

TOWN OF SEVEN DEVILS
BOARD OF ADJUSTMENT MEETING
Tuesday, May 25, 2021 – 5:30pm

- 1) Call to Order
 - 2) Roll Call/Quorum *5 BOA minimum*
 - 3) Adopt Agenda *Motion*
 - 4) Old Business
 - A. Approve Minutes - *Motion*
 - (i) Board of Adjustment – Public Hearing - April 26, 2021
 - (ii) Board of Adjustment – Meeting – April 27, 2021
 - B. Shoppes of Tynecastle/Saltman Variance Request
 - (i) Additional Disclosure
 - (ii) Emailed Public Comments
 - (iii) Board Deliberations
 - (iv) Vote on Variance Request
 - C. Decision – Approval, Approval with Conditions or Denial
 - 5) New Business
 - A. Application for Special Use Permit – WWTP – Clevon Woods Associates, LLC
 - (i) Open Evidentiary Hearing *Motion*
 - (ii) Opening Statement – Chair
 - (iii) Disclosures
 - (iv) Determination of Witnesses
 - a. Parties with Standing
 - b. Expert Witness
 - c. General Witness
 - (v) Witness Oath – Clerk
 - (vi) Presentations of Findings of Fact – Debbie Powers, Town Manager/Zoning
 - (vii) Presentation of Application – Clevon Woods Associates, LLC
 - (viii) Witness Opposed to Application
 - (ix) Board of Adjustment Discussion
 - (x) Recess Evidentiary Hearing until June 22, 2021 *Motion*
 - B. Board of Adjustment Future Dates
 - (i) Set Public Hearing – Monday, June 21, 2021 at 1:00pm *Motion*
 - (ii) Board of Adjustment Meeting – June 22, 2021 at 5:30pm
 - 6) Adjourn (Subject to Evidentiary Hearing Recess) *Motion*
-

<https://global.gotomeeting.com/join/522999069>

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Town of Seven Devils

Board of Adjustment

Public Hearing – Violation Appeal – Lot 25, Alpine Meadows

Monday – April 26, 2021 1:00pm

The Seven Devils Board of Adjustment held a Public Hearing on Monday, April 26, 2021 with the format of this Public Hearing being dual Electronic – Go To Meeting #349867949 and In-Person at Town Hall. Attendance In-Person included Chair Bob Bridges, Members Jack Byrnes, Bobbye Hurlbrink & Faye Brock. Alternate John Wells attended remotely with visible video display and observed. Alternate Bert Valery was absent. A quorum was met. The minutes were recorded by Town Clerk Hillary Gropp.

Appeal Applicants- Owners of Lot 25, Alpine Meadows, Norman & Kay May were in attendance.

Town Manager/Zoning Administrator Debbie Powers attended, but has recused herself from the procedural duties of this matter before the Board of Adjustment.

CALL TO ORDER

Chair Bridges called the Public Hearing to order at 1:00pm.

ROLL CALL

Board of Adjustment members Faye Brock, Bob Bridges, Bobbye Hurlbrink, & Jack Byrnes stated their name and announced their presence for Roll Call.

OPEN PUBLIC HEARING

Member Byrnes made a motion to open the Public Hearing; Member Brock seconded the motion. All members agreed.

PUBLIC HEARING NOTIFICATION

Town Clerk Gropp reported the methods used for notification of the Public Hearing. These include letters to “those with standing”, signage at Town Hall & Lot 25, Alpine Meadows, and publication in the Watauga Democrat on Wednesday, April 14, 2021.

PUBLIC HEARING INTRODUCTION

Prior to the Public Comment, Chair Bridges stated the following Public Hearing Introduction Statement.

“I’d like to make a statement as to the purpose of this Public Hearing, to outline what it is, and what it isn’t.”

This hearing is to give the public an opportunity to speak regarding the particular case to be decided. Anyone can attend. It is not to give the public an opportunity to present additional evidence that should have been presented at the now closed evidentiary hearing regarding this case.

This Board is required to make its decision solely on the testimony and evidence presented at the evidentiary hearing, where “persons with standing”, and others would incur “special damages” as a result of the Board’s decision, presented evidence and testimony. “Special damages” are those distinct from damages to the public at large.

Anyone who wishes to speak in person at this hearing must sign in prior to speaking. A sign-up sheet is available. Those wishing to speak virtually must identify themselves, and we will add those names to the sign-up sheet.

Each person will be given a maximum time limit of 3 minutes to speak. The clerk will be the timekeeper. I ask each speaker to restrict their comments to the case being decided. Any person who interrupts, disturbs, or obstructs this hearing will be asked to leave.

At the conclusion of this Public Hearing today, the public will be given a “public comment period” of 24 hours to email their comments regarding this case.

The email address is publiccomments@sevendevils.net

PUBLIC COMMENT

Wayne Bonomo – 299 Highcliff Circle, asked the Appeal Applicants their intent for building and the progress to date. Before a thorough answer could be provided by Norman May, Chair Bridges stated questions were not allowed as a public comment. The evidentiary hearing has already closed, however if Wayne Bonomo had a public comment to be made then proceed. Wayne Bonomo wanted to ask specific questions of the Appeal Applicants and Chair Bridges stated that is inappropriate at this time. Chair Bridges asked the Clerk to the Board for notes of the BOA meeting on March 23, 2021. Clerk Gropp replied to **draft minutes** are posted to the Town’s website. The BOA will review and approve the draft minutes at their meeting on Tuesday, April 27, 2021.

Wayne Bonomo left the podium.

No other citizens signed up to speak.

ADJOURN

Member Brock made a motion to adjourn the Public Hearing; Member Hurlbrink seconded the motion. All members agree. The Public Hearing adjourned at 1:15pm.

Robert D. Bridges, Chairperson

Hillary Gropp, Town Clerk

**Town of Seven Devils
Board of Adjustment Meeting
Tuesday - April 27, 2021
5:30pm**

The Seven Devils Board of Adjustment met on Tuesday, April 27, 2021 and the format of the meeting was dual format via Electronic – Go To Meeting #331996005 and In-Person at Town Hall.

In-Person attendance included Regular members: Bob Bridges, Faye Brock, Jack Byrnes, Bobbye Hurlbrink. A quorum was met.

Alternate John Wells attended remotely with visible video display and observed. Alternate Bert Valery was absent.

The minutes were recorded by Town Clerk Hillary Gropp.

Town Manager/Zoning Administrator Debbie Powers recused herself from the procedural duties of the “Old Business” for BOA meeting.

Also in attendance:

Norman & Kay May – Appeal Applicants – Lot 25, Alpine Meadows

Roxanne Schwebke Saltman -Variance Applicant – Shoppes of Tynecastle

CALL TO ORDER

Chair Bridges called the meeting to order at 5:30pm.

ROLL CALL

Board of Adjustment members Faye Brock, Bob Bridges, Bobbye Hurlbrink, Jack Byrnes, and Alternate John Wells stated their name and announced their presence for Roll Call.

AMEND AGENDA

Chair Bridges amended the agenda with two items as follows:

Item 4) Old Business, B. Deliberations of May Appeal, *strike and replace* (ii) ~~Parties with Standing Comments/Email Comments~~, amend to Submission of Email Comment as part of Case Documentation.

Item 5) New Business, A. Variance Application/Presentation, *remove Roxanne Schwebke Saltman, Petitioner and add to* (v) Presentation of Facts/Evidence – Debbie Powers, Town Manager/Zoning and Roxanne Schwebke Saltman.

Member Brock made a motion to adopt the amended agenda; Member Byrnes seconded the motion. All members agreed.

4) OLD BUSINESS

A. APPROVAL OF MINUTES – Board of Adjustment – May 23, 2021

Chair Bridges asked to amend the Board of Adjustment minutes, at page 7, included language in italics at the following sentence, A future public hearing will occur and citizens with standing *and other citizens*

will be able to comment, prior to the Board of Adjustment's final decision. Member Byrnes made a motion to approve the amended minutes; Member Brock seconded the motion. All members agreed.

B. DELIBERATIONS OF MAY APPEAL

(i) Call for Additional Disclosure – Zoning Administrator Powers spoke with Watauga County Planning & Inspection about the last inspection, which occurred in December 2020. The next inspection would be for the final CO (Certificate of Occupancy), however it has not been called in at this time. Powers also visited the location, and the driveway is still gravel, but will need to be concrete or asphalt to comply with the UDO requirements.

(ii) Submission of Email Comment as part of Case Documentation – NONE

(iii) Discussion

Findings of Fact, Conclusion & Decision

Findings of Fact, Decision, and Order – Norman May, Lot 25, E. Rocky Top

Findings of Fact

1. Mr. and Mrs. May and Town staff met on October 17, 2017 for a Pre-Construction meeting to issue all the necessary Building permits for the Town (Zoning, Grading, Driveway, Water Tap, and Performance Bond).
2. The Town Unified Development Ordinance – Article 10 – addresses all the details of Construction regulations, including the two-year overall time limit for all new residential construction projects.
3. Five email correspondences occurred over the period of April 26, 2018 to December 10, 2020 from the Zoning Administrator to Mr. May, regarding the slow progress of his construction project. These emails were presented at the Evidentiary Hearing on April 27, 2021 as Attachment C.
4. On December 30, 2020, a written, signed complaint was received from Mr. Jeff Williams at 177 East Rocky Top Trail, the next-door neighbor to the May property. The UDO states the Zoning Administrator “shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken.”
5. On December 30, 2020, a Violation and Letter was issued in the amount of \$250, due within 30 days (January 31, 2021) and a warning that beyond that date, that an additional \$250 per day Violation would accrue until the project is completed.
6. Mr. May paid the \$250 Violation and has appealed the decision of the Zoning Administrator of the \$250/day Violation that started on February 1, 2021 and accrued until April 27, 2021 (the date of the Board of Adjustment meeting). Total amount accrued is \$21,500.
7. At the March 23, 2021 Board of Adjustment meeting, Mr. May presented his case, stating that the delay was due to inclement weather conditions and unreliable contractors.
8. At the March 23, 2021 Board of Adjustment meeting, the Zoning Administrator stated that 2 other new construction projects had been started after Mr. May's project began and were completed and received their CO within the 2-year limit.

