

IN THE MATTER OF THE APPLICATION OF **Jeter Mountain, LLC**
Applicant,

To the

HENDERSON COUNTY BOARD OF ADJUSTMENT,
Permit Authority

ORDER GRANTING SPECIAL USE PERMIT SUP-14-02

The **HENDERSON COUNTY BOARD OF ADJUSTMENT** having held a quasi-judicial public hearing on February 26, 2014 to consider the application submitted by **Jeter Mountain LLC**, to request a Special Use Permit, makes the following FINDINGS OF FACTS and draws the following CONCLUSIONS:

FINDINGS OF FACT

1. A quasi-judicial public hearing was held by the Henderson County Board of Adjustment on special use permit request SUP-14-02. A quorum of Board Members was present at the meeting.
2. This Order and the approval herein, was moved by Ron Kauffman and seconded by Tony Engel. The request for a special use permit was approved by a vote of 5-0.
3. The subject property is located on Jeter Mountain Road approximately 1 mile from Crab Creek Road and has a PIN of 9536688469.
4. The Applicant is Jeter Mountain LLC, represented by agent Zachary Hunsader, and as such they were made parties to this action. He called Mr. Barnwell as a witness.
5. Jenny Maybin is a Zoning Officer with Henderson County. As an agent of Henderson County, Ms. Maybin was made a party to this hearing.
6. Notice of a quasi-judicial public hearing, pursuant to the Ordinance, the Henderson County Code 42-338 was duly and timely given. This notice was posted on the property and also sent by first class mail to the Applicants and the adjacent property owners.
7. The Applicant's special use permit request is not inconsistent with the Notice of Public Hearing produced, published, and posted for the quasi-judicial proceeding in that the notice contemplated the size and scope of the special use permit request.
8. Upon inquiry by the Chairman of the Zoning Board of Adjustment, no party objected to any other persons or entities made parties to this action being a party to this action.
9. All parties and all witnesses presented by any party were sworn as witnesses in this proceeding.
10. Without objection from any party, the Board of Adjustment received into evidence a memorandum, maps, pictures and a power-point presentation from Toby Linville. No party disputed any of the information contained in this evidence and the Zoning Board of Adjustment finds all the information contained in the memorandum and its attachments to be credible and to be fact for the purpose of this hearing. The Applicant's application and site plan were also entered into evidence.
11. The subject property is 336 acres off Howard Gap Road. Only 20.74 acres are utilized for the Special Use Permit.
12. The property is zoned Residential 2 Rural (R2R) and Residential 40 (R-40).
13. The Applicant would like a Special Use Permit for a Small Place of Assembly (SR 5.17).
14. The application went to the Technical Review Committee at their February 4, 2013 meeting and was approved.
15. SR 5.17. Place of Assembly, Small
(1) Site Plan. Major Site Plan required in accordance with §200A-331 (Major Site Plan Review).

- (2) Lighting. Lighting mitigation required.
 - (3) Structure. A structure shall be designed to accommodate a minimum of 40 and a maximum of 499 persons.
 - (4) Perimeter Setback. Fifty (50) feet.
16. The subject property is currently used from Agricultural Use
 17. The subject property is surrounded by Residential 2 Rural (R2R) and Residential 3 (R3). The surrounding uses are mixed residential and agricultural uses.
 18. The property is not in the Water Supply Watershed district nor in the special flood hazard area.
 19. The property currently has private water and private septic.
 20. The property has two barns and is used for utility farm use.
 21. The property is on a private road
 22. Mr. Barnwell stated that the project has community support.
 23. The Applicant stated the project will bring business to the area.
 24. The property owners are present at all events.
 25. It is not planned that there is any food preparation done on site, all events will be catered.
 26. The average proposed size will be 150 participants used one day per week for approximately 5 hours.
 27. Jeter Mountain LLC is anticipating events will have an average of 50 vehicles per event for 30 weeks out of the year.
 28. All music will be terminated by 10:00 pm based on the Henderson County noise ordinance.
 29. There are two access points to Jeter Mountain Road and the property is accessed by an asphalt road. Two parking attendants will be on site for every event
 30. Mr. Linville testified that staff supports this application in an Residential district because the surrounding area is residential and agriculture and the Applicant owns so much property to insulate it from causing problems with the neighbors.
 31. The 2020 County Comprehensive Plan (2020 CCP) designates the property in the Rural Agricultural Area.

CONCLUSIONS

1. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.
2. All parties were properly before the Board of Adjustment and all evidence presented herein was under oath, and was not objected to by any party. All evidence relied upon in this Order was credible and reliable.
3. Henderson County Code 42-323 grants the Board of Adjustment the jurisdiction to hear and make special use permit decisions.
4. The special use permit does meet all the standards of the Ordinance and the special use permit should be **GRANTED** based on the reasons established below:
 - a. The project does not materially endanger the public health, safety or welfare because the event space will be away from residences and there only approximately 150 attendees on average per event.
 - b. The project will not substantially injure the value of property or improvements in the area because much the surrounding property is residential and agricultural.
 - c. The project is in harmony with the surrounding area because the surrounding properties are residential and agricultural and the use is not very intense and will not include a lot of construction that will destroy the property or be in discord with the surrounding area.
 - d. The project complies with all applicable local, state and federal statutes, ordinances and regulations because it meets the Special Requirements of the Land Development Code, and will meet the requirements by Henderson County Noise Ordinance.

- e. The project is in accordance with the Comprehensive Plan, long-range transportation plans and comprehensive transportation plans of the County and/or long-range transportation plans and comprehensive transportation plans of any municipality of the County because it meets the Land Development Code with the Special Use Permit and is consistent with the Comprehensive Plan.
- f. The project minimizes the effects of noise, glare, dust, solar access and odor on those person residing or working in the neighborhood of the proposed use because there will be minimal land disturbance and because the subject property is so large in terms of acreage.
- g. The project minimizes the environmental impacts on the neighborhood, including the following groundwater, surface water, wetlands, endangered/threatened species, archeological sites, historic preservation sites and unique natural areas because it will utilize the existing gravel driveway and will not disturb much earth besides for the construction of the building.
- h. Ingress and Egress are properly met through an existing gravel driveway and the two access points off of Jeter Mountain Road.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS drawn, and it appearing to the HENDERSON COUNTY BOARD OF ADJUSTMENT that the Special Use Permit must be **GRANTED**.

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

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

- 1. Property Owner must agree to in writing the provisions of this order.
- 2. Property Owner must comply with all the requirements in Supplemental Requirement 5.17.

ORDERED this the ___ day of March 2014.

THE HENDERSON COUNTY BOARD OF AJUSTMENT

By: _____
Jim Clayton, Chairman

ATTEST:

Jenny Maybin
Secretary to the Zoning Board of Adjustment

ACCEPTANCE BY APPLICANT

I, _____, Applicant, do hereby acknowledge receipt of this order which is the subject of this special use permit request. I further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding on the owner and his successors in interest.

This the _____ day of _____, 2014.

Zachary Hunsader, Applicant

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON COUNTY

I, _____, a Notary Public for said County and State, do hereby certify that
_____ personally appeared before me this day and acknowledged the due execution of
the foregoing instrument.

Witness my hand and official seal, this the _____ of _____, 2014.

(Official Seal) _____
Notary Public

My Commission expires