

Members:
George Quigley, Chair
John R. Swanson, Vice-Chair
Oscar L. Davis, III
Melree Hubbard Tart
Joseph M. Dykes



Alternates:
Martin J. Locklear
Horace Humphrey
Carrie Tyson-Autry
William L. Tally
Randy Newsome

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

130 Gillespie Street
Fayetteville, NC 28301
(910) 678-7602

MINUTES
JANUARY 21, 2010
7:00 P.M.

Members Present

George Quigley, Chair
Oscar L. Davis, III
Melree Hubbard Tart
Horace Humphrey
Carrie Tyson-Autry

Absent Members

John R. Swanson, Vice
Chair (Excused)

Staff/Others Present

Harvey "Butch" Raynor,
County Attorney
Patricia Speicher
Pier Varner
Angela Perrier
Joan Fenley
Marili Melchionne

Chair Quigley called the meeting to order at 7:00 p.m. in Public Hearing Room # 3 of the Historic Courthouse at 130 Gillespie Street, Fayetteville.

1. ROLL CALL

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

2. ADJUSTMENTS TO THE AGENDA

There were no adjustments to the agenda.

3. APPROVAL OF THE NOVEMBER 19, 2009 MINUTES

A motion was made by Ms. Tart and seconded by Mr. Humphrey approving the minutes as written. The motion passed unanimously.

4. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board Members.

5. PUBLIC HEARING DEFERRALS

There were no deferrals.

6. BOARD MEMBER DISCLOSURE

There were no Board Member disclosures.

7. POLICY STATEMENTS REGARDING APPEAL PROCESS READ

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

8. PUBLIC HEARING(S): **STAFF INITIATED WITHDRAWAL**

- **P09-09-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 927, SUB-SECTION C.1, TO ALLOW YARD SETBACKS OF UP TO 33 FEET WHERE 220 FEET IS REQUIRED FOR A 220 FOOT TOWER, AND A SPECIAL USE PERMIT FOR A TOWER IN A RR RURAL RESIDENTIAL DISTRICT ON A .36+/- ACRE PORTION OF A 97.77+/- ACRE TRACT; LOCATED AT 1511 LAKE UPCHURCH DRIVE; SUBMITTED BY THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.; OWNED BY H.D. BOWEN, JR.

MS. SPEICHER: Ms. Speicher stated this case is being withdrawn due to the applicant re-submitting a request on the same parent tract but different property than what was advertised – *see Case No. P10-04-C below.*

CHAIR QUIGLEY: I will accept a motion to withdraw this case.

MR. DAVIS: Made the motion.

MS. TYSON-AUTRY: Seconded the motion.

CHAIR QUIGLEY: We have a motion and it has been seconded., Is there any discussion? All in favor of withdrawing Case P09-09-C signify by saying I.

Quigley:	Yes
Davis:	Yes
Tart:	Yes
Humphrey:	Yes
Tyson-Autry:	Yes

CHAIR QUIGLEY: Case P09-09-C has been withdrawn, now we have the public hearings. Ms. Speicher may we hear the next case, please.

- A. **P10-01-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A CONVENIENCE CONTAINER AND RECYCLING FACILITY IN AN A1 AGRICULTURAL DISTRICT ON 1.39+/- ACRES, LOCATED AT 2331 POLLY ISLAND ROAD, SUBMITTED BY DONALD P. TEW ON BEHALF OF

CUMBERLAND COUNTY AND MICHAEL TATE, PLS.; OWNED BY CUMBERLAND COUNTY.

MS. SPEICHER: Presented the zoning, land use, and photos of the site to the Board. She explained that there is a turkey farm, a residential structure and farmland on the site. Ms. Speicher read the contents of the application: hours of operation, Sunday & Wednesday will be closed, Monday and Friday will be open from 7:00 am to 3:00 pm, Tuesday and Thursday from 10:00 am to 6:00 pm, and Saturday will be open from 8:00 am to 4:00 pm. There will be one employee who will be opening and closing the facility. The Convenience Container and Recycling Facility will have one portable toilet on site.

CHAIR QUIGLEY: Are there any questions for staff?

MS. SPEICHER: Offered a reminder that this was an amendment to Section 905.1 of the Cumberland County Zoning Ordinance.