Conclusion:

1. Based on the Application for Appeal, the evidence submitted on March 23, 2021 Board of Adjustment meeting, the Public Hearing on April 26, 2021 receiving no written or verbal comments from persons of

standing, or other citizens, and the above findings of fact, on April 27, 2021 the Board of Adjustment final Conclusion and Decision is as follows:

The Town of Seven Devils Zoning Administrator has exhibited leniency and extended the deadline by 1 year, 3 months with the May permit. Although extreme weather, labor or supply shortages, due to Covid19 can be considered as a factor, when considering an already extended deadline, these too have already been factored in by the Zoning Administrator prior to the issuance of two violations.

Violation #0492 - \$250.00 – Failure to complete construction in 2 years

Violation #0494 - \$250.00 – UDO Construction – Failure to complete in 2 years; \$250 a day fine, Effective February 1, 2021.

On the Application of Appeal, most specifically, How do you think the ordinance or guidelines should be interpreted? Norman May's written reply is, "The Hardship is not the result of the Applicant's own Actions".

Board of Adjustment Chair Bridges disagreed, and stated the Owner's own action brought the hardship by acting as his own general contractor, as well as being an absentee general contractor, not being familiar with the sub-contractors, suppliers, schedules, availability of supplies contributed more to the "failure to complete in 2 years".

To date, the May construction is still not complete.

(iv) Vote

Motion: The Board of Adjustment voted to Affirm the Zoning Administrator decision, with a \$250.00 a day fine to begin on April 28, 2021 at 12:01am.

(5) Yeas (0) Nays

A roll call vote of the Board of Adjustment members is as follows:

Faye Brock-Yea Bob Bridges-Yea Bobbye Hurlbrink-Yea Jack Byrnes-Yea Frank Sell-Yea

C. Decision

A. To determine "when the fine begins?", the Board of Adjustment discussed the Town of Seven Devils Unified Development Ordinance (UDO), Article 17, Section 2 (b), Stay of Further Action.

An appeal by aggrieved parties to the Board of Adjustment stays all actions seeking enforcement of, or compliance with, the decision being appealed.

The Board of Adjustment's interpretation of "stays all action, enforcement of, or compliance with" meant that, once the May's filed an Application for Appeal on February 1, 2021, all fines between the dates of February 1, 2021 and April 27, 2021 (the "appeal period") are not enforceable. It was concluded that there is no fine during the stated "appeal period".

5) NEW BUSINESS

A. VARIANCE APPLICATION/PRESENTATION

(i) Open Evidentiary Hearing

Member Byrnes made a motion to Open the Evidentiary Hearing; Member Brock seconded the motion. All members agreed.

(ii) Opening Statement

Chair Bridges gave the following opening statement.

"This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decision. These rules are different from other types of land use decisions like rezoning cases.

"The board's discretion is limited. The board must base its decision upon competent, relevant, and substantial evidence in the record. A quasi-judicial decision is not a popularity contest. It is a decision constrained by the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference, or opinion.

"Participation is limited. This meeting is open to the public. Everyone is welcome to watch. Parties with standing have rights to participate fully. Parties may present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the board. General witness testimony is limited to facts, not opinions. For certain topics, this board needs to hear opinion testimony from expert witnesses. These topics include projections about impacts on property values and projections about impacts of increased traffic. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion.

"Witnesses must swear or affirm their testimony. At this time, we will administer the oath for all individuals who intend to provide witness testimony."

(iii) Witness Oath

Town Clerk Gropp administered the Witness Oath to Roxanne Schwebke Saltman – Variance Applicant – Shoppes of Tynecastle.

(iv) Disclosures

Chair Bridges stated the following: *"The parties to this case are entitled to an impartial board. A board member may not participate in this hearing if she or he has a fixed opinion about the matter, a financial interest in the outcome of the matter, or a close relationship with an affected person. Does any board member have any partiality to disclose and recusal to offer?"*

No board member replied.

Ex Parte Communication

Chair Bridges stated the following: *"The parties to this case have rights for any ex parte communication to be disclosed. Ex parte communication is any communication about the case outside of the hearing. That may include site visits as well as conversations with parties, staff, or the general public. Does any board member have any site visits to disclose?"*

No board member replied.

Chair Bridges asked the following: *"Does any board member have any conversations or other communications to disclose?"*

No board member replied.

Chair Bridges asked the following: *"Based on the disclosures we've heard from the board concerning partiality and ex parte communications, does any member of the board or any party to this matter have an objection to a board member's participation in this hearing?"*

No board member replied.

(v) Presentation of Facts/Evidence – Debbie Powers Town Manager/Zoning Administrator

Zoning Administrator Powers presented the following:

Findings of Fact:

- The Town of Seven Devils received an Application for Variance from Ms. Roxanne Schwebke Saltman, delivered to Town Hall on March 16, 2021.
- I required Ms. Saltman to deliver a letter from the owner of the Shoppes of Tynecastle, indicating their knowledge and acceptance of her proposed businesses (attached in packet).
- The application was complete and was accompanied by the \$250 fee and all required documentation.
- The property address is Shoppes of Tynecastle LLC at 4501 Tynecastle Highway, Seven Devils, NC 28604. Parcel ID # 1867-00-14-7120. Taxes are current.
- Property is in GB (General Business) on Official Zoning Map of Town of Seven Devils.
- Ms. Saltman verbalized her intent to lease the tower portion of the Shoppes of Tynecastle on the corner for a future distillery, and to place an Airstream RV in the adjacent parking area to accommodate a cigar bar.
- The Town of Seven Devils **Nuisance Ordinance, Article 13 – Recreational Vehicles Prohibited**, was referenced when the inquiry was delivered to the Zoning Administrator. RVs are not allowed in Town limits.
- Discussions with Ms. Saltman included:
 - a. Concerns regarding the RV systems – water intake, grey & black water collection, and disposal of these fluids.
 - b. Process of obtaining ABC permits from the State to operate a distillery; requirements of Town personnel to inspect and sign off on the ABC application (Fire, Zoning, Police) and the building permitting process for the Town of Seven Devils and Watauga County Planning & inspections Department, even though the Shoppes of Tynecastle is physically in Avery County.

Chair Bridges asked the Board of Adjustment members the following: *"Are there any preliminary questions for the Zoning Administrator Powers?"*

Member Brock asked:

"Is there a timeline for this to end?" Powers replied there is not an ending or expiration.

Presentation by Roxanne Schwebke Saltman

Saltman explained the plans to open a distillery in the Tower at Shoppes of Tynecastle. Plans also include a cigar lounge to be operated out of an Airstream RV. Saltman provided photos of an Airstream RV as an example. The request for Variance is for a RV to be parked a few days a week, to be used for the cigar

lounge. When it isn't actively being used for the business use, then it will be stored behind the Shoppes of Tynecastle on private property. Details for exact business days, or hours of operation have yet to be determined, as well as sanitary disposal methods of fluids; ex: water, gray & black water.

The timeline to begin operation of the RV Cigar Lounge is set for late May 2021, until TDB in year 2022, when the Cigar Lounge will be relocated to the Tower.

The business plan/lease to open the RV Cigar Lounge at the Shoppes of Tynecastle is in a holding pattern and contingent on the Board of Adjustment decision or approval.

Saltman stated she thinks her Variance Application should be considered and approved, as the RV Cigar Lounge will be located in the Town's GB Zoning, and not Residential Zoning.

Saltman stated she will follow up with Zoning Administrator Powers about proper permits for signage.

Chair Bridges asked the Board of Adjustment members the following: *"Are there any questions for Roxanne Schwebke Saltman?"*

Member Hurlbrink asked *"When will a lease be signed?"* Saltman replied once the Board of Adjustment makes a decision.

Member Hurlbrink asked, *"Are there laws about smoking inside the RV Cigar Lounge?"* and *"Is there proper ventilation?"* Saltman replied that is all approved by a Government Agency.

Member Brock asked, *"Will the RV Cigar Lounge be ADA compliant?"* Saltman replied there will be two ramps to the main floor.

Member Brock asked, *"Will this be a year round operation?"* Saltman replied yes, but not initially.

Chair Bridges asked, *"Is this a legitimate DBA lease/business name?"* Saltman replied yes.

Chair Bridges asked, *"Will the bathroom in the RV Cigar Lounge be functional and used by how many customers?"* Saltman replied, yes, she didn't know how many would actually use the inside bathroom, and disposal of the tank would be needed. But she did not know the frequency of disposal until the RV Cigar Lounge opens. The RV Cigar Lounge will accommodate approximately 18 customers.

(vi) Board of Adjustment Discussion

Chair Bridges spoke about the intent of the Town of Seven Devils Nuisance Ordinance – Article 13 – Recreational Vehicles Prohibited.

13.1 Purpose – Due to the limited size and width and grade of the Town roads, all Recreational Vehicles are prohibited in the Town of Seven Devils town limits.

When considering the language directly relating to width and grade, this suggest the roads within the Residential Zoning, and not Commercial Zoning (GB Zone).

Chair Bridges read 13.4 Exceptions – Commercial work trailers operated by contractors, (i.e., landscapers, tree arborists, handyman, etc.) during normal work hours. Buses or RV's visiting Commercially Zoned (GB Zone) and Recreational Business (RB Zone) businesses during normal business hours.

Chair Bridges asked Zoning Administrator Powers, *"Why doesn't this RV qualify as an exception?"* Powers replied because the RV will remain overnight, and not visiting.

Member Byrnes stated this RV will be moved at times, and not remain permanently in the location.

