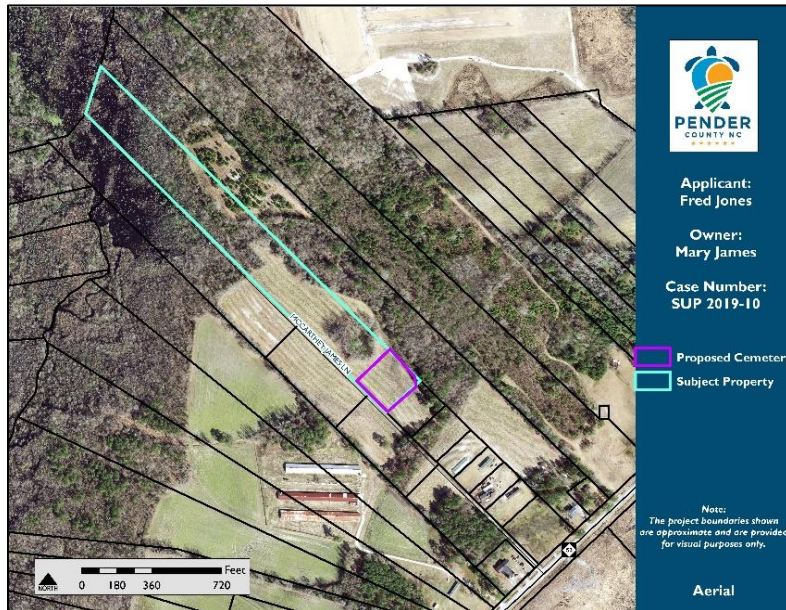


## PLANNING STAFF REPORT SPECIAL USE PERMIT

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### SUMMARY:

**Hearing Date:** January 21, 2019  
**Applicant:** Fred Jones  
**Property Owner:** Mary James  
**Case Number:** SUP 2019-10



**Land Use Proposed:** Fred Jones, applicant, on behalf of Mary James, owner, is requesting approval of a Special Use Permit for the operation of a private cemetery.

**Property Record Number and Location:** The subject property is zoned RA, Rural Agriculture zoning district and according to the Pender County Unified Development Ordinance, §5.2.3 'Table of Permitted Uses,' a Private Cemetery Larger Than 6,000 sq. ft. is a permitted use via a Special Use Permit in the RA, Rural Agriculture zoning district. There is one (1) tract approximating  $\pm 11.46$  acres

associated with this request. The cemetery is proposed on approximately  $\pm 1.37$  acres. The subject property is located on the west side of NC HWY 53 along McCarthey James Lane (Private), from which access to the subject property from NC HWY 53 is granted via a recorded access easement (MB 32/39). The property is located in the Holly Township and may be further identified by Pender County PIN 3394-65-1679-0000.

**Zoning District of Property:** The subject property is zoned RA, Rural Agriculture zoning district and according to the Pender County Unified Development Ordinance, §5.2.3 'Table of Permitted Uses,' a Private Cemetery Larger Than 6,000 sq. ft. are a permitted use in this zoning district via Special Use Permit.

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### PROJECT DESCRIPTION:

The proposed Special Use Permit will allow for the creation and continual operation of a private cemetery, indicated as being greater than 6,000 sq. ft. in which is permitted according to Section 5.2.3 'Table of Permitted Uses' in the Pender County Unified Development Ordinance. The proposed use is proposed to be conducted on  $\pm 1.37$  acres and there is no existing dwellings or structures on the lot.

According to the applicant's submitted narrative, the cemetery lot does not currently have nor will have water and electrical. The only use and purpose of this site will be for burial of family members.

Furthermore, the applicant explains in their submitted narrative that the closest residence is approximately 900 feet away and is a family member.

Per the Pender County Unified Development Ordinance, Private Cemetery is defined as:

**PRIVATE CEMETERY:** A place used for the interment of human remains, including a burial park for earth interments, a vault or crypt interments, a mausoleum, a columbarium for cinerary interments, or a combination thereof, and not subject to the provisions of the North Carolina Cemetery Act.

The proposed use is consistent with the above definition. Prior to issuance of final zoning approval, a site development plan must be submitted and approved in accordance with all applicable provisions of the Pender County Unified Development Ordinance. The site development plan shall be reviewed by members of the Pender County Technical Review Committee (TRC). Furthermore, the proposal is subject to all other applicable federal, state, and local permits and approvals.

### Setbacks

Per Section 5.3.11 of the Pender County Unified Development Ordinance, all burial or monuments must be located at least 25 feet from any side or rear lot line and must be at least 40 feet from any street right-of-way. Additionally, buildings for the maintenance and/or management of cemetery lots must be located at least 100 feet from any lot lines which adjoin lots in any residential district. Otherwise any such buildings must conform to the requirements for principal uses in the district where they are located.

