A G E N D A
CITY OF BREVARD
BOARD OF ADJUSTMENT
City Council Chambers
95 West Main Street, Brevard
www.cityofbrevard.com
July 14, 2015

I. Welcome

II. Introduction of Board Members

A. Certify Quorum and Voting Members

III. Approval of Agenda

IV. Approval of Minutes: June 9, 2015

V. New Business:

A. Consideration of Application SUP #15-000005 for a Special Use Permit for Stewart Trimble to allow a medical consultation office. The property is located at 59 Morningside Drive within the corporate limits of the City of Brevard, further identified by PIN 8586-90-3601-000.

B. Consideration of Application SUP #15-000003 for a Special Use Permit for Cornerstone Presbyterian Church, PCA to allow construction of a fellowship hall next to the existing church. The property is located at 645 Burt Lane Road, within the regulatory jurisdiction of the City of Brevard, further identified by PIN 8595-16-8267-000.

VI. Other Business

VII. Adjourn

Agenda posted and emailed to T. Times, June 25, 2015 jhp

MINUTES
BREVARD BOARD OF ADJUSTMENT
June 9, 2015

The Brevard Board of Adjustment met in regular session on Tuesday, June 9, 2015 at 7:00 PM in Council Chambers of City Hall.

Members Present:	Judith A. Mathews, Chair Carol Dillingham Tad Fogel Tom Tartt Mike Young Josh Burdette
Members Absent:	Allen Delzell, Vice Chair
Staff Present:	Josh Freeman, Planning Director Daniel Cobb, Asst. Planning Director Janice H. Pinson, Board Secretary Mike Egan, Board Attorney
Others:	Doug Harris, New Paradigm Homes, LLC

I. Welcome and Introduction of Board Members

Chair, J. Mathews called the meeting to order at 7:02 PM, Board and Staff Members introduced themselves. Chair, J. Mathews certified that a quorum of the Board was present and that Tad Fogel would be the voting alternate member because he heard all of the evidence at the May meeting.

II. Approval of Agenda

J. Mathews requested a Motion to approve the Agenda. C. Dillingham moved to approve, seconded by Tad Fogel, unanimously approved.

III. Approval of Minutes

J. Mathews requested a motion to approve the Minutes of the May 12, 2015 meeting. Motion was made to approve minutes as written by Tom Tartt, seconded by C. Dillingham, unanimously carried.

IV. Old Business – Continued from May 12, 2015 Meeting:

A. Consideration of Application for Variance (#15-126) by New Paradigm Homes, LLC, for a variance in the rear setback from 25' to 18'6". The property is located at 405 W. Probart Street within the corporate limits of the City of Brevard, further identified by PIN # 8586-32-4492-000.

B. Consideration of Application for Variance (#15-127) by New Paradigm Homes, LLC, for a variance in the rear setback from 25' to 18'6". The property is located at 415 W. Probart Street within the corporate limits of the City of Brevard, further identified by PIN # 8586-32-4475-000.

Greg Hunter, 462 West Probart Street, presented himself to the Board as a possible party to the proceeding.

M. Egan, Board Attorney, asked if Mr. Hunter wanted to become a party to the proceeding. Mr. Hunter needed to have an interest in kind more than the general public at large.

Mr. Hunter explained that his home was 50 yards or less from the property and for this reason he would be impacted differently from the public at large.

J. Mathews determined that Doug Harris, Josh Freeman and Daniel Cobb were sworn from the prior meeting.

Greg Hunter was sworn.

After questioning of Mr. Hunter by the Board and further discussion, Mr. Hunter stated that he had no desire to be an expert witness.

J. Mathews stated that it appeared that Mr. Hunter was present to state his opinion on the Board's decision in the matter.

Mr. Hunter removed himself as a party to the matter without the necessity of a vote of the Board.

J. Mathews asked if Staff had any comments before D. Harris presented the information and alternatives requested at the previous meeting. J. Freeman stated he stipulated to the record.

D. Harris stated that he was before the Board to show them what alternatives they considered and to verbally outline the drawings as built, as well as, the different alternatives that were considered.

He stated that they measured the topography of both sites and created a three dimensional model of the lay of the land, showing the property lines, set back area and area inside the set back. He showed the Board four (4) options including visual aids. He further explained each option in detail and for each showed the volume of the encroachment into the setback area. He explained

that the option that was chosen created the least volume of encroachment of all others that were considered.

D. Harris stated that the design that included a retaining wall would require that fill be placed against wood and there were also drainage concerns with this plan. It was determined that to use the retaining wall plan would not require a variance. This being confirmed by J. Freeman, Staff.