(vii) Close Evidentiary Hearing

Member Brock made a motion to close the Evidentiary Hearing; Member Byrnes seconded the motion. All members agreed.

**Clerk's Note – All labeled attachments submitted with the agenda or referenced in this Board of Adjustment proceeding are included at the conclusion of these minutes.*

E. Board of Adjustment – Future Dates

(i) Public Hearing

Member Brock made a motion to set the Public Hearing date on Monday, May 24, 2021 at 1:00pm; Member Sell seconded the motion. All members agreed.

(ii) Board of Adjustment Meeting – Tuesday, May 25, 2021 at 5:30pm

ADJOURN

Member Brock made a motion to adjourn; Member Hurlbrink seconded the motion. All members agreed. The meeting adjourned at 6:30pm.

Robert D. Bridges, Chairperson

Hillary Gropp, Town Clerk

Town of Seven Devils Board of Adjustment

May 25, 2021

Witness Oath

Do you solemnly swear (or affirm) that the evidence you shall give to the board in this action shall be the truth, the whole truth, and nothing but the truth, so help you God?

Name:

Position:

Address:

[illegible]

Findings of Fact/Clevon Woods LLC Special Use Permit Application

- The Town of Seven Devils received an Application for a Special Use Permit from Charles Clement, Managing Member of Clevon Woods, LLC, on April 26, 2021.
- The Application was complete, was on time to be included in the next regularly scheduled Board of Adjustment meeting and was accompanied by the \$500 fee and all the required documentation.
- The property address is unassigned at this time; the Parcel ID is 1878-53-7991, is a .576-acre parcel, and was annexed into the Town of Seven Devils Town limits on December 8, 2020, with a GB (General Business) Zoning designation. The parcel is located directly across the street from the old Carlton Gallery at 140 Aldridge Road.
- According to the Town's UDO (Unified Development Ordinance) on Table 5.1 – Table of Permitted Uses, a Private Utility/Waste Treatment Plant is permitted in the GB (General Business) zoning district with a Special Use Permit issued by the Board of Adjustment.
- According to the Town's UDO (Unified Development Ordinance), Article 14 – Special Use Permits, Section 3 (C), Final Development Plan, "at least 14 days prior to the hearing, the Applicant shall submit (3) three copies of the Final Development Plan to the Zoning Administrator", which occurred on Tuesday, May 11, 2021 at 10:00am. The meeting was attended by Mr. Clement, Mr. Sayles, Town Engineer David Poore, Town Public Works Director Kevin Aldridge, and Town Manager/Zoning Administrator Debbie Powers. The details of the 15 points outlined in this Article section were discussed and provided by the Applicant. Plats and Plans were provided and displayed at Town Hall and Board of Adjustment members were notified via email that these documents were available for viewing at their convenience.
- **Important Item #1** – Neither the Town nor the Board of Adjustment has a legal right to determine IF a WWTP can be built – that decision lies directly with the State – the NC Dept. of Environment and Natural Resources, Division of Water Quality (DENR). The Board of Adjustment's decision is one that relates only to the permissibility of the USE, according to the UDO.
- **Important Item #2** – If the Special Use Permit is approved by this Board of Adjustment, the Applicant will then be responsible to follow the construction regulations of the UDO. This includes obtaining the Zoning

Permit, the Grading Permit, the Driveway Permit, Tree Removal Permit, and any other Permits as required by Watauga County Planning & Inspections.

- **Important Item #3** – Applicant understands that according to Article 14, Section 7 (1) – “If a Special Use is abandoned or discontinued for (one) 1 year, the Special Use Permit becomes void without further action by the Town, and the Use may not be re-established without approval of a new permit.”
- Multiple phone conversations between myself, Mr. Charlie Clement, and Mr. Ron Sayles occurred after the annexation of this property, regarding the UDO regulations, procedures, and deadlines, proceeding forward with this Special Use Permitting process.

Hillary Gropp

From: Debbie Powers
Sent: Friday, April 30, 2021 3:33 PM
To: (bridges1fl@comcast.net); Bobbye Hurlbrink; Faye Brock; (jbyrnesil@prodigy.net); Franklin Sell
Cc: John Wells; Bert Valery; Rob Angle; Hillary Gropp; (dpoore@west-consultants.com)
Subject: Clevon Woods LLC - Application for a Special Use Permit
Attachments: CLEVON WOODS LLC APPLICATION FOR SUP - APRIL 26 2021.pdf; UDO-ARTICLE 14-SPECIAL USE PERMITS.pdf

Dear Board of Adjustment Members –

At Tuesday's meeting, I notified you that Mr. Charlie Clement/Clevon Woods LLC had submitted an application for a Special Use Permit for a WWTP, which will be a New Business item at our May 25th meeting. Attached is the Application for your review, as well as Article 14 from our UDO, which addresses the procedures. Your *Quasi-Judicial Handbook* (from the UNC School of Government) supplies guidance in Chapter 7. If you have any questions, please let me know; thank you all for your service to the Town!

Debbie Powers
Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343

Application for Special Use Permit
Application for a Special Use Permit for Property in the Town of Seven Devils
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
Phone: (828) 963-5343

To the Board of Adjustment for the Town of Seven Devils:

I hereby petition the Board of Adjustment for a Special Use Permit as authorized by Article 14 of the Unified Development Ordinance for the Town of Seven Devils. I understand that the requirements set forth in the Town of Seven Devils Unified Development Ordinance will apply to all plans submitted.

Description of Property

Physical Location of Property (including street address):

A 0.576 acre parcel of land located in the Town of Seven Devils, on the east side of Aldridge Road (NCSR 1594), approximately 160 feet south of the intersection of Aldridge Road and NC Highway 105, diagonally across from the former Carlton Gallery (property presently owned by Vestpocket Investments, LLC). The subject parcel is shown and described on the attached Annexation Map, recorded in Plat Book 28, Page 126, Watauga County Register of Deeds office (Exhibit "A"), and is zoned GB (General Business). See Zoning Map attached as Exhibit "B"

Size of Property: 0.576 acre County Watauga PIN 1878 53 7991 000

Current Zoning District: General Business

General Use of Property:

The proposed use is for a facility to discharge wastewater under the National Pollutant Discharge Elimination System in accord with NPDES Permit No. NC0070408 issued to Applicant on November 9, 2018 by the North Carolina Department of Environmental Quality, Division of Water Resources. A copy of the Permit No. NC0070408 is attached as Exhibit "C".

The discharge facility will be housed in a building constructed by a licensed general contractor, surrounded by a wooden fence, gravel parking area for maintenance personnel, and landscaped with grass and shrubs. The building and site will meet the Community Design Standards of the UDO. A conceptual rendering of the building and grounds is attached (Exhibit "D"). Design and construction of the discharge facility will be in accord with plans by a Licensed Professional Engineer and pursuant to an *Authorization to Construct* permit approved and issued by the North Carolina Division of Water Resources. Operation and maintenance of the facility will be under the supervision of a Licensed Wastewater Treatment Operator.

Applicant Information

Clevon Woods Associates, LLC
Charles E. Clement, Managing Member
756 W. King Street
P.O. Box 32
Boone, NC 28607
828-264-6411, Ext. 1
cclement@clementlawoffice.com

Property Owner

Clevon Woods Associates, LLC
Charles E. Clement, Managing Member
756 W. King Street
P.O. Box 32
Boone, NC 28607
828-264-6411, Ext. 1
cclement@clementlawoffice.com

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form, typed, or filled out in black ink.
- Eight (8) copies of current zoning map with location of property indicated.
- A surveyed plat of the property in question.
- Statements from the applicant describing how the proposed Special Use would meet the criteria for approval of such a permit as described in Article 14 of the Unified Development Ordinance.
- Personal or Certified Check in the amount of \$500 for the application fee. Application fee shall be paid to the Town of Seven Devils, NC for each application for a Special Use Permit in order to cover the necessary administrative costs.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge.

Applicant: Clevon Woods Associates, LLC

By: Charles E. Clement
Charles E. Clement, Managing Member

Date: 04-26-21

Amount Paid: \$500.00 Received by: D. Powers Date: 4/26/2021

Statement describing how the proposed Special Use would meet the criteria for approval of such a permit as described in Article 14 of the Unified Development Ordinance.

Clevon Woods Associates, LLC (Clevon Woods), the Applicant, is a privately owned North Carolina limited liability company based in Boone, NC. The company owns an 18-acre highly desirable undeveloped property located entirely within Town of Seven Devils, fronting on the north side of NC Highway 105, near the 0.576 acre tract which is the subject of this SUP application. The 18-acre tract is zoned General Business and is available for a mixed use development. The subject 0.576 acre tract is proposed to be used for a wastewater treatment plant (WWTP) installation with outfall line to the Watauga River.

In 1987, Clevon Woods applied for and received from the State of North Carolina a discharge permit (#NC0070408) for a WWTP with capacity of 35,000 gpd to support development of its property. The WWTP permit has been re-issued every 5 years since 1987, and was, on November 9, 2018, renewed by the State through November 30, 2023. A copy of the WWTP Permit is attached as Exhibit "C."

Authority to construct the WWTP has been previously issued by both the Town of Seven Devils and Watauga County. However, due to circumstances beyond the control of Clevon Woods, construction of the plant was delayed, thus, necessitating the present Application.

Applicant has secured a previously used 35,000 gpd package plant from the Town of Mint Hill, North Carolina. The plant is an extended aeration activated sludge package plant with tertiary filters and is temporarily stored on the 0.576 acre tract.

The proposed project is by definition a public utility and, as such, is classified and regulated by the North Carolina Division of Water Resources and the North Carolina Utilities Commission, not the Town of Seven Devils.

