



Pender County

Agenda

Board of Adjustment Meeting

Wednesday, May 17, 2023 @ 9:00 AM

Pender County Public Assembly Room 805 S. Walker
Street, Burgaw, NC 28425

	Presenter	Page
1. CALL TO ORDER		
2. ROLL CALL		
3. INVOCATION		
4. ADOPTION OF AGENDA		
5. ADOPTION OF MINUTES		
5.1. February 15, 2023 Meeting Minutes BOA Meeting Minutes 2-15-2023 - Pdf		3 - 10
6. PUBLIC COMMENT		
7. APPEAL		
7.1. APPEAL 2023-10: Appeal of Administrative Decision APPEAL 2023-10 - Pdf		11 - 40
8. DISCUSSION ITEMS		
9. NEXT MEETING DATE		
10. ADJOURNMENT		



Pender County BOA Meeting Minutes 2-15-2023

TO: Zoning Board of Adjustment
FROM: Daniel Adams
DATE: May 17, 2023
SUBJECT: February 15, 2023 Meeting Minutes

SUMMARY:

BOA Meeting Minutes 2-15-2023

ACTION REQUESTED:

Review and approval of 2-15-2023 meeting minutes

ATTACHMENTS:

1. February 15, 2023 Meeting Minutes

Pender County Board of Adjustment Meeting Minutes – February 15, 2023

Members Present: Max Kipfer, Chairman
Brett Keeler
Andrew Olsen, Alternate
Jeffrey Snider, Alternate

Members Absent: Kyle Breuer, Vice Chairman

Others Present: Daniel Adams, Planning Director
Justin Brantley, Senior Planner
Greg Feldman, Long Range Planner
Donna Sayre, Planning Technician
Members of the Public

1. **Call to Order:** 9:03 a.m.

2. **Roll Call**

3. **Invocation**

4. **Adoption of Agenda**

Mr. Keeler made a motion to adopt the agenda. Mr. Olsen seconded the motion, and the motion was unanimously approved.

5. **Adoption of Minutes**

Mr. Keeler made a motion to adopt the minutes from the January 18, 2023, meeting. Mr. Snider seconded the motion, and the motion was unanimously approved.

6. **Public Comment**

There was not public comment.

7. **Public Hearing**

VARIANCE CASE 2022-12 – Pope Properties on 17, LLC., Applicant and Owner

Mr. Feldman, Long Range Planner, presented the Staff Report. Pope Properties on 17, LLC, applicant and owner, is requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 8.1.3, "Tree Survey Required." Specifically, the request is to seek relief from the mitigation requirements for the removal of significant trees. The subject properties are within the GB, General Business, zoning district and are located east of US Hwy. 17, at the intersection with Scotts Hill Loop Road in the Topsail Township. There are four tracts totaling approximately 7.9 acres of land associated with this request and may be further identified by Pender County PINs 3271-41-0365-000, 3271-41-3641-000, 3271-41-4387-000, and 3271-41-2253-0000.

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Mr. Feldman stated that each tract of land is fairly wooded with a residential structure located on PIN 32471-41-2253-0000. Pender County PIN 3271-41-0365-000 currently has an active Major Site Development Plan application under review for a convenience store and gas station with the Pender County Planning Department. During staff's review of the application, it was determined by the applicant that fulfilling the required significant tree mitigation in accordance with Section 8.1.3, of the Pender County Unified Development Ordinance (UDO) will be challenging without a "fee in lieu" instrument when developing the properties commercially. Additionally, there are four access and utility easements within the subject properties and Section 8.2.5 "Planting in Easements" does not allow for the planting of new trees in utility or drainage easements which further limits the area where the required mitigation trees can be planted on the site. In addition to the existing easements, the applicant has indicated that approximately 1.17 acres of the four parcels have been identified as wetlands.

Mr. Feldman stated on December 14, 2022, the Board of Adjustment heard the initial request and continued the hearing to the February 15, 2023, meeting date to allow the applicant time to provide additional clarification and justification. He stated that since the December meeting, the applicant obtained an updated tree survey from their Engineer. The updated tree survey showed eighty-six trees as being significant, which would be required to be mitigated at a two to one ratio. Mr. Feldman stated that one hundred and seventy-two trees would be required as part of the proposed convenience store and storm water pond.

Mr. Feldman stated that the applicant is now proposing to replant ninety-eight of the one hundred seventy-two trees required mitigation trees, therefore leaving seventy-four significant trees that the applicant would request a fee in lieu or off-site planting option.

Mr. Kipfer asked the members if they had any questions for Planning staff to which no questions were presented.

Mr. Kipfer indicated to the public that the people who were present at the December Planning Board meeting and testified, are still under oath but if there is anyone present who was not present at the last meeting would need to be sworn in. Mr. Kipfer asked for staff and members of the public who have not been sworn in to stand and be sworn in.

Attorney Matthew Nichols, representing the applicant, spoke to the Board. He stated that David Sneed, Glen Lea and their Civil Engineer, Mike Gallant were also present and willing to answer questions that the Board may have. Mr. Nichols stated that their request was first heard at the December 2022 meeting and that he and the applicant met with the Planning staff to help refine the scope of the variance request and to make sure they were coming back to the Board with additional information that was requested at the last meeting.

Mr. Nichols stated that in the Board's packet is a revised narrative which explains the request in more detail and provides updated information. He stated that a tree removal plan and a mitigation plan, which are the last two pages in the printed packet, are included. Mr. Nichols stated that the last two referenced plans were prepared by McKim & Creed and are dated February 3, 2023. He stated there is also a landscape data table as it affects mitigation plantings, which is labeled as Exhibit A1 in the new materials that were submitted. Exhibit A2 was submitted also, and consisted of a mitigation tree schedule.

Mr. Nichols informed the Board that the property is currently zoned GB, General Business, is a fairly wooded site, that there are multiple access and utility easements on the property, and that this property is unique.

Mr. Nichols stated that in order to develop the site and use it in a reasonable manner as zoned for General Business, it will be very difficult to meet the two to one ratio that the current UDO is requiring. He stated that the hardship in this case would be the inability to use the site as it is zoned for the intended commercial purposes.

Mike Gallant stated that he is a registered licensed Engineer in the state of North Carolina. He stated that he is the Engineer on this project for stormwater control and sewer design. Mr. Galante discussed the topography of the land, wetland area, the need for the stormwater pond to be outside the wetland area, and the size of required stormwater pond. He stated from the top of the bank of the creek, there is a fifty-foot setback for infrastructure that has to be adhered to.

