

IN THE MATTER OF THE APPLICATION OF  
Biltmore Baptist Church Applicant,

To the

HENDERSON COUNTY BOARD OF ADJUSTMENT,  
Permit Authority

ORDER GRANTING SPECIAL USE PERMIT SUP-14-04

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The HENDERSON COUNTY BOARD OF ADJUSTMENT having held a quasi-judicial public hearing on November 19, 2014 to consider the application submitted by Biltmore Baptist Church, 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-14-04. A quorum of Board Members was present at the meeting.
2. This Order and the approval herein, was moved by Mike Earle and seconded by Tony Engel. The request for a special use permit was approved by a unanimous vote of 5-0.
3. The subject property is located at 103 Education Drive off Upward Road and has a PIN of 9587-69-0356.
4. The Applicant is Biltmore Baptist, represented by Scott Crawford, and as such they were made parties to this action.
5. The property owner is Bubb Hyder and he was present and made a party to this action.
6. Randy Sullivan is an employee at Automated Designs, an adjacent business on the same parcel and was made a party to this action.
7. Toby Linville is the Zoning Administrator with Henderson County. As an agent of Henderson County, Mr. Linville was made a party to this hearing.
8. 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 sent by first class mail to the Applicants and the adjacent property owners.
9. 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.
10. 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.
11. All parties and all witnesses presented by any party were sworn as witnesses in this proceeding.
12. 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.
13. The subject property is 12.15 acres off Upward Road.
14. The property is zoned Industrial (I). North of the property is zoned Regional Commercial (RC), the east is zoned Community Commercial (CC) and Residential 1 (R1) and to the south and west, the properties are zoned Industrial (I).
15. The Applicant would like a Special Use Permit for a Religious Institution (SR 5.19).

16. The application went to the Technical Review Committee at their November 4, 2014 meeting and was approved.
17. **SR 5.19 Religious Institution**
  - (1) Site Plan. Major Site Plan required in accordance with §42-331 (Major Site Plan Review).
  - (2) Lighting. Lighting mitigation required.
  - (3) Operations. A religious institution shall be permitted accessory uses provided the requested accessory use is permitted as a principal/accessory use in the district in which the religious institution is located.
18. The surrounding uses are commercial, educational, and undeveloped parcels.
19. The property is not in the Water Supply Watershed district nor in the special flood hazard area.
20. The property currently has public water and public sewer.
21. The property currently has a building on the parcel that is solely used for commercial storage.
22. Applicant is proposing the construction of a worship center, classrooms, and common area.
23. No exterior improvements are planned and no additional structures will be built.
24. It will only be used on Wednesday evenings and Sundays.
25. There is an existing sign that will be refaced.
26. There will be EMTs on campus and police officers will be used to direct traffic as needed.
27. All life-saving measures such as exits and sprinklers are existing and new ones may be installed with the interior renovations.
28. The Applicant is proposing parking in the paved parking lot. There are approximately 200-250 possible spots.
29. The timing of the services will not interfere with the current industrial uses. Accommodations will be made to allow trucks for the industrial uses to ingress and egress.
30. Ingress and egress are provided through an existing gravel drive that has been approved by NCDOT.
31. Mr. Linville testified that staff supports this application based on surrounding uses and the Comprehensive Plan.
32. The 2020 County Comprehensive Plan (2020 CCP) designates the property in the Industrial 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 sworn 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 structure includes exits and sprinklers and more will be installed with the interior renovations.
  - b. The project will not substantially injure the value of property or improvements in the area because the activities of the Applicant will not interfere or occur at similar times as the surrounding industrial activities.
  - c. The project is in harmony with the surrounding area because it is surrounded by industrial, commercial, and undeveloped properties and the property is in the Industrial area under the 2020 CCP.
  - 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.

- 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 it will utilize an existing paved parking lot.
- 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 no exterior improvements to the parcel will be made.
- h. Ingress and Egress are properly met through an existing driveway and will be further addressed with a Traffic Impact Study.

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 5.19.
- 3. Property Owner and Applicant will complete the Traffic Impact Study (TIS) and will comply with all the recommendations from the TIS. If there are recommendations the Applicant and Property Owner are unwilling or unable to comply with, they may come back before the ZBA for an amendment to this Order.

ORDERED this the \_\_\_ day of January 2015.

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 \_\_\_\_\_, 2015.

\_\_\_\_\_, Applicant