D. Harris stated that they had come before the Board stating that they knew they got the cart before the horse, but that they did apologize to the Board.

J. Burdette asked D. Harris several building related questions, pointing out the changes made to the structures that differed from the original site plan.

T. Tartt asked for D. Harris to help him understand from the beginning to now, what changed to make the stairs become an issue.

D. Harris explained that they did not have a topographical survey, they took field measurements and that they had measurements for the sewer tap but when they went to make the tap to get a positive flow into the sewer line they had to raise the floor system of the house to make it work and therefore changing the original design for the houses.

D. Harris stated that he realized the Board's concerns about setting precedence.

J. Mathews stated that each case stands on its own.

J. Mathews asked D. Harris at what point before the final inspection did they realize the encroachment and notify the Planning Department of the setback violation.

D. Harris stated 2 or 3 weeks prior, at which time he talked with his partner about the situation and determined that a subcontractor had built the steps and was not aware that steps could not encroach into the setback.

Upon further questioning of the Applicant. M. Egan, Board Attorney, reminded the Board that Mr. Harris and his partner's performance was not an issue before the Board but whether or not there was an impractical hardship created by not granting the requested variance.

J. Mathews asked if Staff had any further questions.

J. Freeman stated he had no rebuttal but a question as to Option 4, as to whether or not that were practical ways to deal with water that could be addressable and ask him to speak to it more.

D. Harris stated as the houses are designed now that they have good positive flow away from the houses. There is not any concentrated flow and that this is not an insolvable problem but it is a less simple one when you start diverting water. He stated that he felt the stairs as built were

more aesthetically pleasing to the back yard and the neighborhood, and that he felt that these are the standards that the ordinance speaks to.

J. Mathews ask if there were any questions of Staff. There were none.

J. Mathews ask Greg Hunter if he wished to testify. He stated that he had no comment.

J. Burdette asked J. Freeman if Option 4 required a variance.

J. Freeman stated that is correct. He further explained that the landscape timbers filled with earth would not require a permit from the City of Brevard. It could have been the original design and not require a permit.

J. Mathews closed the hearing.

J. Mathews reminded the board members that they have to have a positive affirmation of the following standards to grant a variance:

1. An unnecessary hardship would result from the strict application of the regulations.

2. The hardship results from conditions that are peculiar to the property such as location, size or topography. Hardships resulting from personal circumstances, as well as, hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis to grant a variance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self- created hardship

4. The requested variance is consistent with the spirit, purpose and intent of the regulations. Such that public safety is secured and substantial justice achieved. Substantial justice is not achieved when the granting of the variance would be injurious to the neighborhood or to the general welfare.

She further stated that the Board need to be guided by the following principles:

The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.

The hardship relates to the applicant's land rather than personal circumstances.

The hardship is unique or nearly so rather than one shared by many surrounding properties.

The hardship is not the result of the applicants own actions.

The fact that the property could be utilized more profitably or conveniently by the granting of the variance than without is not the basis for granting the variance.

She further stated, we have to ask ourselves these questions:

Is the hardship the result of the applicant's own actions?

Is the variance necessary or are there other reasonable and practical alternatives to grant secondary access to the property?

The Board deliberated on the principles for granting a variance. It was the general consensus of the Board that the hardship was the result of the applicant's own actions.

C. Dillingham made the following motion:

With regard to the request by New Paradigm Homes for a variance from the rear yard setback requirement contained Section 2.3.C of the Unified Development Ordinance, I move the Board to find (a) unnecessary hardship would result from the strict application of the regulations; (b) the hardship results from conditions that are peculiar to the property, such as location, size or topography; (c) the hardship did not result from actions taken by the applicant or the property owner; and (d) the requested variance is consistent with the spirt, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Accordingly, I further move the Board to grant the requested variance in accordance with and only to the extent represented in the application.

Motion seconded by M. Young. Upon vote the motion failed unanimously.

M. Egan asked the Board if they wanted to review the Order that was prepared in the matter of Bryson Development & Mgt., Ltd., Case No. SUP-15-119 or just allow the Chair to sign. The Board agreed that the Chair could sign the Order as presented.

VI. Other Business –

M. Young requested that the Board continue the discussion on extensions of special use permits.

D. Cobb explained to the Board the current process does not limit the number of times an extension of a special use permit can come before the Board. If the Board wants to change, the process would be to submit a text amendment to the Planning Board for recommendation to City Council. City Council would then make the decision to approve or not and then there would need to be an amendment to the Board's Rule of Procedure to reflect any changes.

