

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

TENTATIVE AGENDA
MARCH 20, 2014
7:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, March 20, 2014, at 7:00 p.m. in Hearing Room #3 of the Historic Courthouse at 130 Gillespie Street, Fayetteville, North Carolina. The agenda is as follows:

1. ROLL CALL
2. OATH OF OFFICE
3. SWEAR IN STAFF
4. ADJUSTMENTS TO THE AGENDA
5. APPROVAL OF THE FEBRUARY 20, 2014 MINUTES
6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES
7. PUBLIC HEARING DEFERRALS/WITHDRAWALS
8. POLICY STATEMENT REGARDING APPEAL PROCESS
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.
 - 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.
 - C. **P85-03-C:** REVOCATION OF A SPECIAL USE PERMIT (NEÉ 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)
10. DISCUSSION
11. UPDATE(S)
 - **P14-17:** COLISEUM TOURISM OVERLAY DISTRICT & BILLBOARDS
12. ADJOURNMENT

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

Members Present

Ed Donaldson, Chairman
Horace Humphrey
Joseph Dykes
Vickie Mullins
George Lott
Winton McHenry (non-voting)
Alfonso Ferguson Sr. (non-voting)

Absent Members

None

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

Mr. Haigh stated that the oath was to be administered to Joseph Decosta; however, he was unable to attend the meeting.

3. SWEAR IN STAFF

Chair Donaldson swore in staff members.

4. ADJUSTMENTS TO THE AGENDA

Chair Donaldson made a motion to hear case P14-01-C first during the Public Hearing, seconded by Mr. Dykes. The motion passed unanimously.

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

5. APPROVAL OF THE DECEMBER 19, 2013 MINUTES

Mr. Lott made a motion to accept the minutes as submitted, seconded by Ms. Mullins. The motion passed unanimously.

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

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

7. APPROVAL OF CHANGES TO THE 2014 DEADLINE/MEETING SCHEDULE

Mr. Dykes made a motion to accept the revised schedule as submitted, seconded by Mr. Lott. The motion passed unanimously.

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

8. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

9. POLICY STATEMENT REGARDING APPEAL PROCESS

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

10. PUBLIC HEARING(S)

B. P14-01-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BILLBOARD IN A C(P) PLANNED COMMERCIAL DISTRICT ON 2.41+/- ACRES; LOCATED AT 3580 GILLESPIE STREET; SUBMITTED BY RALPH HOLLOMAN (OWNER) AND M. GREY VICK ON BEHALF OF WATERWAY OUTDOOR, LLC.

Chair Donaldson read the case heading.

MS. SPEICHER: Excuse me, Chair. Can we back up a little bit and. Staff had to modify some of the dates on the deadline schedule.

CHAIR DONALDSON: Oh, I didn't even see that.

MR. LOTT: Number 7

MS. SPEICHER: Also, did you have the abstentions, did you call for that?

CHAIR DONALDSON: I did. There was none. Has everybody looked at the deadline dates?

MR. LOTT: I did.

CHAIR DONALDSON: Anybody want to be heard on them?

MR. LOTT: I'm good with it.

[See Item 7: APPROVAL OF CHANGES TO THE 2014 DEADLINE/MEETING SCHEDULE]

CHAIR DONALDSON: Okay, now going back to this case. Who is here on this case? Mr. Needles. I'm sorry, not Mr. Needles. Mr. Vick, are you here sir?

MR. VICK: How are you doing?

CHAIR DONALDSON: Fine. Come on up. Go ahead.

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

CHAIR DONALDSON: And this is not the same property that we've been dealing with for the last three months?

MR. HAIGH: No sir. The property is further north.

CHAIR DONALDSON: Okay.

MR. HAIGH: This is along the same road, Gillespie Street.

CHAIR DONALDSON: Alright, go ahead.

Mr. Haigh continued reviewing packet material.

MR. HUMPHREY: One question. Roughly how far does the location of this billboard from the airport entrance? I can't think of the name. What is it Airport Drive?

MR. DYKES: Airport Road.

MR. DONALDSON: Airport Road

MR. HUMPHREY: Airport Road. Yes, roughly how far is that?

MR. LOTT: Right across the street from Snow Hill Road, which is right in there where the old Betsy Ross [motel] used to be I think didn't it?

MS. MULLINS: Yes.

MR. HUMPHREY: In terms of blocks/mileage.

CHAIR DONALDSON: Distance.

MR. HAIGH: I'm not exactly sure.

MR. HUMPHREY: Roughly.

CHAIR DONALDSON: Well let's

MS. SPEICHER: Roughly three and a half to four miles

MR. HUMPHREY: Three and a half to four miles. Thank you.

CHAIR DONALDSON: Ms. Mullins.

MS. MULLINS: I have no questions.

MR. LOTT: Is this any relation to the study that's going to be done on the airport overlay?

CHAIR DONALDSON: This is outside that zone.

MR. LOTT: This is outside.

MR. HUMPHREY: This is outside? Okay, that was my next question.

MR. HAIGH: Well, it is within the airport overlay district, but it is outside of the study area. The coliseum district where the other sign was.

CHAIR DONALDSON: Where the city and county are working on a new ordinance now. It is outside of that. Did you want to say something Mr. Dykes?

MR. DYKES: No.

MR. HUMPHREY: Did I hear you say, Chair Donaldson, that what the city and county is working on, that this is outside of that area?

CHAIR DONALDSON: It is to be outside of that area too from what I, because I asked that question of staff.

MR. HUMPHREY: Okay. Thank you.

CHAIR DONALDSON: The 35 foot maximum height, that's the top of the sign right?

MR. HAIGH: Yes

CHAIR DONALDSON: Not the beam itself.

MR. HAIGH: Correct. It is the very top of the sign. The highest point.

CHAIR DONALDSON: What's your name sir?

MR. VICK: Grey Vick.

CHAIR DONALDSON: Do you want to be sworn in?

Chair Donaldson swore in the speaker, Mr. Vick.

[Public Hearing opened.]

CHAIR DONALDSON: What is it you wanted to say Mr. Vick?

MR. VICK: Well,

CHAIR DONALDSON: Well the first question is how far is it from the other sign we've been dealing with?

MR. VICK: Yea. I think like Ms. Speicher said I think it is about three and a half miles or so.

CHAIR DONALDSON: Okay.

MR. VICK: That's a guesstimate. I'm really not one hundred percent sure on that. It is quite a ways down in comparison to where [inaudible].

CHAIR DONALDSON: Alright. Well go ahead sir. Tell me whatever you wanted me to hear.

MR. VICK: Can you guys hear me okay?

MR. HUMPHREY: I'm having a little difficulty. Closer to the mike if you would please. Thank you.

