

**Members:**

Ed Donaldson, Chairman  
(Vacant), Vice-Chair  
Horace Humphrey  
Joseph Dykes  
Vickie Mullins  
George Lott



**Alternates:**

Yvette Carson  
Winton McHenry  
Nathan Feinberg  
(Vacant)  
(Vacant)

*Cumberland County Board of Adjustment*

130 Gillespie Street  
Fayetteville, NC 28301  
(910) 678-7603

MINUTES  
OCTOBER 17, 2013  
7:00 P.M.

**Members Present**

Ed Donaldson, Chairman  
Horace Humphrey  
Joseph Dykes  
Vickie Mullins  
George Lott

**Absent Members**

None

**Staff/Others Present**

Patti Speicher  
Melodie Robinson  
Robert Haigh  
Ken Sykes  
Robert Hasty, Jr. (Assistant  
County Attorney)

Chair Donaldson called the meeting to order at 7:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

1. ROLL CALL

Ms. Speicher called the roll and stated a quorum was present.

2. INTRODUCE NEW STAFF MEMBER/SWEAR IN STAFF

Ms. Speicher introduced Robert Haigh as the future secretary to the Board of Adjustment.

CHAIR DONALDSON SWORE IN THE STAFF.

3. ADJUSTMENTS TO THE AGENDA

There were none.

4. APPROVAL OF THE SEPTEMBER 19, 2013 MINUTES

**Mrs. Mullins stated she voted for Mr. Dykes and Mr. Lott stated he voted for Mr. Humphrey. The motion to accept the correction to the minutes was made by Mr. Lott and seconded by Mr. Dykes. The motion passed unanimously.**

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
DYKES	YES	
MULLINS	YES	
LOTT	YES	

5. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

6. APPROVAL OF THE 2014 DEADLINE/MEETING SCHEDULE

CHAIR DONALDSON: Are there any questions about the schedule for 2014? Is there any discussion? If there is no discussion, I need a motion to approve it.

MR. LOTT: I motion to approve the schedule.

MR. DYKES: I second the motion.

The motion passed unanimously.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
DYKES	YES	
MULLINS	YES	
LOTT	YES	

7. PUBLIC HEARING WITHDRAWALS

**P13-05-C: CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1102 YARD REGULATION, SUB-SECTION G. BUFFER REQUIREMENTS 1-E, WHICH REQUIRES A SOLID BUFFER WHEN ANY OUTSIDE STORAGE OF MATERIALS, EQUIPMENT OR PRODUCT IS VISIBLE AND/OR ABUTTING ANY RESIDENTIAL DISTRICT AND/OR PUBLIC STREET, FOR A MOTOR VEHICLE STORAGE YARD IN A C(P) PLANNED COMMERCIAL DISTRICT ON 4.30 +/- ACRES, LOCATED AT 5523 US HWY 301 SOUTH (SR 2284); SUBMITTED BY ROBERT D. TAYLOR JR (OWNER) AND TOM HOLT.**

MS. SPEICHER: Chair, I don't think it is necessary to publish this case. This case is on the agenda only to be withdrawn.

CHAIR DONALDSON: That is the one where you changed Mr. Taylor's conditional approval?

MS. SPEICHER: Yes, his conditional approval was changed to commercial parking. I believe the board members got a thank you from him.

CHAIR DONALDSON: So you just want us to take that one off, right?

MS. SPEICHER: Yes chair.

CHAIR DONALDSON: Which is what we told him we would do.

MS. SPEICHER: We need the board to officially withdraw it.

CHAIR DONALDSON: I need a motion to officially withdraw Case P13-05-C.

MR.HUMPHREY: I motion to withdraw Case P13-05-C.

MR. LOTT: I second the motion.

The motion passed unanimously.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
DYKES	YES	
MULLINS	YES	
LOTT	YES	

8. POLICY STATEMENTS REGARDING APPEAL PROCESS

Ms. Speicher read the Board’s policy regarding the appeal process to the audience.

9 PUBLIC HEARING(S)

- A. P13-06-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 300 FOOT TOWER IN AN A1 AGRICULTURAL DISTRICT ON 78.35+/- ACRES, LOCATED AT 4208 NC HWY 242; SUBMITTED BY DALE R. AND ANNA B. ACKERMAN (OWNERS) AND THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.**

MS. SPEICHER: Chair, if it pleases the board and to save some time, for those cases where there is no opposition, if we could get the board to accept the application as being complete, which staff has verified the ordinance provisions are complied with and direct the staff to draft an order with the findings as included in the applicant’s cover letter and also attaching all the ordinance related conditions to the permit, we could make this evening go a little quicker.

CHAIR DONALDSON: Okay. As I understand, the only ones that are contested are P13-08 and P13-10. Is that correct?

MS. SPEICHER: To our knowledge, yes chair.

CHAIR DONALDSON: Is there anyone here to be heard in opposition to the tower on 78.35 acres located at 4208 NC Hwy 242, submitted by Dale and Anna Ackerman and Thomas H. Johnson, Jr., Nexsen Pruet, PLLC on behalf of American Towers, Inc.? Is there anybody here in opposition to that?

