

# NEW HANOVER COUNTY

## DEPARTMENT OF PLANNING & LAND USE

230 Government Center Drive, Suite 110

Wilmington, North Carolina

Telephone (910) 798-7165

FAX (910) 798-7053

[planningdevelopment.nhcgov.com](http://planningdevelopment.nhcgov.com)



## SPECIAL USE PERMIT Application

### REVIEW PROCESS

#### **Step 1: Pre-Application Conference (Optional)**

In order to assist applicants through the process of obtaining a Special Use Permit, applicants are highly encouraged to contact staff to schedule a pre-application conference prior to application submittal. Applicants are requested to review the sections of the Zoning Ordinance specific to Special Use Permits prior to submission, and advised to contact Planning Staff with any questions. The following sections of the Zoning Ordinance pertain specifically to Special Use Permits:

- Section 70: *General Information, Applications, Process, Public Notice, Public Hearings, Review and Decision, and Conclusions Required for Approval*
- Section 71: *Validity, Extensions, and Changes for Approved Special Use Permits; Resubmittals of Denied Applications*
- Section 72: *Additional Restrictions Imposed on Certain Special Uses*
- Section 111: *Petition*
- Section 112: *Approval Process*

#### **Step 2: Application Submittal**

Applications must be received by the Department of Planning & Land Use by 5:00 PM on the application deadline date. A complete application consists of the items detailed in the submittal checklist provided in this application. Staff will confirm if an application is complete within five business days of submittal. A schedule of application deadlines is available at [planningdevelopment.nhcgov.com](http://planningdevelopment.nhcgov.com) or in the Department of Planning and Land Use office.

#### **Step 3: Staff Review and Recommendation**

Upon receiving a completed application, staff may distribute it to certain departments and agencies for review. Staff will review the application and prepare a staff report.

#### **Step 4: Planning Board Review and Recommendation**

The New Hanover County Planning Board will consider the application at a public hearing. The Department of Planning & Land Use will notify the public of this hearing in accordance with standards of the Zoning Ordinance. This includes sending mailed notice to nearby residents, posting a sign on the subject property, and advertising the hearing in a local newspaper.

Public hearings for Special Use Permit applications are conducted in a quasi-judicial manner and include additional standards for the testimony and evidence presented during the hearing. The property owner, or their attorney, must be present for the meeting. The public hearing will allow staff, the applicant, proponents and opponents to testify in regards to the request. The Planning Board will make a recommendation to the County Commissioners, and may propose additional conditions and requirements beyond those listed in the petition/application.

Applications for single-family dwellings, including mobile homes, on individual lots are not considered by the Planning Board.

### **Step 5: Board of Commissioners Review and Action**

The New Hanover County Board of Commissioners will consider the application at a public hearing. The Department of Planning & Land Use will notify the public of this hearing in accordance with standards of the Zoning Ordinance. This includes sending mailed notice to nearby residents, posting a sign on the subject property, and advertising the hearing in a local newspaper.

Public hearings for Special Use Permit applications are conducted in a quasi-judicial manner and include additional standards for the testimony and evidence presented during the hearing. The property owner, or their attorney, must be present for the meeting.

A Special Use Permit shall be approved if the applicant provides substantial evidence that the proposed use will meet the following findings:

1. The use will not materially endanger the public health or safety if located where proposed and approved;
2. The use meets all required conditions and specifications of the Zoning Ordinance;
3. The use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
4. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the County's adopted plans for growth and development.

The Commissioners may propose additional conditions or requirements beyond those contained in the petition/application.

- *The applicant should keep this section of the application for reference. It is not required to be included in the completed application that is submitted to the County.*

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## SPECIAL USE PERMIT Application

Applicant/Agent Information		Property Owner(s) <i>If different than Applicant/Agent</i>	
<b>Name</b> Benjamin Rivenbark		<b>Owner Name</b> Jack Carlisle	
<b>Company</b> E85 Transport, LLC		<b>Owner Name 2</b>	
<b>Address</b> 8620 River Rd		<b>Address</b> 8630 River Rd	
<b>City, State, Zip</b> Wilmington, NC 28412		<b>City, State, Zip</b> Wilmington, NC 28412	
<b>Phone</b> 910-540-0244		<b>Phone</b> 919-818-7078	
<b>Email</b> e85ben@gmail.com		<b>Email</b> e85Jack@gmail.com	
<b>Subject Property Information</b>			
<b>Address/Location</b> 8630 River Rd., Wllmington, NC 28412			
<b>Parcel Identification Number(s)</b> R08400-002-005-001			
<b>Total Parcel(s) Acreage</b> 15.88 ± AC.			
<b>Existing Zoning and Use(s)</b> R-15 Residential			
<b>Future Land Use Classification</b> Conservation			
<b>Application Tracking Information</b> <i>(Staff Only)</i>			
<b>Case Number</b> <del>519-01</del> 519-01	<b>Date/Time received:</b> 5/8/2019	<b>Received by:</b> BS	

## Proposed Use(s) & Written Description

Please list the proposed use or uses of the subject property, and provide the purpose of the Special Use Permit and a description of the project (please provide additional pages if needed).