M. Young requested of M. Egan, Board Attorney, how common it was to limit the number of times an extension of a special use permit is heard and what was his experience in other municipalities.

M. Egan explained that he has never experienced a board limiting the number of times that they heard an application for extension of a special use permit.

J. Freeman requested direction from the Board.

The Board determined after discussion that they did not want to request any change to the current procedure.

Adjourn

Motion to adjourn by M. Young, seconded by C. Dillingham, unanimously carried and meeting adjourned at 8:28 PM.

Judith A. Mathews, Chairman

Janice H. Pinson, Board Secretary

DRAFT

The City of Brevard North Carolina

BOARD OF ADJUSTMENT STAFF REPORT **JULY 14, 2015**

TITLE: Special Use Permit Request #15-000005
SPEAKER: Aaron N. Bland, AICP – Planner & Assistant Zoning Administrator
PREPARED BY: Aaron N. Bland, AICP – Planner & Assistant Zoning Administrator

Executive Summary:

The Board will hear a request by Dr. Stewart Trimble for a Professional Services use in the form of a medical consultation office at 59 Morningside Drive (PIN 8556-90-3601-000).

Applicant: Dr. Stewart Trimble
59 Morningside Drive
Brevard, NC 28712
Meeting Date: July 14th, 2015 – 7:00PM
Proposed Use: Professional Services – Medical Consultation Office
Project Site: 59 Morningside Drive
Brevard, NC 28712

Background:
In June of 2015 the Planning Department received an application for a Special Use Permit for a Professional Services use located at 59 Morningside Drive. The applicant proposes using their residence at 59 Morningside Drive for a medical consultation office for up to 10 patients per day; there will be limited physical exams and no treatments done on site.

The activity described falls under the "Professional Services" use in the City's Unified Development Ordinance, which is defined as:

> *Services provided that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical services to others. Such services include, without limitation, the following: legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; graphic, industrial, and interior design services; consulting services; research and development services; advertising, media, and photography services; real estate services; investment banking, securities, brokerages and insurance-related services; and medical services such as physician's and dentist's offices.*

A Professional Services use in a residential zoning district requires the issuance of a Special Use Permit from the Board of Adjustment.

Specific standards for Professional Services operating in General Residential districts are specified in Section 3.20 of the UDO. These standards address issues such as number of employees, parking, hours of operation, and signs. Section 3.20 in its entirety is attached to this staff report.

A neighborhood compatibility meeting will be held Thursday, July 9, 2015 at 6:00pm in City Hall. A summary of this meeting will be presented to the Board.

Special Use Permits:
Special uses are generally compatible with the land uses permitted by right in a zoning district, but require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.

Only those uses enumerated as Special Uses in a zoning district, including but not limited to hours of operation, height, and bulk, mass, intensity of use, etc. shall be authorized by the BOA.

The evaluation and approval of the Special Use Permit shall be based upon the sworn testimony and evidence presented at the hearing relevant to the following Findings of Fact:

a) The use meets all requirements and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and

b) The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible to the surrounding area; and

c) The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.

In approving an application for a Special Use Permit, the BOA may attach fair and reasonable conditions which support the required Findings of Fact. The BOA may not require the landowner to waive a vested right as a condition of the Special Use Permit approval. The burden of proof of producing evidence to support these Findings and to overcome any challenges that approval of the plan would be contrary to one or more of these Findings shall rest entirely with the applicant or landowner.

What is *not* being addressed in this application are particulars to specific UDO requirements that shall apply to this project, specifically: storm water control measures for the new roof area, lighting (if applicable), landscaping, parking, buffering, etc. These issues shall be addressed by Staff when the applicant formally submits an application for zoning site plan approval. It is important for the Board to remember that compliance with Section 3.20 of the UDO (discussed above) will be required for the issuance of a zoning site plan permit, which is separate from this SUP.

Discussion:

Staff has reviewed the applicants request as to its proposed location and how such a use relates to published land use plans for the area, the visual compatibility with the neighboring properties, and thoughts as to any potential impacts to adjacent properties.

Future Land Use Plan
The property in question is designated as "Residential – Low Density" in the August 2002 Future Land Use Plan. It is encouraged that areas within this land use designation maintain their rural character.

Transportation & Pedestrian Plans
There are no long-term transportation plans for this parcel. The 2007 pedestrian plan does not include a sidewalk or greenway along this stretch of road.

Visual/Functional Compatibility
No alterations to the residential structure are proposed and the overall appearance of the building will remain residential in character.

Impacts to Adjacent Properties & Uses
Adjacent properties primarily consist of single-family housing and agriculture. Given the low impact and visibility of the proposed use, Staff has no concerns regarding compatibility with adjacent properties and land uses.

