

**MINUTES  
BURKE COUNTY BOARD OF ADJUSTMENT  
March 12, 2019**

The Burke County Board of Adjustment Meeting was held on Tuesday, March 12, 2019 at 6:00 PM in the Commissioners Meeting Room located at 110 N. Green Street, Morganton, North Carolina.

**MEMBERS PRESENT**

Ed Hallyburton, Chairman  
Doris Smith, Vice Chairman  
Mario Sacchetti  
Virginia Cook  
Robert Love  
Rick McClurd  
Gary Kling

**MEMBERS ABSENT**

None

**STAFF PRESENT:** Bradley Kirkley, Zoning Administrator; Jennifer Forney, Planner

**CALL TO ORDER:**

Chairman Hallyburton officially called the Burke County Board of Adjustment meeting to order at 6:05 P.M.

**APPROVAL OF THE MINUTES:**

A motion for approval of the February 12, 2019 minutes, as presented, was made by Virginia Cook and was supported by Mario Sacchetti. The Board granted approval by a 6/0 vote.

**All individuals wishing to comment during the public hearing were sworn in before the opening of the meeting.**

**PUBLIC MEETING**

**CUP 2019-02: A REQUEST FOR A CONDITIONAL USE PERMIT TO OPERATE AND DEVELOP A COMMERCIAL RACETRACK/MOTOCROSS FACILITY AT 2748 ENOLA ROAD (PIN # 2710732480) OF BURKE COUNTY, FRANK MACE, APPLICANT**

Bradley Kirkley presented a summary of the case before receiving questions and comments from the Board.

**Presentation by Buren Hamrick, Race Sponsor:**

Mr. Hamrick is the president and owner of Mideast Hair Scrambles and the sponsor for the motocross event at the Mace property. Mr. Hamrick says that he has been doing races since 1991 and they promote themselves as a Christian based, family oriented, motorcycle association. They sponsor races sixteen times a year in North and South Carolina. Mr. Hamrick's organization tries to work with each county that they race in. For example, Enola Fire

Department sets up six to eight spots around the course so that if anyone should get hurt, they are on site. The Fire Department is aware of every weekend that events are held. Mr. Hamrick brings in dumpsters for waste management and Phil Scarboro is the concession person. He says that he likes to bring in people from the County. According to Mr. Hamrick they are going to use a mobile home frame to span the river if it is permitted by the State. The riders do not get in the water. They use old logging roads that go through the woods instead of building trails. Mr. Hamrick says safety is a big concern for them and they use AMA insurance. Mr. Hamrick worked for GNCC, or Race Productions for 20 years designing motor cycle courses. He stated that he just did not know that he needed a permit and that is why he's here now.

**Frank Mace, Property Owner:**

Mr. Mace says that he knows Mr. Hamrick through association with his friends. He stated that Mr. Hamrick was a good man and that the event was a good show. He said that they try to do things like they should be done, and they are just trying to get a permit.

**Open Public Hearing 6:18 pm**

**Jeff Morse, Citizen:**

Mr. Morse began by thanking the Board for the opportunity to speak. Mr. Morse retired from the Town of Valdese and he and his wife moved to their mountain home at 2462 Holly Court 5 years ago. He stated that they purchased their home due to its location at the base of the South Mountains, the quality of the construction, and the beauty of its appearance. Their home is surrounded by the South Mountains and the only sound they hear from their back deck is the Henry River. Otherwise there is complete silence other than the birds and animals according to Mr. Morse. He stated that on their first summer they woke up to the sound of a motor cross bike racing on a track. The noise was deafening and annoying to say the least. The Morse's learned that the track was across the river adjacent to their property. The Morse's were unaware of a track so close to their neighborhood. Mr. Morse went to the site and met Mr. Mace, who was a fine gentleman. Mr. Mace indicated that he hosted two events per year and that he had been doing so for some time. Mr. Morse felt that if there were only two events per year they could sacrifice. Mr. Morse stated that he is a Harley owner and enjoys motor cycles as well. Several weeks ago, Mr. Morse received a call from a neighbor who told him Mr. Mace was applying for a commercial race track conditional use permit. Mr. Morse's first reaction was that their investments in their beautiful mountain community were going to be ruined. They could not live next to a commercial race track and the ability to sell their home probably would be useless. After losing a night's sleep, Mr. Morse called the county planning office and talked with Mr. Kirkley. Mr. Morse really appreciated Mr. Kirkley's guidance and genuine concern for their neighborhood. Mr. Kirkley stated that they would take the community's concerns into consideration. For that he thanked Mr. Kirkley. After reading the recommendations Mr. Morse felt that the conditional use restrictions would protect their community and their investments in their homes and quality of life. According to Mr. Morse, Mr. Kirkley indicated that Mr. Mace only wanted to come into compliance with the county zoning ordinance and that he had no intentions to expand his operation. Mr. Kirkley confirmed the conversation that Mr. Morse had with Mr. Mace that he did not want to subject their neighborhood to any additional events at this site that would create significant noise pollution to their neighborhood. Mr. Mace told Mr. Morse that all he wanted to do was continue his two sponsored motor cross events three days a