### Parking

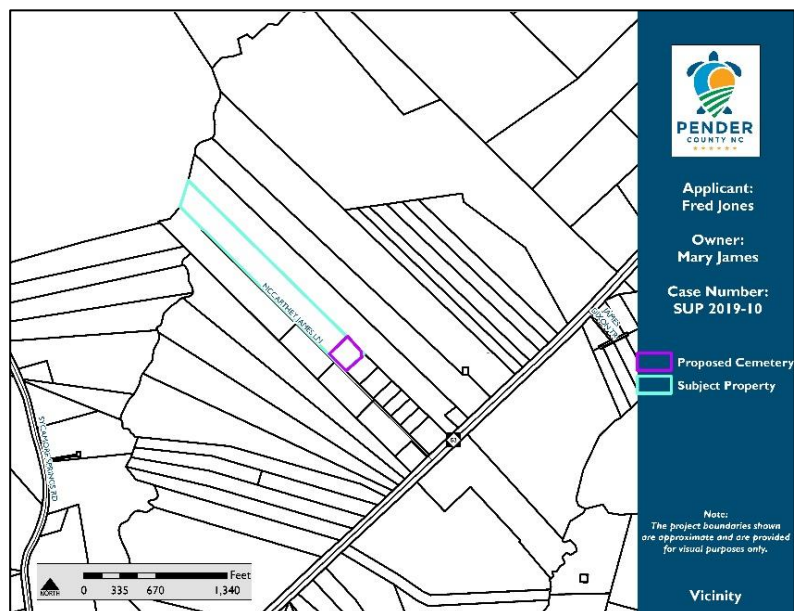
Section 7.10.1.A of the Pender County Unified Development Ordinance provides the minimum number of off-street parking spaces based upon the proposed use. As outlined in this section, the minimum number of required parking spaces for a cemetery is 1 parking space per 5 seats in the chapel or assembly area. However, since the proposed private cemetery does not contain a chapel or assembly area, a predetermined number of parking spaces is not required. In order to serve individuals attending a burial service, and when individuals visit the site, the applicant proposes to reserve approximately 30' x 300' area adjacent to the access easement. All parking standards will be re-evaluated at Site Development Plan submittal.

### Site Access

Based on the applicant's submitted site plan the applicant intends to utilize an existing access easement on the subject property to McCarthy James Lane (Private).

### Landscaping and Buffers

Per Article 8 'Landscaping and Buffers' of the Pender County Unified Development Ordinance, non-residential uses in residential districts shall be required to provide a type "A" buffer along all street boundaries, a type "C" buffer along



all boundaries adjacent to single family residential uses or residential lots with a parcel size of less than one (1) acre and when a single family structure is within 50' of the boundary of the development, and a type "B" buffer along all other non-street boundaries. Via the Special Use Permit process, additional buffering standards may be imposed upon the applicant as well. Landscaping and buffering shall be evaluated at the time of Site Development Plan submittal.

**Utilities**

No building construction will occur on the subject property, and therefore no water or wastewater systems are proposed or required. All proposed utility systems are subject to review and approval by Pender County Environmental Health.

**Environmental Concerns**

There are no wetlands located on the any portion of the subject property according to the National Wetlands Inventory and the North Carolina Division of Coastal Management. According to the North Carolina Flood Risk Information System (NCFRIS), portions of the subject property is located within a designated Special Flood Hazard Area, AE-9999, however, the cemetery area is not located within a Special Flood Hazard Area.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>MISCELLANEOUS USES</b>											
Private Cemetery 6,000 sq. Ft. and larger		S	S				S	S	S		

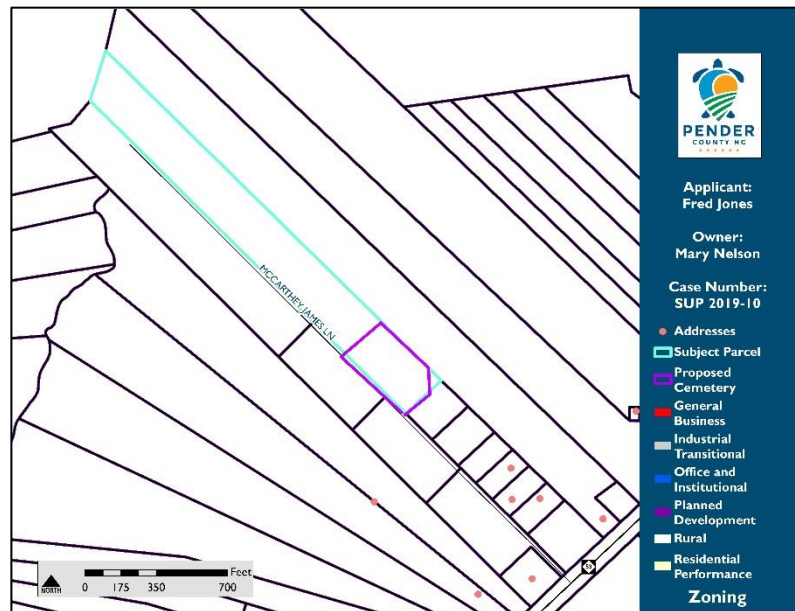
**EVALUATION:**

**Public Notification**

Advertisements for the proposal have been placed in the Pender-Topsail Post & Voice. Adjacent owners within five hundred feet (500') of the subject parcel were notified by first-class mail and a sign advertising the public hearing was placed on the subject property.

