision.
14. No tractor-trailer rigs, trailers, dump trucks or buses shall be stored or parked on any Lot or street of the Subdivision.

15. No above ground pools other than inflatable children's play pools shall be permitted to be erected or maintained on any Lot in the Subdivision.

16. Wooden decks are permitted only on the rear of the main residential structure and steps to the deck may be constructed of wood, brick or stone.

17. Owners of Lots that require separate septic lots (if any) shall maintain those lots and keep the grass cut on said lots. All plumbing fixtures, laundry and dishwashers, toilets or sewage disposal systems shall be connected to a septic tank sewage system constructed by the tract owner and approved by the appropriate governmental authority unless public sewage becomes available in the subdivision.

18. No noxious or offensive trade or activity shall be carried upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the Subdivision and/or owners of other Lots, to include, but not limited to, the discharge of firecrackers and similar activities, and no animals or poultry or livestock of any kind or description shall be kept or maintained on any Lot or any other portion of the Subdivision except customary household pets such as dogs and cats; provided no household pets shall be kept within the Subdivision for commercial breeding purposes.

19. The subdivision of any Lot is specifically prohibited, unless approved by the Developer.

20. No right of way or easement for egresses and ingress shall be granted by the owner of any Lot to create access by adjoining landowners not a part of this original subdivision to the Subdivision's streets (if any).

21. So long as Developer owns one (1) Lot in the Subdivision, Developer shall have the right to approve the plans for any improvements built on a Lot (including but not limited to residential structures, garages, accessory buildings, and fences), the location thereof, and the materials used in construction of said improvement. The owner of any Lot proposing to build an improvement shall submit plans, including examples of building materials to Developer by first class mail, return receipt requested or overnight delivery at the following address:

\_\_\_\_\_,  
or such other address as Developer shall designate. Developer shall have thirty (30) days to approve, disapprove or request additional information from such owner. If Developer does not respond to such owner within thirty (30) days of receipt of a request for approval, said request shall be deemed approved.

22. Developer reserves the right to add the additional property that adjoins the Subdivision to these restrictive covenants by filing a supplemental declaration in the Union County Registry. Upon the filing of such supplemental declaration, the

additional property shall be incorporated into the definition of Subdivision herein and any platted lots within such additional property shall be included in the definition of Lots herein.

23. These restrictive covenants may be enforced in law, or equity by any aggrieved party owning a Lot in the Subdivision, jointly or severally, and the invalidation of any of these restrictive covenants by judgment of a Court shall in no way effect any of the other provisions herein contained, which shall remain in full force and effect, further, any such action shall be entitled to be awarded reasonable attorney's fees as a part of such action.

24. These restrictive covenants may be amended in whole or in part by recording in the Union County Registry, of a written instrument agreeing to amend said covenants signed by seventy-five percent (75%) of the then owners of the Lots in the Subdivision, provided, however, Developer reserves the right to amend, delete or change these restrictive covenants, in whole or in part so long as it owns one (1) Lot in the Subdivision and further reserves the right to waive any setback restrictions herein contained which is inadvertently violated up to ten percent (10%) of the setback restriction.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Developer has caused these Restrictive Covenants to be executed the date upon first written.

RHH of UNION, LLC, a North Carolina limited liability company

\_\_\_\_\_  
\_\_\_\_\_, Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF UNION

I, the undersigned, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, a Member/Manager of RHH OF UNION, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution and sealing of the forgoing instrument as Member/Manager on behalf of RHH of Union, LLC and as the act of the company referred to in this acknowledgment.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public  
Typed or printed name of Notary: \_\_\_\_\_

My commission expires: \_\_\_\_\_

# Discuss Conditional Zoning

## **Conditional Zoning Definition**

As an alternative to applying for a “straight” zoning, property owners in Fairview have the option of requesting conditional zoning, which is a zoning that can be approved with specific conditions. The conditions are typically offered by the applicant to provide certainty about the proposed development and address possible opposition. The conditions can come in many forms. They can, for example, limit the types of uses or density of development. They can also “tie” the zoning to a site-specific plan or impose design standards on the proposed development. From a process standpoint, the key difference between a straight zoning and a conditional zoning is that a conditional zoning requires that the applicant hold at least one “community meeting” with neighbors before the first planning board meeting. The conditions imposed through a conditional zoning case are recorded with the register of deeds.