CHAIR QUIGLEY: Are there any questions for staff? There being no questions, we have persons to speak in favor and opposition. In favor, we have Mr. Bobby Howard. Mr. Howard was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. HOWARD: My name is Bobby Howard, and my address is 3205 Davidson Drive, Fayetteville, North Carolina. Mr. Howard stated that there is a convenience center on Highway 210, but they were now having to find a new location, He assured they keep their sites clean and in good order and that these sites were a benefit to the community, providing a close accessible area for the citizens to take their waste.

CHAIR QUIGLEY: Thank you very much; I remind you that if any of the Board members have a question that you are still oath. Now in opposition we have Mr. Kevin R. West. Mr. West, was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. WEST: My name is Kevin R. West, and my address is 4656 Cedar Creek Road, Fayetteville, North Carolina.

CHAIR QUIGLEY: Thank you, please go ahead with your comments.

MR. WEST: The land to the south belongs to me and my brother and we raise livestock. We have a contract with Prestige Farms. We purchased the land in 1994 because it is isolated; there are no homes or dwellings in this general area. Livestock performs better in isolated situations for breeding and there are pests concerns when a site like the one being requested is close or adjacent to your property. We have a large investment in time and finances. We raise quality animals for Prestige Farms and if a dump site was put there, it will threaten our investment. The site will be 577 feet from the front door of the turkey house. Performance could potentially be

hindered, and we could lose the contract with Prestige Farms and our way of life. That is why I am opposed to this case.

CHAIR QUIGLEY: Do any Board members have any questions?

MR. DAVIS: Do you have any specific examples of cases where it has been known that rodents have been attracted to sites like the one being requested and affected the adjacent farms? Do you have any factual information of this occurrence?

MR. WEST: No, I do not have.

CHAIR QUIGLEY: Are there any other questions? Thank you very much; I remind you that if you do return, you are still under oath. Now we have Mr. David V. Rives. Mr. Rives was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. RIVES: My name is David V. Rives, and my address is 106 Doe Run, Clinton, North Carolina.

CHAIR QUIGLEY: Thank you.

MR. RIVES: I am the vet for Prestige Farms. An isolated site is important to bio-security program because it minimizes the chance animals will be affected by increase in traffic and other animals that are carriers of diseases.

CHAIR QUIGLEY: Do any Board members have any questions?

MR. DAVIS: Same question.

MR. RIVES: I don't have any hard and fast incidences resulting in this happening, but in general principal as traffic increases the chances of them being exposed increases and is a major concern.

CHAIR QUIGLEY: Are there any other questions? Thank you very much, I remind you that if you do return that you do remain under oath. Now we have Mr. Sidney Bullard. Mr. Bullard was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. BULLARD: My name is Sidney Bullard, my address is 2224 Cedar Creek Road, Stedman, North Carolina.

CHAIR QUIGLEY: Thank you.

MR. BULLARD: As far as health problems, I have some too. My farm is 1,000 feet down the road, isolated with no houses and when dumps are closed people throw out trash and dump it in the middle of the highway because there is no one to watch the site at night. The problem of vandalism is also increased.

CHAIR QUIGLEY: Do any Board members have any questions? Mr. Howard, if you would like the opportunity to rebut, you may.

MR. HOWARD: I don't know if it is a rebuttal, but a difficult thing is communication. The container site will have a chain link fence and sealed compactor box. It will be an upgrade Convenience Container facility. I understand the concerns but I can promise you we will keep it picked up and operate a really efficient convenience center for people in the county.

MR. DAVIS: Is there any data of other container sites attracting animals?

MR. HOWARD: Not any more than what would already be out there.

CHAIR QUIGLEY: Any other questions?

MS. TART: Is it a county policy to keep the area policed?

MR. HOWARD: Yes it is. One of my biggest fears is to fail you; I'm not going to let anyone down.

CHAIR QUIGLEY: Any other questions?

MR. HUMPHREY: Are you the one responsible?

MR. HOWARD: I'm the one you call when you have a problem. I am the Director of Solid Waste.

MS. SPEICHER: There is a standard condition of approval, #16 which puts the burden on the county to ensure the site is well maintained.

MS. TART: I think it would be wise to read standard condition #16 for the record.

CHAIR QUIGLEY: Ms. Speicher, please read it for the record.

MS. SPEICHER: The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained to prevent odors, rodents and any other nuisances, so that the site remains in a constant state of being aesthetically and environmentally pleasing.

CHAIR QUIGLEY: The hearing is closed and the Special Use Permit is granted, do I have a motion?

MS. TART: I move to grant the Special Use Permit in regard to case P10-01-C, following case facts:

Case Fact 1: The use will not materially endanger the public health or safety if located according to the plan submitted the proposed site plan.

