Walter Clark, Chair Cumberland County

Patricia Hall, Vice-Chair Town of Hope Mills

Garland C. Hostetter, Town of Spring Lake Harvey Cain, Jr., Town of Stedman Charles C. Morris, Town of Linden



Planning & Inspections Department

TENTATIVE AGENDA

October 1, 2013 7:00 P.M.

- I. INVOCATION AND PLEDGE OF ALLEGIANCE
- II. APPROVAL OF/ADJUSTMENTS TO AGENDA
- III. PUBLIC HEARING DEFERRAL/WITHDRAWAL
- IV. ABSTENTIONS BY BOARD MEMBERS
- V. POLICY STATEMENT REGARDING PUBLIC HEARING TIME LIMITS
- VI. APPROVAL OF THE MINUTES OF SEPTEMBER 17, 2013
- VII. PUBLIC HEARING CONTESTED ITEMS

REZONING CASE

P13-45. REZONING OF 978.40+/- ACRES FROM A1 AGRICULTURAL TO A1/CZ AGRICULTURAL/CONDITIONAL ZONING DISTRICT FOR AN OUTDOOR FIRING RANGE AND AGRICULTURAL USES OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2850 TIGERSWAN DRIVE, SUBMITTED BY D. STEWART PRECYTHE ON BEHALF OF PRECYTHE PROPERTIES, LLC. (OWNER) AND STEVEN M. SWIERKOWSKI ON BEHALF OF TIGERSWAN, INC.

VIII. DISCUSSION

DIRECTOR'S UPDATE

IX. ADJOURNMENT

Thomas J. Lloyd, Director

Cecil P. Combs, Deputy Director

Vikki Andrews, Diane Wheatley, Carl Manning, Cumberland County

Benny Pearce, Town of Eastover

Donovan McLaurin, Wade, Falcon & Godwin Walter Clark, Chair Cumberland County

Patricia Hall, Vice-Chair Town of Hope Mills

Garland C. Hostetter, Town of Spring Lake Harvey Cain, Jr., Town of Stedman Charles C. Morris, Town of Linden



Thomas J. Lloyd, Director

Cecil P. Combs, Deputy Director

Vikki Andrews, Diane Wheatley, Carl Manning, Cumberland County

Benny Pearce, Town of Eastover

Donovan McLaurin, Wade, Falcon & Godwin

Planning & Inspections Department

September 24, 2013

MEMORANDUM

TO: Cumberland County Joint Planning Board

FROM: Planning & Inspections Staff

SUBJECT: Staff Recommendation for the October 1, 2013 Board Meeting

AGRICULTURAL P13-45. REZONING OF 978.40+/-ACRES FROM A1 TO A1/CZ AGRICULTURAL/CONDITIONAL ZONING DISTRICT FOR AN OUTDOOR FIRING RANGE AND AGRICULTURAL USES OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2850 TIGERSWAN DRIVE, SUBMITTED BY D. STEWART PRECYTHE ON BEHALF OF PRECYTHE PROPERTIES, LLC. (OWNER) AND STEVEN M. SWIERKOWSKI ON BEHALF OF TIGERSWAN, INC.

The Planning & Inspections Staff recommends approval of the requested rezoning to A1Agricultural/CZ Conditional Zoning district for an outdoor firing range and agricultural uses based on the following:

1. The request for A1 Agricultural and the use as an outdoor firing range coupled with the continued farming of the subject property is consistent with the 2030 Growth Vision Plan and Growth Strategy Map, which designates the area where the subject property is located as "rural" with a stated policy of "*Premature conversion of rural areas to urban level development and the resulting loss of valuable farmland and open space is to be discouraged*" - also an often stated desire of property owners in the rural areas of the County- the outdoor firing range will aid in ensuring this goal is accomplished. Note: Bona fide farms are not subject to zoning provisions; however, *agricultural* use is listed only because it is the predominate use of the subject property.