In 1986, Clevon Woods constructed and operated (through a lessee) a gas service and convenience store on a 1.245 acre tract adjoining the 18-acre tract, located at the corner of NC Hwy 105 and NCSR 1151 (Seven Devils Road). In 2008, CWA sold the 1.245 acre tract to a subsidiary of WilcoHess. Speedway, LLC is now the owner and operator of the gas service and convenience store. The septic system providing waste disposal for the Speedway operation has failed and there is not sufficient usable land for septic field repair or construction of an alternate drainfield. For several years Speedway has been operating under a temporary pump and haul permit for waste disposal.

Speedway has indicated its need for, and commitment to, the proposed Clevon Woods project by contributing substantial funds toward its construction— funds are presently held in escrow with a Boone attorney. The WWTP and gravity sewerline system will be designed and constructed to tie into the Speedway property when completed and operational.

Vestpocket Investments, LLC owns a parcel of land on Aldridge Road (the former Carlton Gallery property located diagonally across from the 0.576 acre site) on which is a proposed 40-seat restaurant. The septic system for the Vestpocket project has also failed and there is not sufficient usable land for a septic repair area. The restaurant will also tie into the WWTP plant when it becomes operational.

Clevon Woods recently purchased the subject 0.576 acre tract from the Propst Family Heirs, for the reason that the Propst property provides higher ground, less affected by wetlands, on which to locate the WWTP plant. This acquisition included an allocation of 1,000 gpd of waste water disposal for the Propsts' use.

With an adequate method of wastewater disposal, the needs of Speedway, Vestpocket and Propst, together with the Clevon Woods' 18-acre tract, will be met, and Clevon Woods 18-acre tract and surrounding properties can be developed to their full potential into residential and commercial use, resulting in significant economic growth, jobs in the community and increase in the Town's tax base.

TITLE:					
ANNEXATION MAP PREPARED FOR					
CLIENT:					
CLEVEN WOODS ASSOCIATES,LLC,			STATE		
TOWNSHIP	COUNTY	BATTLA	NORTH CAROLINA		
DISTRICT	BATTLA	SCALE:			
JANUARY 28, 2021	DATE:	1" = 50'			
RALPH E. DAUGHERTY LAND SURVEYING					
2043 TYRRECASTLE HIGHWAY UNIT 2					
BANNER ELK, NORTH CAROLINA 28804			PHONE: 828-898-9391		
<p>A horizontal graphic scale bar with vertical tick marks at intervals of 10 feet. The numbers 0, 10, 20, 30, 40, and 50 are printed below the corresponding tick marks.</p>					
GRAPHIC SCALE - FEET					
MAP IS D21021					



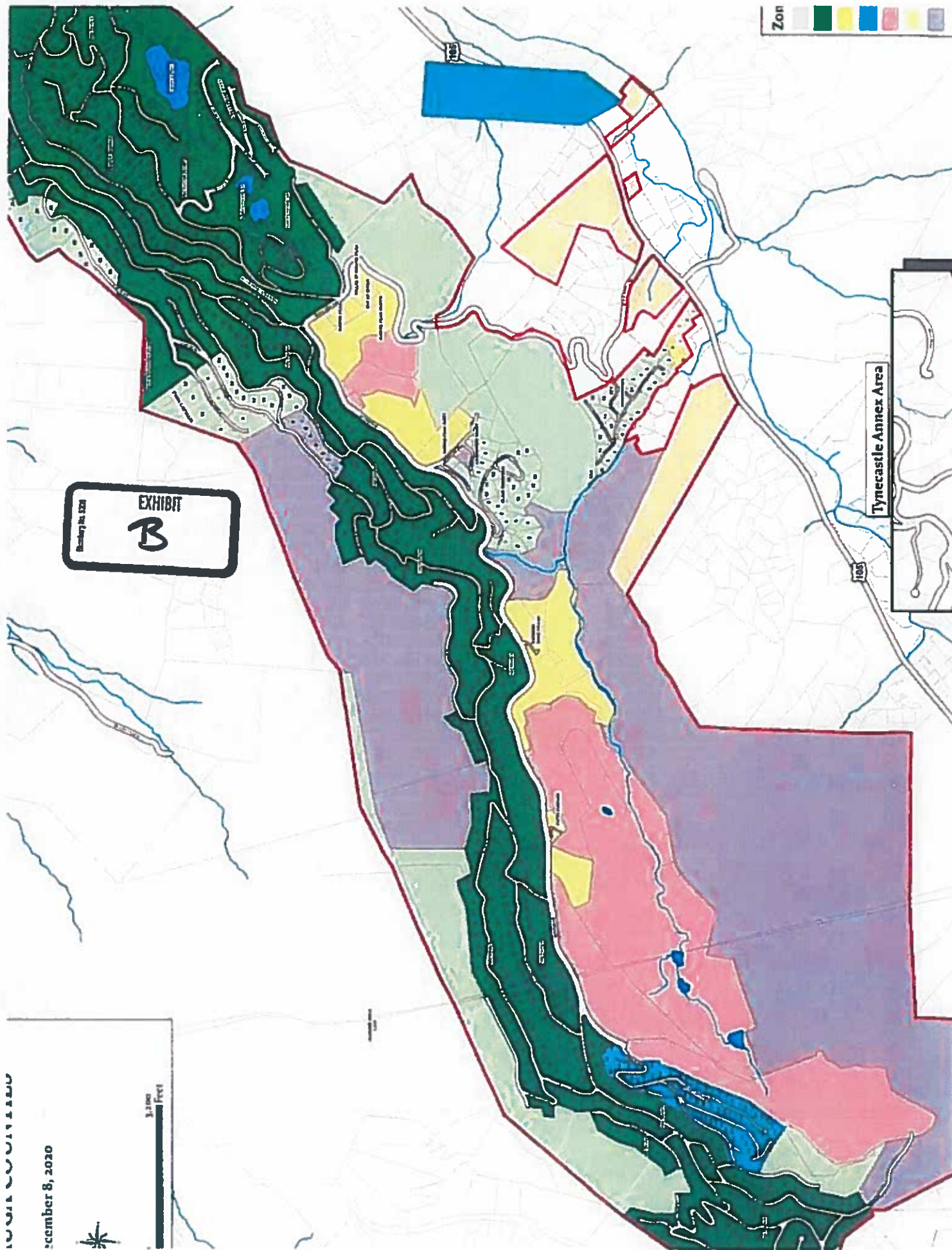
3.1 miles
Feet

Boundary Map 1224
**EXHIBIT
B**

Zone

Green	Yellow	Blue	Red	Light Green	Purple
-------	--------	------	-----	-------------	--------

Tynecastle Annex Area



STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER RESOURCES



PERMIT

TO DISCHARGE WASTEWATER UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
NPDES

In compliance with the provisions of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

Clevon Woods Associates, LLC

is hereby authorized to discharge wastewater from a proposed facility, the

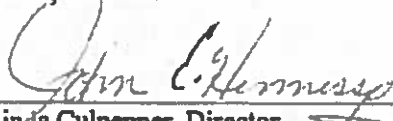
**Clevon Woods – Art Plaza WWTP
NC Highway 105, Seven Devils 28604
Watauga County**

to receiving waters designated as the Watauga River in the Watauga River Basin in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, III and IV hereof.

This permit shall become effective **December 1, 2018.**

This permit and authorization to discharge shall expire at midnight on **November 30, 2023.**

Signed this day **November 9, 2018.**



Linda Culpepper, Director
Division of Water Resources
By Authority of the Environmental Management Commission

SUPPLEMENT TO PERMIT COVER SHEET

All previous NPDES Permits issued to this facility, whether for operation or discharge are hereby revoked. As of this permit issuance, any previously issued permit bearing this number is no longer effective. Therefore, the exclusive authority to operate and discharge from this facility arises under the permit conditions, requirements, terms, and provisions included herein.

Clevon Woods Associates, LLC

is hereby authorized to:

1. after receiving an Authorization to Construct (ATC) permit from the Division, construct and operate a 0.035 MGD wastewater treatment facility;

located at the Art Plaza WWTP, off NC Highway 105, Seven Devils in Watauga County; and

2. discharge from said treatment works via Outfall 001, at the location specified on the attached map, into the Watauga River [stream index 8-(1)], currently classified B; Trout, HQW waters within Subbasin 04-02-01 [HUC: 060101030301] of the Watauga River Basin.

PART I

A. (1.) EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

[15A NCAC 02B .0400 et seq., 02B .0500 et seq.]

Grade II Biological Water Pollution Control System [15A NCAC 08G .0302]

During the period beginning upon completion of the construction of WWTP and lasting until expiration, the Permittee is authorized to discharge from Outfall 001. Such discharges shall be limited, monitored and reported¹ by the Permittee as specified below:

EFFLUENT CHARACTERISTIC [PARAMETER CODES]		LIMITS		MONITORING REQUIREMENTS ¹		
		Monthly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Location ²
Flow (MGD)	50050	0.035 MGD		Continuous	Recorder	I or E
BOD, 5-day (20°C) (mg/L)	CO310	5.0 mg/L	7.5 mg/L	Weekly	Composite	E
Total Suspended Solids (TSS) (mg/L)	CO530	10.0 mg/L	15.0 mg/L	Weekly	Composite	E
NH ₃ as N (mg/L)	CO610	2.0 mg/L	10.0 mg/L	Weekly	Composite	E
Dissolved Oxygen (DO) (mg/l)	00300	Daily average \geq 6.0 mg/L		Weekly	Grab	E
Dissolved Oxygen (DO) (mg/l)	00300	Monitor & Report		Weekly	Grab	U & D
Fecal Coliform (#/100ml) ³ (geometric mean)	31616	200/100 ml	400/100 ml	Weekly	Grab	E
Total Residual Chlorine ⁴ (TRC) (μ g/L)	50060		28 μ g/L	2/Week	Grab	E
Temperature (°C)	00010	Monitor & Report		Daily	Grab	E
Temperature (°C)	00010	Monitor & Report		Weekly	Grab	U & D
pH (su)	00400	Not < 6.0 nor > 9.0 Standard Units		Weekly	Grab	E

Footnotes:

1. The Permittee shall begin submitting Discharge Monitoring Reports electronically using NC DWR's eDMR application system. See Condition A. (2.).
2. I = Influent; E = Effluent; U = Upstream: at least 100 feet upstream from the outfall. D = Downstream: at least 100 feet downstream from the outfall.
3. Fecal Coliform shall be calculated using the geometric mean, according to the procedure detailed in Part II. Section A.
4. Total Residual Chlorine limit and monitoring is required only if chlorine is utilized in the treatment process. The Division shall consider all effluent TRC values reported below 50 ug/L to be in compliance with the permit. However, the Permittee shall continue to record and submit all values reported by a North Carolina certified laboratory (including field certified), even if these values fall below 50 ug/L.