MS. SPEICHER: If we could have the record reflect that you opened the public hearing on that and then close the public hearing.

**Public Hearing Open**

CHAIR DONALDSON: We will open the public hearing on that and I just published the case. Is there anyone here to be heard on that particular case on the request of the cell phone tower submitted by Dale and Anna Ackerman at 4208 NC Hwy 242? With no one being heard and no one signed up.

**Public Hearing Closed**

CHAIR DONALDSON: I need a motion if anybody wants to accept the application which has been complied with unless you all want to see everything on it?

MR.HUMPHREY: I offer the motion that we accept the application with the recommendations of the planning staff to let the application go forward.

MRS. MULLINS: I second the motion.

CHAIR DONALDSON: Is there any discussion or does anybody object to it? All those in favor say aye.

The motion passes unanimously.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
DYKES	YES	
MULLINS	YES	
LOTT	YES	

**Public Hearing Open**

**B. P13-07-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 195 FOOT TOWER IN AN R40 RESIDENTIAL DISTRICT ON 63.63+/- ACRES, LOCATED ON THE NORTH SIDE OF JOHN MCMILLAN ROAD (SR 2244) AND EAST SIDE OF EAGLE SPRING DRIVE; SUBMITTED BY PHILLIP C. SMITH (BY POA) ON BEHALF OF LAWRENCE C. AND OLETA C. SMITH HEIRS (OWNERS) AND THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.

CHAIR DONALDSON: Is there anyone here to be heard other than the petitioners on this matter?

**Public Hearing Closed**

MR.HUMPHREY: I offer the motion that we accept this with the same conditions as set out by the Planning & Land Use Committee.

MR. LOTT: I second the motion.

CHAIR DONALDSON: Is there any objection or any discussion? All those in favor say aye.

The motion passed unanimously.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
DYKES	YES	
MULLINS	YES	
LOTT	YES	

**Public Hearing Open**

**C. P13-09-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 250 FOOT TOWER IN AN A1 AGRICULTURAL DISTRICT ON 118.07+/- ACRES, LOCATED ON THE SOUTH OF MAXWELL ROAD (SR 1006) AND WEST OF WADE STEDMAN ROAD (SR 1826); SUBMITTED BY GARY F. AND KATHY L. MCMILLAN (OWNERS) AND THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.

CHAIR DONALDSON: Is there anybody here to be heard on this matter other than the petitioner? We need a motion.

**Public Hearing Closed**

MR.HUMPHREY: I offer the motion that we accept this with the same conditions as set out by the Planning & Land Use Committee.

MRS. MULLINS: I second the motion.

CHAIR DONALDSON: Is there any discussion or are there any questions? All those in favor say aye.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
DYKES	YES	
MULLINS	YES	
LOTT	YES	

**Public Hearing Open**

**D. P13-08-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 300 FOOT TOWER IN AN A1 AGRICULTURAL DISTRICT ON 184.85+/- ACRES, LOCATED ON THE WEST SIDE OF CEDAR CREEK ROAD (NC 53) AND SOUTH OF DEERTRACK LANE; SUBMITTED BY WYMAN A., JR. AND SARAH O. NICHOLS (OWNERS) AND THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.

CHAIR DONALDSON: I understand that we have someone signed up in opposition, is that Mr. Walters? Mr. Walters, if you could come up please. Who's representing the petitioner? You can come up too and we'll swear you all in. David Walters, Thomas Johnson and Joe Smathers were sworn in.

MS. SPEICHER: Ms. Speicher presented the land use and photos of the site to the Board. The Graphics Section made this map because the site is located so far to the south, close to the Bladen County line at NC Hwy 53. You won't always see a map like this, I just wanted to explain this. For the board members, especially the newer ones, the section that governs towers starts on page 100 in the County Zoning Ordinance. The staff has found that the application has met all the minimum standards from the ordinance and/or will meet with the compliance related conditions that are attached. If the Board does decide to approve this application, we request you attach those ordinance conditions to the application. I'm available for questions.

CHAIR DONALDSON: Does any of the board have questions for the staff? Can you go back to the overhead? Isn't that the duck water fowl refuge right there. Mr. Walters, you live out there, which one is it?

MR. WALTERS: Actually, the state owns it.

CHAIR DONALDSON: It is a water fowl refuge.

MR. WALTERS: It is called Jessup Mill Pond. The wildlife department took that over a few years back.

CHAIR DONALDSON: When I saw the overhead slide, I thought that is what it was, I always want to make sure what we are talking about. So the tower would be in the upper quadrant, right up in that area? [referring to the slide] Who wants to be heard on behalf of the petitioner?

