

Members:

Ed Donaldson, Chairman
Horace Humphrey, Vice-Chair
Joseph M. Dykes
Vickie Mullins
George Lott



Alternates:

Yvette Carson
Winton McHenry
Nathan Feinberg
Joseph Decosta
Alfonso Ferguson Sr

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

130 Gillespie Street
Fayetteville North Carolina 28301
(910) 678-7602

MINUTES
MARCH 20, 2014
7:00 P.M.

Members Present

Ed Donaldson, Chairman
Horace Humphrey
Vickie Mullins
Winton McHenry
Joseph Decosta

Absent Members

Joseph Dykes (excused)
George Lott (excused)

Staff/Others Present

Patti Speicher
Robert Haigh
Betty Lynd
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

Mr. Haigh called the roll and stated a quorum was present.

2. OATH OF OFFICE

Chairman Donaldson administered the oath to Mr. Joseph Decosta.

3. SWEAR IN STAFF

Chair Donaldson swore in staff members.

4. ADJUSTMENTS TO THE AGENDA

There were none.

5. APPROVAL OF THE FEBRUARY 20, 2014 MINUTES

CHAIR DONALDSON: Mrs. Mullins has brought something to my attention and I think Mr. Humphrey is aware of this too right?

MR. HUMPHREY: She talked to me about it, yes.

CHAIR DONALDSON: On the minutes, after we had closed the hearing and had closed all the business, we were standing over there talking about different things and different groups and those are all included in the minutes starting at about page 23 and those were just personal comments and talking and it was not part of the board's business.

MR. HAIGH: There was some discussion that happened before we broke down from...

CHAIR DONALDSON: I understand that. That's in there, but what we're talking about is if you start on page 23, I know Mr. Hasty was talking. We were talking back and forth. He said well he didn't think it was appropriate to sit. That was just casual conversation. That had nothing to do with the hearing. That was just after the fact. If you look the meeting was already, the session was already closed and I move to strike all of that starting on page, actually it'd be bottom of page 22 where it says "Chairman Donaldson: Mr. Hasty, where's Mr. Moorefield at?". We weren't talking about business anymore at that point. Strike all that all the way through page 30 because that was all discussion that we were having not only amongst staff, but it was amongst board members, and it was also amongst, if I recall, there were some people from the audience that we were talking to that was involved in those discussions and that was just that had nothing to do with board business at that point in time. Do I have a second?

MS. MULLINS: Second.

CHAIR DONALDSON: You second it?

MS. MULLINS: Second. Yes.

CHAIR DONALDSON: Alright, anybody want to be heard on it? You know what we're talking about?

MR. HUMPHREY: Yes, I think I do, yes.

CHAIR DONALDSON: Y'all weren't here last time [to Mr. McHenry and Mr. Decosta].

MR. MCHENRY: I was here.

MS. MULLINS: Yes.

CHAIR DONALDSON: You're aware of what we're talking about?

MR. MCHENRY: Yeah, I know what you're talking about.

CHAIR DONALDSON: Yeah, we were standing over there talking for the most part. Different people were talking. It was after we had closed the session and everything.

MR. MCHENRY: Yes.

CHAIR DONALDSON: Alright. Anybody else want to be heard on it? I have a motion and have a second. All those in favor?

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	

MULLINS	YES
MCHENRY	YES
DECOSTA	YES

CHAIR DONALDSON: Amend the minutes to strike that from that point forward okay. And that brings up a question. I assume there's a recording system in here isn't there?

MS. SPEICHER: Yes.

CHAIR DONALDSON: Okay, because I was wondering how y'all were so accurate on them. I was thinking they didn't take notes that quick with all that was going on. Okay.

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mr. Haigh read the Board's policy regarding the appeal process to the audience.

9. PUBLIC HEARING(S)

A. P13-11-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BILLBOARD IN A C(P) PLANNED COMMERCIAL DISTRICT ON 3.68+/- ACRES; LOCATED AT 2589 GILLESPIE STREET; SUBMITTED BY MICHAEL KEITH SUTTON (OWNER) AND M. GREY VICK ON BEHALF OF WATERWAY OUTDOOR, LLC.

Mr. Haigh reviewed zoning, sketch map, and land use of the area surrounding subject property. He briefly reviewed board packet material.

MR. MCHENRY: Can I see that one [photo] about the, that shows the cross?

MR. HAIGH: Yes sir.

CHAIR DONALDSON: Where exactly is this located on Gillespie?

MR. HAIGH: On Gillespie Street. Yes this is, it's just north of Vineland and south of East Mountain.

CHAIR DONALDSON: Oh, it's south of East Mountain. Okay. Anybody, any other board members want to say anything? Mr. Humphrey?

Chair Donaldson called the speakers, Mr. Tally and Mr. Vick, forward.

[Public Hearing is now open]

CHAIR DONALDSON: Good evening again Mr. Vick. Seems like every month. How you doing Mr. Tally?

MR. VICK: Good to see you guys.

CHAIR DONALDSON: Mr. Tally and his brother are lawyers here. His other brother, I coached in baseball when he was about 12. Anyway, Mr. Vick you want to be sworn in?

MR. VICK: Yes sir.

Chair Donaldson swore in the speaker, Mr. Vick.

CHAIR DONALDSON: Mr. Tally, are you representing him?

MR. TALLY: I'm representing Mr. Vick in the hearing.

CHAIR DONALDSON: Okay. I'll hear you sir. Go ahead.

MR. TALLY: Actually I'm going to defer. Mr. Vick wanted to go ahead and present a little bit about this.