2. The request is also consistent with the mandated location criteria for "agricultural" as listed in the Land Use Policies Plan of the 2030 Growth Vision Plan, which requires the subject property to be located outside the Sewer Service Area and be an existing farm or agricultural operation;

3. The specific requested use of an outdoor firing range, evidenced by the application, site plan and supplemental documents, along with the attached Ordinance Related Conditions is reasonable as all of the provisions listed in the text amendment approved by the County Commissioners on June 17, 2013, including all other zoning ordinance standards, for outdoor firing ranges is met or exceeded;

4. If developed according to the recommended plan, the use will not materially endanger the public health or safety if located according to the plan submitted and recommended as it is designed and constructed to be consistent with the safety guidelines of the US Department of Energy's *Range Design Criteria* as documented by a licensed professional engineer and included with the application;

5. The range complex will not materially endanger the public health, safety or welfare if operated and located according to the plan submitted, subject to the ordinance related conditions, and is in harmony with the area in which it is to be located.

There are no other zoning districts suitable related to this request. The property owner and applicant have verbally agreed to the Ordinance Related Conditions.

Attachments: 1-Site Profile; 2-Rezoning Sketch Map; 3-Overall Site Plan; 4&5-Detailed Enlargements; 6-Draft Ordinance Related Conditions; 7-Application

P13-45 SITE PROFILE

P13-45. REZONING OF 978.40+/- ACRES FROM A1 AGRICULTURAL TO A1/CZ AGRICULTURAL/CONDITIONAL ZONING DISTRICT FOR AN OUTDOOR FIRING RANGE AND AGRICULTURAL USES OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED AT 2850 TIGERSWAN DRIVE, SUBMITTED BY D. STEWART PRECYTHE ON BEHALF OF PRECYTHE PROPERTIES, LLC. (OWNER) AND STEVEN M. SWIERKOWSKI ON BEHALF OF TIGERSWAN, INC.

Site Information:

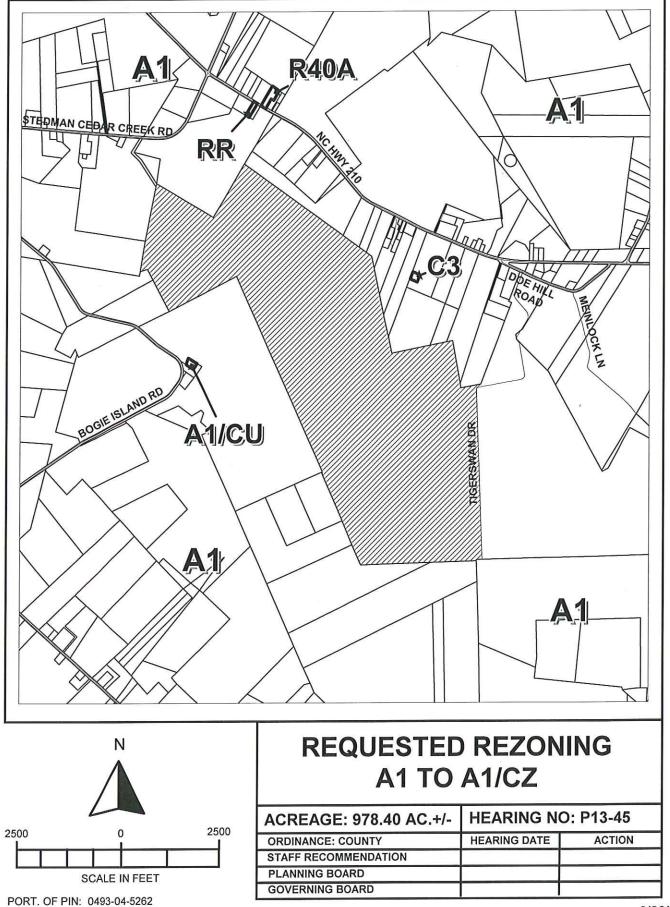
Frontage & Location: 20.00'+/- on SR 2053 (Doe Hill Road) Depth: 13,100.00'+/-Jurisdiction: Cumberland County Adjacent Property: Yes, northeast of subject property Current Use: Range complex, woodlands, and farmlands Initial Zoning: A1 – September 3, 1996 (Area 21) Nonconformities: None Zoning Violation(s): None Surrounding Zoning: North: R40A, RR & A1; South: A1; East: C3 & A1; West: A1/CU (to allow a professional office) & A1 Surrounding Land Use: Residential (including manufactured dwellings), hog farm, agricultural uses, farmland & woodland 2030 Land Use Plan: Rural Special Flood Hazard Area (SFHA): None Wetlands: Yes Water/Sewer Availability: Well/Septic Soil Limitations: Yes, hydric - CT Croatan muck, LE Leon sand, PA Pactolus loamy sandy, RA Rains sandy loam & TR Torhunta and Lynn Haven soils School Capacity/Enrolled: Stedman Primary: 200/163; Stedman Elementary: 300/298; Mac Williams Middle: 1,270/1,163; Cape Fear High: 1,425/1,570 Subdivision/Site Plan: If approved, "Ordinance Related Conditions" apply Average Daily Traffic Count (2010): 1,600 on NC HWY 210 S Highway Plan: There are no road improvements/constructions specified for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program