Mr. Gallant stated that a stormwater pond is necessary and due to the property being in a coastal county, the coastal stormwater rules apply and the volume for treatment is the one year twenty-four-hour storm event, which roughly equals to about 3.75 inches of rain to be stored in the pond. The pond appears to be large, but it is due to the stormwater rules that must be followed. Mr. Gallant stated that the pond is built into the slope at the back of the property and the applicant is trying to keep most of the development in the flatter uphill sections. Mr. Gallant stated the Department of Environmental Quality will not allow any trees to remain or be planted on the berm of the pond due to possible windstorms toppling the trees over in the future and taking the bank with it.

Mr. Kipfer thanked Mr. Gallant for presenting such a detailed drawing and for explaining the drawing in greater detail. Mr. Jordan stated that the Board is at the point of wanting to figure out what the tree configuration is so that they can decide if this is going to work.

Mr. Nichols brought to the attention of the Board the considerable number of easements that are located close to the middle of the property.

David Sneed stated there is a lot of topography on this lot with the elevation ranging from thirty-two feet to just below fifteen feet. He stated that the Department of Transportation has basically told the applicants where the driveway connections are going to be located on Scotts Hill Loop Road and US Hwy. 17. He stated that the Circle K site is framed by an easement for access to the back and the front driveway. Mr. Sneed stated that DOT allows a two percent grade from their right-of-way into the site. He also stated that there is a Duke, ATT, Spectrum and Charter communication easements that run through the property. Mr. Sneed stated that they have put the rear access in the same general area as the communications easement.

Mr. Sneed stated that there is a sewer pump station that will serve lots 1, 2, and 3.

Mr. Sneed stated that due to the significant grade changes on the lot, there will be a need for a lot of grading work to be completed.

Mr. Sneed stated that they were able to save nine trees around the retention pond on lot 4.

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Mr. Sneed stated that the Board had a concern at the last meeting pertaining to the applicants' broad approach with the variance applying to the entire site. He stated that they decided to amend their application to eliminate lots 2 and 3, except for the areas that pertained to the access easements. Mr. Sneed stated that due to lots 2 and 3 being withdrawn from the application, no trees would be affected on those two lots.

Mr. Sneed stated that they reviewed lots 1 and 4 again with the Engineer. It was determined that no trees could be saved on lot 1. The landscape architect at McKim & Creed told Mr. Sneed that due to severe grading issues on lot 1, no trees would be able to be saved even if traffic islands and landscape buffers were moved around. There is two to three feet of grading and fill needed all over this site. Mr. Sneed stated that no matter what they do with Type A Buffers and landscape islands on lot 1, the trees are going to die due to the grade changes. He stated that lot 1 has zero salvageable trees. He stated that on lot 4, there were nine trees around the retention pond that can be salvaged.

Mr. Sneed stated that due to withdrawing lot 2 from the application, eighty-two trees have been retained and excluded from the variance request. He stated that except for the easement areas on lot 3, no trees will be removed which total forty-eight trees. Mr. Sneed stated that by removing lots 2 and 3 from this variance request, one hundred and thirty-nine trees will be retained.

Mr. Sneed stated that they have a plan to mitigate and plant ninety-eight trees on site and in addition to those on-site planting, they are requesting that their fee-in-lieu or off-site planting be reduced to seventy-four trees due to them being unable to locate the seventy-four trees on this site and around the perimeter of the pond.

Mr. Sneed explained the proposed tree mitigation plan.

Mr. Sneed stated that they have spoken to the neighboring property owners who have shown support for the project. Bill Lea owns a commercial tract that runs about six hundred feet down US Hwy 17 to the south and Chris Blake who shares this property's boundary from US Hwy. 17 around the branch to Scotts Hill Loop Road.

Mr. Kipfer stated that the two individuals that Mr. Sneed referred to are not at the hearing to testify so Mr. Sneed's statements will be his statements only. If they wanted to come and testify on their own behalf, they could of but chose not to.

Mr. Sneed stated that this project is a significant investment with the applicants spending over six hundred thousand dollars on DOT required improvements. He stated that Circle K is going to make over a seven million dollar investment, will employ twenty-five people, and generate in excess of two hundred thousand dollars a year in sales tax revenue.

Mr. Sneed stated that comments made to them by the neighbors and the public indicate the need for a convenience store in that area to provide services that are not there now and to save the local community trips on US Hwy. 17.

Mr. Kipfer informed Mr. Sneed that the Board appreciates the efforts that the applicants made since the first hearing. Mr. Sneed stated that he feels this current plan is a much

better plan and represents their best efforts.

Mr. Nichols stated that due to the hearing being a quasi-judicial hearing, he would like to understand where the speakers live or own property. He stated he wants to reserve his right to object instead of stepping to the podium and interrupting the person speaking. Mr. Nichols stated at the appropriate time, he would like to be able to address the individual speakers.

Wolfgang Herrmann, 4205 Scotts Hill Loop Road, stated that his property butts up to the Abby Preserve. He is concerned with the decision the Board will make today. Mr. Herrmann stated that tree mitigation is extremely important to not only the adjacent property owners but to the citizens of all Pender County. He stated that the stormwater pond that will hold three and a half inches will be about six hundred percent short for a storm such as Florence, which had twenty-three inches of rain fall. He stated that the Dogwood trees that are existing or will be planted will all die, due to the virus that is attacking that species. Mr. Herrmann stated his biggest concern is the fact that the stormwater pond will not be able to contain all the water during a hurricane.

Mr. Herrmann stated that the bulldozers will be starting to clear the land in the preserve area around May of this year and many beautiful trees will be destroyed. Pines, Red Oaks, and White Oaks are just a few types of trees growing in the preserve that will be destroyed shortly. He feels that as many trees should be saved as possible with this project.

Andy Priolo, 1100 Situs Court, chose to pass when called to testify.

Michele Hickman, 341 Lafayette Street, stated that her property is down Scotts Hill Loop Road from this proposed site. Mr. Brantley stated that Ms. Hickman's property is a little bit under a half mile from the property. She stated her dislike for clear cutting properties for commercial developments. Ms. Hickman also stated her concern of additional flooding and run-off due to the property being elevated so much. She stated that putting a convenience store at this location is only going to make the already bad traffic issue a true traffic nightmare.