Case fact 2: The use meets all required conditions and specifications.

Case Fact 3: The use will maintain or enhance the value of adjoining or butting properties or that the use is a public necessity.

Case Fact 4: The location and character of the use if developed according to the plan 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.

MR. HUMPHREY: I second that motion.

CHAIR QUIGLEY: It has been properly moved and seconded, is there any discussion? All in favor of approving the Special Use Permit, signify by saying I.

Quigley:	Yes
Davis:	Yes
Tart:	Yes
Humphrey:	Yes
Tyson-Autry:	Yes

CHAIR QUIGLEY: That is unanimous, thank you. Next case, please.

- B. **P10-02-C**: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW AN OUTDOOR RECREATION/ AMUSEMENT, CONDUCTED OUTSIDE A BUILDING FOR PROFIT IN A PND PLANNED NEIGHBORHOOD DISTRICT ON 56.32+/- ACRES, LOCATED AT 533 CARVERS FALL ROAD, SUBMITTED BY NORWOOD EASON BRYAN, III AND GARRIS N. YARBOROUGH, ATTORNEY; OWNED BY CARVER'S FALLS, LLC.

MS. SPEICHER: Presented the zoning, land use, and photos of the site to the Board. Ms. Speicher read the contents of the application, she noted that there will be 1 full time employee and 3 part time employees; there will be a charge fee for recreational activities, and the hours of operation will be from 9:00 am to 10:00 pm Monday through Sunday. The days of operation will fluctuate with the season and weather.

CHAIR QUIGLEY: Are there any questions for staff?

MR. DAVIS: Where are the falls located?

MS. SPEICHER: Just north of the mill house (pointed to general area on the aerial map).

MS. SPEICHER: Section 920 is a recent amendment approved by the County Commissioners. She also noted that in the site profile, staff put emphasis on Condition Number 1, an application for a Watershed "No Approval Required" is a requirement; Condition Number 8 would require a flood plain development permit; RLUAC's comment, they support only very low impact development of the property,

as proposed in the Special Use Permit, that preserved the current natural values and avoids concentrating large groups of people.

CHAIR QUIGLEY: Are there any questions for staff? There being no questions, we have persons to speak in favor of this case. Mr. Garris Neil Yarborough was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. YARBOROUGH: My name is Garris Neil Yarborough, I'm with Yarborough Law Firm, my address is 115 E. Russell Street, Fayetteville, North Carolina.

CHAIR QUIGLEY: Thank you.

MR. YARBOROUGH: Showed a presentation [see Exhibit 1] and described how the Bryan family has owned the property for 50 years. Zip line is the perfect use of this property and will ensure an eco-friendly environment. This is one of the most scenic spots in Cumberland County. The Bryan family would like to preserve this in its natural state and would like to get some income of it to cover tax expenses. The heart of the Bryan family has always been in this property. The Bryan family could build condos, but they do not want to do that. Instead they want to provide a recreational facility for all ages and military families. The family is very concerned about protecting the environment but would also like approval of sustainable tourism. This development will promote economic growth, meet the environmental needs and will not initially be set up to handle large groups of people, and will be used to educate people. The County Commissioners just passed the authorization for this activity. No structures are proposed, the lines will be all clipped and hung on the trees. A professional will construct this and the family will maintain appropriate insurance. Canopy tours are gravity fed. There are two ordinances about outdoor uses, this is not under that section; it is under more natural section. An arborist would inspect the trees, give short educational films and there will be a nature trail. Historical education will be available and the family may decide to make an effort to generate electricity. The Land Use Plan calls for outdoor recreation. This project would be a low impact attraction for We will pave the roads if necessary using existing structures.

CHAIR QUIGLEY: Do any Board members have any questions?

MR. DAVIS: What about overnight use?

MR. YARBOROUGH: Overnight activities most likely will not take place. It is not our intention; we have no purpose in doing it over night or operating at night.

CHAIR QUIGLEY: Is there any plan to surface the trails?

MR. YARBOROUGH: No, we plan on keeping everything as natural as possible.

CHAIR QUIGLEY: Are there any others in favor with different information to offer? Please come forward. Mr. (unknown) Wilkins was asked to come forward, he was sworn in and asked to state his name and address for the record.

(No record of Mr. Wilkins full name and address.)

MR. WILKINS: This family for years has never interfered on the natural state of this property and has always cooperated with the community, letting the Boy Scouts and Girl Scouts using it as well.