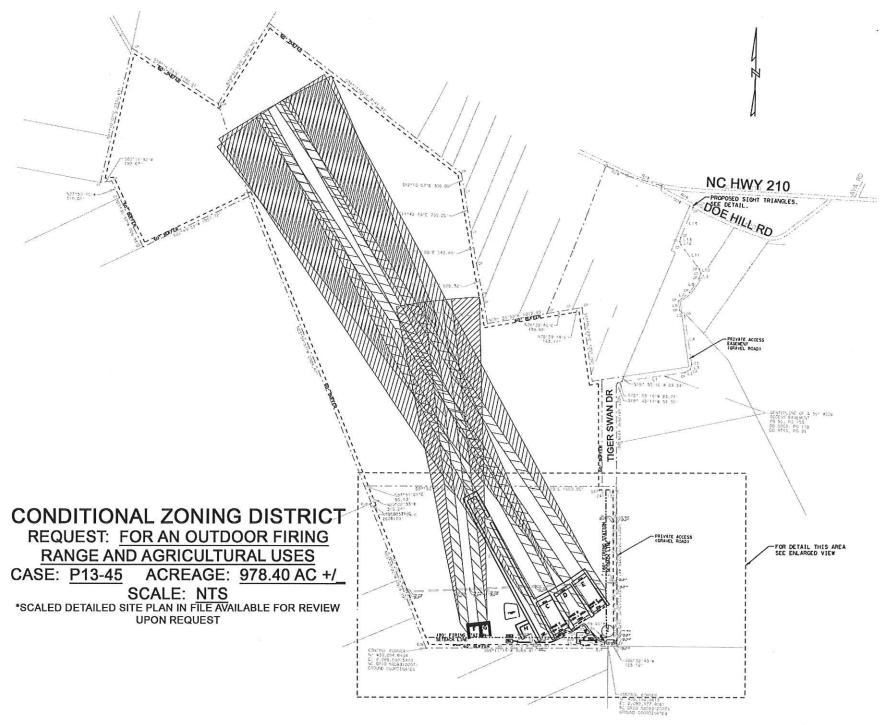
Note:

