

PLANNING & INSPECTIONS DEPARTMENT
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November 13, 2015

Certified Mail

Kara and Chris Brewer
82 Jordan Hills Drive
Chapel Hill, NC 27517

Certified Mail

Sharron Lin and Chris Willett
Beemer, Hadler & Willett PA
1829 E. Franklin Street
Suite 800-B
Chapel Hill, NC 27514

In the matter of: BOARD OF ADJUSTMENT ACTION concerning CASE NUMBER A-2-15, Review of a **Class B Special Use Permit** application proposing the development of a camp/retreat in accordance with the Orange County Unified Development Ordinance (UDO)

To Whom It May Concern:

Pursuant to Section Section(s)

- 2.7 *Special Uses*,
- 5.2.2 *Table of Permitted Uses*,
- 5.3.2 *Application of Use Standards – Special Uses*, and
- 5.7.4 *Camp/Retreat Center*

of the Orange County Unified Development Ordinance (hereafter ‘Ordinance’) Kara and Chris Brewer, Southeast Property Group LLC, applied to the Orange County Board of Adjustment (hereinafter the “BOA”) for a Class B Special Use Permit (hereafter ‘SUP’) seeking authorization to allow for the development of a retreat center on a parcel of property located at the intersection of Morrow Mill and Millikan Road.

Specifically, the proposed retreat center was on an approximately 22 acre parcel of property, further identified utilizing Orange County Parcel Identification Number (PIN) 9729-50-7168, with direct vehicular ingress/egress from both Morrow Mill and Millikan Roads.

In accordance with Section 2.7.7 of the Ordinance, The BOA held a PUBLIC HEARING on the SUP on **November 9, 2015**. After considering all written and oral evidence presented at the PUBLIC HEARING, the Board made the following findings:

- a. The SUP application was complete per the applicable provisions of the Ordinance,
- b. There was insufficient evidence in the record, either as contained within the submitted application and/or offered as sworn testimony during the PUBLIC HEARING, demonstrating the proposal complied with the provisions of the Ordinance,
- c. The BOA was unable to make an affirmative finding on the following general standards as detailed within the UDO:

1. Section 5.3.2 (A) (2) (a): *The use will maintain or promote the public health, safety, and general welfare.*

As required under Section 2.7.10 (B) of the UDO, the BOA found submitted evidence and testimony failed to adequately prove the proposed retreat center would maintain or promote the public health, safety, and general welfare.

Specifically the BOA determined the applicant did not provide sufficient evidence addressing testimony from aggrieved parties that noise and traffic generated through the development of the retreat center would negatively impact local livestock and horses as well as create increased traffic hazards for local motorists and pedestrians.

The BOA relied on testimony from Noral Stewart, an acoustical engineer, who testified it was his professional opinion the structure housing the proposed retreat center would not adequately contain noise generated from music being played thereby creating negative impacts on local residents.

2. Section 5.3.2 (A) (2) (b): *The use will maintain or enhance the value of contiguous property.*

As required under Section 2.7.10 (B) of the UDO, the BOA found submitted evidence and testimony failed to adequately prove the proposed retreat center would maintain or enhance the value of contiguous property.

Specifically the BOA determined the applicant did not offer a comparable example to the area of the proposed retreat center and that appraisal testimony offered during the hearing was insufficient and unsubstantial.

3. Section 5.3.2 (A) (2) (c): *The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.*

As required under Section 2.7.10 (B) of the UDO, the BOA found submitted evidence and testimony failed to adequately prove the proposed retreat center would be in harmony with the area in question.

Specifically the BOA determined the applicant did not provide sufficient evidence addressing testimony from aggrieved parties that noise and traffic generated through the development of the retreat center would negatively impact the character of the area, would impact adjacent farms (i.e. local livestock and horses), and would create hazards for adjacent property owners.

The BOA relied on testimony from Noral Stewart, an acoustical engineer, who testified it was his professional opinion the structure housing the proposed retreat center would not adequately contain noise generated from music being played thereby creating negative impacts on local residents.

After receiving all written and oral evidence presented at the PUBLIC HEARING, the Board deliberated on the competent, material and substantial evidence to make its findings of fact. The Board then voted unanimously to **DENY** the SUP application. In accordance with Section 2.2.8 of the UDO no application for a 'similar' project (i.e. retreat center) may be submitted for a period of one year for the aforementioned property.

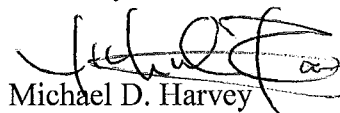
Pursuant to Section(s) 2.7.13 of the Ordinance, the Secretary to the BOA filed the Notice of Board of Adjustment Action concerning the disposition of the aforementioned application in the office of the Planning Director on **November 13, 2015**. Further this letter serves as the required notification relating to the disposition of the aforementioned SUP by the BOA that has been sent to all parties to the application through certified mail.

As no one requested through the submission of a written request to the Board as required by North Carolina General Statute 160A-388(e2) (1), there are no aggrieved parties associated with this request that are going to be copied on this letter via certified mail.

Pursuant to Section 2.26.4 of the Ordinance, every decision of the Board of Adjustment shall be subject to review upon timely appeal by any aggrieved party to the Orange County Superior Court by proceedings in the nature of certiorari.

The appeal to Superior Court must be filed within thirty (30) days of the filing by the Secretary of the Board the Notice of Board of Adjustment Action in the office of the Planning Director. This notice, having been filed within the office of the Director on November 13, 2015, means that the deadline for filing the appeal application to Superior Court shall be **Monday December 14, 2015**.

Sincerely,



Michael D. Harvey
Acting Secretary to the Board of Adjustment
Orange County

CC: Craig Benedict, Planning Director,
James Bryan, Staff Attorney,
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