MR. VICK: That'd be fine. So, the billboard site is located at 3580 Gillespie Street. All the same things we've just kind of gone over: 480 square feet, 35 feet overall height, steel construction. The NCDOT tax evaluation of the sign structure is \$42,350. That equates to somewhere about \$400/year for the county tax on the sign and personal property tax on the sign. The 50 foot front and side setback as you've already seen on the map. This is the photo of basically the exact same sign that we would be interacting on Mr. Holloman's property. It is a 480 square foot sign. Maybe 32 feet overall height and as you can see it is steel construction. You know, steel frame. Here is where the requirements were that the use would not materially endanger the public health or safety if located according to the plan submitted and recommended. The proposed use fits this requirement. The use meets all required conditions and specifications that are required by the county and obviously we are agreeing to all the conditions associated with this property as well. Maintaining or the use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity. The transient area, Highway 301, is will make the use a public necessity and will enhance the value of adjoining properties, so the proposed use fits both of the requirements. Also, the location and character of the use, if developed is 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. As the commercial area is in conformity with the Land Use Plan, also the 2030 Growth Plan provides

for limited signage on this corridor. The proposed use fits this requirement as well. I think we've kind of went over this before with you guys about Highway 301 being a real transient area and also be able to let people know who are coming in and out of Fayetteville and the county where local businesses are. We are a small billboard company so we deal mainly with local companies. Not really the national advertisers like some of our bigger competitors will deal with. We mainly just deal with local businesses. I think that Highway 301 is the perfect area for billboard signage. With airport traffic and directing people to the county and city businesses, we consider that to be prosperous for the city and the county. Some of our local customers, the Richardson Law Firm, Cedar Creek Fish Farm, Baldino's, Fullers BBQ over on, right on Highway 301 are some of our local customers that we have. Other people that are using signs: the City of Fayetteville, a lot of local businesses, attorneys, doctors, new businesses. And then also with this site that we're working on, some of the conditions are requiring us to remove an old structure on the property and to provide vegetation on this site as one of the conditions for the approval of this billboard site. Which I just stuck up there. Consistent regulations: This is conforming, I have to get a DOT permit as we went through in the meeting I believe it was October/November when I was at the meeting. The transient area and then no vegetation interference. The vegetation we are going to be adding is going to be on the private property so we will be able to keep it maintained versus there being some type of city vegetation blocking the sign which that's not an issue here. Just the basic overall economic impact of outdoor advertising is driving sales, helps guide mobile customers to goods and services, and supports local businesses in the county and the city. And obviously small business is the jobs engine of the economy and that's who we are here to support is the small local businesses and to get them notice as people are coming into the city. Some other considerations: a Florida study that they had said increase billboards increase the property values in certain areas and other research is saying that banning signs is a negative impact. You can skip the next one. That's it. You guys have any questions let me know.

CHAIR DONALDSON: Mr. Humphrey.

MR. HUMPHREY: No. Not at this time, might later.

CHAIR DONALDSON: Any questions? You mentioned that there's an oral agreement on some stipulations?

MR. HAIGH: Yes sir.

CHAIR DONALDSON: What are they?

MR. HAIGH: Well it's the condition sheet that came with the packet.

CHAIR DONALDSON: Okay. Just these? Just these stipulations, nothing else?

MR. HAIGH: Yes sir. Forty-two conditions that go along with this site.

CHAIR DONALDSON: Okay. And you're in agreement with every one of these conditions sir?

MR. VICK: Yes sir.

CHAIR DONALDSON: Okay. I don't think I've ever seen a list that long of stipulations.

MR. LOTT: It's not in that study area.

CHAIR DONALDSON: Huh? Anybody have any questions about the stipulations?

BOARD MEMBERS: No.

CHAIR DONALDSON: I'll give Ms. Mullins a few minutes.

MS. MULLINS: I don't have anything.

CHAIR DONALDSON: Any discussion?

MR. HUMPHREY: I don't have any.

OTHER BOARD MEMBERS: No.

CHAIR DONALDSON: Alright. Then anything else you want to say sir?

MR. VICK: That's it.

CHAIR DONALDSON: And anything, any further from, any input from the staff on it or anything?

MR. HAIGH: No sir. I think we've covered it all.

[Public Hearing closed.]

CHAIR DONALDSON: Then do we have a motion to either approve or disapprove the use the request for special use permit?

MR. HUMPHREY: I will offer a motion sir that we approve the special use permit based on them fulfilling the requirements set forth by the department.

MR. LOTT: Second.

CHAIR DONALDSON: Any other motions? All those in favor?

The motion passed unanimously.

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

CHAIR DONALDSON: Alright, going to the special use permit, the approval.

MR. LOTT: Thank you. [to Mr. Vick]

MR. DYKES: Thank you. [to Mr. Vick]

CHAIR DONALDSON: Well, I still got to read it. I've got to put it into the form of an order. Unless you want to do it.

MR. LOTT: No.

CHAIR DONALDSON: I'm going to start parceling these out so y'all need to pay attention so y'all can do them when I'm not here.

MS. MULLINS: You're going to be here.

CHAIR DONALDSON: Mr. Humphrey has done one. Mr. Dykes has done one. Right? Y'all are going to get one next. Just so y'all can do it if y'all have to fill in up here.

[Chair Donaldson continues] 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;

There has been no evidence to indicate that there would be any danger to the public and based on where the sign is situated and the setback and it's on private property and no public use there.

2. The use meets all required conditions and specifications.

In with the exception that it's in, in exception to the rule there to the zoning there, but it is under the new Land Use thing, heavy commercial use, and I'm not going to itemize all 42 of these, but it meets, it will meet all those required conditions and the 42 itemized specifications that the petitioners asked for.

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

There has been no evidence that it would detract from the value of the properties or any other. In fact based on the specifications and the stipulations would enhance the value because it's going to be cleaned up and remove some of the old signage, that from the way I looked at it was an eye sore. Those temporary roll-out type signs.

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:

As stated before, this isn't zoned heavy commercial. It's in keeping with the businesses that immediately surround it and across the road from it and does not really change the character of the environment where it's at.

CHAIR DONALDSON: And based on all of that we will grant the special use permit for the signage, incorporating number 1, 2, and 3 on the thing and on number 4 add that the petitioner is to comply with the 42 stipulations as submitted with the plan. Anything else? Anything from the staff? Anything else you want in there? Thank you, Mr. Vick. Good luck to you.

MR. VICK: Thank you very much.

A. CONSIDERATION OF MOTIONS TO STAY/DEFERRAL

P13-14-C: CONSIDERATION OF AN APPEAL SUBMITTED UNDER ARTICLE XVI SECTION 1604, ADMINISTRATIVE REVIEW WITH THE BASIS OF THE APPEAL CONCERNING ISSUANCE OF A ZONING PERMIT FOR AN OUTDOOR FIRING RANGE TO TIGERSWAN INC AT 2850 TIGERSWAN DRIVE, OWNED BY PRECYTHE PROPERTIES, LLC; SUBMITTED BY KEVIN WEST ON BEHALF OF OK FARMS OF CEDAR CREEK, LLC; SAMUEL D. & DORIS M. FORT; RAEFORD B. LOCKAMY II; JULIA K. FAIRCLOTH; ARNOLD DREW SMITH; AND ROBIN CURRIN, ATTORNEY.

Chair Donaldson read the case heading.

CHAIR DONALDSON: And whose, this is a motion by the county actually isn't it?

MR. HASTY: Yes sir. By the county and Tigerswan.

CHAIR DONALDSON: Okay. Well, before we go any further, we had already made a ruling last month when this thing came up we were not going to hear this case again until the county decided what they were going to do and all the Court of Appeals cases were done. It is the policy of this board, and we unanimously passed it, twice actually. The last two times up we were not going to hear any more matters on this case until the County Commissioners decided what they were going to do, since they took the authority away from us on this with the new permitting and with the Court of Appeals it's like, I think now what'd you say Ms. Speicher, there's three different cases now, court cases?

MS. SPEICHER: Three different cases on Tigerswan. Yes sir.

CHAIR DONALDSON: And we still, I've not received an order yet from the Superior Court case. Has he even issued an order yet, a written order?

HASTY: Yes your honor. That's what was on last the last meeting. He stayed his order so [inaudible].

CHAIR DONALDSON: That's right. Has he lifted it yet?

HASTY: No your honor. It's not been.