**Section 58 Conditional Zoning and Rezoning Review and Approval Procedures**

(a) Applicability

The conditional zoning procedure of this section applies when a property owner proposes to place additional zoning- or development-related restrictions on a particular property, over and above those that would otherwise apply under this ordinance. The conditional zoning procedure of this section must be followed whenever an applicant for rezoning proposes to:

- (1) Reduce or narrow the range of uses or building types allowed in the subject zoning district;
- (2) Commit to strict compliance with a site-specific development plan that imposes:
  - (i) Lot and building regulations that are more restrictive than otherwise required in the subject zoning district; or
  - (ii) Other development-related standards or conditions that are more restrictive than those that would otherwise apply to the subject property under this ordinance.

(b) Authority to File

Applications for conditional zoning district may be filed only by the subject property owner or the subject property owner's authorized agent.

(c) Pre-application Meeting

A pre-application meeting is required before filing a conditional zoning district application.

(d) Review and Approval Procedure

The zoning procedures and requirements of this section apply and must be followed for all conditional zoning, except as otherwise expressly stated in this section.

(e) Required Community Meeting

- (1) Before a public hearing may be held on an application for conditional zoning, the applicant must provide the administrator with a written report of at least one community meeting held by the applicant.
- (2) Reasonable notice of the required community meeting must be given to nearby property owners and to affected and interested parties in accordance with Fairview's notice policies.



- (3) The report must include at least a listing of those persons and organizations contacted about the meeting and the manner and date of contact, time, date, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning application made by the applicant as a result of the meeting.
  - (4) If the applicant has not held at least one community meeting pursuant to this subsection, the applicant must file a report documenting efforts that were made to arrange such a meeting and stating the reasons that a meeting was not held.
  - (5) The adequacy of the meeting and the meeting report must be considered by the Council but is not subject to judicial review.
- (f) Submittal Requirements
- The application must include all information required for proposed conditional zoning. In addition, proposed conditional zoning must include detailed narrative text that specifies the conditions that will govern development of the subject property. If proposed conditions include physical site improvements or features that can be illustrated, a site plan must also be submitted.
- (g) Scope and Effect of Approval
- (1) Transferability
- Approval conditional zoning run with the land and are not affected by changes of tenancy, ownership, or management. Similarly, all conditions associated with an approved conditional zoning are perpetually binding upon the subject property and apply regardless of changes in ownership or tenancy, unless amended in accordance with the conditional zoning amendment process.
- (2) Special Uses
- Once a conditional zoning district has been approved by the property owners are not required to obtain special use approval, as long as all information required for special use approval is included with the conditional zoning application. If the information otherwise required for special use approval is not submitted and reviewed as part of the conditional zoning district application, then special use approval is required before any permits may be issued for the subject use.
- (3) Recording
- The subject property owner must obtain written certification of the approval of the conditional zoning from the administrator and record the legal description and accompanying conditional zoning and exhibits in the office of the register of deeds. No building permits or zoning permits or approvals may be issued by the county or Fairview until the property owner provides a signed written acknowledgement of recording.
- (4) Violations
- Any violation of a condition attached to an approved conditional zoning is a violation of this ordinance and is subject to the same penalties and enforcement procedures as any other ordinance violation.

(h) Amendments and Modifications

Amendments to approved conditional zoning amendments may be approved in accordance with the following requirements.

(1) Minor Amendments

- (i) The administrator is authorized to approve the following minor amendments to approved conditional zoning:
  - a) Any amendments expressly authorized as minor amendments at the time of approval of the conditional zoning; and
  - b) Changes to the development site or to structures necessitated by engineering, architectural or physical limitations of the site that could not have been foreseen at the time the conditional zoning was approved and that are not otherwise classified as major amendments.
- (ii) Applications for minor amendments to approved conditional zoning must be filed in a form established by the administrator. If no action is taken on the minor amendment application within 30 days of filing of a complete application, the minor amendment is deemed denied.

(2) Major Amendments

- (i) All of the following constitute major amendments to approved conditional zoning:
  - a) An increase in overall building coverage by more than 1%;
  - b) An increase in building height by more than 1% or 1 foot, whichever is less;
  - c) An increase in residential density or the number of residential units allowed;
  - d) An overall reduction in the amount of common open space or landscaping;
  - e) A reduction in off-street parking by more than 10% or one space, whichever results in a greater reduction;
  - f) A change in the vehicle circulation pattern that would increase points of access, change access to another street or increase projected traffic volumes;
  - g) Any combination of 2 or more minor amendments that were not expressly authorized by the approved conditional zoning district; and
  - h) Any modification of a condition of approval imposed at the time of approval of the conditional zoning district.