Mr. Kipfer stated that he appreciates her comments, but that Ms. Hickman may want to bring her comments up to the Board of Commissioners. He stated that her comments are part of the bigger picture and not related to the specific request of this variance.

Ms. Hickman stated that the applicant did include lot 2 in this application but is afraid that once a fast food place wants to be built on lot 2, then all the trees will be clear cut from that lot also.

Kim Meyer, 102 Leslie Lane, chose to pass when called to testify.

Mr. Nichols stated that they respect the testimony that was just provided but would like to object to it due to the speakers not having a standing in this matter. He stated that there were some generalized statements pertaining to clear cutting and development of the County and he would respectfully contend that the persons speaking do not own or live in close proximity to this project. Mr. Kipfer stated that Mr. Nichols' concerns were so noted with Mr. Nichols stated he just wanted to state for the record. Mr. Kipfer again acknowledged Mr. Nichols' objection.

Mr. Nichols stated that Mr. Gallant was available to answer any questions that any of the speakers may have raised during their testimony.

Mr. Kipfer asked the Board members if they had any additional questions, and no questions were presented. Mr. Kipfer stated that he would close the hearing and move into the discussion stage.

Mr. Keeler stated that he feels there are bigger issues in the County that the Board is not charged with such as pollution, stormwater, and tree mitigation plans. He stated that the Board realizes that more of these types of developments are going to come in the undeveloped County with similar types of requests. Mr. Keeler stated that the Planning Department is in the process of updating some of the existing plans but this Board is unable to discuss those updates and rather only the application that is presented in front of them today. He stated that they must follow the rules that are currently in place. Mr. Keeler stated that he is not a fan of the fee-in-lieu or off-site planting, but that is something that is allowable within the current Ordinance. Mr. Keeler stated if they are allowed to plant mitigation trees on lot 2, when that lot is developed and clear cut, then the planting would not be able to benefit the residents of the County. He stated that working within the confines of what the Ordinance currently allows, he would have to be in agreement with what has been presented.

Mr. Olsen stated that maybe this isn't the appropriate piece of property for this type of development. He stated that there was a lot of testimony about the slopes involved and due to the sloping no trees could be saved on lot 1. Mr. Olsen stated he does not know if any trees could be saved on lots 2 and 3 in the future. He stated that the County's policy is to save trees and trees do absorb rainwater so is clear cutting a property and installing a retention pond sufficient to counter act the clear cutting of the trees. Mr. Olsen stated that cutting down trees and replacing the trees with concrete will impact the neighbors. He feels that both members of the public who testified earlier will be affected by the run-off due to the development of this land. Mr. Olsen stated he is not sure it would be right to grant a variance in this situation when the negative ramifications will be substantial.

Mr. Snider stated that this piece of property will end up being developed and two months ago, the developers presented a plan that showed clear cutting of one hundred forty-four trees and with the intention of paying the County a fee-in-lieu. He does feel that the developers are acting in good faith with the revised plan that they have presented today. Mr. Snider feels that the developers have brought back to the Board basically all that can be done on this property if it is to be developed.

Mr. Kipfer stated that he is not without empathy for entire bigger picture situation and for the members of the public who testified this morning. He stated that he cannot forecast what will happen with the two other lots in the future. Mr. Kipfer stated that what the developers have put forward today was a significant improvement from the previous hearing.

Mr. Keeler stated that he does not disagree with anything that Mr. Olsen stated. Mr. Keeler stated that he feels further efforts can be made by the Developers to retain more trees. He feels that Planning staff and Board of Commissioners need to take a stronger stance as opposed to lessening it to make it easier for the Developers to remove existing trees and replace them with new plantings or do a fee-in-lieu instead.

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Mr. Nichols stated this his clients have asked that in light of the comments that have been in today's hearing, would the Board see any benefit in allowing the applicants to go back and work with Planning staff again to see if any additional trees can be saved. He stated that the applicants would be willing to do so.

Mr. Kipfer stated that it would be the choice of the applicants if they wanted some additional time to work on the concerns presented. He stated it would be the applicants' right to ask for another continuance for more time to work with the Planning staff.

Mr. Nichols stated in light of the comments made by the Board members, they would like the opportunity to work with the Planning staff and bring back something before the Board to further address comments made.

Mr. Olsen stated that if the applicants request a continuance to work with the Planning staff for a better outcome, then he feels inclined to grant the continuance. Mr. Kipfer and Mr. Keller expressed their agreement.

Mr. Kipfer asked Mr. Adams when the next hearing date would be. Mr. Adams stated March 15, 2023, would be the next hearing date. Mr Adams asked if that would allow the applicants enough time. Mr. Adams stated if the applicants needed additional time, the April hearing would take place on the 19th. Mr. Kipfer asked Mr. Nichols if the April 19, 2023, hearing would be adequate time for the applicants and Mr. Nichols stated that the April meeting will be adequate time for his clients.

Mr. Olsen made a motion to grant a continuance until the April 19, 2023, hearing. Mr. Snider seconded the motion, and the motion was unanimously approved.

8. Discussion Items

There were no discussions

9. Next Meeting Date

April 19, 2023 @ 9:00 a.m.
Commissioner's Meeting Room
805 S. Walker Street
Burgaw, NC 28425

10. Adjournment

Meeting adjourned at 10:07 a.m.



**Pender County
APPEAL 2023-10: Appeal of
Administrative Decision**

TO: Board of Adjustment
FROM: Daniel Adams
DATE: May 17, 2023
SUBJECT: APPEAL 2023-10: Appeal of Administrative Decision

SUMMARY:

Samuel Potter, applicant, on behalf of Carl Meeks, LLC, owner, is requesting an Appeal of an Administrative Decision made by the Pender County Planning and Community Development Department in the issuance of a Final Notice of Violation, case # ZCV-512-2022, for the operation of a commercial motocross track without a Special Use Permit in a zoning district that requires a Special Use Permit for said land use.

ACTION REQUESTED:

Hold a public hearing and consider the Appeal of Administrative Decision.