CHAIR DONALDSON: Well I don't see any reason why we even need to be here today then. Do you Mr. Hasty?

MR. HASTY: Well this is a separate permit and

CHAIR DONALDSON: I understand that but it's all part parcel the same thing and I'm not going to piecemeal it.

MR. HASTY: Well I understand we're certainly [inaudible]

CHAIR DONALDSON: Ms. Currin, do you want to be heard on it?

MS. CURRIN: Yes sir. I do want to be.

CHAIR DONALDSON: Okay.

[Public Hearing Opened.]

MS. CURRIN: As Mr. Hasty said, this is a separate permit that has been issued since the judge's decision. It's for a whole different use. We've appealed that to this board. It's an independent Board of Adjustment appeal and they have asked basically that this board stay their decision pending the decision in a different case at the court of appeals. It is our position that the board does not have authority to enter this kind of stay. If I could get a

CHAIR DONALDSON: We can defer from hearing it though or continue it. We can continue it indefinitely until we get further guidance from the Court of Appeals.

MS. CURRIN: Well then, you won't get guidance from the Court of Appeals on this because Court of Appeals is not deciding this issue. They're deciding a completely different.

CHAIR DONALDSON: I understand what you're saying, but I'm just saying to you Ms. Currin, we're not going to hear this unless the board over, but I know my feelings and I don't know what the board's feelings are, but we're not going to hear any more on Tigerswan. Until the County Commissioners decide what they're gonna do and a court above us tells us what the law is on this.

MS. CURRIN: Well the Board of Commissioners has made a decision to rezone it. It's our position that the decision of the court requires that prohibits them from operating right now. That's why we have appealed it. Now North Carolina General Statute 160A-388 was just amended about six months ago and that particular statute sets forth that the limited situations where they can where this board can stay something and this isn't one of them and as a matter of fact, what the statute now says specifically is that the Board of Adjustments has to make a decision in a reasonable time. It has to hear it and it has to make a decision in a reasonable time and we don't think waiting a year and a half for the Court of Appeals to make a decision is a reasonable time. Your own rules of procedure require that you hear a case when it comes in front of you within a reasonable time. So, basically and I've got cases to say if there's no specific authority to stay that you can't. So basically what their asking, the last time we went to the Court of Appeals it took a year and a half and so what basically they're asking to do is that we wait to hear this case until it meanders through the Court of Appeals and then we start the new case over which could take another year and a half.

CHAIR DONALDSON: Well what's this permit that was, what did this permit do?

MS. CURRIN: This permit gave them permission to operate a firing range. The first permit was for a school. We went all the way to the Court of Appeals; they said it's not a school you can't operate.

CHAIR DONALDSON: I understand that.

MS. CURRIN: The second permit was for outdoor recreation.

CHAIR DONALDSON: Which we heard.

MS. CURRIN: Which we heard. Which has now been reversed by a judge.

CHAIR DONALDSON: That's on appeal also.

MS. CURRIN: Right and as a part of that order, the judge made a specific ruling that this was a vocational school and it was not a firing range. Since that time, they've issued yet another permit saying that they can operate as a firing range. It is our

CHAIR DONALDSON: Under the new

MS. CURRIN: Correct

CHAIR DONALDSON: Zoning.

MS. CURRIN: Correct. It's our position that the judge's order controls and if the judge says it's a firing range, I mean says it's a vocational school then that's what it is. There is a case that came down from the Court of Appeals this week, this Tuesday, that talks about the preclusive res judicata effect of that type of a decision. It's our position that once the judge said it was a vocational school they can't come back and permit them as a firing range because there has been a judicial determination.

CHAIR DONALDSON: Well it's my understanding that with the new zoning ordinance the appeal was to the Board of Commissioners not us.

MS. CURRIN: That's, that was a rezoning. This appeal is to this board as to whether that permit is proper in light of the judge's ruling. What the stay is gonna do, it's gonna add about a year and a half to this litigation instead of running them concurrently and our people have been fighting for years. They've won everything along the way. Basically the entire time they

CHAIR DONALDSON: Well that's not true either.

MS. CURRIN: Well

CHAIR DONALDSON: But go ahead.

MS. CURRIN: Well we won at the Court of Appeals and we won at the Superior Court. And both, both of the permits that have been issued, the courts have declared them to be invalid. So now we are on the third one and we would like a ruling as to whether or not it's valid or not. We don't want to come back. If we prevail, the Court of Appeals, we've gotta come back and start all over again and then and go back up the ladder.

CHAIR DONALDSON: It doesn't make any judicial sense to me to piecemeal this and us do something here that you're not gonna like or the county is not going to like and it gets appealed anyway. No matter what we do it's going to get appealed. Right?

MS. CURRIN: Well honestly, what you do today, if you stay it, that's going to get appealed too, because we think it's in violation

CHAIR DONALDSON: That's what I said. Whatever we do today is going to get appealed. Is that not true Mr. Hasty?

MR. HASTY: Yes. That's very likely.

CHAIR DONALDSON: Well it's more than likely.

MS. CURRIN: [to Mr. Hasty]: So you will appeal if they don't, if there's not a stay in there?

CHAIR DONALDSON: So I mean, so, you know until the court sorts out what is what is legal on this zoning we're in a quandary here. We don't know. You know every time we've ruled it's gone up. One time it got turned around. One time it didn't. You know, we don't and the Superior Court judge stayed his order on this one.

MS. CURRIN: He stayed enforcement of the order.

CHAIR DONALDSON: Right.

MS. CURRIN: Not the ability to have it heard. That's what, that's what we just want to be heard.

CHAIR DONALDSON: He stayed the enforcement.

MS. CURRIN: Correct. He said they

CHAIR DONALDSON: Which to me, tells me that the Superior Court judge, having been a judge myself, knows he made the decision based on what the law was but he was pretty sure it was going to get overturned on the way up the road. Otherwise, he wouldn't of stayed the enforcement. He'd said comply with my order now. Right? Isn't that normally what happens?

MS. CURRIN: I don't think he thinks he's gonna get overturned or I don't know why he would of ever ruled in our favor to begin with.

CHAIR DONALDSON: But he stayed the order.

MS. CURRIN: He stayed the order to allow them to operate. Yes he did. During the [inaudible].

CHAIR DONALDSON: Because of the economic harm that it might cause them if the Court of Appeals actually in the law ends up ruling for them.

MS. CURRIN: Well what's gonna happen to us is if we win at the Court of Appeals we're going to be back here in a year and a half right where we are tonight and then another thing I want to point out is that the county has now, the County Attorney has sent a memo to the Board of Commissioners asking them to change the definition yet again. Now there is a Supreme Court case right on point that says that this board does not rule when it's supposed to rule under the statutes and under its rules that that change cannot take effect that no matter when we come back we get to operate, we need to come back we get to use the rules in effect when we file this appeal. Which means that's just gonna create yet another mess because we're gonna have yet another ordinance in effect. So, I understand where and I'm not you know, I just want to state our position for the record which is we don't think that under your rules or the statute that there is any authority to put this on the shelf for a year and a half and would ask that you not.

CHAIR DONALDSON: Well, what however long it takes at the Superior Court level whatever, I don't have we don't have any control over that, but you know, it's not for me personally to decide whether we hear it or not. I'm just stating what the, what we have on the record stated on two previous hearings when this matter came up which was we were not gonna hear it until the county sorted this stuff out because there was too much conflicting definit[ions] as you said. You know, what is a firing range? What's a school? What's vocational? What's not? And until we get some guidance from a court that says this is what it is, I don't see why we need to proceed with a

hearing on this at this point in time. All I'm gonna, I'm not saying, all I'm gonna do is continue it off the docket. That's my motion which is to continue it off the docket until we get a ruling at some point in time down the road. Now

MS. CURRIN: A ruling that it is a, a decision whether it's a vocational school or not?