(l) Vested Rights

If the Council approves a conditional zoning district that includes a plan qualifying as a site-specific development plan under NCGS 153A-344.1 (b)(5), the Council is authorized, upon

a written request from the property owner, to designate the approved plan as a site-specific development plan that triggers a vested right for a period of not less than 2 nor more than 5 years pursuant to NCGS 153A-344.1. An approved site-specific development plan must include the following statement: "Approval of this plan establishes a zoning vested right under NCGS 153A-344.1. Unless terminated at an earlier date, the vested right remains valid until [insert date]."

DRAFT

|  |          |
|--|----------|
| Rural Residential (R-R)                    | 40 Acres |
| Suburban Residential (S-R)                 | 15 Acres |
| General Residential (G-R)                  | 15 Acres |
| Neighborhood Center-Residential (NC-R)     | None     |
| Neighborhood Center-Commercial (NC-C)      | None     |
| Downtown District (D-D)                    | None     |
| Highway Commercial (H-C)                   | 2 Acres  |
| Infill Development (INF-D)                 | 3 Acres  |
| Traditional Neighborhood Development (TND) | 30 Acres |
| Business Campus Development (BC-D)         | 10 Acres |
| Institutional Campus Development (IC-D)    | 15 Acres |
| Rural Commercial                           | 2 Acres  |
| Manufactured Home Residential (MH-R)       | 5 Acres  |
| South Point Peninsula Overlay District     | 10 Acres |

EXAMPLE

# Update Hwy. 601 & Brief Rd.

# Approve Minutes



**Town of Fairview  
Planning Board Meeting  
December 18, 2018**

The following Planning Board members were present: Kelvin Baucom, Doug Buchanan, Tony Helms, Mike Medlin, Rick Pigg, Nancy Randall and Bill Thomas

Others present: Ed Humphries, Land Use Administrator / Deputy Clerk, Teresa Gregorius, Town Clerk

**Public Comments**

None

**Reports**

Ed Humphries introduced Bill Thomas, the new alternate on the Planning Board. The Council approved Mr. Thomas' appointment at the December 10<sup>th</sup> meeting.

**Items of Business**

A. Discuss and Recommend TC 18-138 Regulations for Small (Tiny) Houses

Ed Humphries presented TC 18-138 regulations and the Board discussed the verbiage. Fairview resident Wendall Long spoke to the Board regarding the tiny house regulations. The Board agreed to the following verbiage:

*Article XII Density and Dimensions*

*Section 191 Small (Tiny) Houses*

a) *A home can be any size, if:*

1) *Meets the minimum construction and design standards as required by the North Carolina State Residential Code*

b) *Administrative Requirements:*

1) *Must be permitted by the local building official having jurisdiction over the building site.*

- 2) *Must be of open construction so unit can be fully inspected by the local building official.*
- 3) *May be constructed of closed construction at an off-site location if the off-site construction is inspected and certified under the NC Modular Construction Program.*
- 4) *Must meet local zoning and set-back requirements as applicable.*
- 5) *Must meet community protective covenant requirements as applicable.*

Rick Pigg made a motion to recommend approval of TC 18-138 as amended to the Council. Kelvin Baucom seconded the motion. Board members Baucom, Buchanan, Helms, Medlin, Pigg, Randall and Thomas voted yes (7-0).

B. Discuss and Recommend Conditional Use Permit CUP 18-133

Ed Humphries presented a conditional use permit request from David Griffin to increase the size/operation of his business Griffin Surveying which is non-conforming. The Board discussed the permit request and amended the wording regarding the usage of the structure from storage to mixed use.

Tony Helms made a motion to recommend approval of CUP 18-133 as amended to the Council. Kelvin Baucom seconded the motion. Board members Baucom, Buchanan, Helms, Medlin, Pigg, Randall and Thomas voted yes (7-0).

C. Minutes

Kelvin Baucom made a motion to approve the November 20, 2018 minutes. Rick Pigg seconded the motion. Board members Baucom, Buchanan, Helms, Medlin, Pigg, Randall and Thomas voted yes (7-0).

Mike Medlin made a motion to adjourn. Rick Pigg seconded the motion. Board members Baucom, Buchanan, Helms, Medlin, Pigg, Randall and Thomas voted yes (7-0).

Respectfully submitted,

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Teresa Gregorius  
Town Clerk

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Nancy Randall  
Chair

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2018