MR. JOHNSON: I'm Tom Johnson, the attorney with the law firm of Nexsen Pruet, 4141 Parklake Avenue, Raleigh, N. C., here on behalf of the petitioner American Towers, LLC who is building this tower on behalf of AT&T. This is part of the other three tower cases you will hear tonight and is part of the expansion plan to cover parts of the county that essentially have no service. It is a very remote area, as Ms. Speicher mentioned, just north of the Bladen County line. Ms. Speicher, if you could go back to the previous aerial. What we are doing is using the existing driveway [pointed to the slide]. We will come back and put the site right in here and that is the proposed location. I would ask that you admit into evidence the application and all supporting documents that we have already submitted to the county and we are also in agreement with the conditions that the county staff has recommended. We are in agreement with those and to have those attached to the special use permit. This site is one where we will minimally remove trees in order to get the tower in. We will leave the existing trees that are there. It is a thickly wooded piece of property. We have a 100 x 100 foot lease area, but the compound will be 80 x 80 feet. That is essentially what we will try to remove except what we need to put the fence around the compound. As part of the file we did submit a certification from AT&T about their radio frequency emission and that they do comply with the FCC rules. If you recall, the state statutes says that for this local board, the Federal Government controls the safety of radio frequency emissions and that is not a

consideration by this board. AT&T's emission at this site will be a fraction of 1% of the federally allowed exposure level. I wanted to make that clear, that it is very minimum. Tonight I have Joe Smathers, who is a very experienced real estate broker who has reviewed, Mr. Herring actually prepared the report and Mr. Herring had a conflict tonight and couldn't appear, so I want to have Mr. Smathers come up and talk as far as impact on adjoining property values. That report is in your packet and he wanted to speak to that. If you don't have a copy, I do have extra copies of that report.

MS. SPEICHER: It is not included in the packet.

MR. SMATHERS: I did this report. We had four hearings. Graham did three and I did the report on this one. My name is Joe Smathers, 7500 Cadbury Court, Raleigh, N. C. and as Mr. Johnson has indicated, American Towers has asked me to review this proposed tower location to make certain the construction of the facility on the proposed location has no negative impact on the value of surrounding properties. I've been engaged in the business of real estate valuation, brokerage and development for 43 years and a licensed North Carolina real estate broker for 40 years. I've been a senior member of the National Association of Review Appraisers and a senior valuer with the International Institute of Valuers and I have examined over 500 proposed tower sites. As my report and contained in other reports and information I've reviewed, the evidence indicates that the construction and the operation of communications towers does not have any adverse impact on property values of the natural degradation or planned use and development of the surrounding area. Also the selection of such a large site and the surrounding tree line, decreases any possibility of impact to property value. Therefore, it is my conclusion that the proposed tower will not injure the value of surrounding properties and will have no negative impact on the future developments of surrounding properties. I'll be happy to answer any questions.

CHAIR DONALDSON: Does any board member have any questions? Mr. Walker, do you want to ask Mr. Smathers any questions?

MR. WALTERS: Yes sir. You say it has no negative impact on values. Is that for a 300 foot tower, I've heard 195 foot. This is approximately a 300 foot tower on the corner of our house which has a well on that lot and is livable someone will live soon so one of my questions is property value and another question is when will construction begin. A lot of people hunt and pay extra for safety permits and for the property value, I'd love to see where that data is collected.

MR. SMATHERS: We have numerous studies that we have done in all types of cities where the towers are directly adjacent and visible to the houses.

MR. WALTERS: I'm not questioning that, I would love to see....

CHAIR DONALDSON: In just a second you'll get to say something. I have a question. When is the construction expected to begin?

MR. SMATHERS: Mr. Johnson can answer that.

MR. JOHNSON: Given the time of the year, it will probably be late in this year or the beginning of next year by the time we get through the permitting process. More likely on this site, I don't expect it to happen before January or even February.

CHAIR DONALDSON: How long does it normally take to construct a site?

MR. JOHNSON: The rough estimate I'll give you is 30 days. It can be quicker than that. It is a pretty quick process, it just depends on the weather.

CHAIR DONALDSON: So if they start in January or February, it would be completed sometime in early spring?

MR. JOHNSON: That is correct. It would be a pretty quick process.

CHAIR DONALDSON: Did that answer your question Mr. Walker?

MR. WALTERS: Yes sir.

CHAIR DONALDSON: Do you want to say anything now, Mr. Walker?

MR. WALTERS: I have an aunt who lives in Baltimore, MD and she owns some of the parcels directly across the road.

CHAIR DONALDSON: Please give him the pointer. Mr. Walker, show us where you live.

MR. WALTERS: I actually live right here and there is a young family that lives here. [pointing to the slide]

CHAIR DONALDSON: You live in the yellow area, right where the pointer is?

MR. WALTERS: Yes sir. That tower is going to be roughly right there and it is awfully close and my wife is six months pregnant. I'm not questioning the value but I would love to see some statistics. I've seen some literature with studies from Harvard and Boston Universities stating there are some electromagnetic rays. I just became aware of this a few days ago, I've been out of town working and that is kind of where we stand, we'd like a little more information. My aunt owns these parcels [pointing to the slide] and she is out of town.

CHAIR DONALDSON: Those parcels don't have houses on them?

MR. WALTERS: They do not. The land value is something that would be interested in if we were allowed more time to look into it. This area back here is owned by a huge conservation area. I've heard different heights while sitting in here tonight. This is a 300 foot tower, a little bit different dynamic so I was a little concerned about the height of it and where it is going in.

CHAIR DONALDSON: I will address one issue for you. The radio frequency; the state legislature said we can't get involved in that. The assumption is, if they have complied with the FCC rules, we can't take that into account when we are determining these hearings. I understand your concerns but you have to understand that we can't do anything about that. So, you are really not questioning the valuation?