Site Plan Review
All UDO requirements that shall apply to this project, including those found in Section 3.20, will be addressed by Staff when the applicant formally submits an application for zoning site plan approval. Staff anticipates no issues with the site meeting these standards.

Summary:
Professional Services are an allowable use in General Residential districts per the table of permissible uses in Chapter 2 of the UDO with the issuance of a Special Use Permit and the granting of an SUP is required before zoning approval can be issued.

Staff has no opposition to this request, but would recommend that a condition of approval of Special Use Permit 15-000005 be full compliance with all site-related UDO requirements.

CITY OF BREVARD BOARD OF ADJUSTMENT

SUGGESTED MOTION: DR. STEWART TRIMBLE; SUP-15-000005

With regard to Case No. SUP-15-000005, the application of Dr. Stewart Trimble for a special use permit to operate a professional services use in a residential zoning district at 59 Morningside Drive, I move the Board to make the following findings of fact:

a) The use meets all requirements and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit;

List FINDINGS OF FACT for this element per the testimony received

b) The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible with the surrounding area; and

List FINDINGS OF FACT for this element per the testimony received

c) The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.

List FINDINGS OF FACT for this element per the testimony received

Accordingly, I further move the Board to grant the requested special use permit in accordance with and only to the extent represented in the application and plans

[IF, AND ONLY IF, YOU WISH TO ADD CONDITIONS, THEN STATE THE FOLLOWING]

"and subject to the following conditions:

[THEN LIST CONDITIONS]"

ATTACHMENT A – SECTION 3.20 OF BREVARD UNIFIED DEVELOPMENT ORDINANCE

3.20. - Professional services (GR) special use permit; (all other districts) permitted.

It is the intent of this ordinance to permit the location of certain professional services in residential zones, provided that such location does not compromise the residential character nor create activity inimical to the maintenance of the normal peace and quiet of the neighborhood.

A. Number of buildings. When professional services are offered in a residential district, no more than one principal building shall be permitted on any lot less than one acre in size and no more than three principal buildings shall be permitted on any lot one acre or more in size. This restriction applies regardless of whether such buildings are used as residences or professional offices or both.
B. Building size. No building shall exceed 3,000 square feet of floor area. When more than one building is permitted on a lot under this section, the total floor area for all buildings shall not exceed 6,000 square feet exclusive of open carports or shelters.
C. Building character. The overall general appearance of all buildings shall be residential in character.
D. Number of offices. No more than two principal professionals shall be permitted in any building.
E. Number of employees. No more than six employees shall be permitted in any building exclusive of principal professional personnel.
F. Parking facilities. No more than ten spaces shall be provided for any building, with none located in the front yard area except as permitted by Chapter 10, Section 10.5(G) of this ordinance. Driveways shall be established in accordance with Chapter 13 of this ordinance.
G. Hours of operation. Normal hours of operation shall be between 8:00 a.m. and 6:00 p.m., Monday through Saturday, excluding national holidays. Professional services may be provided outside these time frames only in emergencies. Overnight care or service is not permitted.
H. Signs. Each building in which professional services are offered under this section may have one identification sign with a maximum sign area of eight square feet. The sign may be either a wall or ground sign. No other outside sign or identifying structure is permitted. Signs shall not exceed five feet in height and shall not be illuminated.
I. Vehicles. Vehicles normally kept or housed on-site must be regular passenger-carrying vehicles, including pickup trucks of not more than three-fourths ton capacity. Such vehicles may not bear any business identification signs greater than three square feet in size. Trucks over three-fourths ton rated capacity, ambulances and other vehicular equipment are not permitted.

ATTACHMENT B - APPLICATION

City Of Brevard, North Carolina
BREVARD BOARD OF ADJUSTMENT

Application for Special Use Permit (SUP) SUP# 15-000005

SUP File Number: # 15-209

Property Owner:
Name Stewart Trimble
Address 59 Morningside Drive
City/State/Zip Code Brevard, NC 28712
Telephone Number 384-1400 Email Address DRTRIMBLE@STMDLLC.COM

Applicant and/or Agent (if different than property owner):
Name (same)
Address
City/State/Zip Code
Telephone Number Email Address

Location of Property: 59 Morningside Dr 28712

Property Identification Number (PIN): 8586-90-3601-000
Zoning District(s): GRD **Within City Limits?** Yes ✓ No ___

Request SUP as permitted in Unified Development Ordinance Section(s) 3.20 prof. services

REQUESTING SPECIAL USE PERMIT TO ALLOW: medical consults up to 10 patients / day, 9a-5p M-F; no treatments, only consults; limited physical exams