CHAIR QUIGLEY: Do any Board members have any questions?

MR. YARBOROUGH: Mr. Baggett didn't sign in on time, but can he still speak?

CHAIR QUIGLEY: Sure, sir, come forward. Mr. Baggett was sworn in and asked to state his name and address for the record.

MR. BAGGETT: My name is Edwin Badgett, and my address is 545 Carvers Fall Road, Fayetteville, North Carolina 28311. The Bryans are wonderful people and I cannot foresee that anything bad could happen at this location.

CHAIR QUIGLEY: Do any Board members have any questions? The hearing is closed and open for discussion.

MR. DAVIS: Did anyone sign in opposition?

CHAIR QUIGLEY: There was one who signed in, but the name is marked out.

ACTING VICE-CHAIR DAVIS: I motion to approve P10-02-C and recommend we grant the Special Use Permit based on the following case facts:

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

Case Fact 2: The use meets all required conditions and specifications;

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

Case Facts 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 the Cumberland County's most recent Comprehensive Land Use Plan.

MS. TART: I seconded the motion.

CHAIR QUIGLEY: It has been properly moved and seconded, is there any discussion? All in favor of approving the Special Use Permit signify by saying I.

Quigley:	Yes
Davis:	Yes
Tart:	Yes
Humphrey:	Yes
Autry:	Yes

CHAIR QUIGLEY: That is unanimous; the Special Use Permit has been approved. Next case, please.

C. P10-03-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 235 FOOT TOWER IN A RR RURAL RESIDENTIAL DISTRICT ON 23.77+/- ACRES, LOCATED EAST OF BLACK BRIDGE ROAD (SR 1115) NORTHEAST OF LAKE UPCHURCH DRIVE (SR 1116); SUBMITTED BY HENRY C. PARKER JR. AND JOHN F. MAZUR, JR., LAND COM, LLC ON BEHALF OF SEQUOIA WIRELESS; OWNED BY HENRY C. PARKER JR.

MS. SPEICHER: Presented the zoning, land use, FAMPO sketch map, site plan, and photos of the site to the Board. Ms. Speicher read the contents of the application, she noted that the tower height is 235' and is a stealth flagpole, the tower will accommodate three users, and will be lighted. No employees will be at the site, and the tower will be monitored and maintained monthly. All documentation required by the ordinance is attached to the application, contained within the case file, and is available for review upon request.

MR. QUIGLEY: Is this another tower?

MS. SPEICHER: Yes, sir. Please note the Ordinance Related Conditions - Condition Number1, this site plan is not showing a 25' wide evergreen buffer area surrounding the tower compound, the applicant is aware that a revised site plan is required. Also please note Condition Number 7 requires proof of access and the noted conditions, 16 and 23 are standard conditions. Section 927 of the Cumberland County Zoning Ordinance is the applicable provision for this request.

CHAIR QUIGLEY: Do any Board members have any questions?

MR. DAVIS: Is this the one that came up at the last meeting?

MS. SPEICHER: This was brought up by the opposition at the last meeting. Each one will need to be approved or denied on their own merit.

CHAIR QUIGLEY: Are there any other questions? There being no questions, we have persons to speak in favor, but none for the opposition. In favor, we have Mr. John Mazur. Mr. Mazur was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. MAZUR: Yes, sir, my name is John Mazur, my address is 1130 Pine (unknown) Drive, Charleston, South Carolina, 29492.

CHAIR QUIGLEY: Thank you.

MR. MAZUR: Stated that what is in the package meets county criteria for a telecommunications tower at this location.

CHAIR QUIGLEY: Do any Board members have any questions?

MR. HUMPHREY: What type of buffering is required?

MS. SPEICHER: Condition Number 1 addresses the buffer requirements according to Section 927.F.

MR. DAVIS: What is the wind resistance?

MR. MAZUR: Being this far from the coast about 200 miles per hour

MR. HUMPHREY: How close is the closest residence?

MR. MAZUR: Mr. Parker can probably answer that.

MR. RAYNOR: Show it on the aerial map.

CHAIR QUIGLEY: Is there anyone else who wishes to speak? Mr. Randy Carpenter was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. CARPENTER: My name is Randy Carpenter, I'm a Certified Residential Real State Appraiser, and my address is 6474 Windy Creek Way, Fayetteville, North Carolina. .

CHAIR QUIGLEY: Thank you.

MR. CARPENTER: It is my opinion that the tower at this location will not have an negative impact on homes in this area, they would not adversely affected.