MR. WALTERS: I am, I'd really like to trust everybody but I'd like to see some statistics from what it is based on. I'm concerned about 8954 Cedar Creek Road. It's just me and my wife and if we sell this property; we've actually had people stop by and ask what is being



built. I would really like to see some statistics. I'm a little bit late in replying to this, I really wasn't aware, I worked all day and rushed to get here by 7:00. He mentioned his years in that line of work and I'm sure he is very knowledgeable but I'd like to see it for myself where some of these statistics were pulled, it would make me feel a little bit better.

MR. JOHNSON: A couple of points I'll make. This is a very remote and sparsely populated area of the county.

CHAIR DONALDSON: I assume the reason it is a 300 foot tower is because of the sparse area and you have to cover a lot a range as opposed to the ones we have seen like down in Hope Mills?

MR. JOHNSON: That is correct. That is a different situation because you have more population. There are two key points. One, the population is getting rid of their land line phones and relying on wireless. For instance if someone were out there hunting, they are going to have their wireless phone if they get stranded. The other night a kayaker got lost on the lake around the nuclear plant near Raleigh. Obviously in that situation you want to have some GPS tracking or cell phone to be able to contact someone in case of an emergency. Even though this is conservancy property, and there may be some sanctuaries and things like that people get out there and hunt and do other activities, so you want the ability for them to be able to dial 911 and to get service. Our experience is across the state and more particular in Cumberland County, theirs is the same statistic, about seventy percent of calls to 911 are from cell phones. That is one point. The other is, in these rural areas, there is a move to provide data service so you need stronger signals in order to have data service. If you want to have 4G, which Fayetteville was one of the first markets in the state to have 4G service, you have to have that strong signal. That is the reason why you are seeing some of these new towers coming into the area. That is why there is a need for the tower in this area. I was in Bladen County on Tuesday night for hearings where we got three new towers. We are trying to connect in a lot of these rural areas in this part of the state.

CHAIR DONALDSON: Are there any questions?

MR. HUMPHREY: I do have one question. The homeowner has requested that he would like to see the information that the real estate broker was talking about. Is it a possibility since we don't have it in our packet, is there a possibility, to appease what he asking, can it be given to him?

MR. JOHNSON: I'll be happy to show him the report. The report was based upon an examination of the site and the experience of the broker and analyzing over 500 sites for over 40 years. This site is one of the most remote and wooded sites that you will see. Some of the other sites that are on the agenda tonight where we didn't have any opposition show up, were actually in a more open area, some were 250-300 foot and had more adjoining residential properties to them. I can tell you this and from my experience and from what I have seen. One of the nicest country clubs in Raleigh has high voltage transmission lines going right above the club house and some very expensive homes. In Harnett County, there is a site that AT&T has and I personally looked at it because of some sites we were doing in Harnett County. It is an old tower that AT&T had for phone service way back when and it is being used now for wireless service. There are homes within a couple of hundred feet of that tower that is much taller than that. Since that tower has been there, people have built their homes

and lived next to it. It is a more massive type of tower with a bigger profile than this one. Those are but a few examples and I'm sure that Mr. Smathers has other examples where he has actually looked at sites.

CHAIR DONALDSON: Does anybody else have questions?

MRS. MULLINS: You are saying this is a self-support tower?

MR. JOHNSON: Yes, the compound is 80 x 80 feet, the setback is the height of the tower, so if anything catastrophic were to happen and the tower were to fall completely from its base, it would be contained within that setback area. In fact, from Mr. Walters property, based on the scale, probably about 400 feet or so. We more than meet the setback. Ms. Speicher, can you turn to the slide. If you see the circle [referring to the slide] that is the radius, we exceed it. It is not like we came in and put it right up against the corner of the property, it is in the radius.

CHAIR DONALDSON: Mr. Lott, do you have questions?

MR. LOTT: No sir.

CHAIR DONALDSON: Mr. Dykes?

MR. DYKES: You also mentioned that you have two other towers similar to this one here, so is there going to be some type of connection?

MR. JOHNSON: What happens is, AT&T does an analysis by computer to compute the signal. It takes into account the terrain, whether there are leaves on the tree such as winter or summer time, pine trees don't lose their pines so of course you will have more obstruction of the signal in the pine forest area. They look at all of that and they fit together. So if one doesn't come in or changes height, you have a gap, you have a problem. Many of you I'm sure have been on your wireless phone and you dropped a call. That is because you are hitting that spot where you can't connect to the adjoining tower. This is part of the plan for AT&T to give service to these areas that don't have it.

CHAIR DONALDSON: Mr. Humphrey?

MR. HUMPHREY: Mr. Walters, the information that you said you would like to see, are you satisfied with this response?

MR. WALTERS: Not exactly. I actually have AT&T and my 911 is important. When we lived in Raleigh, we obviously knew there would be some towers, but when people drive and live in the country, you sometimes think of getting away from. Our realtor from Townsend Realty, Amanda Smith-Martin, actually just guessed that 310 feet would in effect be a bother by us having a 300 foot tower roughly 400-500 feet from the corner of our property. That does concern me.