week, Friday, Saturday, and Sunday. I realize that the sponsor of the events will want to have Mr. Mace increase the number of events at the site because of the economic impact this would bring to Burke County. I ask the Board to consider in your deliberations the tax value our community brings to the county, over four million dollars. I know you'll take the citizens into consideration, and the impact that this race track will have on our quality of life and peace of mind. Mr. Morse addressed the Chairman of the Board directly pointing out that two of the recommendations made by staff are critical to their community:

1. Only two events be allowed at the track and only three days per event.
2. The track would not be open to the public or utilized by the owner for racing purposes other than the two sanctioned events.

I formally request the Board of Adjustment accept the staff's recommendations outlined in the report and that all conditions listed be approved by the Board. We want to be good neighbors and I believe Mr. Mace is a good neighbor as well. At the same time, we want to protect our homes and the tranquility that living at the base of the South Mountains brings each one of us.

### **Becky Weatherman, Citizen**

Ms. Weatherman is a retired captain with the Sheriff's Office. She moved to Holly Court in 2008 for the simple reason that it's peaceful. According to Ms. Weatherman, you can't hear anything until the race starts. She has tolerated the last few years of two weekends a year, and she can still tolerate two races a year, but she feels four is too much. She would appreciate the Board understanding that they want some peace and quiet where they live, and that if they ever wanted to sell their properties this would be an issue if buyers knew a commercial track was just through the woods. Ms. Weatherman says she knows its three miles through the woods, but it is very loud. She stated that they usually leave and go somewhere during those weekends to get away from the noise.

### **Edward McFadden, Citizen**

Mr. McFadden lives at 2500 Henry River Trail, adjacent to the Henry Fork River. He and his wife purchased their ten acres in 2000. The reason they purchased their property was the same as their neighbors, who have spoken, and that is peace and quiet as well as the pristine trout stream. Mr. Mace's property is approximately 50 to 75 yards from Mr. McFadden's property. It does not adjoin Mr. Mace's property but is well within a long football throw. In the ten years that the McFadden's were building their home they never thought they'd be sharing it with a race track. Mr. McFadden confirmed that the race track has been there for several years, and had he known it was being operated illegally, he would have complained then. Mr. McFadden wants to be a good neighbor to Mr. Mace, but he too is concerned about more than two events a year. Mr. McFadden stated that he too is a motor cycle rider and he knows the joy and fun in riding. The staff report made several comments stating no public cost noted, but Mr. McFadden feels his property will be devalued if there is a commercial race track very close by and it will be more difficult to sell the property. Mr. McFadden said that he received his tax bill and he is going to the tax office and ask for a devaluation if the track is approved. He feels that will cost the county money. Mr. McFadden also commented on the staff report's allusion to natural scenic beauty, stating that if that's the case you're not sitting on his deck watching the fog come over the river, or watching the ice waterfall on the mountain cross from his property. He says that although there may be some economic benefit according to the applicant, he would contend that there will be more economic cost.

**Tom Kenny, Foothills Conservancy**

Mr. Kenny is a staff member of Foothills Conservancy of North Carolina, which is a non-profit land trust. It was established in 1995 with the purpose of working with land owners, government, and natural resource agencies on volunteer conservation, including the purchase and acquisition of land for those purposes. They own 1,900 acres that border or join South Mountain State Park. They do not adjoin the Mace property, but they do own a property about 1,700 feet upstream on the river. A lot of the Conservancy's projects are about protecting water quality and watersheds. South Mountain State Park has the source of the Henry Fork River and the Jacob Fork River. Mr. Kenny stated that he wanted the Board to know the relation of their conservation land. The Conservancy's property does not adjoin the property in the request, but they do own property nearby. Mr. Kenny also wanted to make sure that everyone knew that the Henry Fork River is classified as an outstanding resource water by the state of NC. These streams must meet the highest caliber of water quality conditions. The Henry Fork River is rated as excellent. The Conservancy is concerned that any impact to the river and its tributaries be avoided.

**Doug Wright, Citizen**

Mr. Wright began by stating that he had no personal problem with his neighbor but that he opposed the race track for two reasons:

1. The noise, Mr. Wright has had previous experience with race tracks when he lived in the city of Morganton. He suggests that the Board look at not only the number of events but the times that the track would be available for practice prior to the races.