CHAIR DONALDSON: Okay go ahead then.

MR. TALLY: Alright.

CHAIR DONALDSON: Alright. He's pretty well got it down. Comes with slides and everything.

MR. VICK: May be a little bit redundant from last month we did, so I'll go through it kind of quickly.

CHAIR DONALDSON: Okay.

MR. VICK: I guess we have a couple new members also, so I want...

CHAIR DONALDSON: No go ahead. Take your time. We're not rushing you.

MR. VICK: Okay.

MR. HAIGH: I actually don't have your slideshow prepared.

MR. VICK: Oh you don't. Oh okay. Anyway, the site we're looking to do this is exactly the same as we did last month. It's a billboard sign we're going to be looking to put up. We're complying with all regulations as far as the setbacks. The requirement setbacks from residential and we actually have done a bit of work on the site also cleaning up the site. We had to remove an old sign that was on the property which was one of our required conditions to submit the application for the permit. If you guys have any more questions about the sign or application.

CHAIR DONALDSON: Where exactly is it in relation to the other property you've been here for?

MR. VICK: If you actually go, it's probably about a half a mile from the site at Two Men and a Truck and the other site that you guys approved last month, it's probably somewhere about a mile and a half down.

CHAIR DONALDSON: Okay. This is further away from the airport.

MR. VICK: It's south. Further south. This is further north. This is north of the airport. The other location, one other location is just south of the airport entrance and the other location from last month is about a mile and a half down from the airport entrance south.

CHAIR DONALDSON: Is this property going, asking the staff this, is this property going to be in the overlay that they're working on?

MS. SPEICHER: Yes sir.

CHAIR DONALDSON: Now how's that, does anybody know how that's going to affect these? I mean, I know if we grant it he's there and he's grandfathered in but I'm just wondering are they going to completely not allow those in the future on that new proposal?

MS. SPEICHER: The proposal is not to allow billboards in that area. There are currently no existing billboards that will be made nonconforming by that if the commissioners adopt that.

CHAIR DONALDSON: So if they're there now they're going to be allowed to stay?

MS. SPEICHER: Yes sir.

CHAIR DONALDSON: It just wouldn't, we're not going to be, they're not going to be allowed, they're not going to allow any further ones.

MS. SPEICHER: Exactly. If the proposal is adopted.

CHAIR DONALDSON: Alright. Go ahead. Anything else you want to say Mr. Vick?

MR. VICK: I guess I could say that you know, as Ms. Speicher said, there's no other existing signs in the overlay district they're proposing, and when we actually heard about the proposal you know we decided that we would continue with what we have been working on and the one that I had been working on for several months before the new overlay district was proposed. So, I'm just asking that you guys vote on it based on the existing ordinance that we had not on any proposed ordinance that could be in the future that would not allow this use. As I started working on it, it was allowed and we're complying with all the regulations, so I'm just asking you vote based on that. Thank you.

CHAIR DONALDSON: Anybody from the staff? Anybody on the board got any questions?

MS. MULLINS: I do. On one of the pictures, I noticed a billboard off to the right.

MR. VICK: Right.

MS. MULLINS: Is that on the property?

MR. VICK: No ma'am, not on this property. The sign is not located on this property.

CHAIR DONALDSON: Go back to the pictures that Ms. Mullins is talking about.

MS. MULLINS: It's off to the right on.

MR. VICK: Oh the cross.

MS. MULLINS: Right, okay.

CHAIR DONALDSON: Right there

MS. MULLINS: See it at the top.

CHAIR DONALDSON: Top right.

MS. MULLINS: Top right where it's got a "J".

MR. HAIGH: I believe that's an on-site sign for the business that's located on that property.

MS. MULLIN: Okay.

MR. VICK: That may be the Black's Tire I believe.

MS. MULLINS: Okay.

MR. VICK: Black's Tire sign.

MS. MULLINS: I just noticed it, so that's why I was asking. Thank you.

CHAIR DONALDSON: Now in this picture here, can you see it? I know ours' is clearer on the computer than up there. Where's your? Your property is right there where the sign is right?

MR. VICK: It would actually be, right here would be to the right.

CHAIR DONALDSON: And what, and that's, and your property is next to Black's Tire?

MR. VICK: It's actually Stubb's Body Shop.

CHAIR DONALDSON: Stubb's Body Shop.

MR. VICK: It's directly next door and then directly next door to Mr. Stubb's property is the Black's Tire.

CHAIR DONALDSON: Okay. Is this a sign that's going to be for the business or is it a sign for?

MR. VICK: It will be for any existing local companies. We basically build the sign and then we advertise local businesses on the sign.

CHAIR DONALDSON: Okay. So it's not your property. It's not.

MR. VICK: No sir. I actually have a lease with the property owner to erect the sign.

CHAIR DONALDSON: How many more of these applications do you have in the pipeline?

MR. VICK: Right as of now zero, and that's another point that I wanted to make is that I've known about the existing changes that the county wants to make to limit the area. So, you know, basically it was something where I said okay that's fine. You know, I'll look to other areas if there's certain areas where the county doesn't want the billboards I'd obviously, you know, I kind of wanted to respect you guys and not try to bring a ton in. So I guess my point is that I did, I tried to respect the wishes of the county. This was something that I had been working on for several months before anybody had said that this was something they didn't want. So, I think more than anything I'm just asking that you vote based on that.

CHAIR DONALDSON: Okay. Mr. McHenry you got any questions?

MR. MCHENRY: I'd like to know how high a sign are you going to put there. Is it going to be erected so it's going to block the sign that's already there?