MR. SMATHERS: Just a personal note, where I live in Raleigh, from my porch, I can see a tower. I have property in the mountains and from that property I can see two towers. It's like a telephone pole. We have made presentations to the board in High Point, North Carolina

and we showed a picture presentation of what the tower looked like and the board went wild at the telephone lines that they saw instead of the tower because the city owns the telephone lines and they were huge power lines. They didn't worry about our towers, they worried about the kind of impact those power lines were having in property values. What we have found is that the towers...people overlook them today. It's like the first telephone pole that went up, I'm sure that everybody went wild, but today they are just not seen as an issue. I have sold many homes in Raleigh and the surrounding area. I've sold them adjacent to towers. I've had people who said they don't like the tower, I've also had people tell me they don't like the color of the front door. It can be an issue with some people, but just like any other item, it is not an issue with the majority of the general public.

CHAIR DONALDSON: Are there any other questions or discussion by members on the board? Mr. Walker, it's not that we are not sympathetic with you, but the truth is there is really no evidence before us that would say there is going to be an adverse impact on valuation. Sometimes, it is the price we have to pay for progress. I would say there are more people using cell phones than land lines now. Sometimes these things are part of progress and with the population moving. It may be twenty years down the line but it may be subdivisions off Cedar Creek Road. It is one of the things we have to put up with in a modern society. Does anybody on the board want to say anything else? Mr. Walters, do you have anything else to say?

MR. WALTERS: No sir, thank you.

**Public Hearing Closed**

CHAIR DONALDSON: Does anybody want to make a motion?

MR. LOTT: I make a motion that we pass this.

MR. DYKES: I second the motion.

CHAIR DONALDSON: All those in favor say aye.

The vote was unanimous.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
DYKES	YES	
MULLINS	YES	
LOTT	YES	

In granting the Special Use, the Board has found that:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;

**It will not have these effects based on FCC and other things that we can't control.**

2. The use meets all required conditions and specifications;

**That staff had indicated they have or will meet the specifications.**

3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

**There is no opposing information stating that it will not maintain or enhance the value of neighboring properties and based on that fact, we will go with what was read into the testimony.**

4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent Land Use Plan;

**Staff has gone through the application and verified it and everything that is submitted had to be approved when submitted. The applicant has agreed to the conditions the county staff recommended. It will be consistent and in harmony with other towers in the area.**

#### **Public Hearing Open**

**E. P13-10-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BILLBOARD IN A C(P) PLANNED COMMERCIAL DISTRICT ON A .57+/- ACRE; LOCATED AT 2980 GILLESPIE STREET; SUBMITTED BY CHARLES A. IV AND CINDY M. ALLEN (OWNERS) AND M. GREY VICK ON BEHALF OF WATERWAY OUTDOOR, LLC.**

CHAIR DONALDSON: Is there anybody here to speak on behalf of this case. What is your name sir?

MR. VICK: My name is Grey Vick and I'm here on behalf of Waterway Outdoor.

CHAIR DONALDSON: There is someone else signed up, is it Bradley Whited? You are from the city aren't you?

MR. WHITED: Yes sir.

CHAIR DONALDSON: Come up and I will swear you both in. [Bradley Whited and M. Grey Vick were sworn in]

MS. SPEICHER: Presented the zoning, land use and photos of the site to the Board. If I could I will briefly go through the ordinance requirements especially for the newer board members and plus we don't have billboards quite as often as towers. The specific provisions are on Page 145 of the County Zoning Ordinance. "Any billboard in Cumberland County jurisdiction must be located on a limited or controlled access of thoroughfares; cannot be located within 200 feet of a residential district; has a maximum height limit of 35 feet; maximum sign area of five feet; must be fifty feet from the right-of-way line; five feet from a property line; fifty feet from other signs or buildings that are located on the same property; and 500 feet from any other billboard".

CHAIR DONALDSON: Please go back through each of the slides again slowly. So it is going to be to the right as we look at it, is that true Mr. Vick?

MR. VICK: Well, actually, it will be on the left side of this building here. [pointing to the slide]

MS. SPEICHER: On the left of Two Men and a Truck.

CHAIR DONALDSON: And this sign is going to stay up?

MS. SPEICHER: Yes sir.

MR. LOTT: So it meets all the requirements?

MS. SPEICHER: Yes sir.

MR. DYKES: Is that I-95 going south?

MS. SPEICHER: I-95 Business, Highway 301.

MR. DYKES: Past the coliseum?

MS. SPEICHER: Yes sir.

MR. LOTT: How high would the sign be?

MS. SPEICHER: The application has it with maximum height of 35 feet.

CHAIR DONALDSON: That is what the ordinance says. What is the next closest billboard?

MS. SPEICHER: 790 feet to the south. I can show you. The subject property is here and the nearest building is right here. Let me see if it shows up on the aerial. The lines cover it up but the nearest billboard is right here. [pointing to the slide] That is measuring according to our mapping program.

CHAIR DONALDSON: Mrs. Mullins, do you have any questions for the staff?

MRS. MULLINS: What is the reasoning for the sign if you already have one up for both businesses?