Following must be included with Application:
1. _____ Site Plan
2. _____ Listing of names and mailing addresses of all property owners within two-hundred feet (200') from the boundaries of the property in question.
3. _____ Application filing fee - $200 Receipt # 317384

Signature of Property Owner

Signature of Agent (if different than property owner)

6-5-2015
Date

Date

****

SPECIAL USE PERMIT Request to be heard by TRC on: _____
SPECIAL USE PERMIT Request to be heard by BOA on: _____

MOUNTAINSIDE DR

The City of Brevard North Carolina

BOARD OF ADJUSTMENT STAFF REPORT **JULY 14, 2015**

TITLE: Special Use Permit Request #15-000003
SPEAKER: Aaron N. Bland, AICP – Planner & Assistant Zoning Administrator
PREPARED BY: Aaron N. Bland, AICP – Planner & Assistant Zoning Administrator

Executive Summary:

The Board will hear a request by Cornerstone Presbyterian Church for a religious institution use in the form of a fellowship hall at 645 Bert Lane Road (PIN 8595-16-8267-000), upon which Cornerstone Presbyterian Church's existing church building is located.

Applicant: Cornerstone Presbyterian Church
645 Bert Lane Road
Brevard, NC 28712
Agent: Wayne M. Thomas
Meeting Date: July 14th, 2015 – 7:00PM
Proposed Use: Religious Institution
Project Site: 645 Bert Lane Road
Brevard, NC 28712

Background:
In June of 2015 the Planning Department received development plans for an addition of a new, detached, one-story fellowship hall approximately 4,700 square feet in size to the existing Cornerstone Presbyterian Church located at 645 Bert Lane Road, the corner of Bert Lane Road and Elm Bend Road.

As an expansion of a religious institution use in a residential zoning district, this project requires the issuance of a Special Use Permit (SUP) from the Board of Adjustment.

Cornerstone Presbyterian Church was granted a Special Exception Permit to construct their current facility by the City of Brevard Board of Adjustment on January 11, 2000. The Unified Development Ordinance requires the granting of a Special Use Permit for Religious Institutions in the current GR-4 zoning district. As the previous SEP was granted for a site-specific endeavor, the current facility, it is clear that any changes or amendments to that permit will require a new Special Use Permit to accommodate that request.

Cornerstone Presbyterian Church applied for, and was granted, a SUP in July of 2008 for a fellowship hall (see 2008 case decision attached). The 2008 SUP expired after no building permit was applied for within 12 months of the granting of the SUP. This current request is a resubmittal for the same fellowship hall.

Special Use Permits:
Special uses are generally compatible with the land uses permitted by right in a zoning district, but require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.

Only those uses enumerated as Special Uses in a zoning district, including but not limited to hours of operation, height, and bulk, mass, intensity of use, etc. shall be authorized by the BOA.

The evaluation and approval of the Special Use Permit shall be based upon the sworn testimony and evidence presented at the hearing relevant to the following Findings of Fact:

a) The use meets all requirements and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and

b) The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible to the surrounding area; and

c) The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.

In approving an application for a Special Use Permit, the BOA may attach fair and reasonable conditions which support the required Findings of Fact. The BOA may not require the landowner to waive a vested right as a condition of the Special Use Permit approval. The burden of proof of producing evidence to support these Findings and to overcome any challenges that approval of the plan would be contrary to one or more of these Findings shall rest entirely with the applicant or landowner.

What is *not* being addressed in this application are particulars to specific UDO requirements that shall apply to this project, specifically: storm water control measures for the new roof area, lighting (if applicable), landscaping, parking, buffering, etc. These issues shall be addressed by Staff when the applicant formally submits an application for zoning site plan approval.

Discussion:
Staff has reviewed the applicants request as to its proposed location and how such a use relates to published land use plans for the area, the visual compatibility with the neighboring properties, and thoughts as to any potential impacts to adjacent properties.

Future Land Use Plan
The property in question is designated as "Public/Semi-Public/Institutional" in the August 2002 Future Land Use Plan. The Public/Semi-Public/Institutional land use designation encourages "lands controlled

or owned by public bodies and lands which are devoted to mental, physical, spiritual and cultural development."

Transportation & Pedestrian Plans
There are no long-term transportation plans for this parcel. The 2007 pedestrian plan does not include a sidewalk or greenway along this stretch of road.

Visual/Functional Compatibility
The new addition is proposed to be built with a matching exterior that complements the existing church building. Note that church buildings (as well as other "civic" building types) are generally exempt from standards imposed by *Chapter 5 – Building Types and Architectural Standards* of the UDO.