Conditions:

- There shall be no discharge of floating solids or visible foam in other than trace amounts.

A. (2.) ELECTRONIC REPORTING OF MONITORING REPORTS [G.S. 143-215.1(b)]

Federal regulations require electronic submittal of all discharge monitoring reports (DMRs) and program reports. The final NPDES Electronic Reporting Rule was adopted and became effective on December 21, 2015.

NOTE: This special condition supplements or supersedes the following sections within Part II of this permit (*Standard Conditions for NPDES Permits*):

- Section B. (11.) Signatory Requirements
- Section D. (2.) Reporting
- Section D. (6.) Records Retention
- Section E. (5.) Monitoring Reports

1. Reporting Requirements (Supersedes Section D. (2.) and Section E. (5.) (a))

The permittee shall report discharge monitoring data electronically using the NC DWR's Electronic Discharge Monitoring Report (eDMR) internet application.

Monitoring results obtained during the previous month(s) shall be summarized for each month and submitted electronically using eDMR. The eDMR system allows permitted facilities to enter monitoring data and submit DMRs electronically using the internet. Until such time that the state's eDMR application is compliant with EPA's Cross-Media Electronic Reporting Regulation (CROMERR), permittees will be required to submit all discharge monitoring data to the state electronically using eDMR and will be required to complete the eDMR submission by printing, signing, and submitting one signed original and a copy of the computer printed eDMR to the following address:

NC DEQ / Division of Water Resources / Water Quality Permitting Section
ATTENTION: Central Files
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

If a permittee is unable to use the eDMR system due to a demonstrated hardship or due to the facility being physically located in an area where less than 10 percent of the households have broadband access, then a temporary waiver from the NPDES electronic reporting requirements may be granted and discharge monitoring data may be submitted on paper DMR forms (MR 1, 1.1, 2, 3) or alternative forms approved by the Director. Duplicate signed copies shall be submitted to the mailing address above. See "How to Request a Waiver from Electronic Reporting" section below.

Regardless of the submission method, the first DMR is due on the last day of the month following the issuance of the permit or in the case of a new facility, on the last day of the month following the commencement of discharge.

Starting on December 21, 2020, the permittee must electronically report the following compliance monitoring data and reports, when applicable:

- Sewer Overflow/Bypass Event Reports;
- Pretreatment Program Annual Reports; and
- Clean Water Act (CWA) Section 316(b) Annual Reports.

The permittee may seek an electronic reporting waiver from the Division (see "How to Request a Waiver from Electronic Reporting" section below).

2. Electronic Submissions

In accordance with 40 CFR 122.41(l)(9), the permittee must identify the initial recipient at the time of each electronic submission. The permittee should use the EPA's website resources to identify the initial recipient for the electronic submission.

Initial recipient of electronic NPDES information from NPDES-regulated facilities means the entity (EPA or the state authorized by EPA to implement the NPDES program) that is the designated entity for receiving electronic NPDES data [see 40 CFR 127.2(b)].

EPA plans to establish a website that will also link to the appropriate electronic reporting tool for each type of electronic submission and for each state. Instructions on how to access and use the appropriate electronic reporting tool will be available as well. Information on EPA's NPDES Electronic Reporting Rule is found at: <http://www2.epa.gov/compliance/final-national-pollutant-discharge-elimination-system-npdes-electronic-reporting-rule>.

Electronic submissions must start by the dates listed in the "Reporting Requirements" section above.

3. How to Request a Waiver from Electronic Reporting

The permittee may seek a temporary electronic reporting waiver from the Division. To obtain an electronic reporting waiver, a permittee must first submit an electronic reporting waiver request to the Division. Requests for temporary electronic reporting waivers must be submitted in writing to the Division for written approval at least sixty (60) days prior to the date the facility would be required under this permit to begin submitting monitoring data and reports. The duration of a temporary waiver shall not exceed 5 years and shall thereupon expire. At such time, monitoring data and reports shall be submitted electronically to the Division unless the permittee re-applies for and is granted a new temporary electronic reporting waiver by the Division. Approved electronic reporting waivers are not transferrable. Only permittees with an approved reporting waiver request may submit monitoring data and reports on paper to the Division for the period that the approved reporting waiver request is effective.

Information on eDMR and the application for a temporary electronic reporting waiver are found on the following web page:

<http://deq.nc.gov/about/divisions/water-resources/edmr>

4. Signatory Requirements (Supplements Section B. (11.) (b) and Supersedes Section B. (11.) (d))

All eDMRs submitted to the permit issuing authority shall be signed by a person described in Part II, Section B. (11.) (a) or by a duly authorized representative of that person as described in Part II, Section B. (11.) (b). A person, and not a position, must be delegated signatory authority for eDMR reporting purposes.

For eDMR submissions, the person signing and submitting the DMR must obtain an eDMR user account and login credentials to access the eDMR system. For more information on North Carolina's eDMR system, registering for eDMR and obtaining an eDMR user account, please visit the following web page:

<http://deq.nc.gov/about/divisions/water-resources/edmr>

Certification. Any person submitting an electronic DMR using the state's eDMR system shall make the following certification [40 CFR 122.22]. NO OTHER STATEMENTS OF CERTIFICATION WILL BE ACCEPTED:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

5. Records Retention [Supplements Section D. (6.)]

The permittee shall retain records of all Discharge Monitoring Reports, including eDMR submissions. These records or copies shall be maintained for a period of at least 3 years from the date of the report. This period may be extended by request of the Director at any time [40 CFR 122.41].

Exhibit A

EXHIBIT
A



Article 14. SPECIAL USE PERMITS

Section 1. Intent

It is the intent of this Article to permit certain uses and developments that require special review, and to provide the standards by which the applications for permits for such uses and developments shall be evaluated.

Section 2. Requirement of Special Use Permit

Those uses listed in Table 5.1 as permitted special uses in a zoning district may be established in that zoning district only after approval of a Special Use Permit.

Section 3. Procedure for Approval of Special Use Permits

(a) Application Submittal Requirements

Applications for a Special Use Permit shall be filed with the Zoning Administrator. See Figure 14.1 for application form, guidelines, and fees. No refund of the fee or any part thereof shall be made once the application is filed unless the applicant withdraws the application by written notice before letters of notice are sent to adjoining property owners or publication of the public hearing, whichever is sooner. The portion of the fee that may be refunded will be reduced by 10% per day starting from the date of the preliminary conference.

This Unified Development Ordinance shall prescribe the form on which applications are made, as well as any other materials that may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

The Zoning Administrator shall accept no application unless it complies with such requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

After submission of an application for a special use permit, the Zoning Administrator shall arrange a meeting with the applicant. The Zoning Administrator shall also send the Board of Adjustment an agenda for the meeting. At the meeting, the applicant shall submit a sketch development plan and a brief description of the proposed development strategy. The applicant shall also submit proposed design specifications for proposed buildings. The meeting is designed to inform the Town of the applicant's intentions, to inform the applicant of the Town's regulations and policies concerning development alternatives, to request additional information, and to provide the applicant with informal, non-binding feedback on the acceptability of the plan. The greater the level of common understanding between the applicant and the Town that can be achieved at the meeting stage, the smoother the remaining steps of the review and approval process will be. At the meeting, a date for a public hearing shall be determined.

If the applicant proposes any substantial change to the application subsequent to acceptance of the application, an amended application shall be submitted and treated as an original application, with all fees and requirements applicable.

(b) *Notice of Hearing*

Notice of hearings conducted pursuant to Article 14 (quasi-judicial proceedings) shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to any other persons entitled to receive notice as provided by the Unified Development Ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(c) *Final Development Plan*

At least 14 days prior to the hearing, the applicant shall submit three (3) copies of the final development plan to the Zoning Administrator. The development plan shall contain a map or maps drawn to scales, with the date of preparation, and shall contain, where applicable, the following information:

1. Existing site conditions, including contours, watercourses, flood hazard areas, and any unique natural or man-made features.
2. Boundary lines of the proposed development and proposed lot lines.
3. Proposed use and location of all existing and proposed structures.
4. Location and size of all areas to be conveyed, dedicated, or reserved as open spaces, parks, recreational areas, and public uses.
5. The existing and proposed street system, including location and number of off-street parking spaces, service areas, loading areas, and points of access to public rights-of-way. Notations of proposed ownership of the street system (public or private). Documentation from the Seven Devils Fire Department of the adequacy of the development's facilities for emergency medical and fire services.
6. Approximate location of proposed utility systems, including documentation supporting the proposed water and wastewater systems from the appropriate local state agencies. Documentation of an approved Sedimentation and Erosion Control Plan, where required.
7. Location of existing and proposed easements and rights-of-way.

8. The proposed treatment of the perimeter of the development including materials and techniques such as buffers, fences, and walls.
9. Information on adjacent land areas, including land use, zoning, classifications, public facilities, and any unique natural features.
10. A legal description of the total site proposed for development, including a statement of present and proposed ownership.
11. The zoning district or districts in which the proposed project is located.
12. A development schedule indicating approximate beginning and completion dates including any proposed phases.
13. Proposed total number and type of residential dwelling units, parcel size, and gross residential densities.
14. Plan for maintenance of common areas, recreation areas, open spaces, streets, and utilities.
15. Any additional information requested by the Board of Adjustment at the preliminary conference in order to evaluate the impact of the proposed development.