MS. SPEICHER: This is for commercial billboard, so the content will change as the people lease the sign space.

CHAIR DONALDSON: Mr. Lott?

MR. LOTT: It looks good to me.

MR. DYKES: It looks good to me.

MR.HUMPHREY: When you say the word “static sign,” are we talking about one that is LED?

MR. VICK: No sir, this actually would be a standard sign and would be built and wrapped with the vinyl. We would potentially change the sign out once a year.

MR.HUMPHREY: The word static was throwing me off.

MR. VICK: It wouldn't rotate like a tri-vision or a digital sign.

MR.HUMPHREY: Okay, thank you.

MR. VICK: I'm in agreement with all the terms of the special use permit that the county laid out. I believe that we have complied with all the required conditions and specifications of the ordinance; the spacing requirement and we obviously dealt with people in the area we will be abutting or adjoining. Nobody in that area behind me had issues with the sign. With this being a transient area and people coming in and out of town, it will provide local businesses within the city and the county opportunities to catch that transient traffic coming through on I-95 or in and out of the area. It is consistent with federal regulations as well and the spacing under the federal regulations you are required to obtain a Department of Transportation permit for an outdoor advertising structure. It is consistent with the commercial area for advertising businesses in the local area. I can answer any other questions that you may have.

CHAIR DONALDSON: Are there any questions from the board? Mr. Whited, please come up.

MR. WHITED: Good evening, my name is Bradley Whited and I reside at 4445 Brighton Circle, Fayetteville, N. C. I am here representing the Fayetteville Regional Airport. I am the Airport Director. I do have a letter and a slide presentation [Exhibit 1] that I would like to submit to the board for consideration this evening. I am here to talk about regarding the placement of billboards along route 301/Gillespie Street near the airport. For years we have discussed the importance of providing a visually pleasing entrance to our community via the Airport Gateway is vital to that presence, similar to the concerns the county has in the area regarding the Crown Coliseum. I consider the Airport and Crown Coliseum to be very similar in nature. We want to have good business and good views. Unfortunately, Airport Road and Gillespie Street in this area is not visually pleasing and my concern would be that we don't add to that with additional billboards. There were two billboards being proposed and I think one was removed from consideration. I'm not sure why that was, but we do have one. If you look at the slide presentation, you can see within a quarter mile of the entrance to the airport road, this is where the billboard is going to be located. We're talking about the significance of the area in terms of the airport being the gateway to the community. We are a regional airport, we are your hometown airport, it is a city facility, our customers are all county residents and a six county area comes to visit in and out. Currently, there exists already two billboards within the immediate area of the proposed billboard. Here is the location of them along Hwy 301, the one on the south was pointed out on the map, the one in the north, a hotel is in that area. Here is the existing billboard nearest to the proposed billboard[pointing to the slide] It is to the right of the road and not very well maintained. It

doesn't have any visual in fact at all, but it exists. That is the other concern with billboards, it is a permanent structure, once it gets in place, this is sometimes the result. [referring to the slide picture of the billboard sign] Federal and State laws kick in once you approve a billboard location and makes it virtually impossible to eliminate it in the future. Now is the time to consider whether or not you want to add to the situation. Here is the other billboard that is to the north of the Airport Inn. It is built with just telephone poles and it is not visually appealing. Once you approve one billboard, it is going to be difficult to not approve others, so billboards continue to be signage in competition with local businesses and with each other. Here is the proposed billboard site with the existing location. [referring to the presentation] You can see there are a number of signs and technically it meets your distances, but visually you can start to see what I am talking about. When you drive out of the airport and look south, this is exactly what you see.

CHAIR DONALDSON: Could you go back to that picture please? What is that building there?

MR. WHITED: That building is the proposed billboard.

CHAIR DONALDSON: No, the one to the right where it says existing.

MR. WHITED: Oh, that is just a sign, a currently existing business sign, it is basically empty.

CHAIR DONALDSON: The reason why I asked is because it appears to be higher than 35 feet.

MR. WHITED: You saw the pictures of the landscaped business, it is beautiful from here, very nice. I would like you to consider the visual aspect of these photos as we move forward. If you consider that whole Business I-95 corridor, and if people continue to make request with the 500 foot separation, you can see a representation of what the billboards could ultimately be in that commercial area. On the next slide you could see what the proliferation of billboards could look like, that is why I think it is important to speak now and for you all to consider what the future might hold. Particularly, when I showed the existing billboards, I don't know what the standards were then, but they certainly haven't been very visually appealing. I'm not saying the current applicant would maintain a billboard like that, but it is clutter, the same clutter we are trying to address. It does have an economic impact on the image of the corridor, whether that is good or bad, we are putting traffic through the area. Unrestricted proliferation of signs can lead to this. [referring to the slide] Bragg Boulevard installed this kind of signage. How does it get like this? Well, people have to approve the signs, so consider that. Fayetteville Regional Airport processes 500,000 passengers per year and that may be what attracted the applicant; however, because we have that traffic coming in and out, that doesn't include the one or two visitors and greeters to the actual 500,000 passengers. The airlines has invested millions of dollars to provide this area with 15,330 aircraft landings and takeoffs per year. Please help us improve the Airport Gateway to our Regional Community by thinking more with a vision of what these billboards could impact in this particular area. Billboards receive special Federal and State protection. Once they are permitted they can remain in perpetuity, as you can see from the existing billboard. These same protections are not afforded to local business signage. So hopefully, a larger sign might be able to be removed. Federal and State protections still interfere with future gateway beautification of this area and can require removal of vegetation to protect the billboard's