Impacts to Adjacent Properties & Uses
Adjacent properties primarily consist of single-family housing and agriculture. Given the size of the proposed addition and the low density of the surrounding land uses, Staff has no concerns regarding compatibility with adjacent properties and uses.

Site Plan Review
Staff has not seen a full set of plans and cannot comment on the degree to which this proposed development does or does not comply with UDO requirements. Any specific UDO requirements that shall apply to this project, including lighting, landscaping, parking, buffering, etc., will be addressed by Staff when the applicant formally submits an application for zoning site plan approval

Summary:
Religious Institutions are an allowable use in General Residential districts per the table of permissible uses in Chapter 2 of the UDO with the issuance of a Special Use Permit. The existing use has been operating under a previous Special Exception Permit (prior to UDO adoption in 2006) but the granting of an SUP is required before development approval can be issued for an expansion of this use.

Staff has no opposition to this request, but would recommend that a condition of approval of Special Use Permit 15-000003 be full compliance with all site-related UDO requirements.

CITY OF BREVARD BOARD OF ADJUSTMENT

SUGGESTED MOTION: CORNERSTONE PRESBYTERIAN CHURCH; SUP-15-000003

With regard to Case No. SUP-15-000003, the application of Cornerstone Presbyterian Church for a special use permit to operate a religious institution in a residential zoning district at 645 Bert Lane Road, I move the Board to make the following findings of fact:

a) The use meets all requirements and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit;

List FINDINGS OF FACT for this element per the testimony received

b) The proposed use or structure will, if developed according to the plan submitted and approved, be visually and functionally compatible with the surrounding area; and

List FINDINGS OF FACT for this element per the testimony received

c) The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.

List FINDINGS OF FACT for this element per the testimony received

Accordingly, I further move the Board to grant the requested special use permit in accordance with and only to the extent represented in the application and plans

[IF, AND ONLY IF, YOU WISH TO ADD CONDITIONS, THEN STATE THE FOLLOWING]

"and subject to the following conditions:

[THEN LIST CONDITIONS]"

City Of Brevard, North Carolina
BREVARD BOARD OF ADJUSTMENT

Application for Special Use Permit (SUP) 15-000003

SUP File Number: # 15-210

Property Owner:
Name CORNERSTONE PRESBYTERIAN CHURCH, PCA
Address 645 BURT LANE ROAD
City/State/Zip Code BREVARD NC 28712
Telephone Number 828 884-3305 Email Address CORNERSTONENEWS@COMPORIUM.
828 577-5253

Applicant and/or Agent (if different than property owner):
Name WAYNE M THOMAS OR HOWARD S JONES
Address 645 BURT LANE
City/State/Zip Code BREVARD NC 28712
Telephone Number 828 577-5253 Email Address CORNERSTONE NEWS@COMPORIUM.NE

Location of Property:
CORNER OF BURT LANE + ELM BEND ROAD

Property Identification Number (PIN): 8595-16-8267-000
Zoning District(s): _____ **Within City Limits?** Yes __ No X

Request SUP as permitted in Unified Development Ordinance Section(s) YES

REQUESTING SPECIAL USE PERMIT TO ALLOW: CONSTRUCTION OF FELLOWSHIP HALL NEXT TO EXISTING CHURCH BUILDING (DETACHED) WITH MATCHING EXTERIOR APPROX 4708 SQ.FT ONE STORY WITH CATERING STATION AND REST ROOMS. TOTAL CAPACITY LESS THAN 300

Following must be included with Application:
1. YES Site Plan
2. YES Listing of names and mailing addresses of all property owners within two-hundred feet (200') from the boundaries of the property in question.
3. YES Application filing fee - $200 Receipt #_____

Signature of Property Owner

Signature of Agent (if different than property owner)

June 5, 2015
Date

June 5, 2015
Date

****

SPECIAL USE PERMIT Request to be heard by TRC on: _____
SPECIAL USE PERMIT Request to be heard by BOA on: _____

Brevard Planning Department
Brevard, North Carolina

APPOINTMENT OF AGENT

I, CORNERSTONE PRESBYTERAIN CHURCH, PCA, owner of property located at (street address) 645 BURT LANE ROAD BREVARD NC 28712 and identified by the Transylvania County Tax Assessor's Office as PIN: 8595-16-8367-000 _____, located in Transylvania County, North Carolina, do hereby appoint WAYNE M THOMAS to represent me in filing an application for CATEGORY TYPE III, SPECIAL USE PERMIT with the Brevard Planning Department and before the Technical Review Committee and the Board of Adjustment.