MR. VICK: No sir. It would actually be set back off the right-of-way 50 feet. So it would be some setback, but now we do have a significant tree buffer that's existing behind the actual sign site.

CHAIR DONALDSON: Is it 35 feet?

MR. HUMPHREY: 35 feet.

MR. VICK: The overall height, yes sir is.

CHAIR DONALDSON: 35 feet.

MR. VICK: The overall height we're applying for is 35 feet.

MR. MCHENRY: Okay

MR. VICK: At the top.

CHAIR DONALDSON: Mr., oh is that all?

MR. MCHENRY: Yes.

CHAIR DONALDSON: Mr. Decosta?

MR. DECOSTA: Since you're leasing the billboard out to any businesses, is there any from my [inaudible], is there anything that stipulates who can lease from you? I mean, is there something to prevent "Dare to Bare" like you see down I-95 from going up there?

MR. VICK: Right. Now most of the time, I do run into this objection a lot when I lease a property from a property owner. So, I do run into that objection a lot. It's something that unless it's specifically prohibited in the lease, you know, we could advertise any business that's a legitimate business within the county or even outside the county or within the city. There's nothing that specifically prohibits that.

MR. DECOSTA: Unless it's worked out between you and the landowner?

MR. VICK: Between us and the landowner.

MR. DECOSTA: And there's nothing in your lease now that prevents that.

MR. VICK: Well, there isn't. There is nothing in this lease that would prevent that. Obviously, if it was something that it would concern you guys. I mean I don't know if you're even allowed to be able to put that as a site-related condition, but it is something that we would be able to provide. That, if there were certain things that we wanted to specifically prohibit. I don't know exactly.

CHAIR DONALDSON: I don't think the county has any specific. Not like the city when they got all upset about that, the plastic surgeon sign which is inside the city and they came up with new regulations, but okay.

MS. SPEICHER: The zoning ordinance only addresses obscene or illegal activities.

CHAIR DONALDSON: And the question is as Mr. Tally and you know and I know what's obscene. The Supreme Court can't even tell us so you know. It gets down to that, but did that answer your question?

MR. DECOSTA: Yes.

CHAIR DONALDSON: Mr. Humphrey?

MR. HUMPHREY: I'm fine.

CHAIR DONALDSON: Okay. Any other questions?

MR. VICK: Is it okay if I say one more thing about it though?

CHAIR DONALDSON: Yes sir.

MR. VICK: I mean those types of businesses just really aren't the types of businesses we go after.

CHAIR DONALDSON: Well, it's really not an issue because it's a freedom of speech issue. We're not getting involved in that anyway. It was just some side. He had a question and I was just sort of answering it which is we really can't. The county doesn't have any restrictions on that. The city does have some.

MR. VICK: Right.

CHAIR DONALDSON: Which I don't know if they have been tested or not, but so we really, we're not getting. We're not here tonight to get into freedom of speech issues and stuff like that. We'd be here forever. Mr. Tally, do you want to say anything sir?

MR. TALLY: I think Mr. Vick pretty much covered just about everything as far as this case because I think one significant thing that might be of relevance that I know a couple of commissioners may have spoken about is if you go back and look at the existing land uses around the property with the residential being, buffering up what would be the east side of the property, there is a significant amount of buffer there with tree line growth. Therefore, we believe you know based on with the proper buffering there, there would not be an issue with any of the residential uses to the east side of the property.

CHAIR DONALDSON: Okay. Anybody else? Anybody from the audience want to be heard in opposition? Yes ma'am.

MS. SPEICHER: Excuse me, Chair. We do have some individuals who showed up late.

CHAIR DONALDSON: Okay, come on up here please ma'am.

MS. SPEICHER: And have not signed up.

CHAIR DONALDSON: Alright. What's your name ma'am?

MS. C. CROMWELL: My name is Carolyn Cromwell and we are the owners. This is Pastor James Cromwell and Sister Latasha Cromwell. We are the pastor. This is the pastor of the church, New Birth Ministries that's located.

MR. CROMWELL: Right behind that cross.

MS. C. CROMWELL: Right behind that cross.

MR. HASTY: They need to be sworn in.

MS. SPEICHER: Excuse me, Chair. Can we have them sworn in?

CHAIR DONALDSON: Well, wait just a second. I'm trying to. I'm forgetting their names. And it's Latasha?

MS. L. CROMWELL: Yes sir.

CHAIR DONALDSON: You're their daughter?

MS. L. CROMWELL: Yes sir.

Chair Donaldson swore in all three speakers.

CHAIR DONALDSON: Alright, Ms. Cromwell you want to speak for the group or?

MS. C. CROMWELL: I'll let the pastor speak for the group.

CHAIR DONALDSON: Okay.

MR. CROMWELL: My concern is that they're putting the billboard up there and I think one of the members was concerned about what was going on the billboard. My church is located right behind the hill where that cross is sitting there and I heard them say that it was a vacant church. The church is not vacant.

MS. C. CROMWELL: It's not vacant.

MR. CROMWELL: I've been there for about two years.

CHAIR DONALDSON: Okay. Can you show us on that map where the church is? Can you give him, does he have a pointer?

MS. C. CROMWELL: Can you put the cross back up?

CHAIR DONALDSON: Hold on one second. We're going to give you a little light pointer.

MR. CROMWELL: There's that cross right there. If you go right down behind.

CHAIR DONALDSON: No no. We want you to show us on the map. Go back to the map. The overview you had. Right there. Can you show us where the cross is at?