ATTACHMENTS:

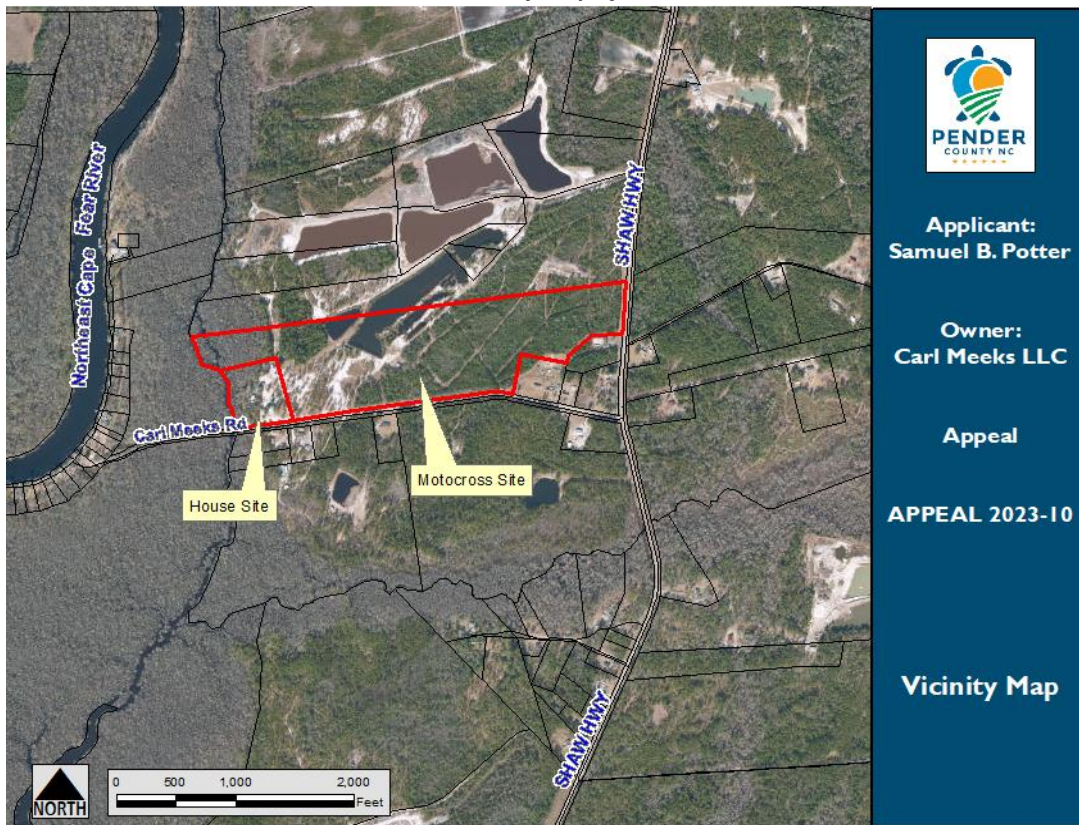
1. Staff Report
2. Application
3. Applicant's Narrative
4. Carl Meeks, LLC Annual Report
5. First Notice of Violation
6. Copperhead Ranch/Driven MX Website
7. Owner's Narrative
8. Final Notice of Violation

**STAFF REPORT FOR APPEAL 2023-10
APPEAL OF ADMINISTRATIVE DECISION APPLICATION**

APPLICATION SUMMARY	
Case Number	APPEAL 2023-10
Hearing Date	May 17, 2023 Board of Adjustment
Applicant	Samuel Potter
Property Owner	Carl Meeks, LLC
Parcel Identification Number	3257-59-0861-0000
Acreage	52.5
Township	Holly
Zoning District	RA, Rural Agricultural

APPEAL SUMMARY
Samuel Potter, applicant, on behalf of Carl Meeks, LLC, owner, is requesting an Appeal of an Administrative Decision made by the Pender County Planning and Community Development Department in the issuance of a Final Notice of Violation, case # ZCV-512-2022, for the operation of a commercial motocross track without a Special Use Permit in a zoning district that requires a Special Use Permit for said land use.
LOCATION
The subject property is located on the north side of Carl Meeks Road, west of Shaw Highway in the Holly Township and further identified by Pender County PIN 3257-59-0861-0000.

Below: Vicinity Map of the Area



BACKGROUND AND DESCRIPTION OF APPEAL

On July 6, 2022, Pender County Code Enforcement Officer Charlie Ring received a complaint concerning dirt bikes and four wheelers operating on the subject property. The complainant mentioned the amount of dust that was being stirred up by this activity, which was bothering the neighbors. It was also reported to staff that the subject property was being used as a commercial motocross track. County staff subsequently located a website that showed a schedule of activity times for clients who had registered to join the Copperhead MX club and costs associated with reserving time to ride at the facility. Based on information on the website, it was determined that Copperhead MX is the name of the club and/or facility owned by Carl Meeks, LLC and located on the subject property. Staff reviewed the Limited Liability Company Annual Report for Carl Meeks, LLC, available through the North Carolina Secretary of State, and found that the Nature of the Business, as described in the Annual Report, is an "Events Site" (see Attachment 1).

On July 8, 2022, Charlie Ring conducted a site visit but did not witness any motocross activity. On August 29, 2022, a first Notice of Violation was issued to the owners of the property, Carl Meeks, LLC via mail, per Article 13.4 Enforcement Procedures, of the Pender County Unified Development Ordinance (UDO). The

first Notice of Violation is included as Attachment 2 and specifies that the owner of the subject property is in violation of Article 3.2.1 of the UDO, which reads as follows:

- A. Activities for which a Zoning Approval is required: A valid Zoning Approval shall be required for any application for a Building or Electrical Permit. No Building or Electrical Permit shall be issued for any activity in a zoned area until such Zoning Approval or a written determination by the Administrator that no approval is required, has been issued. Zoning approvals may be issued in the form of an individual permit or as a corresponding approval on a related form, such as a building permit. In all circumstances a Zoning Approval shall be required for the following activities:
- 1) To commence the excavation for or the construction of any building or other structures including accessory structures,
 - 2) To commence the moving, exterior alteration, expansion, or substantial repair (see definition of substantial repair) of any structure including accessory structures,
 - 3) To initiate a new use or change the use on any land, lot, parcel or property,
 - 4) To initiate a new use or change the use for any building including accessory structures

Subsequent conversations with County staff and the owner's legal counsel led to the removal of the website and assurances that the motocross club would cease operations. The owner was notified that if they wanted to continue operating the motocross club, they would first need to obtain a Special Use Permit for operating a motocross racetrack in the Rural Agricultural zoning district, as required in the Pender County UDO, Article 5.2.3 Table of Permitted Uses. Staff determined that the North American Industry Classification System (NAICS) Code for the land use was 711212 which includes Motorcycle Racetracks. At this time, staff believed compliance had been achieved.