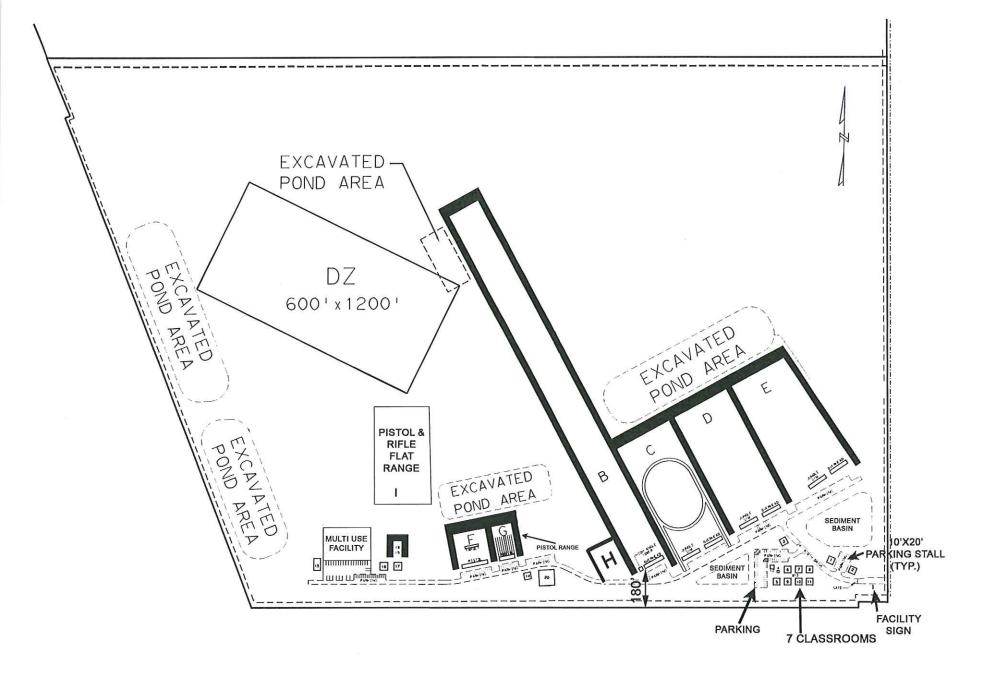
Minimum Yard Setback Regulations: A1 Front yard: 50' Side yard: 20' Rear yard: 50' 180' setback from all shooting stations pursuant to Section 907.1.C

First Class and Record Owners' Mailed Notice Certification

A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.



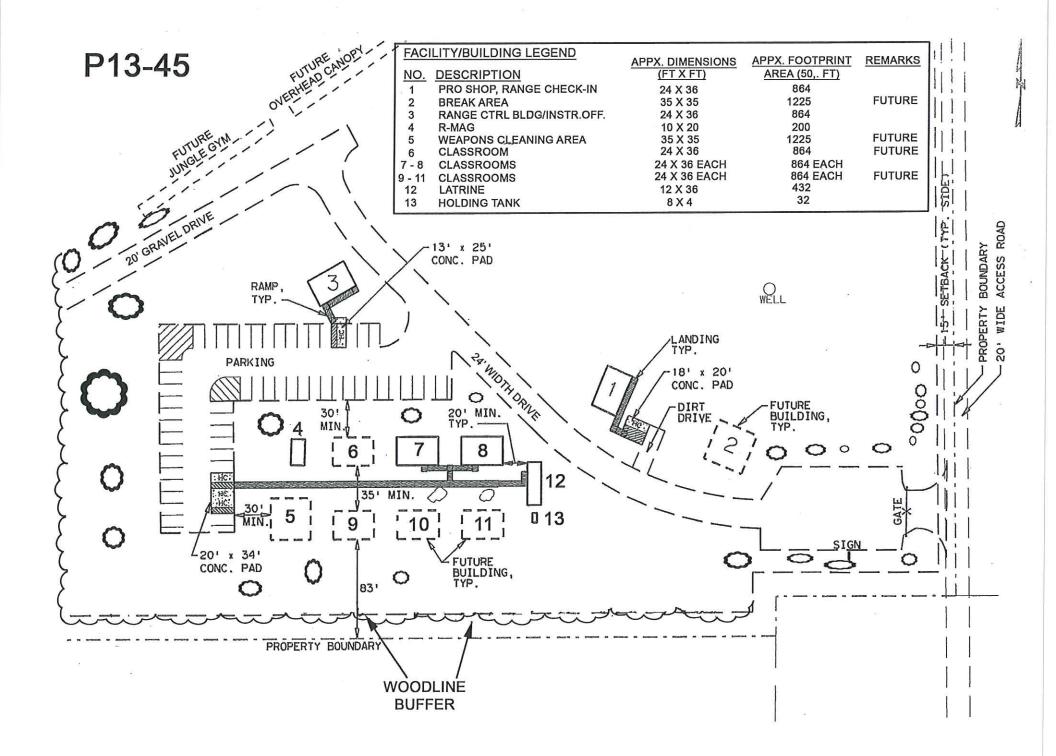




CASE NO: P13-45

1

SCALE: NTS



A1 AGRICULTURAL/CZ CONDITIONAL ZONING DISTRICT

(Outdoor Firing Range and Agricultural Uses)

DRAFT Ordinance Related Conditions for Outdoor Firing Range

Pre- Permit Related:

 Prior to any permits being issued, the developer/operator of the firing range shall provide to Code Enforcement documentation of a recorded deed or lease of the subject property in accordance with Section 907.1.B, Firing Ranges, Outdoor, County Zoning Ordinance.