CHAIR DONALDSON: Until we get some further guidance from a court that can tell us and the county yay or nay. I mean, at some point in time conceivably the county could lose this and they come back and say to the county you cannot and the definition you've got will, is not legal and will not apply and Tigerswan is out of business. On the other hand, which I think is highly unlikely, they could, I think that's highly unlikely that Tigerswan is going to go out of business, but on the other hand, I mean they could say no the definition that the county, the County Board of Commissioners has got is definitely good is a valid legal definition and Tigerswan can continue.

MS. CURRIN: Well that's true, but just know that we're gonna have to come back here if we prevail at the Court of Appeals for this board to decide whether or not the judge's determination

CHAIR DONALDSON: You're gonna be back here regardless of what we do tonight.

MS. CURRIN: Well we'll be back here as many times as we need to be back until things we believe are done right.

CHAIR DONALDSON: Well

MS. CURRIN: You know because we're not doing this just to be annoying. We've got two cases

CHAIR DONALDSON: We're not talking about annoying, we're talking about, you know just the economy, I mean when you when you start talking about a hearing here in front of one board, a hearing in front of a Superior Court judge, another hearing in front of a Court of Appeals, you got three different hearings going and everybody is going at cross purposes. We're on the bottom of the totem pole and we can't do anything. Now if the judge, the Superior Court judge had come back and said we're over we're overruling but I want to enforce the order that would have been one thing, we'd of been dealing with it at that point in time because we'd have been required to. But, he stayed it, so we're not doing anything and we said once we got the stay we're not going to do anything at this point.

MS. CURRIN: I understand. All I'm saying is that stay has nothing to do with this case, but I understand.

CHAIR DONALDSON: Well they're all part of the parcel.

MS. CURRIN: They are except for every time that a decision is rendered that they are a certain use, twice it's been said that that was incorrect and we're on the third use now. So, it's a moving target for us and all we're trying to do is enforce what our rights are because these people live there and they live with it every day.

CHAIR DONALDSON: I understand.

MS. CURRIN: We had no choice but to appeal this within thirty days of when that decision came down. We had to appeal it or lose our rights. Now what we're saying is we've appealed it and we're gonna have to wait and if that's what the board says then that's what we'll do.

CHAIR DONALDSON: Well I'm not going to dismiss your appeal. I'm not talking about that. We're not talking about that. We're just talking about continuing the case until we get some further guidance.

MS. CURRIN: I understand that, but I mean it's gonna be a matter of whether we win or lose and other than that than it really will be back in the board's lap to make that decision.

CHAIR DONALDSON: And hopefully by that time we'll have some guidance from the from the courts about what's gonna, but I make a motion we continue it. It's up to the rest of the board yay or nay. Do I have a second?

MS. MULLINS: I second it.

CHAIR DONALDSON: Any discussion?

MR. HUMPHREY: Let me

CHAIR DONALDSON: Think, go ahead.

MR. HUMPHREY: I want to be perfectly clear and I think I am, but I just want to make sure and that I'm going. We have got this thing at the Court of Appeals. Excuse me for quoting this thing. This case at the Court of Appeals and we're waiting for the Court of Appeals to say yay you can nay you can't. Exactly, that's where we are?

CHAIR DONALDSON: We have that and then we have the Board of Commissioners has the new definition on firing ranges which they've actually given a permit on this and that's going to go up to the Court of Appeals or the Superior Court.

MR. HUMPHREY: That's also going to go to the Court of Appeals after the other? Okay.

CHAIR DONALDSON: Yea, it's all going up to the Court of Appeals eventually.

MR. HUMPHREY: Directly

MR. DYKES: Who will determine whether it's a firing range or a vocational school?

CHAIR DONALDSON: Court.

MR. DYKES: Court of Appeals or the county

CHAIR DONALDSON: Well the Superior Court will and then it will get appealed from there. So, I mean, technically

MR. DYKES: Okay let's say if this case was to go to Superior Court. Okay. Can their decision be overturned or overruled? Can it? Can it?

CHAIR DONALDSON: The Superior Court?

MR. DYKES: Yes.

CHAIR DONALDSON: The Court of Appeals can overrule.

MR. HUMPHREY: The Court of Appeals.

MR. DYKES: The Court of Appeals can overrule.

CHAIR DONALDSON: Yea. I mean technically and we also could say that it is a firing range too. And you would appeal that right?

MS. CURRIN: Yes sir

MR. HUMPHREY: On this package we're saying they're requesting a stay and this and that was kind of to allow the Court of Appeals to rule. Is that correct?

CHAIR DONALDSON: It's to let the dust settle.

MR. HUMPHREY: To let the dust

CHAIR DONALDSON: Until something gets sorted out.

MR. HUMPHREY: And...

CHAIR DONALDSON: Too many too many competing different interests.

MR. HUMPHREY: And of course there is not a time limit on the Court of Appeals to hear it to decide.

CHAIR DONALDSON: They can be quick about it or they can be slow. Their call.

MR. HUMPHREY: So the question in my mind is then if it's at the Court of Appeals why would we make a ruling on it if the Court of Appeals is going to hear it, could be coming right back to us anyway? Is that correct?

CHAIR DONALDSON: Well, my only position is I understand what you want Ms. Currin. I, but my position is why should we get involved in a long knock down drag out hearing about this thing, only to have it appealed and we still don't have any guidance because I'm not going to forecast what would happen, but based on the last hearing assuming the evidence hasn't changed any or is substantially the same, you're gonna lose that hearing too. So, it's still going to end up in Superior, uh in Superior Court. Right?

MS. CURRIN: Well, that's true, but based on the evidence at the last hearing that we lost you have to keep in mind that the judge disagreed with the board and said it was a vocational school.

CHAIR DONALDSON: I don't care what the judge disagreed with.

MS. CURRIN: Well I understand that.

CHAIR DONALDSON: He didn't send us down an order telling us to comply.

MS. CURRIN: I

CHAIR DONALDSON: And until he does something, then we'll do something.

MS. CURRIN: I understand.

CHAIR DONALDSON: Okay. Until that time, we're independent of him. You know, he made his ruling, let him enforce it, but he didn't tell us to enforce it. Now if he'd said for us to enforce it that would have been a different matter. Mr. Hasty, you want to be heard?

MR. HASTY: We believe the uh

CHAIR DONALDSON: I'm not going to deny the stay, I'm not going to grant the stay. I'm just, my motion is to continue it until we get further guidance.

MR. HASTY: That would be fine with the county position. That takes care of this matter.

MR. MEEKER: Yes, your honor, TigerSwan agrees also that these matters are related and taking it off the calendar would be the right thing to do.

CHAIR DONALDSON: Now Ms. Currin, I give you a choice. If you want us to hear it and assuming you know you can. Well I didn't take a vote on whether to continue it or not. How many people are in favor of continuing it?

MR. LOTT: Aye

MR. HUMPHREY: Aye

CHAIR DONALDSON: All?

MR. DYKES: Aye

MS. MULLINS: Yes.

CHAIR DONALDSON: That's unanimous.

MR. LOTT: That's it.

MS. MULLINS: Yes it is.

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

The motion passed unanimously.