MS. C. CROMWELL: Not on there.

MR. CROMWELL: No. I'm trying to remember.

CHAIR DONALDSON: It's too vague? I can't see it tonight for some reason, you can't see it tonight.

MR. HAIGH: [Inaudible]

MS. SPEICHER: It's number 6 [referring to the Land Use map] on that slide.

CHAIR DONALDSON: It's number 6? Oh, it's directly behind. Alright where is the cross located at?

MS C. CROMWELL: Directly in front.

MR. CROMWELL: The cross would be located right in here and I think we're back down here.

CHAIR DONALDSON: Yea the blue is the church. [Pointing to the land use slide.]

MR. & MS. C. CROMWELL: Right.

CHAIR DONALDSON: And the cross is where?

MR. CROMWELL: And the cross is right up the hill from the church. Right in here.

CHAIR DONALDSON: In front of his, the property where they want to put the sign up.

MR. CROMWELL: Exactly.

MS. C. CROMWELL: Yes.

CHAIR DONALDSON: Well how did you get the cross up there?

MR. CROMWELL: The cross was there when we got there and there was an old sign there when we got there and so we just left the sign there until it was taken down and then they put it on my property and I disposed of it. The cross was left there and it's been there for ever since I can remember.

CHAIR DONALDSON: So, but it's actually sitting on somebody else's property.

MR. CROMWELL: It's sitting on Mr. Sutton's property and he gave the owners before that the right to set that there.

CHAIR DONALDSON: Whose prop-? Mr. who? I'm sorry I didn't hear.

MS. C. CROMWELL: Sutton.

MR. CROMWELL: Steve Sutton.

CHAIR DONALDSON: Sutton. Mr. Vick, who is Mr. Sutton?

MR. VICK: Mr. Michael Keith Sutton is the owner of the property.

MR. CROMWELL: Keith Sutton.

CHAIR DONALDSON: Okay. The one you've signed a lease with to put a sign up.

MR. VICK: Yes sir and yeah the church sign and the cross were existing and [inaudible] I worked with the Inspections Department to actually keep the cross there. It's something that we actually, I fought for it to actually stay because they wanted me to get rid of both of them and I know Mr. Sykes and I had gone back and forth about it. I wanted to keep that there and we actually had to remove another sign that was an illegal sign off of the property as a permit-related condition.

CHAIR DONALDSON: Okay.

MS. C. CROMWELL: Now sir, they did contact us from the courthouse and told us that that sign that was sitting there did have to come down due to the fact of the zoning and there wasn't I guess the proper paperwork were to be sitting there but we didn't.

CHAIR DONALDSON: Was it one of those portable signs?

MS. C. CROMWELL: Yes sir.

CHAIR DONALDSON: Okay. Yeah. They're not permitted.

MS. C. CROMWELL: Right. So, Mr. Vick was not a part of that portion of moving that because they contacted me way before I ever talked to him. So, and that hill.

CHAIR DONALDSON: Well let me ask you this Ms. Cromwell. Is your concern that his sign is going to block the.

MS. C. CROMWELL: Yes. Yes sir.

MR. CROMWELL: My concern is his sign is going to block the view of the church. Also, my concern is also if they advertise something up there that is obscene, then I've got a church sitting right behind there.

MS. C. CROMWELL: Yeah. It's not conducive to the church.

CHAIR DONALDSON: Well two things. We don't know if it's obscene until someone puts it up.

MR. CROMWELL: You're right.

MS. C. CROMWELL: That's true.

CHAIR DONALDSON: And as I said before, you know, that's a freedom of speech issue and it gets into other issues that's well beyond the province of this board and secondly, as an aside, what better counterweight to an obscene sign than a cross. But, you see what I'm saying. I'm not trying to make light of it, but.

MS. C. CROMWELL: Yeah.

MR. CROMWELL: I understand that, but the cross, from my understanding the cross has got to come down.

MS. C. CROMWELL: Yeah. That's [inaudible].

CHAIR DONALDSON: Well, does the cross have to come down?

MS. SPEICHER: No.

MS. C. CROMWELL: No. Nobody has come back and said that the cross has to come down. No sir.

CHAIR DONALDSON: Is the cross legal?

MR. SYKES: It's my understanding, when I looked at it Judge, Mr. Chairman, best I could find out that the cross has been there since Moby Dick was a minnow.

MS. C. CROMWELL: Yes sir.

MR. SYKES: It has been there for ages.

MR. HUMPHREY: It has been there a long time.

CHAIR DONALDSON: I know the cross there. I know where it's at now.

MR. HUMPHREY: Me too.

MR. SYKES: The message on the cross, and correct me if I'm wrong, simply says "Jesus Saves".

MS. C. CROMWELL: Yes sir. Exactly.

CHAIR DONALDSON: Right.

MR. SYKES: And years ago, through the county attorney's office a similar situation arose in another location in the county and it was deemed to be freedom of speech. I relied on that to determine that the cross can stay as long as that message stays like it is.

MS. C. CROMWELL: Yes sir.

CHAIR DONALDSON: Well we don't control the landowner; it's really between you and the landowner. The county is not going to come out there and tell you to take the sign down okay.

MS. C. CROMWELL: Yes sir.

CHAIR DONALDSON: So, and we're not going to tell you to do that. The only thing before the court [board] tonight is whether or not he's entitled to a special use permit to put a sign up. What you're going to have to do is, in relation to the cross Mr. Vick, where is your sign going to be?

MR. VICK: The sign, the cross is actually like almost on the right-of-way.