Permit-Related:

- 2. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
- 3. The County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. <u>A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits</u>. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision and Development Ordinance)
- 4. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
- 5. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
- 6. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) <u>A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits</u>.
- 7. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance. The following are the minimum standards for the required landscaping of this site:
 - Twelve large shade trees or 24 small ornamental trees are required within the parking area.

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs;
- b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris; and
- c. The required plantings may be phased in as the off-street parking areas are provided.

- 8. Prior to application for final inspection, the developer/operator of the firing range facility is required to provide to Code Enforcement at the time of application for the building final inspection, a certification prepared by a North Carolina registered engineer that the firing range facility has an environmental stewardship plan in accordance with Section 907.1.G, Firing Ranges, Outdoor, County Zoning Ordinance and is in compliance with the Best Management Practices, specifically relating to lead management, as specified by the EPA's most current edition of *Best Management Practices for Lead at Outdoor Shooting Ranges*.
- 9. Prior to final inspection, the developer/firing range operator must provide to Code Enforcement proof of general liability insurance coverage in an amount not less than \$3,000,000.00 and this policy is required to be maintained throughout the continued operation of the facility. This policy cannot exclude coverage for property damage or personal injury caused by the discharge of firearms.
- 10. A review of the data available to the Army Corp of Engineers indicates that jurisdictional waters are likely to be present on this property and therefore are likely to be impacted by the proposed project. However, without an official Jurisdictional Determination at the property, these findings cannot be confirmed.

A permit will be required for this project if construction will involve the temporary and/or permanent placement of fill in waters of the United States including wetlands. If a permit is required, the applicant will be required to avoid and minimize impacts to wetland/waters of the United States and may need to provide compensatory mitigation for unavoidable impacts.

11. The final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.

Site-Related:

- 12. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the A1/CZ zoning district must be complied with, as applicable.
- 13. This conditional approval is not approval of the permit for any freestanding signs. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is not approval of the size, shape, or location of any signs.)
- 14. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
- 15. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
- 16. A 60 foot wide buffer area, undisturbed except for desired fence installation and vegetative plantings, shall be provided around the entire perimeter of the subject property (Section 907.1.D, Firing Range, Outdoor, County Zoning Ordinance).
- 17. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
- 18. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of one off-street parking space for each four persons in design capacity for the firing range is required for this development

(Note: Under the current site plan showing 244 off-street parking spaces this will allow for a capacity of 976 persons for zoning purposes. The owner/developer should contact the County Fire Marshal to determine maximum capacity of this development).

- 19. Compliance with all other applicable Federal, State and local regulations, to include the County's Noise regulations (Chapter 9.5, Article II, Cumberland County Code of Ordinances) is required.
- 20. This conditional approval is not approval of the use of helicopters or other aircraft at this facility. "Minor airport operations" would require re-submittal of the Conditional Zoning application petitioning the County Commissioners to amend the current approval prior to commencement of any air traffic activity.

Page 2 of 3

- 21. Control measures are required to be provided on the site to ensure that the potential for rounds/munitions leaving the site are negated.
- 22. Full compliance with the Firearms Regulations (Chapter 9.5, Article IX, Cumberland County Code of Ordinances) is required as applicable.
- 23. The developer/operator of the firing range shall not allow unauthorized personnel access to the to the range while firearms are being discharged in accordance with Section 907.1.F, Firing Ranges, Outdoor, County Zoning Ordinance.
- 24. The developer is encouraged to post warning signs approximately every 100 feet around the perimeter of the site to put potential unintended trespassers on notice of the ranges.
- 25. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.

Thank you for choosing Cumberland County!