The owner, Jack Carlisle, would like to have a private cemetery for his family's loved ones. This parcel of land holds special value to Mr. Carlisle as it was to be the home site of his son Greg who passed away several years ago. Mr. and Mrs. Carlisle have built their home on the property and their youngest daughter Michelle has also built her family home on the property. Kathy Carlisle Smith, Mr. and Mrs. Carlisle's eldest daughter, passed away in 2002. Their middle daughter, Lisa Carlisle Beaman, is in the planning stages of building her home on River Rd and Greg's wife Mary Stewart is currently constructing a home on River Rd. as well. Family friends live on neighboring properties.

The proposed cemetery will not contain burial plots for sale. The size is anticipated to be roughly 35'x45' in the marked area on the map included with the Special Use Permit application. A small fence will be erected around the cemetery.

The Special Use Permit, if granted, will allow for a historical connection for Mr. and Mrs. Carlisle's family and heirs, adding value far beyond that of the land and the buildings constructed thereon.

## Traffic Impact Worksheet

Please provide the estimated number of trips generated for the proposed use(s) based off the most recent version of the Institute of Transportation Engineers (ITE) Trip Generation Manual. A Traffic Impact Analysis (TIA) must be completed for all proposed developments that generate more than 100 peak hour trips, and the TIA must be included with this application.

ITE Land Use: The addition of a private cemetery is not expected to generate any additional trips in the area.

Trip Generation Variable (gross floor area, dwelling units, etc.): \_\_\_\_\_

AM Peak Hour Trips: 0 \_\_\_\_\_ PM Peak Hour Trips: 0 \_\_\_\_\_

## CRITERIA REQUIRED FOR APPROVAL OF A SPECIAL USE PERMIT

For each of the four required conclusions listed below, include or attach a statement that explains how any existing conditions, proposed development features, or other relevant facts would allow the Board of County Commissioners to reach the required conclusion, and attach any additional documents or materials that provide supporting factual evidence. The considerations listed under each required conclusion are simply those suggested to help the applicant understand what may be considered in determining whether a required conclusion can be met. You should address any additional considerations potentially raised by the proposed use or development.

1. The use will not materially endanger the public health or safety if located where proposed and approved.

Considerations:

- Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersections with curb cuts
- Provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection
- Soil erosion and sedimentation
- Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater
- Anticipated air discharges, including possible adverse effects on air quality

The cemetery will be located several hundred feet off of River Rd, a minor arterial. The impact to local traffic is expected to be negligible. It is to be located such that there are two routes around the cemetery for vehicles and emergency services. A third route for emergency services to access the homes on the property is available using the neighbors driveway and a connecting road between the properties.

Homes have already been built on the property and sewer, water, electrical, as well as garbage collection will not be impacted.

Proper and modern burial methods will be used for interment including sealed caskets, burial vaults and grave liners. Burials will be handled by funeral professionals to minimize environmental impacts.

2. The use meets all required conditions and specifications of the Zoning Ordinance.

The proposed cemetery will be behind the setbacks required as shown on the map submitted with the Special Use Permit.

The North Carolina Cemetery Commission regulatory rules and conditions are not applicable because private cemeteries do not fall within the definition provided in G.S. §65-48 nor the scope provided in G.S. §65-47(a) of the North Carolina Cemetery Act. A letter of declaratory ruling attesting to such has been provided by the State of North Carolina Cemetery Commission and is included with this application.

**CRITERIA REQUIRED FOR APPROVAL OF A SPECIAL USE PERMIT**  
(continued)

3. The use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.

Considerations:

- The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved (i.e. buffers, hours of operation, etc)
- Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property

Because of the small size of this private cemetery, the distance from the road and adjoining properties, and the amount of natural foliage, it is expected that only those on the property will be able to see the cemetery. The vast areas of coastal marsh surrounding the proposed site enhance the private feeling of the area. Values of adjoining properties will not be affected given the size of the lots in the area.

4. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the New Hanover County Comprehensive Land Use Plan.

Considerations:

- The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved (i.e. buffers, hours of operation, etc)
- Consistency with the Comprehensive Plan's goals, objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards

The future land use of the surrounding area is for conservation. Having a cemetery on the lot will discourage over-development of the land in the future. No conflicts with the NHC Comprehensive Land Use Plan are apparent.

## APPLICATION REQUIREMENTS

Staff will use the following checklist to determine the completeness of your application. Please verify all of the listed items are included and confirm by initialing under "Applicant Initial". If an item is not applicable, mark as "N/A". Staff will confirm if an application is complete within five business days of submittal. Applications must be complete in order to process for further review.