CHAIR DONALDSON: I know. I saw that. It's right there up on the crest above the road.

MR. VICK: Exactly, so the billboard sign will actually be setback fifty feet from the property line so it will be set back significantly far and the view of the cross is actually. It will not be affected at all. As far as the, their concerns about blocking the view of the church, there is a significant tree buffer between where the sign would be located and the actual church.

CHAIR DONALDSON: Okay.

MR. VICK: There are power lines that run across so.

CHAIR DONALDSON: Is there no building on the land right now?

MR. VICK: No it's vacant. It's a vacant lot.

MR. CROMWELL: I don't think anything can be built on it, because there are power lines run across there.

MS. C. CROMWELL: Because there are power lines across.

MR. CROMWELL: So, he said if his sign is going to be off at fifty back it's sitting almost in my yard.

MS. C. CROMWELL: So, it will almost be on our property then and he keeps saying about this buffer. Where he wants to put the sign at, there are hardly any trees there because we had that. It's a little, but it's over to this side.

CHAIR DONALDSON: Well according to the overlay that we're looking at right now and that's up there, the sign location is really towards the front center of the property.

MS. C. CROMWELL: Okay. Front center.

CHAIR DONALDSON: And it runs right along the CP&L Easement which I assume is the power lines.

MS. C. CROMWELL: Power lines.

CHAIR DONALDSON: Run, it's right next to there. So, I mean you understand we can't really control what he puts up there.

MS. C. CROMWELL: Yes.

CHAIR DONALDSON: You know that's between him and the what the landowner has to do. You also understand your objection is really and I'm not trying to put you off, but you're really going to have to talk to your landowner about it and say you know but the county...

MS. C. CROMWELL: Oh, we've tried to buy the property from him and he [inaudible].

CHAIR DONALDSON: But the county isn't going to get involved with the cross. Okay.

MS. C. CROMWELL: Okay

CHAIR DONALDSON: So, any other issues you're going to have to deal with the landowner if it comes up okay.

MS. C. CROMWELL: Okay.

CHAIR DONALDSON: Are y'all satisfied with that?

MS. C. CROMWELL: I'm satisfied.

CHAIR DONALDSON: You want to say anything else Mr. Cromwell?

MR. CROMWELL: No, I'm good sir.

CHAIR DONALDSON: Ms. Latasha Cromwell, do you want to say anything.

MS. L. CROMWELL: No.

CHAIR DONALDSON: Okay. Thank you ma'am.

MS. C. CROMWELL: Yes.

CHAIR DONALDSON: Oh, I'm sorry. Did any of the staff or board members have any questions?

MR. HUMPHREY: I don't think so.

MS. MULLINS: Not at this time.

CHAIR DONALDSON: I apologize. Okay. Any other witnesses? Anyone else want to be heard?

[Public Hearing closed.]

CHAIR DONALDSON: Any discussion? Mr. Humphrey?

MR. HUMPHREY: My only concern was and I think you may have hit on this earlier, with this new overlay district that we are getting and how does this relate. My concern would be are we going to do something here tonight that is bordering on what they are doing and I think you kind of answered with respect to that, and I wondered.

CHAIR DONALDSON: Well Mr. Tally, you can thank Mr. Vick there because three months ago he was the one who brought that one in and it was so close to the airport we just said you know and it, that was, I suggested from, as the Chairman, that the city and the county need to get together if they wanted to do something about the entrance way into Fayetteville which is what they were concerned about. And I can't remember did we put that one off or did we just not?

MR. HUMPHREY: I think one we went ahead with. That one near the airport. Yeah.

MR. VICK: That's this one.

MR. HUMPHREY: Yeah. That was near the airport. Mr. Whitted was here that night. The airport director.

CHAIR DONALDSON: Yeah. We continued that one. Didn't we?

MR. HUMPHREY: I think that one passed didn't it Mr. Vick?

MR. VICK: The first one, you guys actually approved the first one when the guys from the airport were here. You guys did approve that first one.

CHAIR DONALDSON: That's right.

MR. HUMPHREY: That's right.

MR. VICK: And then between then and the next one that was when you know you guys suggested for the city and the county to get together you know and then continued on.

CHAIR DONALDSON: Well, as it stands right now, the way I understand it and you correct me if you think I'm wrong Mr. Tally or Mr. Hasty, he put his application in before and if he meets all the conditions and we grant it and he is entitled. I mean if he meets all the conditions, he's entitled to it basically, not as a matter of right.

MR. HASTY: That's correct. His application, even if they pass a new ordinance is under [inaudible].

CHAIR DONALDSON: Even if we put it off tonight

MR. HASTY: It would have to be

CHAIR DONALDSON: Still, we have to relate it back to what was in effect before.

MR. HASTY: Exactly.

CHAIR DONALDSON: Not the new overlay. That's why I asked the question of how many more he had in the pipeline on this.

MR. HUMPHREY: Yeah. I was just kind of wondering if we'd get kind of spanked if we did this. That was my concern. If that's not a valid concern then I see no reason not to go ahead.

CHAIR DONALDSON: I don't think so. Ms. Mullins.

MS. MULLINS: I don't think. If he had his application already in, before this

CHAIR DONALDSON: What happens in the future with the overlay is really not going to affect.

MS. MULLINS: Right.

CHAIR DONALDSON: So there's no really sense in putting this one off. We either rule on it yay or nay. That's my opinion.

MR. HUMPHREY: Okay.

MS. MULLINS: I agree.

CHAIR DONALDSON: Because even if we put it off, it still goes back to what was in effect when he paid his application. Mr. McHenry?