(d) *Public Hearing*

After completion and acceptance of the application and proper public hearing notice, the Board of Adjustment will hold a public hearing on the application at its next regularly scheduled meeting.

The hearing shall be open to the public and all persons of standing shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. All persons who intend to present evidence at the public hearing must be sworn in and may be cross-examined. The Board may place reasonable and equitable time limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the application may be heard without undue delay.

In all Board of Adjustment cases, the burden of proof is placed upon the applicant.

A record of the proceedings of the hearing shall be made and shall include evidence presented at the hearing, a summary of its findings, and the evidence supporting those findings.

(e) *Recommendations on the Application*

When presented to the Board of Adjustment at the public hearing, the application for a Special Use Permit shall be accompanied by a written report setting forth the Zoning

Administrator's findings concerning the application's compliance with requirements of this Ordinance.

(f) *Action on the Application*

After completion of the public hearing, the Board of Adjustment shall take action on the application within thirty-five (35) calendar days. The findings by the Board of Adjustment shall be based on reliable evidence presented at the public hearing. Action taken on the application shall be one of the following:

1. Approval
2. Approval with conditions
3. Denial

The Board of Adjustment shall issue the Special Use Permit unless it concludes, based upon information submitted at the public hearing, that one (1) or more of the following is true:

1. The application is incomplete.
2. The proposed use will be located, designed, and/or operated in a way that will endanger the public health, safety, or general welfare.
3. The proposed use will seriously interfere with existing uses on adjacent properties, with the character of the area, or with the purpose of the zone in which it is proposed.
4. The proposed use will impose an undue burden on any public improvements, facilities, utilities, or services available to the area.
5. The proposed use will substantially injure the value of adjoining or abutting property.
6. The proposed use will not be in general conformity with the Vision Statement, Comprehensive Land Use Plan or other plan officially adopted by the Town Council.

A minimum of four (4) voting members shall be required to take any action. The concurring vote of four-fifths (4/5) of the membership of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. All regular rules and regulations for voting apply to members of the Board of Adjustment in enforcement of this Ordinance. See Article 2, Section 3(g), Voting.

Section 4. Notice of Decision and Issuance of Special Use Permit

The Zoning Administrator shall notify the applicant of the action taken on the application by registered or certified mail and shall cause a copy of the decision to be filed in Town Hall.

If an application for a Special Use Permit is denied, then the applicant cannot reapply for a Special Use Permit unless it is substantially different from the application for which the permit was denied.

Section 5. Appeal of Decision

An aggrieved party may appeal a decision made by the Board of Adjustment concerning an application for a Special Use Permit to the Watauga or Avery County Superior Court after receiving such notice as required in Section 4.

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1-2. A petition for review shall be filed with the clerk of superior court no later than 30 days after the decision is effective or after written copy thereof is given in accordance with Article 2, Section 3(g). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Section 6. Issuance of Permits for Development

For developments requiring a Special Use Permit, an approved Special Use Permit must be obtained prior to the issuance of any other applicable permits.

Section 7. Amendments and Expiration

1. If a Special Use is abandoned or discontinued for one (1) year, Special Use Permit becomes void without further action by the Town and the Use may not be re-established without approval of a new Permit.
2. The granting of a Special Use Permit does not exempt the applicant from compliance with other relevant provisions of related ordinances. Failure to observe those provisions, or approval conditions of the Special Use Permit, are a violation of this ordinance and subject to the enforcement stipulated in Article 18.
3. Amendments to Special Use Permits are processed in the same way that applications for the initial Special Use Permit are processed.
4. Uses that were permitted outright before adoption of this ordinance but require a Special Use Permit under this ordinance may not be modified without approval of a Special Use Permit.

Section 8. Conditions Shall Run With the Land

Special Use Permits, and all conditions attached thereto, shall run with the land and be binding on the original applicant as well as all successors, assigns, and heirs, and shall be filed in the Office of the Register of Deeds of Watauga or Avery County, North Carolina.

Figure 14.1—Application for Special Use Permit

Application for a Special Use Permit for Property in the Town of Seven Devils

Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
Phone: (828) 963-5343

To the Board of Adjustment for the Town of Seven Devils:

I hereby petition the Board of Adjustment for a Special Use Permit as authorized by Article 14 of the Unified Development Ordinance for the Town of Seven Devils. I understand that the requirements set forth in the Town of Seven Devils Unified Development Ordinance will apply to all plans submitted.

Description of Property

Physical Location of Property (including street address): _____

Size of Property _____ County _____ PIN # _____

Current Zoning District _____

General Use of Property: _____

Applicant Information

Name: _____

Title: _____

Address: _____

Phone # (s): _____

E-mail: _____

Property Owner

Name: _____

Title: _____

Address: _____

Phone # (s): _____

E-mail: _____

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form, typed, or filled out in black ink.
 - Eight (8) copies of current zoning map with location of property indicated.
 - A surveyed plat of the property in question.
 - Statements from the applicant describing how the proposed Special Use would meet the criteria for approval of such a permit as described in Article 14 of the Unified Development Ordinance.
 - Personal or Certified Check in the amount of \$500 for the application fee. Application fee shall be paid to the Town of Seven Devils, NC for each application for a Special Use Permit in order to cover the necessary administrative costs.
- I certify that all of the information presented by me in this application is accurate to the best of my knowledge.

Signature of Applicant

Date

Amount Paid: _____ Received by: _____ Date: _____

Figure 14.2—Requirements for Public Hearing—Special Use Permit

Requirements for Public Hearing and Property Owner Notification in Relation to Application for a Special Use Permit

Notice should include:

- Party requesting the public hearing.
- Date, time, and place where public hearing is to be located.
- Subject of the Hearing (including location of property and reason for Special Use Permit request).
- Contact Information for the Town of Seven Devils:

Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
Phone: (828) 963-5343

Notices must be sent in accordance with Article 2, Section 3(k) at least ten (10) calendar days but not more than twenty-five (25) calendar days before the scheduled public meeting.

Sample Notice:

Public Hearing

The Town of Seven Devils will hold a Public Hearing at 5:30 pm on Monday, June 20, 2011 at Town Hall. The Public is invited to discuss the request by XYZ to rezone a twenty (20) -acre tract on Windy Meadows from Low-Density Residential (LDR) to Medium-Density Residential (MDR). For more information, please contact The Town of Seven Devils at 157 Seven Devils Road, Seven Devils, NC 28604. Phone: (828) 963-5343.

Hillary Gropp

From: Debbie Powers
Sent: Tuesday, May 11, 2021 2:11 PM
To: (bridges1fl@comcast.net); (jbyrnesil@prodigy.net); Faye Brock; Franklin Sell; Bobbye Hurlbrink; John Wells; Bert Valery
Cc: Charles Clement; Hillary Gropp; Rob Angle; (dpoore@west-consultants.com)
Subject: Board of Adjustment follow up - Clevon Woods LLC SUP application
Attachments: CLEVON WOODS ARTICLE 14 COMPLIANCE.pdf; FireLetter-ClementWWTP.docx

Good Afternoon, All –

As a follow up to the Special Use Permit Application for a WWTP from Clevon Woods, LLC, per Article 14 in the Town's UDO, we met this morning to review the Final Development Plan.

Under Article 14, Section 3 (c) – there are 15 points that must be addressed; Charlie Clement has submitted the attached in response to these items. He also submitted two detailed plats, which are available for your viewing at Town Hall in the Conference Room.

If you have any questions, please let me know. Thank you!

Debbie Powers

Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343

CLEVON WOODS ASSOCIATES, LLC

a North Carolina single member limited liability company

c/o Charles E. Clement

754 WEST KING STREET

POST OFFICE DRAWER 32

BOONE, NORTH CAROLINA 28607

PHONE 828-264-6411

FAX 828-264-5424

cclement@clementlawoffice.com

May 11, 2021

Via Hand Delivery

Debbie Powers

Town Manager and Zoning Administrator

Town of Seven Devils

1356 Seven Devils Road

Seven Devils, NC 28604

Re: Application for Special Use Permit
Final Development Plan
Applicant: Clevon Woods Associates, LLC

Dear Ms. Powers:

In accord with Article 14, Section 3(c) of the Town of Seven Devils UDO, I am pleased to submit three (3) copies of this letter (the "Final Development Plan"), containing the following exhibits which are incorporated herein by reference and are referred to as "the Patrick Warren, PE, Plans" and "the Ralph Daughtry, PLS, Survey Plat". Other exhibits are also attached and are incorporated into the numbered responses.

The following are items of information specifically set forth in item (c). My responses are in bold type and include the referenced exhibits:

1. Existing site conditions, including contours, watercourses, flood hazard areas, and any unique natural or man-made features.

See the attached Patrick Warren, PE, Plans and the Ralph Daughtry, PLS, Survey Plat.

2. Boundary lines of the proposed development and proposed lot lines.

See attached Ralph Daughtry, PLS, Survey Plat and plat entitled "Annexation Map Prepared for Clevon Woods Associates," Recorded in Plat Book 26, Page 126, Watauga County, North Carolina, Public Registry.

3. Proposed use and location of all existing and proposed structures.

See the attached Patrick Warren, PE, Plans and the Ralph Daughtry, PLS, Survey Plat.

4. Location and size of all areas to be conveyed, dedicated, or reserved as open spaces, parks, recreational areas, and public uses.

NONE.

5. The existing and proposed street system, including location and number of off-street parking spaces, service areas, loading areas, and points of access to public rights-of-way. Notations of proposed ownership of the street system (public or private).

See the attached Patrick Warren, PE, Plans and the Ralph Daughtry, PLS, Survey Plat.

Documentation from the Seven Devils Fire Department of the adequacy of the development's facilities for emergency medical and fire services.

TO BE OBTAINED BY TOWN MANAGER.