Graphic 1: Pender County Table of Permitted Uses

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
Sector 71: ARTS, ENTERTAINMENT, AND RECREATION											
Performing Arts Companies	7111	S				P	P				
Spectator Sports	7112	S					P		P		

At the County Board of Commissioners January 17, 2023, meeting, Gary Helm of Carl Meeks Road, spoke to the Commissioners during Public Comment about the motocross track operating on Carl Meeks Road. Mr. Helm discussed the impacts of the use and how it was negatively affecting the folks who live in the vicinity of the subject property. He played a recording from his cell phone of the noise the activity creates and stated that the recording was taken from his property.

After the Board of Commissioners meeting, staff further researched the subject property and found a website under the homepage DrivenMX describing Copperhead Ranch, located at 532 Carl Meeks Road in Rocky Point, North Carolina. As described on the website, Copperhead Ranch offers, "Countryside living including the ability to train with Driven Mx Training at a private location. 3 motocross tracks, barn for storage and bike work, freshwater ponds, floating docks onsite, with gyms, hardware store, several

restaurants, gas stations, and grocery store within 10 minutes from the property. 3bed/2bath sleeps 10 and RV Camping is available.” The website advertised training programs with dates and associated costs for participating in said program. The site also states that the motocross tracks are only available to members and guests. A copy of the information from the website can be found in Attachment 3.

Staff subsequently called the owner’s legal counsel, Samuel Potter, to inquire about the situation. After speaking with the owner, Mr. Potter notified staff that the owner leases the property to Driven MX, which is an Ohio-based company that offers coaching and training programs for motocross riders. As described in the owner’s narrative (Attachment 4), a lease agreement has been signed between the owner and Driven MX, who uses the property for their Winter Training program.

On January 19, 2023, a Final Notice of Violation was issued to the property owner for operating a commercial motocross track without first obtaining a Special Use Permit and subsequent development approvals as required by the UDO. A copy of the Final Notice of Violation is included as Attachment 5.

ZONING ADMINISTRATOR’S CONCLUSION

It is the determination of the Zoning Administrator that the property is being used as an unpermitted commercial motocross track. The Pender County UDO defines Commercial Outdoor Recreation as private, fee-supported, outdoor facilities used for athletic, training, recreational or park purposes that utilizes supervised athletic or recreational activities. Although the owner may also use the property as a short-term rental through Airbnb, it is clear that Driven MX is leasing the property and charging people to train on the motocross tracks that have been built on the subject property.

PENDER COUNTY UDO APPEAL OF ADMINISTRATIVE DECISION

3.16 APPEAL OF ADMINISTRATIVE DECISION

3.16.1 Applicability

As specified in N.C.G.S. 160D-405, an appeal by any person aggrieved by a final order, interpretation or decision of the Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

3.16.6 Action by Board of Adjustment

- A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
- B. A motion to reverse, affirm, modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
- C. If a motion to reverse or modify is not made or fails to receive the affirmative vote of a majority of members present, the appeal shall be denied.
- D. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

BOARD OF ADJUSTMENT ACTION FOR APPEAL OF ADMINISTRATIVE DECISION

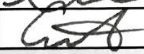
MOTION	SECONDED

AFFIRMED	REVERSED	MODIFY

Kipfer	Breuer	Keeler	ALT: Olsen	ALT: Snider

Received 2/17/23

APPLICATION FOR APPEAL OF ADMINISTRATIVE DECISION

THIS SECTION FOR OFFICE USE			
Application No.	AAD	Date	2/17/23
Application Fee	\$ 250.00	Receipt No.	31484
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Samuel B. Potter	Owner's Name:	Carl Meeks, LLC c/o Chad Hogston
Applicant's Address:	330 Military Cutoff Road, Suite A-2	Owner's Address:	532 Carl Meeks Road
City, State, & Zip	Wilmington, NC 28405	City, State, & Zip	Rocky Point, NC 28457
Phone Number:	910-500-1532	Phone Number:	910-500-1532
Legal relationship of applicant to land owner: Attorney			
SECTION 3: SIGNATURES			
Applicant's Signature			Date: 2.17.23
Owner's Signature			Date: 2.17.23
NOTICE TO APPLICANT:			
1. Applicant must also submit the information described below in the Appeal of Administrative Decision Checklist. 2. Applicant or agent authorized in writing must attend the public hearing. 3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.			
APPEAL OF ADMINISRATIVE DECISION CHECKLIST			
☒	Signed application form		
☒	Application fee		
☒	One business size envelope legibly addressed with certified postage for all participants for the appeal		
☒	Appeal Description: Written description of the Appeal taken forward including all pertinent materials (pictures, permits, etc.)		
OFFICE USE ONLY			
☒	AAD Fees \$250		Total Fee Calculation \$
Payment Method :	Cash : ☐ \$ _____	Credit Card: ☒ ☐ Master Card ☐ Visa	Check: ☐ Check # _____
Application received by:	Daniel Adams		Date: 2/17/23
Application completeness approved by:	Daniel Adams		Date: 2/17/23
Date scheduled for public hearing:	4/19/23		

Print Form

Pender County Planning and Community Development

Planning Division

805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

APPEAL OF ADMINISTRATIVE DECISION

As specified in N.C.G.S. 153A-345(b), an appeal by any person aggrieved by a final order, interpretation, or decision of the Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

Application Requirements

- A. An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Administrator and the Board of Adjustment within thirty days after the decision by the Administrator.
- B. An application for appeal of an administrative decision shall be submitted in accordance with Section 3.1.2, Application Requirements.
- C. A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Administrator. The date and time of filing shall be entered on the notice.

Deadline for Submission of Application

An appeal of an administrative decision shall be filed with the Administrator and Board of Adjustment within thirty (30) days of receipt of the decision.

Action by Board of Adjustment

- A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
- B. A motion to reverse, affirm, modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
- C. If a motion to reverse or modify is not made, or fails to receive the affirmative vote of a majority of members present, the appeal shall be denied.
- D. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

Appeals from the Board of Adjustment

Appeals to the Superior Court may be taken by any person, firm or corporation aggrieved, or by any office, department, board, of the County affected by any decision of the Board of Adjustment, provided such appeals shall be taken within thirty (30) days after the decision of the Board of Adjustment is filed in the office of the Administrator, or after a written copy thereof is delivered to the applicant, whichever is later. The decision of the Board shall be delivered to the applicant by certified mail.