**Basis for Granting SUP**

Approval and revocation procedures for Special Use Permits are located in Sections 3.12.3 and 3.12.4 of the Pender County Unified Development Ordinance. These sections are provided as Attachment 5.



### Existing Land Use in Area

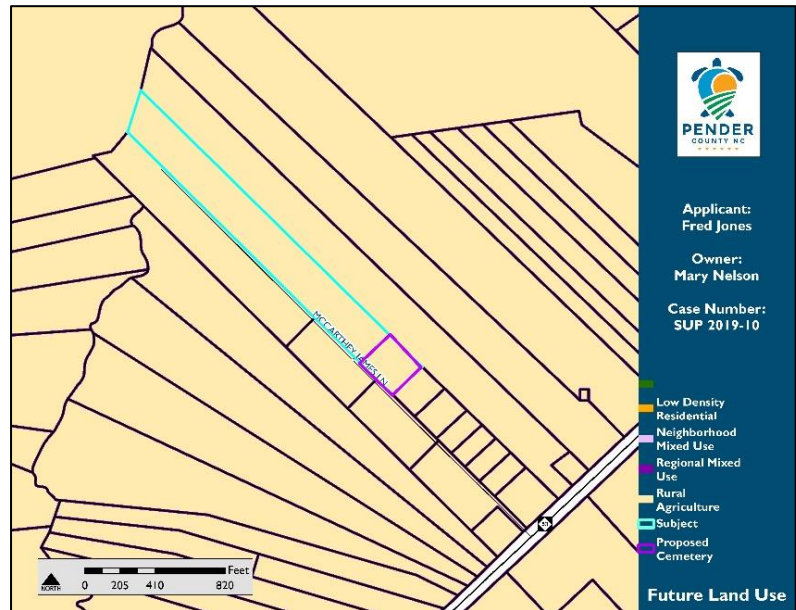
The subject parcel is currently vacant. There are single-family detached residential homes in the immediate vicinity, as well as significant acres of vacant land, forests, and farmland.

### Unified Development Ordinance Compliance

The property is currently zoned RA, Rural Agriculture zoning district. Per Section 5.2.3 'Table of Permitted Uses' in the Pender County Unified Development Ordinance, Private Cemetery Larger Than 6,000 sq. ft. is a permitted use in this zoning district via a Special Use Permit.

### Pender 2.0 Comprehensive Land Use Plan Compliance

The subject property is classified as Rural Agriculture in the Pender 2.0 Comprehensive Land Use Plan's Future Land Use Map. The Rural Agriculture future land use category supports and protects Pender County's agricultural areas, an essential part of the County's economy and agricultural heritage. Agricultural uses are highly encouraged in these areas, as consideration should be given to the preservation of prime farmland soils for the prosperity of farming and forestry operations. In addition to agriculture, very-low density single family residential development (conventional-built and manufactured) are appropriate in these areas.



Furthermore, commercial, civic, office, and institutional are considered appropriate uses when they are compatible with existing neighborhoods or can be an employment or resource for area residents.

The proposed use (Private Cemetery Larger Than 6,000 sq. ft.) is consistent with the Rural Agriculture future land use category due to the compatibility of the use with the surrounding community. The applicant has stated in their narrative, that it will not be a nuisance or a hazard to any residents. Furthermore, the requirement of a Special Use Permit allows for additional evaluation to take place to ensure that compatibility with the surrounding community can be achieved to the greatest extent possible.

The Special Use Permit does not appear to be inconsistent with any goals, objectives, or policies within the Pender 2.0 Comprehensive Land Use Plan.

### Conditions to Consider in Issuing a Special Use Permit for this Project

1. All applicable local, state, and federal permits must be obtained prior to final zoning approval.
2. The project shall comply with all requirements of the Pender County Unified Development Ordinance.
3. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.



4. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit.
5. Any expansion of the use shall meet the requirements found in Section 3.12.H of the Pender County Unified Development Ordinance.
6. All services, visitations, and maintenance related activities shall be conducted within daylight hours.
7. Property owner or permit holder shall be responsible for continuous maintenance of the property.
8. According to Section 7.10.4.A. of the Pender County Unified Development Ordinance, parking shall not be allowed to impede traffic movement on alleys or streets or to impede pedestrian or bicycle activities. Parking shall be contained on the subject property, with no parking on NCDOT maintained roadways or any other location along implied access easement or surrounding secondary roadways.
9. The applicant shall submit the location of the proposed Private Cemetery to Pender County Planning and Community Development prior to final zoning issuance and record a plat to ensure future identification as well as inclusion in the Pender County Cemetery database.