CHAIR QUIGLEY: Do any Board members have any questions?

MR. HUMPHREY: Have you talk to any neighbors?

MR. CARPENTER: No.

CHAIR QUIGLEY: Is there anyone else who wishes to speak? Mr. Clifford Parker was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. PARKER: My name is Henry Clifford Parker, Jr., and my address is 4841 Blacks Bridge Road, Parkton, North Carolina.

CHAIR QUIGLEY: Thank you.

MR. PARKER: In 2008 I was approached by T-Mobile and mine was the primary spot for tower area not readily developed.

CHAIR QUIGLEY: Do any Board members have any questions? There being no questions, the next person to speak will be Brice Swindle. Mr. Swindle was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. SWINDLE: My name is Bryce Swindle, and my address is 4769 Black Bridge Road, Parkton, North Carolina 28371.

CHAIR QUIGLEY: Thank you.

MR. SWINDLE: I think you should approve this case.

CHAIR QUIGLEY: Do any Board members have any questions?

MS. SPEICHER: To answer Mr. Humphrey's question concerning contacting the neighbors, 74 letters were sent to adjacent and surrounding property owners.

CHAIR QUIGLEY: The public hearing is closed and –

MR. JOHNSON: There is one more person to speak that came in late and did not sign up will you allow him to speak?

CHAIR QUIGLEY: We'll allow that. Mr. Groseclose was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. GROSECLOSE: My name is Jason Groseclose, and my address is 496 Long Point Road, Mount Pleasant, South Carolina 29464. I would like to address the pending application that Mr. Parker brought up; his site would not work for them.

CHAIR QUIGLEY: Do any Board members have any questions? (Mr. Swindle requested to address the board.)

MR. SWINDLE: Mr. Groseclose came to this board and wanted an offset variance for the green plot of land across the road and I don't like the insinuation that I was not truthful.

MR. GROSECLOSE: I was not insinuating that.

CHAIR QUIGLEY: Do any Board members have any questions? The hearing is closed and open for discussion.

MR. HUMPHREY: I motion to approve P10-03-C and recommend we grant the Special Use Permit based on the following case facts:

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

Case Fact 2: applicant must follow all required conditions and specifications at 100%;

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

Case Facts 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 the Cumberland County's most recent Comprehensive Land Use Plan.

MS. TART: Seconded the motion.

CHAIR QUIGLEY: It has been properly moved and seconded, is there any discussion? All in favor of approving this case signify by saying I.

Quigley:	Yes
Davis:	Yes
Tart:	Yes
Humphrey:	Yes
Autry:	Yes

CHAIR QUIGLEY: That is unanimous, thank you. Next case, please.

D.P10-04-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 220 FOOT TOWER IN A RR RURAL RESIDENTIAL DISTRICT ON A 3.52+/- ACRE PORTION OF A 97.77+/- ACRE TRACT; LOCATED AT 1511 LAKE UPCHURCH DRIVE; SUBMITTED BY H.D. BOWEN, JR. AND THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.; OWNED BY H.D. BOWEN, JR.

MS. SPEICHER: Read the case heading and showed map and photos for the site and referred back to the case that was withdrawn this evening. Immediately prior to this meeting I spoke to the applicant because it was not until late today it did not include a 25' buffer completely surrounding the site and we are requesting an added condition that a revised site plan be submitted for staff review and approval; this is not currently included in the conditions in the packet.

Of the Ordinance Related Conditions, the following should be noted: No. 1, NCDOT variance was approved, but verification or documentation that the approval pertains to this site, and conditions 15 & 25 don't need to be pointed out because they are standard conditions. The parent tract will be directly impacted by the Fayetteville outer loop; however the tower site is not shown in 250' right-of-way. A variance will for setbacks is not required.

CHAIR QUIGLEY: Where would you insert your condition for the buffer?

MS. SPEICHER: In your motion. I need to state for the record – required documents are in the file for review upon request.

CHAIR QUIGLEY: We have other people to speak. Mr. Tom Johnson was asked to come forward, he was sworn in and asked to state his name and address for the record.

MR. JOHNSON: My name is Thomas H. Johnson, Jr., I am an attorney with the firm of Nexsen Pruet, PLLC. My address is 201 Shannon Oaks Circle, Suite 100, Cary, North Carolina, 27511.

CHAIR QUIGLEY: Thank you.