viewshed once it is in place. This area is poised for major retail development. Allowing this proposed billboard does not support the redevelopment that is imminent for this area. Local businesses would suffer and economic development would suffer. Your decision tonight is important because it makes a difference in how our greater community area looks and is perceived from tonight forward. I am asking you to vote no on the billboards along this area to protect the airport and help to work with me on how to improve, it needs improving, all along the area. Thank you very much.

CHAIR DONALDSON: Are there any questions?

MR. LOTT: My question is, apparently, this is the law of the land that I've heard so much about lately, and from what I understand, these people meet all the requirements that has been set forth and they have done so. I also understand his point of view about the airport and the way people perceive us as they come in here. However, these people are asking to be considered their due process that they have applied for and met all the requirements for. I think the questions about whether the billboard should be permitted or not as far as the airport is concerned should have been addressed earlier and maybe some rules and regulations put in place at that time to protect the airport. That is not the question. The question is whether they meet the requirements that have been set forth.

CHAIR DONALDSON: Part of the answer is, a special use permit is a discretionary, we don't have to grant it. Otherwise if they didn't need it, they could have granted it at the board, if they met all the compliances. One point of view is why should it come to the board if they have met all the requirements under the ordinance. Why should they have to come to the board to get a special use permit? By having it come to us, implies it is a discretionary and the staff doesn't have the ability to grant it to you. All they can do is process the paperwork and make sure you have complied with everything. It is up to us to determine whether or not 1. Is it reasonable? Does it comply with everything? We can see it does and they followed all the rules. 2. Is it reasonable to grant the special use? Basically the correct thing to do given all the factors and there are a lot of factors. The gentleman from the Fayetteville Airport has a good point about how the city looks. It's not going to be too much longer before that part down there will be in the city. We are not here to enforce the city's rules but we are here to maintain some zoning integrity for the residents of the county. Sometimes we have to vary from that because there are special exemptions, and special situation require you vary from it. Sometimes we say, we would like to, but we don't think you should. I'm not saying one way or the other which way the board should vote, I'm just saying these are things that have to be considered.

MR. DYKES: I have a question for Mr. Vick. Is this the only billboard that you foresee being put there in the near future or is it hard to say?

MR. VICK: As far as how fast the construction would go?

MR. DYKES: Do you see anything within the next 2-3 years, near the year 2016?

CHAIR DONALDSON: It couldn't, it has to be 500 feet from the nearest one.

MR. VICK: That is one of the things I wanted to talk to you all about, the existing regulation. Obviously, I've scouted this whole corridor pretty hard. Under the existing



regulation, I know you showed the map showing the potential of the different locations that could potentially be there. With the actual regulation that is in place, it does make it very restrictive. There are a lot of properties along there and a lot of properties that won't work due to buildings and facing another existing sign. There are a lot of strict regulations in place that inhibit the ability to put signs out there. We had one more case that we had to withdraw. We actually took down another sign which was an illegal sign and it helped to clean up this corridor. One of the existing signs that he had shown was one I was going out to help improve it, the abandoned looking sign, Ms. Speicher, could you go back a little bit [on the slides]

CHAIR DONALDSON: I know that sign. That is Mr. Rose, Mr. Rand and Mr. Thorpe. That was a law firm a long time ago.

MR. VICK: Susan Sherill actually owns some of this property from some of the work that I did to try to clean up this area and has actually rented a sign to Freedom Christian Academy, advertising a local school. I'm hoping that from some of the work that I've been able to go out there to do is actually going to improve this area and clean up some of the violations. There are some old signs, this is an old road. I think Ms. Speicher mentioned that some date back to the 1930's, so it does have some areas that need to be cleaned up. I would like to be able to be a part of and to help you all clean up some of the things that need to be done out there. Adding a couple of nice billboards would actually be an upgrade and to clean up some of the old ones. We've actually seen other areas up in Jacksonville and the airport used outdoor advertising to increase the awareness of the airport being close by. I do think that we would love to help the airport to get more attention on this corridor and other local businesses in this area.

CHAIR DONALDSON: This sign is going to be to advertise your business, right?

MR. VICK: It will be open to advertising by any local business in the city and the county. I got a request this past week from the City Parks and Recreation Department about a sign on Hwy 87 that we have. The city receives a benefit as well from some of the sign locations that we have.

CHAIR DONALDSON: So this sign that you are asking for is not to advertise your business?

MR. VICK: No sir, it would be to advertise local businesses. Some of our customers are located in the city, the county would be Cedar Creek Fish Farm, the Richardson Firm, Fuller's Bar-B-Q Restaurant, Baldino's Subs and some local businesses use some of our signs to advertise their products and services.

MR.HUMPHREY: Did you say there is a sign already on the property?

MR. VICK: Yes sir. There is a sign advertising Two Men & A Truck.