MR. MCHENRY: I have nothing. The only concern I was having was about where the sign was pertinent to where the church was and I understand that there is a buffer between them so that doesn't.

CHAIR DONALDSON: Yeah. You can see on the overlay right there the sign is way up towards the front. The cross is even in front of that and the church is back behind that property there and it looks to be. How deep is that property there? I can't tell from the writing.

MR. DECOSTA: 272 feet.

CHAIR DONALDSON: 272 feet. So it's like 215-220 feet buffer between the sign and the back property line.

MR. MCHENRY: Right.

CHAIR DONALDSON: Mr. Decosta?

MR. DECOSTA: No sir.

CHAIR DONALDSON: Any motions? I'm sorry. Any other discussion? Okay. Any motions?

MR. HUMPHREY: I'm going to make a motion that we approve this if the county will allow us to approve it and I guess we are based on what you're telling me here that we approve it, if Mr. Vick will meet all the conditions that has been set aside by the Planning Land Use people and you usually do a good job of that and I'm assuming you will still continue. If that be the case, then I'll offer a motion that it be approved.

CHAIR DONALDSON: Any second?

MS. MULLINS: I'll second.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
MULLINS	YES	

MCHENRY YES
DECOSTA YES

MR. HUMPHREY: In granting the Special Use Permit, 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.

This is a question I just asked Mr. Vick and he says he will do all of this and he normally does a good job of doing this so I think we can say yes it will do that on this particular one.

2. The use meets all required conditions and specifications.

Again, this has been said in his testimony that he will meet any requirements that have been set out. We're correct in saying that. So, any specifications that is metered out, he is willing to meet those.

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

Well there's already some signs there so this would just be an additional sign and I think it's safe to say in this case fact that it will be maintaining the value of the adjoining and abutting property. Yes.

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.

That was the one that I had the problem with it with the Land Use but I understand that this application kind of precedes the Land Use so with that being the case we are in favor of that and we would say yes to that.

CHAIR DONALDSON: Any other findings that the staff wants? Any other findings that the board wants? Okay thank you Mr. Humphrey.

B. P14-02-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 150 FOOT TOWER IN AN RR RESIDENTIAL DISTRICT ON 5.30+/- ACRES, LOCATED AT 3640 APPLGATE ROAD; SUBMITTED BY TYRONE TILLMAN ON BEHALF OF WORD OF LIFE EVANGELISTIC MINISTRY INC. (OWNER) AND GARY PENNINGTON ESQ., PENNINGTON LAW FIRM, LLC ON BEHALF OF SCANA COMMUNICATIONS, INC.

CHAIR DONALDSON: Who's here on behalf of that? Okay, come on up. And you are ma'am?

MS. PELLIZZARI: Dana Pellizzari, Pennington Law Firm.

CHAIR DONALDSON: Okay, because I was looking for a Mr. Pennington and I didn't see one out there and I figured. Okay. Is there anybody else here besides yourself?

MS. PELLIZZARI: Yes sir. Pastor Tillman is here. He's with the church that's located on the subject property. Tom Chambers. He is with Scana Communications. Jenna Hendricks is another attorney with Pennington.

Mr. Haigh reviewed zoning, sketch map, and land use of the area surrounding subject property. He briefly reviewed board packet material.

CHAIR DONALDSON: Ms. Mullins?

MS. MULLINS: Is that a church?

MR. HAIGH: Yes ma'am.

MS. MULLINS: Okay.

CHAIR DONALDSON: Mr. McHenry?

MR. MCHENRY: No.

CHAIR DONALDSON: Mr. Decosta?

MR. DECOSTA: No.

MR. HUMPHREY: I'm fine.

CHAIR DONALDSON: Okay, you can go back to the overview. Does staff have any position on this at all?

MR. HAIGH: No, we don't have a recommendation.

CHAIR DONALDSON: Okay. Ms. Pellizzari?

MS. SPEICHER: If I could, I would like to add that the property owner and the applicant have agreed to the 25 conditions in the packet.

CHAIR DONALDSON: Okay.

MS. SPEICHER: And have already started work on those.

CHAIR DONALDSON: Okay, Ms. Pellizzari go ahead.

MS. PELLIZZARI: Thank you sir. At this time, I would like to submit. This is a copy of the notebook that y'all received ahead of time. There are some supplemental materials that just include the updated construction drawings which as mentioned incorporates some of the changes that we've already gotten to make.

MR. HUMPHREY: Can't hear you.

MS. PELLIZZARI: Oh, I'm sorry. This is a copy of the notebook that we're putting into the record at this time. It's a copy that y'all have received ahead of time and it does include some supplemental materials which are just construction drawings which have been updated to again incorporate some of the changes that have already begun to be made. In addition, we have a PowerPoint which includes actually many of the same slides that have already been shown but at this time we would also put that cd into the record as well. Good evening sir. As mentioned, this is an application for a special use permit to construct a 150 foot monopole tower that will be used for