CHAIR DONALDSON: So, but if you want a hearing I mean you can see the reading on the wall here. We can give you a reading and deny the stay if you want it so you can appeal it.

MS. CURRIN: Well at least we would have a decision that that would run concurrently with each other and we wouldn't have to come back and you're telling me right now before we even have any evidence that I'm going to lose.

CHAIR DONALDSON: I'm not saying that. I'm just saying you can look from you know based on. As I said if the evidence is not substantially different than what it was before and we're talking about noise, impact, all of that that hasn't changed any has it?

MS. CURRIN: That's not, but that's not the issue

CHAIR DONALDSON: I understand. The question is the definition of firing range.

MS. CURRIN: No the issue in this appeal, respectfully, is whether or not the judge's order which says it's a vocational school will permit them, the county, to reclassify as a firing range. That's it. There's like no evidence.

CHAIR DONALDSON: Okay

MS. CURRIN: It's a question of interpreting.

CHAIR DONALDSON: But he stayed his order right?

MS. CURRIN: He stayed his order. That's

CHAIR DONALDSON: So you're asking this board to interpret what he or overrule what he said.
Or

MS. CURRIN: I'm not asking to overrule. It will still be stayed until the Court of Appeals makes a decision but if we win at the Court of Appeals and we're right, then then that will be disposed of much quicker than if we come back again in a year and a half and start over again. That's all we're saying.

CHAIR DONALDSON: This case might be mute by that point in time.

MS. CURRIN: I, based on, I don't think it can be. If you continue it indefinitely, if you look at Robbins vs. Hillsborough then we're gonna come back and it can't be muted; we're gonna, we're gonna we're frozen in time. No ordinance changes, nothing will apply. But we're fine; I mean I understand where you come from.

CHAIR DONALDSON: But now, I mean, you understand. If you want me to give you, if you want us to have a hearing we'll give you a hearing and we'll rule. I'm not saying what but I'm just saying if you project the facts based on the last hearing, and the only question is whether it's a firing range or vocational, but you've already said he determined that it was vocational right?

MS. CURRIN: Correct

CHAIR DONALDSON: But he stayed his order.

MS. CURRIN: Correct

CHAIR DONALDSON: So, in effect he said well it's vocational but we're not, I'm not going to enforce it.

MS. CURRIN: No because that can't be enforced. That is that decision. We've appealed a separate decision. Not whether they're a vocational school or not. The new decision is giving them a permit as a firing range. It is

CHAIR DONALDSON: Which is under the new

MS. CURRIN: Correct

CHAIR DONALDSON: Okay

MS. CURRIN: Correct. According, and according to them that they can be a firing range even though the judge says they're a vocational school. We say no, you've got to do what be, what the judge said. Now the judge stayed it pending appeal but if we get affirmed on appeal then that's we're gonna come back and have to make that decision.

CHAIR DONALDSON: Well we'll do that then.

MR. HUMPHREY: Yea.

CHAIR DONALDSON: We'll do that then. There's no because if he says it's a vocational it's affirmed by the Court of Appeals, we're gonna come back here, we're gonna have a whole brand new hearing again on firing range. Is it a firing range or is it not?

MS. CURRIN: Well I

CHAIR DONALDSON: Does it comply with the new county ordinance?

MS. CURRIN: Well I think our issue is very very straightforward. Is that res judicata or is it not? And that's it.

CHAIR DONALDSON: It won't be because the county commissioners will come up with a new ruling and you know it

MS. CURRIN: Well if they come up with

CHAIR DONALDSON: And I know it.

MS. CURRIN: Well that's what I'm saying. You know we got a case then that, that's not gonna apply, but I guess we'll deal with that when it comes up but

CHAIR DONALDSON: But, you know what they're gonna do. Once the county gets the ruling they're going to change it to comply with whatever the ruling is.

MS. CURRIN: Well, respectfully we wish they would. You know. Get it right one way or the other because from our perspective as long as it's being done wrong then we have no choice but to challenge it.

CHAIR DONALDSON: Well I understand that. I'm not faulting you for that. I'm just saying we're talking about you know just the mechanics of handling all this stuff when you got. You know this is the third time. Actually there's more than that. I've lost count how many times this thing has come up. It's the third time for a hearing on stuff and it started three years ago.

MS. CURRIN: Almost four.

CHAIR DONALDSON: Has it been that long now? But, you know, you've lost here every time.

MS. CURRIN: Correct.

CHAIR DONALDSON: You won at Superior Court.

MS. CURRIN: Yes.

CHAIR DONALDSON: You won in the Court of Appeals but this the first time you won at Superior Court this time, but he stayed his order. If he was in, if in my, whole thing is that, if he thought so strongly about it he would have enforced the order and sent it to us and said enforce the order.

MS. CURRIN: Well that could very well be, but I don't

CHAIR DONALDSON: But when he stayed the order I think he was saying the same thing that we're saying which is let the Court of Appeals sort this mess out between the Court of Appeals and the county commissioners.

MS. CURRIN: I understand but you understand if we win at the Court of Appeals that they still gotta get another one, another theory, and that's why we're here. So we can win at the Court of Appeals and that's all fine and we're going to be right back here.

CHAIR DONALDSON: Well I understand that. We knew that, but what we're saying is we don't see why we should do anything at this point in time until we get some guidance. He didn't give us any guidance. He just said I'm overruling it but I'm not, I'm going to stay it.

MS. CURRIN: Well actually it's that he remanded it with an order that it be revoked and that's what stayed.

CHAIR DONALDSON: Well, so,

MS. CURRIN: So, as soon as if the Court of Appeals rules in our favor then that's gonna go back into effect.

CHAIR DONALDSON: Well what was he going to do if the board voted not to revoke it?

MS. CURRIN: Well I don't know. I guess you're a judge. You should know if you don't obey an upper court what happens I mean.

CHAIR DONALDSON: It's a, you know I'm just saying we'd have to take a vote and if we voted against it, what's he going to do?

MS. CURRIN: I don't know, I think I probably wouldn't do that if I were in your shoes but maybe you would.

CHAIR DONALDSON: But, no, the, his hands are tied. We're not judicial officials. We're not under his authority. We're not public employees. We're volunteers.

MS. CURRIN: But the Board of Adjustment is subject to the rule of the

CHAIR DONALDSON: I understand but I'm just, I'm tossing it out there for argument's sake. If he sent it back and told us to revoke it we'd have to take a vote on whether to comply or not.

MS. CURRIN: Well I guess. Well what would happen when you're a judge if the Court of Appeals told you, you know, remanded something and gave you an order would you, I guess the circumstances are the same, if you decided not to obey their

CHAIR DONALDSON: I'm not a judge here.

MS. CURRIN: Right. Well this is a quasi-judicial board.

MR. HUMPHREY: Right.

CHAIR DONALDSON: I understand that.

MS. CURRIN: So.

CHAIR DONALDSON: But what would he do if the entire board just resigned?

MS. CURRIN: And there was no Board of Adjustment?

CHAIR DONALDSON: And there was no board?

MS. CURRIN: I don't know and if you want to go that far to get them a permit then I guess we'll have to take that up when it happens.

CHAIR DONALDSON: No, that's not it I'm just saying. You know, if the judge is going to stay the order we're not going to get involved.

MS. CURRIN: Well I

CHAIR DONALDSON: It's just that simple. I've already, you know, this is a situation where the county commissioners wrote the new zoning law. They took us out of it. Y'all, we don't we're not the appeal process anymore on that on the new.

MS. CURRIN: You are the sole arbiter of that of that interpretation of the zoning ordinance.