Required Information	Applicant Initial or N/A	Staff Initial or N/A
1 Complete Special Use Permit application.	BR	BS
2 Application fee – (\$500; \$250 if application pertains to a residential use (i.e. mobile home, duplex, family child care home).	BR	BS
3 Traffic Impact Analysis (for uses that generate more than 100 peak hour trips).	N/A	N/A
4 <u>Site Plan including the following elements:</u> <ul style="list-style-type: none"> <li>• Tract boundaries and total area, location of adjoining parcels and roads.</li> <li>• Proposed use of land, structures and other improvements. For residential uses, this shall include number, height and type of units and area to be occupied by each structure and/or subdivided boundaries. For non-residential structures, this shall include approximate square footage and height of each structure, an outline of the area it will occupy and the specific purpose for which it will be used.</li> <li>• Development schedule including proposed phasing.</li> <li>• Traffic and Parking Plan to include a statement of impact concerning local traffic near the tract, proposed right-of-way dedication, plans for access to and from the tract, location, width and right-of-way for internal streets and location, arrangement and access provision for parking areas.</li> <li>• All existing and proposed easements, reservations, required setbacks, rights-of-way, buffering and signage.</li> <li>• The one hundred (100) year floodplain line, if applicable.</li> <li>• Location and sizing of trees required to be protected under Section 62 of the Zoning Ordinance. <i>No trees on these apply.</i></li> <li>• The approximate location of US Army Corps of Engineers Clean Water Act Section 404 and Rivers and Harbors Act Section 10 Wetlands, and wetlands under jurisdiction of the NC Department of Environmental Quality.</li> <li>• Any additional conditions and requirements, which represent greater restrictions on development and use of the tract than the corresponding General Use District regulations or other limitations on land which may be regulated by Federal or State law or Local Ordinance.</li> <li>• Any other information that will facilitate review of the proposed change (Ref. Article VII, as applicable).</li> </ul>	BR	BS
5 1 hard copy of ALL documents AND 8 hard copies of the site plan. Additional hard copies may be required by staff depending on the size of the document/site plan.	BR	BS
6 1 PDF digital copy of ALL documents AND plans.	BR	BS

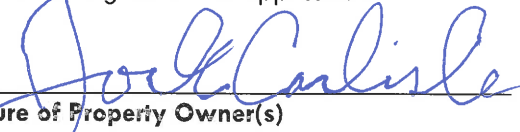
## ACKNOWLEDGEMENT AND SIGNATURES

By my signature below, I understand and accept all of the conditions, limitations and obligations of the Special Use Permit for which I am applying. I understand that the existing official zoning map is presumed to be correct. I understand that I have the burden of proving that the proposal meets the four required conclusions. I certify that this application is complete and that all information presented in this application is accurate to the best of my knowledge, information, and belief.

### Authority for Appointment of Agent Form

If applicable, I also appoint the applicant/agent as listed on this application to represent me and make decisions on my behalf regarding this application during the review process. The applicant/agent is hereby authorized on my behalf to:

1. Submit an application including all required supplemental information and materials;
2. Appear at public hearings to give representation and commitments; and
3. Act on my behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of this application.

  
 Signature of Property Owner(s)

Jack Carlisle  
 Print Name(s)

  
 Signature of Applicant/Agent

Benjamin Rivenbark  
 Print Name

NOTE: Form must be signed by the owner(s) of record. If there are multiple property owners a signature is required for each owner of record.

**\*The land owner or their attorney must be present for the application at the public hearings.**

If an applicant requests delay of consideration from the Planning Board or Board of County Commissioners before notice has been sent to the newspaper (approximately 2-3 weeks before the hearing), the item will be calendared for the next meeting and no fee will be required. If delay is requested after notice has been sent to the newspaper, the Board will act on the request at the scheduled meeting and are under no obligation to grant the continuance. If the continuance is granted, a fee in accordance with the adopted fee schedule as published on the New Hanover County Planning website will be required.

### For Staff Only

Application Received:	Completeness Determination Required By (date):	Determination Performed on (date):	Planning Board Meeting:
5/8/2019	5/15/2019		6/6/2019





**State of North Carolina  
Cemetery Commission**

**Roy Cooper, Governor**

**William Gaffney**  
*President, N.C. Cemetery Commission*

March 20, 2019

Benjamin Rivenbark  
8630 River Rd.  
Wilmington, NC 28412

**Re: Jack Carlisle and Family Cemetery**

Dear Mr. Rivenbark:

This letter serves to confirm that the property you wish to designate for use for the Jack Carlisle and Family Cemetery, located at 8630 River Road, Wilmington, NC 28412 is not regulated by the North Carolina Cemetery Commission because it does not fall within the definition provided in G.S. §65-48, nor the scope provided in G.S. §65-47(a) of the North Carolina Cemetery Act, and therefore is not bound by the statute. This confirmation is based upon our current understanding of your plans for the property.

This confirmation is based upon the understanding that the property is to be used only as a family cemetery, not operated for profit, and with no grave spaces, cemetery services or related merchandise being marketed to the public.

If this office can be of any further assistance, please feel free to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. Street".

Jennifer M. Street  
Administrative Assistant  
NC Cemetery Commission