6. Approximate location of proposed utility systems, including documentation supporting the proposed water and wastewater systems from the appropriate local state agencies.

See the attached Patrick Warren, PE, Plans. See also attached NPDES Permit No. NC0070408 issued to Applicant on November 9, 2018 by the North Carolina Department of Environmental Quality, Division of Water Resources.

Documentation of an approved Sedimentation and Erosion Control Plan, where required.

To be provided as may be required by Town of Seven Devils or Watauga County building department(s).

7. Location of existing and proposed easements and rights-of-way.

See the attached Patrick Warren, PE, Plans and the Ralph Daughtry, PLS, Survey Plat.

8. The proposed treatment of the perimeter of the development including materials and techniques such as buffers, fences, and walls.

The discharge facility will be housed in a building (see ¶8 above) constructed by a licensed general contractor, surrounded by a wooden fence, gravel parking area for maintenance personnel, and landscaped with grass and shrubs. The building and site will meet the Community Design Standards of the UDO. A conceptual rendering of the building and grounds is attached. Design and construction of the discharge facility will be in accord with plans by a Licensed Professional Engineer and pursuant to

an *Authorization to Construct* permit approved and issued by the North Carolina Division of Water Resources. Operation and maintenance of the facility will be under the supervision of a Licensed Wastewater Treatment Operator.

9. Information on adjacent land areas, including land use, zoning, classifications, public facilities, and any unique natural features.

See the attached Patrick Warren, PE, Plans and the Ralph Daughtry, PLS, Survey Plat.

10. A legal description of the total site proposed for development, including a statement of present and proposed ownership.

See attached plat entitled "Annexation Map Prepared for Clevon Woods Associates," Recorded in Plat Book 26, Page 126, Watauga County, North Carolina, Public Registry.

11. The zoning district or districts in which the proposed project is located.

The subject 0.576 acre site is zoned General Business

12. A development schedule indicating approximate beginning and completion dates including any proposed phases.

Although an accurate development schedule cannot be provided at the present time, without further action by the Town the completion date may not extend beyond one (1) year from the date of issuance of the Special Use Permit. Article 14, Section 7.1. of the UDO.

13. Proposed total number and type of residential dwelling units, parcel size, and gross residential densities.

None on the subject 0.576 acre site.

14. Plan for maintenance of common areas, recreation areas, open spaces, streets, and utilities.

The discharge facility will be housed in a building (see ¶8 above) constructed by a licensed general contractor, surrounded by a wooden fence, gravel parking area for maintenance personnel, and landscaped with grass and shrubs. The building and site will meet the Community Design Standards of the UDO. A conceptual rendering of the building and grounds is attached. Design and construction of the discharge facility will be in accord with plans by a Licensed Professional Engineer and pursuant to an *Authorization to Construct* permit approved and issued by the North Carolina Division of Water Resources. Operation and

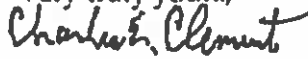
maintenance of the facility will be under the supervision of a
Licensed Wastewater Treatment Operator.

15. Any additional information requested by the Board of Adjustment at the preliminary conference in order to evaluate the impact of the proposed development.

None requested at the time of submission of this Plan.

Thank you for your consideration of our request.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Charles E. Clement".

Charles E. Clement
Attorney at Law

CEC:bms

**SEVEN DEVILS FIRE DEPARTMENT
1356 Seven Devils Road, Seven Devils, NC 28604
828-963-5343 828-963-6760
Fire Chief Bobby Powell**

Date: May 11, 2021

To: Debbie Powers
Town Manager, Town of Seven Devils

From: Bobby Powell
Fire Chief, Seven Devils Fire Department

Re: Parcel ID# 1878-53-7991-000, a .576 acre parcel on the east side of Aldridge Road, approximately 160' south of the intersection of Hwy 105S and Aldridge Road

Ms. Powers:

After a careful review of the Application packet for a Special Use Permit for a WWTP on the above property, and performing an onsite examination, I have determined that this would meet the recommendations of the Seven Devils Fire Department.

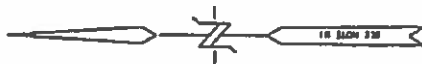
If you have any concerns or questions, please feel free to contact me.

Sincerely,
Bobby Powell
Bobby Powell
Seven Devils Fire Chief

[illegible]

WORLD OF WOOD

OFFICE OF NORTH CAROLINA
COUNTY OF DAVIE
I, James Blue, JAMES OFFICE OF DAVIE COUNTY,
CERTIFY THAT THE MAP ON FILE IN THIS OFFICE
IS ACCORD WITH ALL STATUTORY REQUIREMENTS FOR RECORD.

[illegible]

Notes

[illegible]

ERIC ELLER

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10/10/10



ANNEXATION MAP PREPARED FOR

CLIENT:

CLEVON WOODS ASSOCIATES, LLC,

P	COUNTY	STATE
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THE BIRTH OF NATION	1930.1.28
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SCALE	31
31	31

22, 1921	5.1
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PH E. DAUGHTRY LAND SURVEYING

ZD43 TYNECASTLE HIGHWAY UNIT 2

1. NORTH CAROLINA 28604 PHONE: 828-89

姓名	性别	年龄	职业	住址	联系电话
张三	男	35	教师	北京市朝阳区	13800138000
李四	女	28	医生	北京市海淀区	13900139000
王五	男	42	工程师	上海市浦东新区	13600136000
赵六	女	31	公务员	广东省广州市	13500135000
孙七	男	25	学生	浙江省杭州市	13400134000
周八	女	38	经理	江苏省南京市	13300133000
吴九	男	45	农民	河南省郑州市	13200132000
郑十	女	22	护士	四川省成都市	13100131000
冯十一	男	33	律师	北京市西城区	13000130000
陈十二	女	27	会计	山东省济南市	12900129000
林十三	男	36	作家	湖南省长沙市	12800128000
周十四	女	29	设计师	安徽省合肥市	12700127000
吴十五	男	41	科学家	福建省厦门市	12600126000
郑十六	女	34	歌手	贵州省贵阳市	12500125000
孙十七	男	26	程序员	云南省昆明市	12400124000
周十八	女	39	教授	陕西省西安市	12300123000
吴十九	男	43	企业家	湖北省武汉市	12200122000
郑二十	女	32	模特	江西省南昌市	12100121000
孙二十一	男	24	运动员	广东省深圳市	12000120000
周二十二	女	37	画家	浙江省宁波市	11900119000
吴二十三	男	46	记者	江苏省苏州市	11800118000
郑二十四	女	30	舞蹈家	河南省开封市	11700117000
孙二十五	男	23	音乐家	四川省绵阳市	11600116000
周二十六	女	40	哲学家	北京市东城区	11500115000
吴二十七	男	44	历史学家	山东省青岛市	11400114000
郑二十八	女	35	天文学家	湖南省衡阳市	11300113000
孙二十九	男	27	生物学家	安徽省芜湖市	11200112000
周三十	女	38	化学家	福建省福州市	11100111000
吴三十一	男	47	物理学家	贵州省遵义市	11000110000
郑三十二	女	31	数学家	云南省曲靖市	10900109000
孙三十三	男	25	天文学家	陕西省榆林市	10800108000
周三十四	女	36	生物学家	湖北省宜昌市	10700107000
吴三十五	男	48	化学家	江西省九江市	10600106000
郑三十六	女	29	物理学家	河南省洛阳市	10500105000
孙三十七	男	22	数学家	四川省南充市	10400104000
周三十八	女	39	天文学家	北京市丰台区	10300103000
吴三十九	男	45	生物学家	山东省淄博市	10200102000
郑四十	女	33	化学家	湖南省岳阳市	10100101000
孙四十一	男	26	物理学家	安徽省蚌埠市	10000100000
周四十二	女	37	数学家	福建省漳州市	09900099000
吴四十三	男	46	天文学家	贵州省安顺市	09800098000
郑四十四	女	30	生物学家	云南省红河州	09700097000
孙四十五	男	24	化学家	陕西省铜川市	09600096000
周四十六	女	38	物理学家	湖北省十堰市	09500095000
吴四十七	男	43	数学家	江西省赣州市	09400094000
郑四十八	女	32	天文学家	河南省新乡市	09300093000
孙四十九	男	27	生物学家	四川省达州市	09200092000
周五十	女	36	化学家	北京市石景山区	09100091000
吴五十一	男	41	物理学家	山东省潍坊市	09000090000
郑五十二	女	34	数学家	湖南省邵阳市	08900089000
孙五十三	男	28	天文学家	安徽省黄山市	08800088000
周五十四	女	39	生物学家	福建省龙岩市	08700087000
吴五十五	男	44	化学家	贵州省毕节市	08600086000
郑五十六	女	31	物理学家	云南省昭通市	08500085000
孙五十七	男	25	数学家	陕西省安康市	08400084000
周五十八	女	37	天文学家	湖北省随州市	08300083000
吴五十九	男	42	生物学家	江西省宜春市	08200082000
郑六十	女	35	化学家	河南省濮阳市	08100081000
孙六十一	男	29	物理学家	四川省广安市	08000080000
周六十二	女	38	数学家	北京市昌平区	07900079000
吴六十三	男	45	天文学家	山东省烟台市	07800078000
郑六十四	女	33	生物学家	湖南省常德市	07700077000
孙六十五	男	27	化学家	安徽省安庆市	07600076000
周六十六	女	36	物理学家		

518

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1417 - 1700

THE

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STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER RESOURCES

PERMIT

TO DISCHARGE WASTEWATER UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
NPDES

In compliance with the provisions of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

Clevon Woods Associates, LLC

is hereby authorized to discharge wastewater from a proposed facility, the

**Clevon Woods -- Art Plaza WWTP
NC Highway 105, Seven Devils 28604
Watauga County**

to receiving waters designated as the Watauga River in the Watauga River Basin in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, III and IV hereof.