Samuel B. Potter
330 Military Cutoff Road, Suite A 2
Wilmington, NC 28405
(910) 500-1532
sam@equitaslp.com

February 17, 2023

Pender County Planning and Community Development
805 S. Walker Street
Burgaw, NC 28425

RE: Carl Meeks, LLC/532 Carl Meeks Road

To whom it may concern,

Please be advised this law firm represents Carl Meeks, LLC (our "Client") and hereby gives Notice of Appeal of the administrative decision dated January 19, 2023, in Case No. ZCV-512-2022 pertaining to the approximately 60 acres of property located at 532 Carl Meeks Road, Rocky Point, North Carolina (the "Property").

Carl Meeks, LLC operates the Property solely as a short-term, residential rental, currently on Airbnb. The renters and their guests have full use of the Property during their stay while no outside persons i.e., non-renters are allowed to access the Property. Our Client does not collect any income for the renter's use of the tracks and does not operate the Property as a motocross business. The renters determine how they want to use the Property during the rental period. The only income that is collected is for the rental home accommodations.

Driven MX is an Ohio based business that most recently rented the Property from our Client for a retreat of its students. Our Client has no business interest, partnership, or association in Driven MX other than collecting funds for the nightly rental rate and acting as their landlord. This arrangement of operating the Property as a rental was agreed to upon after discussion with and approval by Pender County planning staff as to not require a special use permit and to not be a violation of the UDO.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Potter", written over a horizontal line.

Samuel B. Potter

Attorney for Carl Meeks, LLC



LIMITED LIABILITY COMPANY ANNUAL REPORT

1/6/2022

NAME OF LIMITED LIABILITY COMPANY: Carl Meeks, LLC

SECRETARY OF STATE ID NUMBER: 2091180

STATE OF FORMATION: NC

REPORT FOR THE CALENDAR YEAR: 2021

AMENDING DOC ID

#

Filing Office Use Only
E - Filed Annual Report
2091180
CA202206106428
3/2/2022 02:16

☐ Changes

SECTION A: REGISTERED AGENT'S INFORMATION

1. NAME OF REGISTERED AGENT: Hogston, Chad

2. SIGNATURE OF THE NEW REGISTERED AGENT:

SIGNATURE CONSTITUTES CONSENT TO THE APPOINTMENT

3. REGISTERED AGENT OFFICE STREET ADDRESS & COUNTY 4. REGISTERED AGENT OFFICE MAILING ADDRESS

8817 Tilbury Drive

8817 Tilbury Drive

Wilmington, NC 28411 New Hanover County

Wilmington, NC 28411

SECTION B: PRINCIPAL OFFICE INFORMATION

1. DESCRIPTION OF NATURE OF BUSINESS: Events site

2. PRINCIPAL OFFICE PHONE NUMBER: (910) 297-4973

3. PRINCIPAL OFFICE EMAIL: Privacy Redaction

4. PRINCIPAL OFFICE STREET ADDRESS

5. PRINCIPAL OFFICE MAILING ADDRESS

532 Carl Meeks Rd

532 Carl Meeks Rd

Rocky Point, NC 28457

Rocky Point, NC 28457

6. Select one of the following if applicable. (Optional see instructions)

☐

The company is a veteran-owned small business

☐

The company is a service-disabled veteran-owned small business

SECTION C: COMPANY OFFICIALS (Enter additional company officials in Section E.)

NAME: Thomas G Clifford

NAME: Chad Hogston

NAME: Michael Hackman

TITLE: Owner Manager

TITLE: Owner Manager

TITLE: Owner Manager

ADDRESS:

ADDRESS:

ADDRESS:

513 Bayfield Drive

8817 Tilbury Drive

463 Vallie Lane

Wilmington, NC 28411

Wilmington, NC 28411

Wilmington, NC 28412

SECTION D: CERTIFICATION OF ANNUAL REPORT. Section D must be completed in its entirety by a person/business entity.

Thomas G Clifford

3/2/2022

SIGNATURE

DATE

Form must be signed by a Company Official listed under Section C of This form.

Thomas G Clifford

Owner Manager

Print or Type Name of Company Official

Print or Type Title of Company Official

SUBMIT THIS ANNUAL REPORT WITH THE REQUIRED FILING FEE OF \$200.00

MAIL TO: Secretary of State, Business Registration Division, Post Office Box 29525, Raleigh, NC 27628-0525

Page 10 of 30

SECTION E: ADDITIONAL COMPANY OFFICIALS

NAME: Kyle Phillips

NAME: _____

NAME: _____

TITLE: Owner Manager

TITLE: _____

TITLE: _____

ADDRESS: _____

ADDRESS: _____

ADDRESS: _____

844 Wine Cellar Cirle

Wilmington, NC 28411

NAME: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

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Pender County Planning and Community Development

Code Enforcement

805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

1st NOTICE OF VIOLATION

Carl Meeks LLC C/O Chad Hogston
8817 Tilbury Dr.
Wilmington, NC 28411

August 29, 2022

Dear Property Owner,

NOTICE OF ZONING VIOLATION: You are hereby given notice that a violation or violations of the Pender County Unified Development Ordinance exists at the property described below and owned/occupied by you.

LOCATION AND DESCRIPTION OF PROPERTY WHERE VIOLATION EXIST:

Property located at 53.36 AC S ½ of TR 3 PB 25/68, Carl Meeks Rd., Rocky Point, NC 28457, and identified by the Pender County Tax Office as Tax Record Number 3257-59-0861-0000.

CONDITIONS THAT CREATE VIOLATION: Violation of Article 3, 3.2 Permits and Certifications, 3.2.1 Zoning Approval

ARTICLES OF COUNTY ORDINANCE VIOLATED:

Article 3, sec. 3.2.1 Zoning Approval

Zoning Approval

- A. Activities for which a Zoning Approval is required: A valid Zoning Approval shall be required for any application for a Building or Electrical Permit. No Building or Electrical Permit shall be issued for any activity in a zoned area until such Zoning Approval or a written determination by the Administrator that no approval is required, has been issued. Zoning approvals may be issued in the form of an individual permit or as a corresponding approval on a related form, such as a building permit. In all circumstances a Zoning Approval shall be required for the following activities:
- 1) To commence the excavation for or the construction of any building or other structures including accessory structures,
 - 2) To commence the moving, exterior alteration, expansion, or substantial repair (see definition of substantial repair) of any structure including accessory structures,

- 3) To initiate a new use or change the use on any land, lot, parcel or property,
- 4) To initiate a new use or change the use for any building including accessory structures

CORRECTIVE ACTIONS THAT MUST BE TAKEN BY PROPERTY OWNER/VIOLATOR:

Contact the Planning Department, Justin Brantley, to discuss a complaint concerning the operation of Copperhead MX,(Commercial Motorcycle Racetrack, NAICS 711212), and whether it is zoned as an activity allowable on this property. If the activity is deemed not to be allowable on this property then all activity must cease immediately.