wireless telecommunications. It will be built by SCANA Communications and SCANA Communications currently has a lease on the property with the church. The primary anchor tenant will be Verizon Wireless. The height of tower is well below what is allowed in the county. The county limit I believe is 450 feet. We are requesting a 150 foot tower, so it will be well below the maximum height allowed. It will not be lit by FAA standards. The property itself is about 5.3 acres, so there is more than sufficient room to meet all the setback requirements. This is just an overview so you can get a better idea of where the property is located in terms of the surrounding properties. Our property, subject property is the big property located in the middle. The church, of course, is located towards the front of the property and our lease area for the tower would be behind the parking lot. Again, these are several slides that you probably have already seen. This is a view looking back towards the lease area from the road. This would be again the same view just closer up, so our leased area would be right in that grassy area. This is looking back from the leased area towards the road. This would be part of our access and utilities [inaudible]. This again is a photo, a more close up photo of the lease area itself. This is a photo looking more of the same property, but looking more of the lease area. This is a view looking south of the lease area. This is looking back from the lease area back towards the roadway. As you can see, tell from some of the photos, the area, the property itself is fairly heavily wooded on two sides. There are surrounding homes outside the area of the church. There are also some commercial uses again as mentioned by the Planning staff. The setback requirements are 150 feet in each direction which we meet 150 foot facing to the west and to the south and we're well over 150 feet facing north and facing east. In fact, we're well over, a little above 300 feet from the Applegate Rd, which is the nearest right-of-way. Again, Verizon Wireless would be the anchor tenant. Verizon is currently located on other towers outside of the 1 mile radius of this particular location. This site would be used for both coverage and for capacity, meaning that the sites that Verizon is currently located on, this site in itself will offload some of those sites that Verizon already has and will provide additional coverage for primarily the Rockfish Road and the Camden Road area. The property is zoned Rural Residential and this is a permitted use within that zoning district. As required by the ordinance, the lease area will be fenced in and will have a 10 foot fence surrounding, which will be secured at all times and as mentioned previously also there's a 25 foot landscaping buffer that will surround the entirety of the lease area. The tower will accommodate four carriers in total. Verizon of course would be at the top and then the tower would be designed for three additional carriers to be located beneath that. And we have again submitted an application that has several different components to it, which y'all have in your notebooks that have been previously provided. And in terms of findings by the board, we do believe that the use would not materially endanger the public health or safety. Again, the site in and of itself would be secured, surrounded by a 10 foot fence, would be secured at all times so I don't think access would be an issue. We do meet all the conditions and the specifications of the ordinance as shown by the materials that have been previously submitted. We did, one item that we did include in our application which was required was an impact study of the property. Whether the property values of the surrounding properties, particularly the residential properties, would be harmed by the use of this property and the impact study that was done found that the surrounding properties would not be detrimentally affected by the construction of the tower. Basically, it would have no effect on the property values. Lastly, whether the location and character would be in harmony with the area and we do believe that it would. There are some power lines that run through the back area of the church, and certainly this is a wireless telecommunications tower and of course the landscape buffer would be in harmony with the surrounding vegetation that's around the property at this time. I'll be glad to answer any questions that anyone might have.

CHAIR DONALDSON: Ms. Mullins?

MS. MULLINS: No.

CHAIR DONALDSON: Mr. McHenry?

MR. MCHENRY: No, I have none.

CHAIR DONALDSON: Mr. Decosta?

MR. DECOSTA: No.

MR. HUMPHREY: Do you have any. I know you said Verizon is going to be occupying the space. Do you have other, AT&T and people or something that are interested in your tower at this time or that's to be developed later?

MR. CHAMBERS: I'm Tom Chambers with SCANA Communications. At this time, we don't have any other carriers under contract, but we have constructed this tower in such a fashion that makes the structural capacity available for additional co-locations. We've arranged this compound, developed this compound where we can fully utilize this space rather than a small compound and I believe we can get four carriers on this pole very easy. It's designed for four carriers and all the current and future anticipated uses, so we've built a lot of excess surface capacity hoping we would get some of these other carriers and I believe we will.

CHAIR DONALDSON: That's in compliance with the county. That's just; otherwise we'd have every other carrier in here.

MR. HUMPHREY: That's in compliance. Yeah I was just thinking the more carriers you can get the less amount of power the tower will need, so that's fine. I don't want AT&T, and then so and so, but that's fine. Very good. Thank you, you answered correctly.

MR. CHAMBERS: Our business depends on having multiple carriers, so we welcome them.

MR. HUMPHREY: Thank you sir.

CHAIR DONALDSON: Anybody got any questions?

MS. MULLINS: Does the church own that property?

CHAIR DONALDSON: Yes.

MS. MULLINS: It does. Okay.

CHAIR DONALDSON: Anything else, Ms. Pellizzari?

MS. PELLIZZARI: No sir, not if the board doesn't have any more questions.

[Public hearing closed.]

CHAIR DONALDSON: Any discussion by anyone?

MR. HUMPHREY: All my questions have been answered.

CHAIR DONALDSON: Motion to approve or disapprove?

MR. MCHENRY: I'd like to make a recommendation that it be approved.

CHAIR DONALDSON: Second?

MR. HUMPHREY: I'll second that motion.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
MULLINS	YES	
MCHENRY	YES	
DECOSTA	YES	

CHAIR DONALDSON: Thank you Ms. Pellizzari.

MS. PELLIZZARI: Thank you sir.

CHAIR DONALDSON: In granting the Special Use Permit, 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 complies with-

[Public Hearing reopened.]

CHAIR DONALDSON: Oh, I did have one question. Y'all are going to comply with the 25 stipulations that the county/board came up with, the staff came up with right?

MS. PELLIZZARI: Yes sir. Those have previously been provided.

CHAIR DONALDSON: Okay.

MR. HAIGH: Yes.

CHAIR DONALDSON: Alright. Thank you.

[Public Hearing closed.]

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

It's in a residential, rural area. It complies with the county zoning as a permitted use. It has sufficient setbacks and so as to protect any surrounding property.