MR.HUMPHREY: So this would be a second sign on that property?

MR. VICK: Yes sir.

MS. SPEICHER: If I could clarify for the board this isn't off premise or off site advertising, so we wouldn't call it a billboard if it was advertising the actual business on the subject property.

MR.HUMPHREY: Okay.

CHAIR DONALDSON: I thought it was for the business.

MRS. MULLINS: Isn't it right up to the other building. Can you show the pictures Ms. Speicher.

MS. SPEICHER: It is five feet from the property line. I don't have the distance from the actual building on the other side.

MRS. MULLINS: Can you show the pictures that show the two parking spots. So where the vehicle is, five feet from there.

MS. SPEICHER: If it helps the board, we do send out public notice to adjacent and all property owners within a 500 foot radius of the subject property in addition to posting a sign and posting it on the website.

MR. WHITED: The reference he made that he already scoped the area and there is no other places for billboards, when you look at the area they are putting the billboard in that meet your requirements, there are signs all around there. So meeting your criteria doesn't seem to be that difficult. I would question whether there would not be proliferation because of that. The other point that I'd like to share with you is, the airport is in a very unique situation, we are an island of the city and we are surrounded by the county. We need to look at the county and you all to help us with these issues. Working towards this in advance is difficult because these are situations that come up as you indicated as special use. The other issue is, annexation not going to happen anymore in North Carolina unless things change in Raleigh. We're going to be married for quite some time on these types of issues.

MR. VICK: I'd like to say something on the comments about it being close to the building. It is next to Mr. Rob Hubbard and I spoke to him about it today. It will be located close to his property being next door. I spoke to him about it and he doesn't have a problem with what we are doing. Not speaking for him, but I did want to let you know that being that close, we want to be a good neighbor as well.

MS. SPEICHER: Since I'm under oath: I too did speak to Mr. Hubbard and sent him a copy of the packet and the plans and he called me back and I explained it to him. I just wanted to let you know. I know that he was aware.

### **Public Hearing Closed**

CHAIR DONALDSON: Does anybody want to make a motion?

MR. LOTT: I make a motion that we approve this special use permit.

MR. DYKES: I second the motion.

CHAIR DONALDSON: Is there any discussion? My own feelings are he is probably correct and there is probably not going to be any more annexation. So you got one side of Hwy 301 belongs to the county and the other side belongs to the city or portions of it. The two planning departments probably should get together and get some type of joint sign regulation that would make things a little more compatible. In a perfect world we would have a regulation that would limit signs to a certain height like they do in other cities which looks much nicer. All the businesses complain about it initially, but studies show people go into a McDonald's that has the low sign and the high signs, it just makes the cities and the areas look nicer. That is something I think the two planning departments should get together about, particularly, not necessarily in the rural part of the county but somewhere where you were talking about the urbanizing theory.

MR. DYKES: Mr. Chairman, who controls the signs when you are going down Cumberland Road and then turn left going up on Owen Drive? There is one out there that says Cape Fear Plastic Surgery, big like a board.

CHAIR DONALDSON: You are talking about at the old passover at the railroad track?

MR. DYKES: Yes. It doesn't look appealing to me.

CHAIR DONALDSON: I don't know. That sign has been there a long time, it was grandfathered in, they just change the way it looks. Once they are there, you can't really get rid of them. I know the sign you are talking about, it flashes. That sign has been there for as long as I can remember when I came here in 1972. It is grandfathered in and the city can't do anything about it. They had a complaint about some of those signs because they rotated and found out they couldn't do anything about them.

CHAIR DONALDSON: All those in favor of it say aye. All those opposed state so.

	IN FAVOR	OPPOSED
DONALDSON		YES
HUMPHREY		YES
DYKES	YES	
MULLINS	YES	
LOTT	YES	

MR.HUMPHREY: The reason why I am voting no is because I heard both presentations and you look at what he presented with almost a half million people coming in and out of the airport. Those people are trying to get some business out of the people we are trying to get here to make our city look good. I do recall some time ago in the Fayetteville Observer when they said we are trying to clean up that area. They were talking about the mobile homes out there in that area. I think this would be another step in the direction to making our gateway look better. That was my reason for my opposition because we have a half million people we are saying no to versus one business.

In granting the Special Use, the Board has found that:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;

**It was submitted that it would not be endangering the public safety or health.**

2. The use meets all required conditions and specifications;

**It is more than 500 feet. The purpose and intent of the Zoning Ordinance is for the protection of public health and safety and was taken into consideration.**

3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

**The area where the sign is to be located is a high traffic area entering the city and serves the purpose of notifying the public of various businesses, etc. available within the city.**

4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent Land Use Plan;

**This is primarily a business area, it is in harmony. There are no residential areas affected by this and it is in harmony with adjoining properties and uses.**

#### 10. DISCUSSION

There was none.

#### 11. UPDATE(S)

ASST. COUNTY ATTORNEY HASTY: There is no update on the TigerSwan case. The orders have not been returned yet.

#### 12. ADJOURNMENT

The meeting was adjourned at 8:30 pm, motioned by Mr. Lott and seconded by Mr. Dykes.