DATE BY WHICH CORRECTIVE ACTION MUST BE COMPLETE:

This violation must be corrected within thirty (30) consecutive calendar days of receipt of this notice. If the violation(s) is/are are not corrected within this period, you will immediately thereafter be subject to the penalties noted herein.

PROPERTY OWNER/VIOLATOR'S RIGHT TO APPEAL:

You are hereby given notice that you have the right to appeal the determination made by the Code Enforcement Officer to the Pender County Board of Adjustment. If you elect to appeal this determination, you must file a written request for appeal, specify the reason for the appeal and pay the associated fees for the appeal within (30) days of receipt of this notice. The appeal shall be filed with Pender County Planning Department, Zoning Administrator, 805 South Walker Street, Burgaw, NC 28425. An appeal will stay all required proceedings under this notice until the Board of Adjustment acts upon the appeal.

REMEDIES IF CORRECTIVE ACTION NOT TAKEN:

The County shall through its County Manager and County Attorney initiate legal action to ensure compliance through court action and the violator may be subject to paying the cost of this action, pursuant to G.S. 153A-123, in addition to any penalties noted above.

DATE OF NOTIFICATION:

This determination of violation first made on the 29th day of August 2022 by the Pender County Code Enforcement Officer. Please feel free to contact this office at any time. We will be happy to discuss this issue with you.



Charlie Ring
Code Enforcement Officer (910) 259-1519

Case# ZCV-512-2022

[HOME](#)[ABOUT US](#)[TRAINING REGISTRATION](#)[TRAINING SCHEDULE](#)[OPEN PRACTICE SCHEDULE](#)[APPAREL](#)[GYM](#)[SPONSORS](#)[CONTACT US](#)[HOME](#) › [COPPERHEAD RANCH](#)

Copperhead Ranch

About Copperhead Ranch

532 Carl Meeks Rd Rocky Point, North Carolina 28457

To book your stay please check out our training schedule!

Copperhead Ranch is located on 65 acres of land in Rocky Point, NC, 25 min from Wrightsville Beach and conveniently located off i40. Countryside living including the ability to train with Driven Mx Training at a private location. 3 motocross tracks, barn for storage and bike work, freshwater ponds, floating docks onsite, with gyms, hardware store, several restaurants, gas stations, and grocery store within 10 minutes from the property. 3bed/2bath sleeps 10 and RV Camping is available.

Training Program

December 26th - January 15th and January 30th - February 16th

Weeklong training Monday - Thursday 10am - 3pm, Cost \$600

Weekend training Friday - Sunday 10am - 3pm, Cost \$450

Daily training available Monday through Sunday 10am - 3pm, Cost \$150

Available for all bike sizes but must have some racing experience.

The Facility

+ 3 Motocross Courses** (must sign waiver prior to riding)

- + Perfect for fishing
- + Freshwater lakes
- + Outdoor Firepit
- + Main Bedroom with bathroom
- + Kitchen & Dining Room (Dining Room Table converts to Poker Table)
- + Large living room
- + Detached Barn to store and work on your toys during your stay
- + Running and riding trails (gravel bike or run at Holly Shelter Gameland 2 miles away)
- + Public Boat ramp nearby to access the Cape Fear River

Guest access

- + Private property where only members and guests can ride on the motocross courses
- + 65 acres of land, trails, and motocross tracks
- + RV Camping is Allowed
- + 3 bedrooms, 2 full bathrooms
- + WIFI
- + Direct TV
- + Fire pit
- + Fully-equipped kitchen with complete set of dishes, utensils, chef's knives, bakeware
- + Coffeemaker
- + Full tub in guest shower
- + Washer/ Dryer
- + BBQ Pit

BEDROOM BREAKDOWNS

- #1 Master Bedroom - King Bed & Full pullout bed
- #2 Guest Bedroom - Queen
- #3 Guest Bedroom - Queen + Twin (bunk bed)

- ✓ Main House
- 3 bedrooms
- 2 bathrooms
- Living Room
- Kitchen
- Dining Room
- Laundry Room
- Fire Pit

✓ Barn

- wood burning oven
- lighting and stage for band
- Direct access to the barn for bringing or storing equipment
- Built in Bar area

✓ Motocross Tracks

- 3 separate motocross tracks and a trail
- Directionals for single tracks
- Only open to private members and people who are renting the home (guests)
- Irrigation for tracks
- Sign waivers for training and property use.
- Cameras set up at entrance to the property for security

All bathrooms are stocked with hand soap, towels and wash cloths are provided for each guest.

The kitchen has all the usual flatware, cookware, dishes and prep tools. There is a refrigerator/freezer, dishwasher, stove (electric), coffee maker, and a microwave oven. The freezer does not have an ice maker (so recommend bringing ice).

The dining room table can accommodate up to 8 people and converts to poker table.

If additional beds are needed, there is a queen mattress in one of the closets with an extra set of sheets sufficient to accommodate up to 2 additional people in your party. No more than 12 people may spend the night in the home without written permission.



5/4/23, 9:59 AM

Copperhead Ranch – Driven Mx Training









5/4/23, 9:59 AM

Copperhead Ranch – Driven Mx Training





5/4/23, 9:59 AM

Copperhead Ranch – Driven Mx Training



5/4/23, 9:59 AM

Copperhead Ranch – Driven Mx Training





Get in touch

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#StayDriven

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Refund and Cancellation Policies

Click the Contact us tab for more information!

Accepted Payments



© 2023, Driven Mx Training

Powered by Shopify

January 20, 2023

To: Pender County Planning
12234
Burgaw, NC 28457

From: Chad Hogston
Member/Manager Carl Meeks LLC
8817 Tilbury Drive
Wilmington, NC 28411

Re: Driven MX

Dear Sir or Madam:

It has come to our attention that there is a concern that we are operating a motocross training facility (named Driven MX) on our property at 532 Carl Meeks Road, Rocky Point, North Carolina. Our attorney, Sam Potter, advised us to draft a letter to describe that situation, and to clarify our relationship with Driven MX, so that all interested parties can be fully apprised of the facts.