If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605 with the Land Use Codes Section; otherwise, contact the appropriate agency at the contact numbers below.

Contact Information (Area Code is 910 unless otherwise stated):

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
Fire Marshal – Emergency Services	Rodney Ward	321-6625
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
County Public Utilities:	Amy Hall	678-7637
Corp of Engineers (wetlands):	Crystal C. Amschler	(910) 251-4170
NCDENR (E&S):	Sally Castle	433-3300
Location Services:		
Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545

cc: Gordon Rose, CallSign Engineers

TO THE CUMBERLAND COUNTY JOINT PLANNING BOARD AND THE BOARD OF COUNTY COMMISSIONERS OF CUMBERLAND COUNTY, NC:

I (We), the undersigned, hereby submit this application, and petition the County Commissioners to amend and to change the zoning map of the County of Cumberland as provided for under the provisions of the County Zoning Ordinance. In support of this petition, as hereinafter requested, the following facts are submitted:

1.	Applicant/Agent TigerSwin, Inc.					
2.	Address: 3452 Apex Peakway Zip Code 27502					
3.	Telephone: (Home) (910) 208-4117 (Work) (919) 397-2525					
4.	Location of Property: 2850 TigerSum Drive					
	Autopuille, NC 28318					
5.	Parcel Identification Number (PIN #) of subject property: <u>\$\$493-54-5262</u> (also known as Tax ID Number or Property Tax ID)					
6.	Acreage: <u>978,4+1-</u> Frontage: <u>Varied</u> Depth: <u>2 niles Capperer</u>)					
7.	Water Provider: Well water					
8.	Septage Provider: Privale Septic					
9.	Deed Book <u>8783</u> , Page(s) <u>374</u> , Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).					
10.	Existing use of property: Firing Range and Agricultural					
11.	Proposed use(s) of the property: Firing range with instruction,					
	NOTE: Be specific and list all intended uses.					
12.	It is requested that the foregoing property be rezoned FROM: <u>A1</u>					
	TO: (Select one)					
	Conditional Zoning District, with an underlying zoning district of <u>A1CZ</u> (Article IV) Mixed Use District/Conditional Zoning District (Article VI)					
	Planned Neighborhood District/Conditional Zoning District (Article VII)					
	Density Development/Conditional Zoning District, at theDensity (Article VIII)					

The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application.

Revised: 04-24-2012

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APPLICATION FOR CONDITIONAL ZONING

1. PROPOSED USE(S):

A. List the use(s) proposed for the Conditional Zoning. (Use of the underlying district will be restricted only to the use(s) specified in this application.)

Outdoor firing range with instruction, incidental buildings and agriculture.

B. Density: List the amount of acreage that will be residential, commercial, and/or open space, and the number of lots and/or dwelling units proposed, and the square footage of the non-residential units.

NA

2. DIMENSIONAL REQUIREMENTS:

A. Reference either the dimensional requirements of the district, Sec. 1104 or list the proposed setbacks.

see site plan.

B. Off-street parking and loading, Sec.1202: List the number of spaces, type of surfacing material and any other pertinent information.

SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article XIII.

NIA

Revised: 04-24-2012

3.

Page 3 of 6

4. LANDSCAPE AND BUFFER REQUIREMENTS:

A. For all new non-residential and mixed use development abutting a public street, indicate the number and type of large or small ornamental trees used in the streetscape, yard space, and/or parking areas, plus the number and type of shrubs. (Sec. 1102N). NOTE: All required landscaping must be included on the site plan.

see site plan.

B. Indicate the type of buffering and approximate location, width and setback from the property lines.

5. MISCELLANEOUS:

List any information not set forth above, such as the days and hours of the operation, number of employees, exterior lighting, noise, odor and smoke, emission controls, etc.

6. SITE PLAN REQUIREMENTS:

The application must include a site plan drawn to the specifications of Sec. 1402. If the proposed uses involve development subject to the County Subdivision Ordinance, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to the Subdivision Ordinance, the site plan shall be of sufficient detail to allow the Planning and Inspections Staff and the Planning Board to analyze the proposed uses and arrangement of uses on the site. It shall also include the footprints of all buildings (proposed and existing), the proposed number of stories, location and number of off-street parking and loading spaces, proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences and landscaping shall be included on the site plan.