2. The use meets all required conditions and specifications.

The use meets all required conditions and specifications and will comply with the 25 stipulations that the staff has imposed.

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

It is a public necessity given the overwhelming increase in use of wireless telephone and data transmission and does not materially affect the surrounding value of the property.

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 it in general conformity with Cumberland County's most recent Land Use Plan:

Also, that it has appropriate screening, security fence, and vegetation. Therefore, and so ordered a Special Use Permit is granted. Additionally, so long as they comply with the 25 uses stipulated, the 25 conditions stipulated.

CHAIR DONALDSON: Thank you ma'am.

MS. PELLIZZARI: Thank you sir.

CHAIR DONALDSON: Y'all have a good evening. Are y'all located in Raleigh?

MS. PELLIZZARI: No sir. We're in Columbia, S.C.

CHAIR DONALDSON: Okay. You licensed in North Carolina?

MS. PELLIZZARI: I am.

CHAIR DONALDSON: Okay.

MS. MULLINS: We should have asked that before.

CHAIR DONALDSON: As a retired judge, I have to ask that question. Okay last one.

C. P85-03-C: REVOCATION OF A SPECIAL USE PERMIT (NEE SPECIFIED CONDITIONAL USE PERMIT) OF A MOTOR VEHICLE WRECKING YARD/JUNKYARD, IN A C(P) PLANNED COMMERCIAL DISTRICT ON 2.41+/- ACRES LOCATED AT 3580 GILLESPIE STREET. RALPH HOLLOMAN (OWNER)

Chair Donaldson read the case heading.

CHAIR DONALDSON: I love these, so we can get rid of these. You want to tell us the facts on this one.

MR. HAIGH: As you might remember from last month's case, one of the conditions for Mr. Vick's billboard post or permit was that they revoke this junkyard permit.

CHAIR DONALDSON: Oh yeah.

Mr. Haigh reviewed zoning, sketch map, and land use of the area surrounding subject property. He briefly reviewed board packet material.

[In reference to a picture of a two room motel on the subject property]

CHAIR DONALDSON: A what?

MR. HUMPHREY: A two room motel.

MR. HAIGH: And also as a condition of Mr. Vick's case last month, this building will be demolished.

CHAIR DONALDSON: That picture wasn't shown to us last month. I'd remembered a two room motel.

MS. MULLINS: I don't remember seeing it either.

MR. HAIGH: I don't think there was a picture, but it was one of the conditions that was listed.

CHAIR DONALDSON: Okay go ahead. I've never seen a two room motel.

MR. HAIGH: It is funny that-.

CHAIR DONALDSON: Except in movies and some of those sleazy hotels they show in movies, but you know.

Mr. Haigh continued reviewing packet material.

CHAIR DONALDSON: Anybody want to see anything? This is all by agreement right?

MR. HAIGH: Yes sir.

CHAIR DONALDSON: Anybody want to discuss it?

MR. HUMPHREY: I do not. It's already agreed.

CHAIR DONALDSON: Motion to grant it, to grant the recovation?

MR. HUMPHREY: I would offer that motion to grant it.

CHAIR DONALDSON: Second?

MS. MULLINS: Second.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
HUMPHREY	YES	
MULLINS	YES	
MCHENRY	YES	
DECOSTA	YES	

10. DISCUSSION

There was none.

11. UPDATE(S)

- **P14-17: COLISEUM TOURISM OVERLAY DISTRICT & BILLBOARDS**

MS. SPEICHER: I would like to, just to quickly explain to you what the Planning Board. They heard the Coliseum Tourism Tuesday evening and-.

CHAIR DONALDSON: Was there a big turnout?

MS. SPEICHER: Yes, there was quite a few.

CHAIR DONALDSON: For or against?

MS. SPEICHER: They weren't so much against the Coliseum Overlay provisions. It was the one residential subdivision requesting to be taken out of the overlay district and the Planning Board did vote to recommend that the subdivision of primarily stick-built homes come out.

CHAIR DONALDSON: Which subdivision?

MS. SPEICHER: It's Dogwood Acres.

CHAIR DONALDSON: Okay.

MS. SPEICHER: Robert, pull up the. You have it in your packet. It's the square subdivision on the map that's attached to the.

CHAIR DONALDSON: Okay. Yeah.

MS. SPEICHER: Rectangle I should say. It's this where the R6A is located. They are removing that, but not the Wildlife Club. The firing range will remain in it, in the overlay district if the Board of Commissioners follows the Planning Board's recommendation.

CHAIR DONALDSON: Oh you're talking about the Ducks Unlimited place out there.

MS. SPEICHER: Yes.

MS. MULLINS: So it won't be affected?

MS. SPEICHER: Right.

MS. MULLINS: Okay. So we're looking at just the Dogwood Acres that we.

MS. SPEICHER: Just the subdivision will be taken out of the proposed overlay.

MS. MULLINS: Okay

MS. SPEICHER: And they also voted in the provisions there is no outdoor storage within the overlay district and they voted to recommend to the commissioners that existing businesses with outdoor storage that could screen the storage from public view from any street or adjacent property could remain. All other outdoor storage or any illegal, they'd still have to get theirs

cleaned up. And we did in surveying this area find several sites with, I can't say are illegal because we haven't really confirmed all of them yet, but we don't have approvals on them.

CHAIR DONALDSON: Okay. Thank you. Any other discussion?

MR. HUMPHREY: I have none.

CHAIR DONALDSON: Any other business from the staff, board members.

12. ADJOURNMENT

Chair Donaldson adjourned the meeting at 8:03 p.m.