I further authorize WAYNE M THOMAS to act as my agent in all matters, formal and informal, and to receive all official correspondence as it relates to the CATEGORY TYPE III, SPECIAL USE PERMIT request and hearing.

Howard Jones Jr
Property Owner Signature

645 BERT LANE Rd. BREVARD NC 28712
Property Owner Mailing Address and Telephone Number 828-862-4047

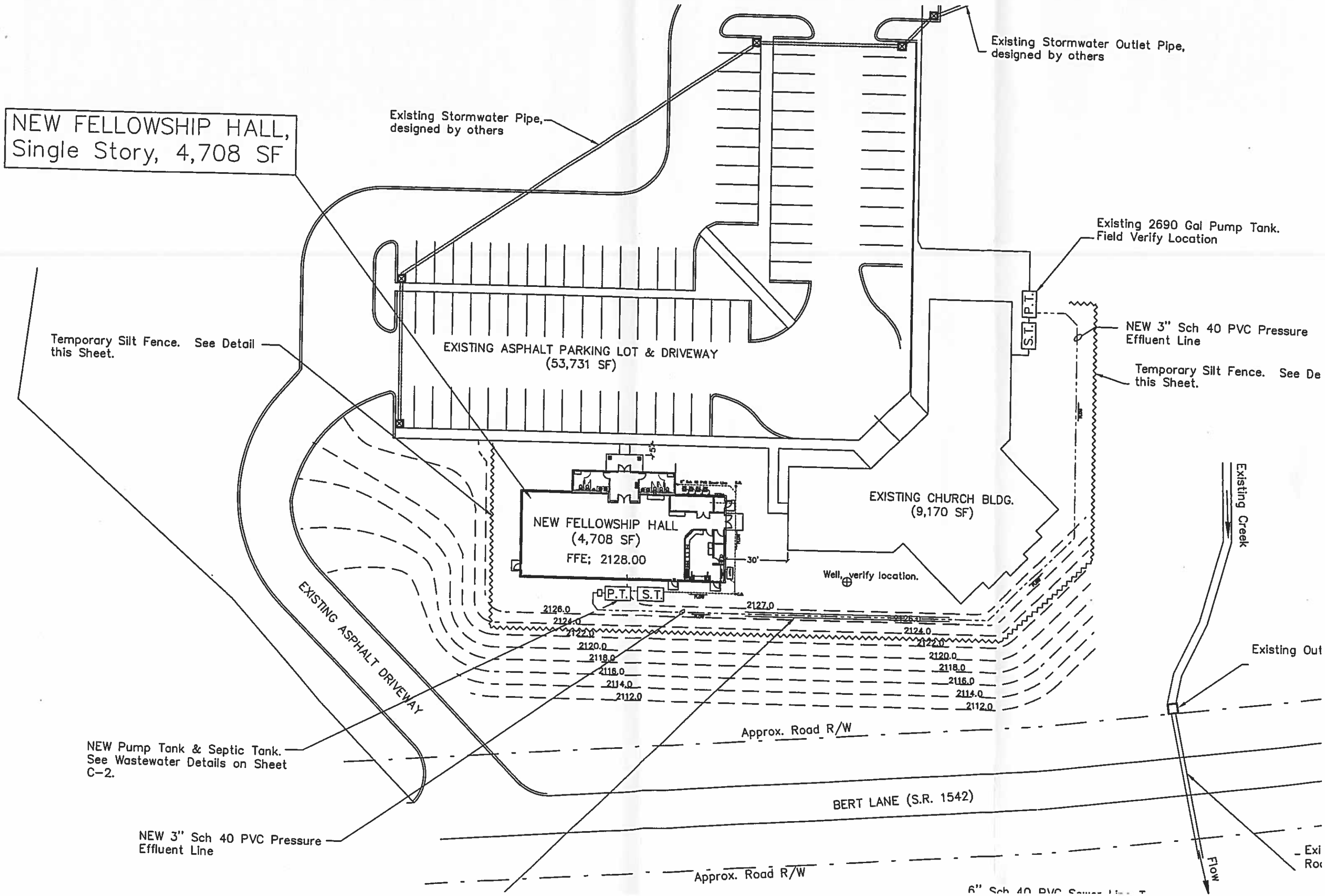
JUNE 5 2015
Date of Signature

Agent's Information: Name Wayne M Thomas
Address 645 BURT LANE ROAD
BREVARD NC 28712
Telephone & Fax 828 877-5253
Email CORNERSTONENEWS@CONFORIUM.NET