MR. JOHNSON: We meet the requirements under the ordinance We are agreeable to the conditions for the Special Use Permit Mr. Herring is with me and he can testified that no property will be impacted by American's Tower because meets all requirements and the public needs Mr. Herring and Mr. Lacava will incorporate what was said before.

CHAIR QUIGLEY: Do any Board members have any questions?

MR. JOHNSON: Since we have adjusted locations to take into account the required setbacks, we are ready to go. We appreciate you willingness to work with us. I would also like to thank the staff for their cooperation.

MS. TART: Why was this side preferred?

MR. JOHNSON: It matched up with the other towers we have to cover in this area.

MS. TART: These towers must be how far apart?

MR. JOHNSON: We have a power point presentation where it shows our coverage area. This is what the proposed coverage of this site will do. This is without the site, so you see the white; do you see the hole? It means the failure of adequate coverage. This is the hole we are trying to fill in. (Exhibit 2)

MS. TART: If it was a half mile away, it wouldn't fill in the hole?

MR. JOHNSON: We go for the best site we can for American Tower and its customers' needs.

CHAIR QUIGLEY: Do any Board members have any questions? Thank you very much, I remind you that you do remain under oath.

MR. JOHNSON: Thank you. Mr. Herring would like to say something?

MS. SPEICHER: Suggested that due to time that both of the next speakers be sworn in at the same time.

CHAIR QUIGLEY: Mr. Herring was sworn in and asked to state his name and address for the record.

MR. HERRING: My name is Graham Herring, 8052 Grey Oak Drive, Raleigh, NC 27615.

CHAIR QUIGLEY: Thank you. Do you wish to incorporate all previous testimony that you gave on this property?

MR. HERRING: Yes.

MS. TART: Are you a licensed appraiser?

MR. HERRING: I am a commercial real estate developer and have been in business for 17 years.

MS. TART: Then you are not a licensed appraiser?

MR. HERRING: No.

MR. JOHNSON: A licensed real estate broker can also provide his opinion that the use will not be detrimental to the property values of the surrounding neighborhood.

CHAIR QUIGLEY: Thank you. The other testimony, Mr. Lacava was asked to come forward, and was sworn in and asked to state his name and address for the record.

MR. LACAVA: My name is David Lacava, my address is 1130 Situs Court, Suite 100, Raleigh, North Carolina, 27606.

CHAIR QUIGLEY: Thank you.

MR. LACAVA: I wish to re-state my previous testimony regarding support for this project. In addition, I would like to add that this site is the best option for American tower – AT&T and T-mobile to cover this area.

CHAIR QUIGLEY: Thank you, we will add that to your other testimony.

MR. RAYNOR: What is your purpose for testifying?

MR. LACAVA: I am a design engineer for AT&T.

MR. RAYNOR: We needed it on the record.

CHAIR QUIGLEY: Do any Board members have any questions? The hearing is closed and open for discussion.

MR. DAVIS: I motion to approve P10-04-C and recommend we approved it per staff recommended conditions, including the requirement to resubmit a revised site plan and recommend we grant the Special Use Permit base on the following case facts:

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

Case Fact 2: applicant must follow all required conditions and specifications at 100%;

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

Case Facts 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 the Cumberland County's most recent Comprehensive Land Use Plan.

MR. HUMPHREY: Seconded the motion.

CHAIR QUIGLEY: It has been properly moved and seconded, is there any discussion? All in favor of approving this case signify by saying I.

Quigley:	Yes
Davis:	Yes
Tart:	Yes
Humphrey:	Yes
Tyson-Autry:	Yes

CHAIR QUIGLEY: Is there any other discussion? That is unanimous, thank you.

8. DISCUSSION

There was no discussion.

9. UPDATE(S)

A. Board member books to be updated.

MS. SPEICHER: Mentioned that she had made a decision not to update the books until the most recent version of the County Zoning Ordinance was finalized, but assured the Board that they will be updated by next month's meeting.

B. Watershed violations closed out:

1. WS00-02 and WS02-02, Inverness Subdivision

MS. SPEICHER: Just to keep you posted on the watershed cases, we have what we need for both cases and have closed out the violations.

ACTING VICE-CHAIR DAVIS: What happened to the gentleman, Isaac Williams on Middle Road, the 11 acre tract.

MS. SPEICHER: I asked Code Enforcement and it is my understanding that his case is going to Environmental Court.

10. ADJOURNMENT

A motion was made by Mr. Davis and seconded by Ms. Tyson-Autry, there being no further business; the meeting was adjourned at 8:43 p.m.