CHAIR DONALDSON: Ms. Speicher, who does it go to now?

MS. MULLINS: Who does it go to?

MS. SPEICHER: From the county commissioners it would go to the Superior Court.

CHAIR DONALDSON: Now, on this parti- on the new one, the appeal is to the County Commissioners isn't it?

MS. SPEICHER: But, the county commissioners are the approval authority on the new one and any appeals from that will go to the Superior Court.

CHAIR DONALDSON: Right. When they get their new one, we're out of it. They've already told us, they've took us out of it on purpose. That right Mr. Hasty?

MR. HASTY: Frankly I'm not involved at that level. Mr. Moorefield handles the Commissioners but that's my understanding.

CHAIR DONALDSON: We were, we were advised they were gonna take us totally out of the picture on it. We weren't going to have any more authority on it which was fine with us. We thought we'd seen the last of it.

MS. CURRIN: Well I've said all I can say. It's our position

CHAIR DONALDSON: Well I, but I mean you understand we're being taken out of the picture anyway.

MS. CURRIN: The appeal that's in front of you right now if we win at the Court of Appeals, it will be within your authority to make the decision of whether or not they can operate or not because it's an interpretation of the zoning ordinance and that's what you do. So we will be back if we prevail so that's all I can say

CHAIR DONALDSON: Let's wait until then.

MS. CURRIN: And if we have to wait we will and if we decide to appeal this decision we'll have to do that as well so.

[Public Hearing closed.]

CHAIR DONALDSON: Alright the motion is still to continue. Yes or no? All those in favor?

MR. LOTT: Yes.

MS. MULLINS: Yes

MR. DYKES: Yes.

MR. HUMPHREY: Yea, I'm in favor of waiting until the Court of Appeals hears this thing.

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

CHAIR DONALDSON: Alright, we will continue it off the docket and we won't, don't recalendar it. Well let me amend the motion and not to recalendar it until we get some guidance from the court.

MS. MULLINS: I second it.

CHAIR DONALDSON: Second there.

MS. MULLINS: I second it.

CHAIR DONALDSON: Motion is we're not recalendaring it until we get some guidance from the courts.

MR. HUMPHREY: Are we talking about the Court of Appeals or any court?

CHAIR DONALDSON: It doesn't matter. Superior Court or Court of Appeals. Someone's got to tell us what they want us to do.

MR. HUMPHREY: Okay. That's fine. I'm fine with that.

CHAIR DONALDSON: All those in favor?

The amended motion passed unanimously.

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

11. DISCUSSION

CHAIR DONALDSON: We still got some other business.

MR. HUMPHREY: Okay.

CHAIR DONALDSON: No, actually we don't do we?

MS. MULLINS: I think, no, you switched them.

MR. HUMPHREY: Let's see roll call, public hearing, policy statement...

CHAIR DONALDSON: That's right; no I thought we had something else afterwards.

MR. LOTT: Discussion and updates.

MR. HUMPHREY: Updates.

MS. MULLINS: Discussion and updates.

MR. HUMPHREY: Updates.

CHAIR DONALDSON: Mr. Hasty, where's Mr. Moorefield at? Does he not do our?

MR. HASTY: He's turned the Board of Adjustment over to me your honor.

CHAIR DONALDSON: To who? Committee?

MR. HASTY: To me.

MR. LOTT: To him.

CHAIR DONALDSON: Oh, to you.

MR. HASTY: I didn't feel appropriate to sit there tonight if we had to argue.

CHAIR DONALDSON: Okay. We need some guidance on this.

MS. SPEICHER: I was going to explain just for the board's sake that any conditional zoning application, which an outdoor firing range requires conditional zoning. Any conditional zoning application whether it's a firing range, a billboard in some areas, whatever it is, requires County Commissioner approval. Not Board of Adjustment and not staff.

CHAIR DONALDSON: That's what I thought and that's what I was saying.

MS. SPEICHER: It is a rezoning of property is what a conditional

CHAIR DONALDSON: That's why I was saying they need. Her appeal was to the wrong place wasn't it?

MS. SPEICHER: I'm not an attorney.

CHAIR DONALDSON: Well isn't that what it says?

MR. HASTY: Well, the permit was issued and she had, I think, it was a proper appeal. That permit issue was to this board. And that's what she's done but we didn't want it heard, we wanted a stay.

CHAIR DONALDSON: Didn't want a what?

MR. HASTY: We didn't want it heard until after the Court of Appeals ruled so that's why we filed a motion to stay.

MR. HUMPHREY: To stay.

MS. MULLINS: But if we'd heard it, can I ask, if we'd heard it, what she had to say, and either way it would of still come back to us. Am I correct? I mean after, even if we'd heard it tonight and then turn around and still went to Superior Court it would still come back to us correct?

MR. HASTY: Well if you have the hearing, she would have appealed if you had ruled against her.

MS. MULLINS: Right.

MR. HASTY: [Inaudible]

MR. LOTT: Where does it end?

MR. HUMPHREY: So it would be appealed again anyway?

MR. LOTT: Where does this thing end?

MS. MULLINS: It would still come back to us no matter what. Either no matter what would have happened it would have still have come back to us.

MR. LOTT: What did you mean by, what is meant by, he made a decision and he stayed it?

CHAIR DONALDSON: He ruled against our decision. We found that it was a recreational under the. You weren't here the first time.

MR. LOTT: No

CHAIR DONALDSON: First time it came up, just to recap it briefly, was the first time it came up it was about whether or not it was a school because the county really had no statute or zoning thing. Nothing about permit about firing ranges. None.

MR. LOTT: Right

CHAIR DONALDSON: So it came up under they sort of gave them the permit on the basis that it was a school which it is in a way because it teaches a lot of military people.

MR. LOTT: Right

CHAIR DONALDSON: Law enforcement. People from all over the nation in fact. Agencies. So, but and the board approved it and that was on a long hearing too. It went to the Superior Court. He said it was not a school. It got appealed to the Court of Appeals. Court of Appeals agreed right?

MR. HASTY: In that case the Superior Court upheld the board.

CHAIR DONALDSON: Yeah. They upheld the board. That's right. They upheld the board and said it was a school. It went to the Court of Appeals. Court of Appeals said it was not a school and sent it back. So, then it came back on for a rehearing with this board year before last?

MS. MULLINS: Yes.

CHAIR DONALDSON: Yea, year before last.

MR. HUMPHREY: Yes.

MR. DYKES: 2012

CHAIR DONALDSON: 2012. Had about a 6 and a half hours. Started at 7 o'clock it was about 11:30 when we finished. That time, in that meantime, the county after the Court of Appeals said no it wasn't a school and sent it back the county came up under the recreational use under the thing there's a plus there's also an issue about I forget the lot the case off the top of my head now about.

MR. HASTY: Wesley Chapel

CHAIR DONALDSON: Yeah. Wesley Chapel case that came out of the Court of Appeals said that basically you can't really restrict someone's use of their property and under with the

exception of certain narrow rules of doing it. Well it came back before us and we found that under the ordinance that or the ordinance that then was in effect about it under recreational use, they put it under recreational use like you would for these motocross tracks

MR. LOTT: Right

CHAIR DONALDSON: Recreational activities, things like that. So, we found unanimously that night that it was. That it complied. They didn't like that so they appealed it. Superior Court judge I guess heard it in what August?

MR. HASTY: Yes.

MS. MULLINS: Yeah.

MR. HASTY: Issued his order in October.