Carl Meeks LLC owns approximately 60 acres at the physical address of 532 Carl Meeks Rd, Rocky Point, North Carolina. There is a home on the property, along with a 2-Bay garage and barn. Additionally, there are a couple of ponds with trails running throughout the entire tract. The house was fully updated by us with the intent to rent the property out to people through AirBnB. These renters have full access to both the house and the land, and we have hosted people from all over the country who have enjoyed their stay immensely.

Driven MX is a training group from Ohio that coaches kids for racing in motocross. They approached us months ago about renting the property, and came down to take a look before committing to a lease. They loved the area immediately, and executed a lease agreement to come down in January and February for their "Winter Training". The coaches, along with the kids, came down a few weeks ago for their first session and thoroughly enjoyed themselves. They all stayed at the house while training, since they were all from out-of-state (Ohio, Massachusetts, Pennsylvania). Everyone that trained at the location stayed overnight at the location - there were no individuals that came for the day and then left to stay elsewhere.

Carl Meeks, LLC has ZERO connection with Driven MX, other than renting the property to them (Landlord/tenant). No member of Carl Meeks LLC participated in the business or operation of Driven MX. To be honest, the 4 members of Carl Meeks LLC are personally "at capacity" with our own professional careers and families, and have no bandwidth to conduct an additional business venture like Driven MX. The extent of our relationship with Driven MX is receiving a rent check from them - we do not interfere nor do we associate ourselves in their business.

They are purely a tenant, like all the other people that have stayed at our location for the last 8 months.

The last thing we want to do is make it seem like we are conducting some sort of business, given our prior notice regarding the riding club we had created. When we received a notice from the county about the riding club several months ago with the concern that it was a code violation without a special use permit, we shut it down immediately and deactivated the website. That club is no longer in existence. Subsequent to that event, we have been extremely sensitive to creating the perception of running some sort of operation contrary to zoning ordinances. The ONLY thing we do at 532 Carl Meeks Rd is short term rentals - and personally visit from time to time to enjoy our property.

We have attempted to work with the small number of complaining neighbors on numerous occasions to mitigate their concerns. We created signs throughout the property, along with barriers, to keep our tenants on our property. We limited the hours of riding to 10am-5pm, so that it is only done during working hours. We had even agreed to limit the number of rentals we would take in the future (which would cost us tens of thousands of dollars in revenue), in the spirit of cooperation and "being a good neighbor". Our doors have always been open, and we have always been available to discuss any issues a concerned neighbor may have.

I want to thank you for taking the time to review this letter, and I hope this clarifies any questions the county may have regarding our property. We take this matter seriously, and we will be happy to answer any further questions that you may have regarding this issue.

Thanks again,

Chad Hogston
Member - Carl Meeks LLC

Pender County Planning and Community Development

Code Enforcement

805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

FINAL NOTICE OF VIOLATION

January 19, 2023

Carl Meeks LLC C/O Chad Hogston
8817 Tilbury Dr.
Wilmington, NC 28411

NOTICE OF ZONING VIOLATION

You are hereby given notice that a violation or violations of the Pender County Unified Development Ordinance continues to exist at the property described below and owned/occupied by you.

LOCATION AND DESCRIPTION OF PROPERTY WHERE VIOLATION EXIST:

Property located at 53.36 AC S ½ of TR 3 PB 25/68, Carl Meeks Rd., Rocky Point, NC 284457 and identified by the Pender County Tax Office as Tax Record Number 3257-59-0861-0000.

CONDITIONS THAT CREATE VIOLATION: Violation of Article 3, 3.2 Permits and Certifications, 3.2.1 Zoning Approval

PERMITS AND CERTIFICATIONS

3.2.1 Zoning Approval

- A. Activities for which a Zoning Approval is required: A valid Zoning Approval shall be required for any application for a Building or Electrical Permit. No Building or Electrical Permit shall be issued for any activity in a zoned area until such Zoning Approval or a written determination by the Administrator that no approval is required, has been issued. Zoning approvals may be issued in the form of an individual permit or as a corresponding approval on a related form, such as a building permit. In all circumstances a Zoning Approval shall be required for the following activities:
- 1) To commence the excavation for or the construction of any building or other structures including accessory structures,
 - 2) To commence the moving, exterior alteration, expansion or substantial repair (see definition of substantial repair) of any structure including accessory structures,
 - 3) To initiate a new use or change the use on any land, lot, parcel or property,
 - 4) To initiate a new use or change the use for any building including accessory structures.

CORRECTIVE ACTIONS THAT MUST BE TAKEN BY PROPERTY OWNER/VIOLATOR:

Contact the Planning Department Director Daniel Adams, (910) 259-0231 and discuss the procedure for permitting. Complete all necessary documentation for permits.

DATE BY WHICH CORRECTIVE ACTION MUST BE COMPLETE:

The violation must be corrected immediately upon receipt of this notice.

PENALTIES FOR VIOLATIONS NOTED:

When corrective action is not taken as prescribed in the notice, the property owner/violator shall upon conviction be guilty of a misdemeanor punishable by fine of up to \$50.00, or imprisoned for not more than thirty (30) days, for each offence. **In addition, the property owner/violator will be subject to a civil penalty of \$100.00 each day the violation continues after the date specified that the violation was to have been corrected.**

CIVIL PENALTY ACCRUAL:

A CIVIL PENALTY OF \$100.00 WILL ACCRUE DAILY AS OF THE DATE OF THIS NOTICE, AS PER ARTICLE 13 ENFORCEMENT AND PENALTIES, SEC. 13.4.8, ENFORCEMENT ACTION AFTER TIME LIMIT TO CORRECT VIOLATION.

REMEDIES IF CORRECTIVE ACTION NOT TAKEN:

THIS VIOLATION WILL BE FORWARDED TO THE COUNTY MANAGER AND COUNTY ATTORNEY TO INITIATE LEGAL ACTION TO ENSURE COMPLIANCE AND COLLECT THE CIVIL PENALTIES DUE. THE VIOLATOR MAY BE SUBJECT TO PAYING THE COST OF THIS ACTION, PURSUANT TO G.S. 153A-123, IN ADDITION TO ANY PENALTIES NOTED ABOVE.

DATE OF NOTIFICATION:

This FINAL NOTICE of violation issued by the Pender County Code Enforcement Officer on, January 19, 2023.



Charlie Ring
Code Enforcement Officer Pender County

Case # ZCV-512-2022