This permit shall become effective **December 1, 2018.**

This permit and authorization to discharge shall expire at midnight on **November 30, 2023.**

Signed this day **November 9, 2018.**



Linda Culpepper, Director
Division of Water Resources
By Authority of the Environmental Management Commission

SUPPLEMENT TO PERMIT COVER SHEET

All previous NPDES Permits issued to this facility, whether for operation or discharge are hereby revoked. As of this permit issuance, any previously issued permit bearing this number is no longer effective. Therefore, the exclusive authority to operate and discharge from this facility arises under the permit conditions, requirements, terms, and provisions included herein.

Clevon Woods Associates, LLC

is hereby authorized to:

1. after receiving an Authorization to Construct (ATC) permit from the Division, construct and operate a 0.035 MGD wastewater treatment facility;

located at the Art Plaza WWTP, off NC Highway 105, Seven Devils in Watauga County; and

2. discharge from said treatment works via Outfall 001, at the location specified on the attached map, into the Watauga River [stream index 8-(1)], currently classified B; Trout, HQT waters within Subbasin 04-02-01 [HUC: 060101030301] of the Watauga River Basin.

PART I

A. (1.) EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

[15A NCAC 02B .0400 et seq., 02B .0500 et seq.]

Grade II Biological Water Pollution Control System [15A NCAC 08G .0302]

During the period beginning upon completion of the construction of WWTP and lasting until expiration, the Permittee is authorized to discharge from Outfall 001. Such discharges shall be limited, monitored and reported¹ by the Permittee as specified below:

EFFLUENT CHARACTERISTIC [PARAMETER CODES]		LIMITS		MONITORING REQUIREMENTS ¹		
		Monthly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Location ²
Flow (MGD)	50050	0.035 MGD		Continuous	Recorder	I or E
BOD, 5-day (20°C) (mg/L)	CO310	5.0 mg/L	7.5 mg/L	Weekly	Composite	E
Total Suspended Solids (TSS) (mg/L)	CO530	10.0 mg/L	15.0 mg/L	Weekly	Composite	E
NH ₃ as N (mg/L)	CO610	2.0 mg/L	10.0 mg/L	Weekly	Composite	E
Dissolved Oxygen (DO) (mg/l)	00300	Daily average \geq 6.0 mg/L		Weekly	Grab	E
Dissolved Oxygen (DO) (mg/l)	00300	Monitor & Report		Weekly	Grab	U & D
Fecal Coliform (#/100ml) ³ (geometric mean)	31616	200/100 ml	400/100 ml	Weekly	Grab	E
Total Residual Chlorine ⁴ (TRC) (µg/L)	50060		28 µg/L	2/Week	Grab	E
Temperature (°C)	00010	Monitor & Report		Daily	Grab	E
Temperature (°C)	00010	Monitor & Report		Weekly	Grab	U & D
pH (su)	00400	Not < 6.0 nor > 9.0 Standard Units		Weekly	Grab	E

Footnotes:

1. The Permittee shall begin submitting Discharge Monitoring Reports electronically using NC DWR's eDMR application system. See Condition A. (2.).
2. I = Influent; E = Effluent; U = Upstream: at least 100 feet upstream from the outfall. D = Downstream: at least 100 feet downstream from the outfall.
3. Fecal Coliform shall be calculated using the geometric mean, according to the procedure detailed in Part II. Section A.
4. Total Residual Chlorine limit and monitoring is required only if chlorine is utilized in the treatment process. The Division shall consider all effluent TRC values reported below 50 ug/L to be in compliance with the permit. However, the Permittee shall continue to record and submit all values reported by a North Carolina certified laboratory (including field certified), even if these values fall below 50 ug/L.

Conditions:

- There shall be no discharge of floating solids or visible foam in other than trace amounts.

A. (2.) ELECTRONIC REPORTING OF MONITORING REPORTS
[G.S. 143-215.1(b)]

Federal regulations require electronic submittal of all discharge monitoring reports (DMRs) and program reports. The final NPDES Electronic Reporting Rule was adopted and became effective on December 21, 2015.

NOTE: This special condition supplements or supersedes the following sections within Part II of this permit (*Standard Conditions for NPDES Permits*):

- Section B. (11.) Signatory Requirements
- Section D. (2.) Reporting
- Section D. (6.) Records Retention
- Section E. (5.) Monitoring Reports

1. Reporting Requirements (Supersedes Section D. (2.) and Section E. (5.) (a))

The permittee shall report discharge monitoring data electronically using the NC DWR's Electronic Discharge Monitoring Report (eDMR) internet application.

Monitoring results obtained during the previous month(s) shall be summarized for each month and submitted electronically using eDMR. The eDMR system allows permitted facilities to enter monitoring data and submit DMRs electronically using the internet. Until such time that the state's eDMR application is compliant with EPA's Cross-Media Electronic Reporting Regulation (CROMERR), permittees will be required to submit all discharge monitoring data to the state electronically using eDMR and will be required to complete the eDMR submission by printing, signing, and submitting one signed original and a copy of the computer printed eDMR to the following address:

NC DEQ / Division of Water Resources / Water Quality Permitting Section
ATTENTION: Central Files
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

If a permittee is unable to use the eDMR system due to a demonstrated hardship or due to the facility being physically located in an area where less than 10 percent of the households have broadband access, then a temporary waiver from the NPDES electronic reporting requirements may be granted and discharge monitoring data may be submitted on paper DMR forms (MR 1, 1.1, 2, 3) or alternative forms approved by the Director. Duplicate signed copies shall be submitted to the mailing address above. See "How to Request a Waiver from Electronic Reporting" section below.

Regardless of the submission method, the first DMR is due on the last day of the month following the issuance of the permit or in the case of a new facility, on the last day of the month following the commencement of discharge.

Starting on December 21, 2020, the permittee must electronically report the following compliance monitoring data and reports, when applicable:

- Sewer Overflow/Bypass Event Reports;
- Pretreatment Program Annual Reports; and
- Clean Water Act (CWA) Section 316(b) Annual Reports.

The permittee may seek an electronic reporting waiver from the Division (see "How to Request a Waiver from Electronic Reporting" section below).

2. Electronic Submissions

In accordance with 40 CFR 122.41(i)(9), the permittee must identify the initial recipient at the time of each electronic submission. The permittee should use the EPA's website resources to identify the initial recipient for the electronic submission.

Initial recipient of electronic NPDES information from NPDES-regulated facilities means the entity (EPA or the state authorized by EPA to implement the NPDES program) that is the designated entity for receiving electronic NPDES data [see 40 CFR 127.2(b)].

EPA plans to establish a website that will also link to the appropriate electronic reporting tool for each type of electronic submission and for each state. Instructions on how to access and use the appropriate electronic reporting tool will be available as well. Information on EPA's NPDES Electronic Reporting Rule is found at: <http://www2.epa.gov/compliance/final-national-pollutant-discharge-elimination-system-npdes-electronic-reporting-rule>.

Electronic submissions must start by the dates listed in the "Reporting Requirements" section above.

3. How to Request a Waiver from Electronic Reporting

The permittee may seek a temporary electronic reporting waiver from the Division. To obtain an electronic reporting waiver, a permittee must first submit an electronic reporting waiver request to the Division. Requests for temporary electronic reporting waivers must be submitted in writing to the Division for written approval at least sixty (60) days prior to the date the facility would be required under this permit to begin submitting monitoring data and reports. The duration of a temporary waiver shall not exceed 5 years and shall thereupon expire. At such time, monitoring data and reports shall be submitted electronically to the Division unless the permittee re-applies for and is granted a new temporary electronic reporting waiver by the Division. Approved electronic reporting waivers are not transferable. Only permittees with an approved reporting waiver request may submit monitoring data and reports on paper to the Division for the period that the approved reporting waiver request is effective.

Information on eDMR and the application for a temporary electronic reporting waiver are found on the following web page:

<http://deq.nc.gov/about/divisions/water-resources/edmr>

4. Signatory Requirements (Supplements Section B. (11.) (b) and Supersedes Section B. (11.) (d))

All eDMRs submitted to the permit issuing authority shall be signed by a person described in Part II, Section B. (11.) (a) or by a duly authorized representative of that person as described in Part II, Section B. (11.) (b). A person, and not a position, must be delegated signatory authority for eDMR reporting purposes.

For eDMR submissions, the person signing and submitting the DMR must obtain an eDMR user account and login credentials to access the eDMR system. For more information on North Carolina's eDMR system, registering for eDMR and obtaining an eDMR user account, please visit the following web page:

<http://deq.nc.gov/about/divisions/water-resources/edmr>

Certification. Any person submitting an electronic DMR using the state's eDMR system shall make the following certification [40 CFR 122.22]. NO OTHER STATEMENTS OF CERTIFICATION WILL BE ACCEPTED:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

5. Records Retention (Supplements Section D. (6).)

The permittee shall retain records of all Discharge Monitoring Reports, including eDMR submissions. These records or copies shall be maintained for a period of at least 3 years from the date of the report. This period may be extended by request of the Director at any time [40 CFR 122.41].



**SEVEN DEVILS FIRE DEPARTMENT
1356 Seven Devils Road, Seven Devils, NC 28604
828-963-5343 828-963-6760
Fire Chief Bobby Powell**

Date: May 11, 2021

To: Debbie Powers
Town Manager, Town of Seven Devils

From: Bobby Powell
Fire Chief, Seven Devils Fire Department

Re: Parcel ID# 1878-53-7991-000, a .576 acre parcel on the east side of Aldridge Road, approximately 160' south of the intersection of Hwy 105S and Aldridge Road

Ms. Powers:

After a careful review of the Application packet for a Special Use Permit for a WWTP on the above property, and performing an onsite examination, I have determined that this would meet the recommendations of the Seven Devils Fire Department.

If you have any concerns or questions, please feel free to contact me.

Sincerely,

Bobby Powell

Bobby Powell
Seven Devils Fire Chief