CHAIR DONALDSON: Issued an Oct-. Issued an order in October said that it was not a recreational didn't qualify under recreational and overruled us, but instead of sending it back to us and saying you know deny this permit, he stayed that. He said I'm going to overrule you because I think you did wrong, you made the wrong decision, but I'm not going to make you do anything right now and there's a number of reasons why he could have done that. One is the economic impact to the company if they'd had to shut down right then and there. The second one is he may have felt like I've made my decision let the Court of Appeals decide it and I'm washing my hands of it.

MR. LOTT: Okay now this lady that was here tonight.

MS. MULLINS: Ms. Currin.

MR. LOTT: Is she part of a group trying to stop?

CHAIR DONALDSON: She's the attorney for them.

MS. MULLINS: She's the attorney.

MR. HUMPHREY: She's the attorney Currin.

MS. MULLINS: She's the attorney for

MR. LOTT: for the TigerSwan?

CHAIR DONALDSON: No, no the landowners around.

MS. MULLINS: She's the attorney for the landowners.

MR. HUMPHREY: For the homeowners. For the homeowners.

CHAIR DONALDSON: Landowners around it, okay.

MR. LOTT: Okay

CHAIR DONALDSON: So he stayed his order and said I think you made the wrong decision but I'm not going to enforce it which could mean a number of things. Primarily the reason I think he made that was the fact that the economic impact if he got overruled on TigerSwan, if he shut them down for six months, a year, a year and a half. So he put that on a, he just stayed the enforcement of it. So, he told us look I think you were wrong but I'm not going to make you do anything about it.

MR. LOTT: Okay.

CHAIR DONALDSON: So that's now at the Court of Appeals. So now in the meantime, they came up with the new zoning about firing ranges. So they issued a permit on the firing range. Basically from, and I was under the understanding on the firing ranges, they took us out of the appeals process on that. I was told by two of the County Commissioners we've taken y'all out.

MR. LOTT: But don't they meet all those requirements under the new rulings?

CHAIR DONALDSON: Apparently they do. The Planning Board gave it to them.

MS. SPEICHER: And the County Commissioners gave it to them.

CHAIR DONALDSON: Yeah.

MR. DYKES: I have a question okay. Let's say worst case scenario

CHAIR DONALDSON: So that's why my, reason I said continue it was for two reasons. One, there's a bunch of appeals going on.

MR. HUMPHREY: Flood of appeals over.

CHAIR DONALDSON: We might as well just let everything, the dust settle and then we'll decide what we're going to do, but secondly, more importantly, I don't think we're the right people to appeal to.

MS. MULLINS: Right. I agree

MR. HASTY: Well there's, it's even more complicated because there's another Superior Court case on the ordinance that the one that went to the commissioners is now in Superior Court [inaudible]

CHAIR DONALDSON: Oh yeah. I'd forgot about that.

MR. HASTY: This is the permit on the firing range so it's, I think was, is appropriate for this board but there's that separate case.

CHAIR DONALDSON: You should have mentioned that. I forgot all about.

MR. HASTY: [Inaudible.]

CHAIR DONALDSON: Yea because they did pass the ordinance. The County Board, County Commissioners and they gave a permit also to TigerSwan, didn't they?

MS. SPEICHER: Yes.

CHAIR DONALDSON: The County Commissioners?

MS. SPEICHER: Yes.

CHAIR DONALDSON: And they appealed that too didn't they?

MS. SPEICHER: Yes.

CHAIR DONALDSON: All the more reason. I'd forgotten all about that. It gets too complicated.

MS. MULLIN: Don't blame me just because I'm [inaudible].

CHAIR DONALDSON: No, I mean you have to, just you have to, as long as I practiced law and was a judge you can sort it out but it's like that was one of my questions. I was just being picking at her a little bit when I said "Well what if the board just said no we're not going to comply?" I don't think it has any authority.

MR. HASTY: [Inaudible]

MR. DYKES: You brought up the statement what about if there's no board then where would they take it to?

MR. HUMPHREY: There wouldn't be a board.

MR. DYKES: Let's say what if we just walked away and there was no board then what would they do then?

CHAIR DONALDSON: What would they do Mr. Hasty?

MS. MULLINS: That wasn't good.

MR. HUMPHREY: There is a board.

MR. HASTY: I've talked to Rick about that and he thinks that there's an old case out there and I was going to try to find it that they wouldn't be able to hold a board in contempt. [Inaudible].

CHAIR DONALDSON: I don't think you can.

MR. HASTY: [Inaudible].

CHAIR DONALDSON: If the board, if the board members resign said "I'm resigning" and because you can't force us to stay. If the board members just said I'm resigning.

MR. DYKES: They just can't go out there and just put someone together.

CHAIR DONALDSON: You wouldn't have a quorum. If you don't have a quorum you can't have any you can't proceed with any business.

MS. SPEICHER: Another possibility could be that possibly the court can't order an one individual to make a motion to even.

CHAIR DONALDSON: That's right.

MS. SPEICHER: to even [inaudible].

CHAIR DONALDSON: If you just sat here and said it's on the docket somebody make a motion and nobody made a motion, it'd fail for lack of a motion.

MS. MULLINS: That's what I was gonna say, if nobody made a motion what would, yeah.

CHAIR DONALDSON: It fails for lack of a motion.

MR. HUMPHREY: Then they'd carry that to court.

CHAIR DONALDSON: They'd have to do something but it would be, you know it'd be like, you know.

MR. DYKES: Okay let's say

MS. SPEICHER: That's a [inaudible].

CHAIR DONALDSON: Kinda reminds me of what.

MR. HUMPHREY: I don't know.

MR. DYKES: Just say if Mr. Humphrey, Ms. Mullins and

MR. LOTT: George Lott

MR. DYKES: Mr. George was in favor of it and I opposed it, then what would happen?

CHAIR DONALDSON: It only takes three to win.

MR. LOTT: Three to win.

MS. MULLINS: Right.

MR. HUMPHREY: You'd lost it. You'd lost it Mr. Dykes.

CHAIR DONALDSON: Because we don't have to have unanimous.

MR. HUMPHREY: We don't. No. It don't have to be unanimous.

MS. MULLINS: Now okay it's, my understanding is.

CHAIR DONALDSON: But if you had 2-2.

MS. MULLINS: Oh. Yeah. And nobody if.

CHAIR DONALDSON: It fails then.

MS. MULLINS: If you said there's three more, there's three on, three more cases with TigerSwan?

MR. LOTT: You don't count.

MR. DYKES: You don't count.

CHAIR DONALDSON: I can abstain from voting.

MR. HUMPHREY: Break the tie.

MS. MULLINS: So three separate ones. Now, are all these going to Superior Court or are these all different entities?

MS. SPEICHER: They're different. [Inaudible].

CHAIR DONALDSON: I abstained from voting on the last one. It was 4-0. I abstained because I sympathize with the landowners.

MR. LOTT: I do too to a certain extent.

CHAIR DONALDSON: I sympathize with the landowners but I also understood the law was on TigerSwan's side and when we took that vote if you remember I abstained because it was unanimous. We only need at that time, we needed four votes and I made it, I let everybody vote. I was only gonna vote for it if we needed the fourth vote but when it came I abstained because I sympathize with the landowners, but legally TigerSwan was in the right on it.

MR. DYKES: The only thing that I'm confused about, it was my understanding when this thing started out it was a vocational school. Then it turned into a

CHAIR DONALDSON: A recreational

MR. DYKES: A firing range and all that so that's where I was kinda

MS. MULLINS: And but see now if they bring it back around under the new ruling for firing range I mean what's their chances of you know?

CHAIR DONALDSON: Do we have any more business?