* * * * * * * * * * * *

TRC Hearing Date: _____

BOA Hearing Date: _____
BOA Case Number: _____


NEW FELLOWSHIP HALL,
Single Story, 4,708 SF
Existing Stormwater Pipe, designed by others
Existing Stormwater Outlet Pipe, designed by others
Existing 2690 Gal Pump Tank. Field Verify Location
P.T.
S.T.
NEW 3" Sch 40 PVC Pressure Effluent Line
Temporary Silt Fence. See Detail this Sheet.
Temporary Silt Fence. See De this Sheet.
EXISTING ASPHALT PARKING LOT & DRIVEWAY
(53,731 SF)
EXISTING CHURCH BLDG.
(9,170 SF)
NEW FELLOWSHIP HALL
(4,708 SF)
FFE; 2128.00
+5"
30'
Well, verify location.
2126.0
2124.0
2122.0
2120.0
2118.0
2116.0
2114.0
2112.0
2127.0
EXISTING ASPHALT DRIVEWAY
Existing Creek
Existing Out
Approx. Road R/W
BERT LANE (S.R. 1542)
Approx. Road R/W
NEW Pump Tank & Septic Tank. See Wastewater Details on Sheet C-2.
NEW 3" Sch 40 PVC Pressure Effluent Line
Flow
Exi
Ro
6" Sch 40 PVC Sewer Line

FOR INFORMATION ONLY

STATE OF NORTH CAROLINA
TRANSYLVANIA COUNTY

BEFORE THE BREVARD
BOARD OF ADJUSTMENT

CASE NO. SUP-08-189

IN RE THE APPLICATION OF CORENERSTONE PRESBYTERIAN CHURCH PCA, FOR A SPECIAL USE PERMIT

DECISION

This matter came before the City of Brevard Board of Adjustment on the application of Cornerstone Presbyterian Church, applying for a Special Use Permit to construct a Fellowship Hall [building addition] in a GR-4 Zoning District.

A quasi-judicial hearing was held on 08 July 2008. Mr. Robert Banker was present for the hearing on behalf of Cornerstone Presbyterian Church. The following persons were sworn as witnesses and presented testimony in this matter: Robert Banker, Arthur Horner, and Assistant Planning Director Brad L. Burton

In addition, City of Brevard Planning Department File No. SUP-08-189 was admitted into the record of the case without objection.

Testimony

Testimony in this case is accurately reflected in the minutes of the meeting of 08 July 2008.

FINDINGS OF FACT

Based on the above testimony, the Board makes the following findings of fact:

(1) The hearing in this matter was properly noticed in accordance with state law.

(2) Chapter 2, Section 2.2.5C of the City of Brevard Unified Development Ordinance requires the granting of a Special Use Permit for use as defined as "Religious Institutions."

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(3) The Board of Adjustment granted the Cornerstone Presbyterian Church a Special Exception Permit to allow for the construction of the church on April 10, 2001 (SEP-01-005).

(4) The addition of a Fellowship Hall onto Cornerstone Presbyterian Church is a departure from the originally-approved Special Use Permit and shall require additional review by the Board of Adjustment to consider a new Special Use Permit allowing this change.

CONCLUSIONS OF LAW

Based on the above findings of fact, the Board concludes the following:

1) The quasi-judicial hearing proceeding was properly noticed and there was no objection to the proceeding being held.

2) The City of Brevard Board of Adjustment has jurisdiction to insure adequate review and control of various specific uses or development proposals that may have a direct influence or impact upon neighboring or contiguous land uses. This review is intended to aid in protecting the private and public values and interests in such land uses whether residential, institutional, or commercial in nature.

3) After thorough examination, it is clearly obvious to the Board that the applicant has proven that the use meets all requirements and specification of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit in that:

   a) The use meets all requirements and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves it's spirit; and

   b) The proposed use will, if developed according to the plan submitted and approved, be visually and functionally compatible to the surrounding area; and

   c) The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.

FOR INFORMATION ONLY

DECISION

Based on the foregoing findings of fact and conclusions, the application of Cornerstone Presbyterian Church PCA, for a Special Use Permit, is hereby granted subject to the following conditions:

1) That the applicants comply with any and all requirements of the Transylvania County Department of Public Health as to sanitary improvements or any other of their requirements for the addition.
2) That all applicable aspects of UDO compliance be required as to the project as specified in the zoning site plan approval process.
3) That Cornerstone Presbyterian Church installs a Knox Box® key retention system before final approval is granted.

ORDERED this 8th day of July, 2008.

CITY OF BREVARD BOARD OF ADJUSTMENT

By: _____
John Erkkila, Chair

Attest:

_____
Desiree Perry, Secretary