Revised: 04-24-2012

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7. STATEMENT OF ACKNOWLEDGMENT:

It is understood by the undersigned that the official zoning map, as originally adopted and subsequently amended, is presumed to be appropriate to the property involved and that the burden of proof for a zoning amendment (rezoning) rest with the petitioner.

It is the responsibility of the petitioner (personally or by agent) to submit to the Planning and Inspections Department a valid request, not incompatible with existing neighborhood zoning patterns.

In order for the Planning Board to offer a favorable recommendation, and for the Board of Commissioners to approve, any Conditional Zoning District, they must find from the evidence presented at their respective hearing that:

- A. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;
- B. The use meets all required conditions and specifications;
- C. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
- D. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and in general conformity with Cumberland County's most recent Comprehensive Land Use Plan and adopted planning policies.

I further understand I must voluntarily agree to all ordinance related prior to the first hearing on the case. The undersigned hereby acknowledge that the Planning and Inspections Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

NAME OF ONWER(S) (PRINT OR TYPE)

HO BOX 130, Faison, NC 28341 ADDRESS OF OWNER(S)

Sterling Brouthern-Produce.com E-MAIL

910.590.9500 HOME TELEPHONE

910 · a b , -Work telephone 910.267.0011

SIGNATURE OF OWNER(S)

SIGNATURE OF OWNER(S)

Revised: 04-24-2012

Page 5 of 6

1	Stern M. Swierkowski NAME OF AGENT, ATTORNEY, APPLIC	
	ADDRESS OF AGENT, ATTORNEY, API	Autyville, NC 28318 PLICANT
	(910) 208-4117 HOME TELEPHONE	<u>(919)397-25-25</u> WORK TELEPHONE
20	5. Swierkowski@TigerSwen.com E-MAIL ADDRESS	(919) 3-0331 FAX NUMBER
1	SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT	

- * <u>ALL</u> record property owners must sign this petition.
- * The contents of this application, upon submission, becomes "public record."

REQUESTED ZONING DISTRICTS ¹	LESS THAN 5 ACRES	5 TO 50 ACRES	50 TO 100 ACRES	100+ ACRES
CONDITIONAL ZONING DISTRICTS ² RESIDENTIAL DD/CZ	\$500	\$500	\$500	\$500
CONDITIONAL ZONING <u>DISTRICTS²</u> NONRESIDENTIAL PND/CZ MXD/CZ	\$700	\$800	\$800	\$800

CUMBERLAND COUNTY ZONING ORDINANCE FEE SCHEDULE

1 If more than one zoning district is requested in the same application, the highest fee for the district requested will apply.

2 If a general rezoning is requested and based on recommendations of the Planning Board or County Commissioners, the applicant desires to submit a Conditional Zoning District application; the original application fee will be credited towards the Conditional Zoning application fee.

Page 6 of 6

September 11, 2013

Patti Speicher Cumberland County Planning & Inspections 130 Gillespie Street Fayetteville, NC 20301

Re: TigerSwan

Dear Patti:

We were involved in the original layout of the firing ranges for TigerSwan located in southern Cumberland County. In preparing the layout of those ranges, we utilized the design criteria provided by the Department of the Army in Pamphlet 385-63: Range Safety. The requirements in this document are consistent with, and in some instances greater than, those requirements found in the Range Design Criteria (June 2012) as published by the US Department of Energy's Office of Health, Safety and Security which is utilized by Cumberland County.

CALL SIGN

The Surface Danger Zones (SDZs) for the range that was constructed (Range C) were prepared using an anticipated weapon of a 5.56 mm, M193 Ball. Those SDZs are contained within property controlled by TigerSwan and did not impact adjoining properties. In addition, the development of the ranges included earthen berms, up to 15-feet in height, on both sides of the range and in the rear to further limit the possibility of projectiles leaving the site.

Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely, CALL SIGN ENGINEERS, PA

Gordon An Rose, PE, LEED AP H CARO SEAL 10763