Mr. Wright says he loves his property on the Henry River. He practices soil and water conservation and keep his cattle and horses out of the water.

2. A racetrack will devalue property making it harder to sell, and if we leave it to our heirs it will be less valuable.

**Craig McKay, Citizen**

Mr. McKay lives at 3377 Henry River Trail. He purchased his property in 2017 because of the home and its location. Mr. McKay purchased the property from his mother-in-law who has dementia. The slightest noise sparks confusion for her. According to Mr. McKay, one of her few joys is sitting outside enjoying the peace and quiet. The race is only twice a year and Mr. McKay is not so much concerned about that. What he is concerned about is after hours. Mr. McKay stated that he used to race dirt bikes when he was growing up. He knows how race tracks work, and people that do not stay in motels will camp out and party. He says he used to be one of them. Mr. McKay is concerned about people riding after hours, playing loud music, and drinking. He has heard that the store across from Enola Fire Department has been sold and the new owner plans to sell alcohol. Mr. McKay would like to know what protections are in place at the race track after hours.

**Close of Public Hearing 6:19 pm**

**Nancy McFadden, Citizen**

When the Chairman asked if any of the neighbors had been to any of the races Mrs. McFadden replied that they had been given tickets. The ticket said to call if you have trouble and Mrs.

McFadden says she called fifty times, and no one ever answered. She says she felt like she had been scammed. When asked again if she attended any of the races, she replied that she feels like she is at the races because of the noise.

**The Board discussed the following issues during the meeting:**

- A. Restoration of the property after the race
- B. The legal relationship between Mr. Mace and Mr. Hamrick
- C. Mr. Hamrick's association with other local races
- D. Responsible party for any enforcement actions
- E. Dates events are to be held
- F. How staff became aware of the events
- G. Average attendance at events
- H. The length of time the motocross track has been in operation

**Action by the Board**

- ✎ **MOTION: Rick McClurd made a motion to approve CUP 2019-02: A request for a Conditional Use Permit to operate and develop a commercial racetrack/motocross facility at 2748 Enola Road (PIN # 2710732480) of Burke County, Frank Mace, Applicant based on the staff recommendation:**

**STAFF RECOMMENDATION**

Staff recommends approval of the Conditional-Use Permit request based on the allowance as a conditional use by the Burke County Zoning Ordinance for the use intended/requested. All work and development of this requested use is subject to all standards and procedures for site plan qualifications and requirements prior to any permits being issued. With consideration for approval, staff recommends that the following measures be required from the board:

1. No exterior lighting to be used or installed for the purpose of the lighting of the track or course or for any events at the site. Any lighting used for the track shall be fully shielded as to prevent a disturbance to neighboring parcel owners.
2. Hours of operation for the track shall be between the hours of 9:00 AM and 9:00 PM on the days of such permitted events.
3. The facility is limited to no more than two (2) scheduled/advertised race events within a twelve (12) month period. Individual use of the track for the purpose of riding for personal use by the land owner is subject to the hours of operation guidelines noted within. The allowance of additional events shall require the approval from the Board of Adjustment.
4. Garbage and refuse containers shall be provided and maintained on-site for collections of nuisance waste and trash as provided from a licensed third-party provider. Maintenance and removal of any debris associated from the facility shall be the responsibility of the property owners.
5. Police assistance with traffic control for any event shall be provided via the Burke County Sherriff's Department, with any added expense at the cost of the event organizer or parcel owner.

The use requested must also abide by all rules and regulations detailed within Article XI Section 1111 of the Burke County Zoning Ordinance, as well as, any specific or extended regulations set forth by the Board of Adjustment.

**He was supported by Mario Sacchetti. The Board voted 6/1 with Ed Hallyburton voting in opposition.**

The next meeting is scheduled for April 9, 2019

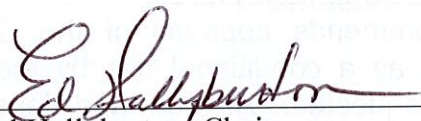
**ADJOURNMENT:** Chairman Hallyburton adjourned the meeting.

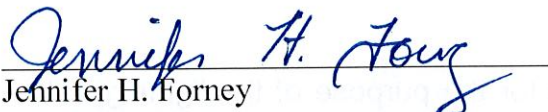
**Submitted by,**

*Jennifer H. Forney*

**Jennifer H. Forney  
Planner**

Approved this 9<sup>th</sup> day of February 2019

  
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Ed Hallyburton, Chairman  
Burke County Board of Adjustment

  
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Jennifer H. Forney  
Secretary to the Board