MS. SPEICHER: The county, the County Commissioners adopted firing range regulations and specifically asked the staff what were the setbacks of Tigerswan's firing ranges, individual ranges, shooting stations, and that is the measurement they put in firing range standards.

CHAIR DONALDSON: Except for the small ones.

MR. DYKES: Okay I have one more question. Say they said we just want to get rid of the vocational part of it. We just want this completely a firing range. Then what would happen?

CHAIR DONALDSON: That's what they've got now.

MR. DYKES: Okay, so they've gotten rid of.

CHAIR DONALDSON: The new, the new zon-

MR. LOTT: Any teaching is irrelevant to it.

CHAIR DONALDSON: The new one you know and if you only, if there's not more than a certain number of people using it you don't even have to get a permit. Like if you got 20 acres of land out there and you want to invite five of your friends over, you can shoot up the countryside.

MR. LOTT: Yeah. Florida's having that problem right now.

CHAIR DONALDSON: But I mean so.

MS. SPEICHER: I do want to make sure it's clear that we haven't changed the ordinance yet, our local ordinance, but the law did change that it's only a majority vote now on appeals. It's not the 4/5 anymore.

CHAIR DONALDSON: I know.

MS. MULLINS: It's majority.

CHAIR DONALDSON: That's what we were just talking about.

MS. SPEICHER: Okay. I just want to because some like that were here for the earlier ones. It confused everybody with the three/two vote and.

MR. LOTT: Are we excused?

CHAIR DONALDSON: I got a motion?

12. UPDATE(S)

There were none.

13. ADJOURNMENT

Mr. Lott made a motion to adjourn the meeting at 8:05 p.m., seconded by Mr. Dykes.

P13-11-C
SITE PROFILE

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.

Site Information:

Frontage & Location: 580'+/- on Gillespie St; 270'+/- on Vineland Dr (SR 2325)

Depth: 270'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Woodlands, decorative cross

Initial Zoning: R6A – March 15, 1979 (Area 6); rezoned to C(P) 10/18/79 case No. P79-96

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: CC, LC (Fayetteville), HS(P), M(P), C(P), C3 & R10; West: M(P), C(P), C(P)/CU (C3 setbacks and outside storage), R10 & R6A; East: M(P), R6A; South: LC (Fayetteville), HS(P), M(P), C(P), R10 & R6A

Surrounding Land Use: residential (including multi-family & manufactured dwellings), vacant commercial, (2) religious worship activities, hotel/motel, open storage, motor vehicle repair, manufactured home park, motor vehicle rental, motor vehicle sales

School Capacity/Enrolled: Cashwell Elementary: 800/718; Ireland Drive Middle (6): 340/364; Douglas Byrd Middle (7-8): 600/743; Douglas Byrd High: 1280/1225

2030 Growth Strategy Plan: Urban Area

Special Flood Hazard Area (SFHA): None

Water/Sewer Availability: PWC/PWC

Subdivision/Site Plan: See attached “Ordinance Related Conditions”

Soil Limitations: None

Average Daily Traffic Count (2010): 23,000 on I-95 Bus N

Municipal Influence Area: City of Fayetteville

Highway Plan: US 301/Bus 95 (Gillespie Street) is identified in the Highway Plan as a major thoroughfare. The plan calls for widening to a multi-lane facility (6 Ln-div). The current ROW (260') is adequate

Cumberland County Zoning Ordinance Reference: Section 1307 Billboards (off-premises signs)

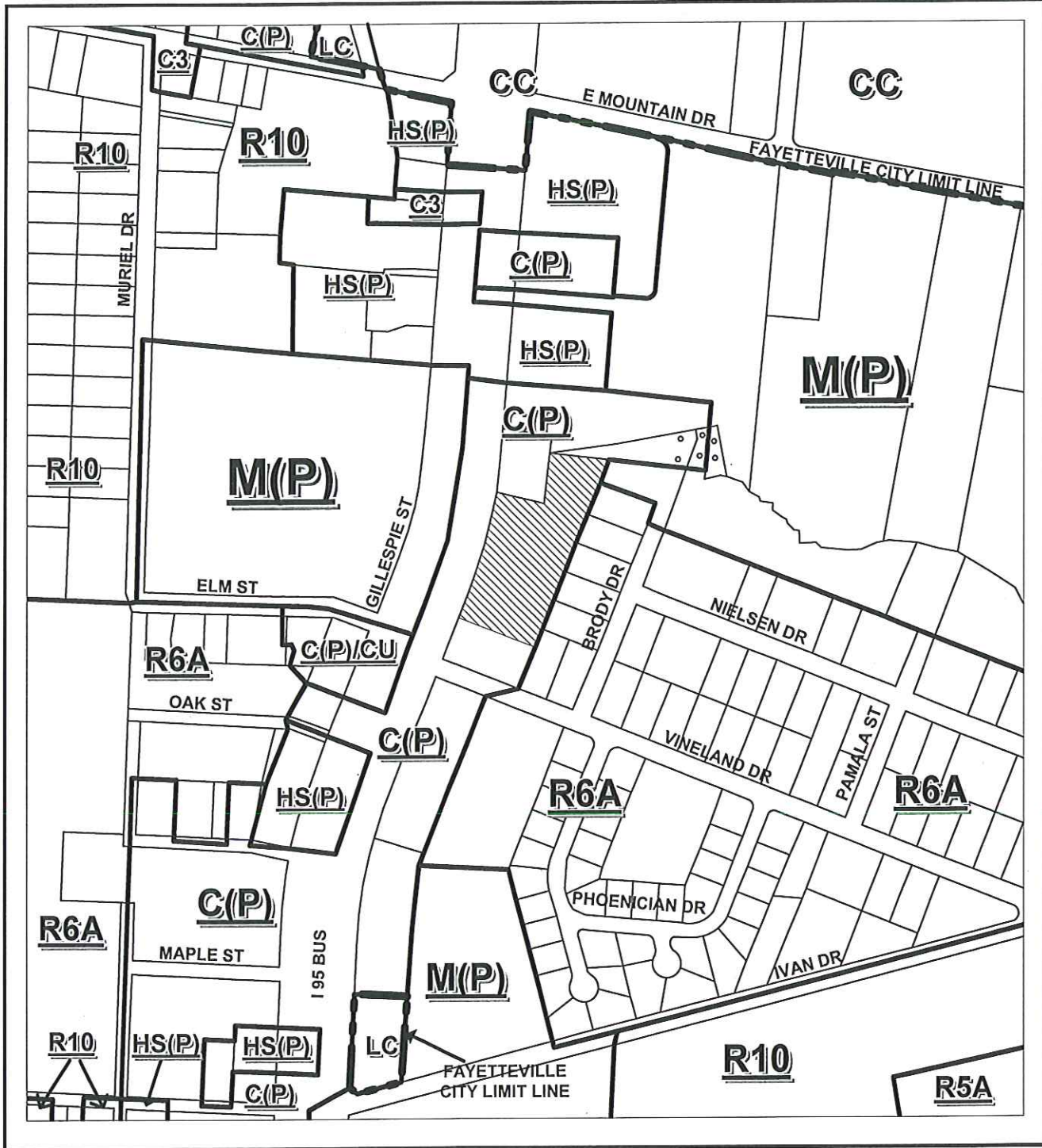
Notes:

1. Contents of Application:
 - a. Proposed billboard with a steel single, maximum height 35 feet
 - b. Billboard will be illuminated
 - c. Billboard sign area: 480 square feet on each side
 - d. Billboard design: Static face

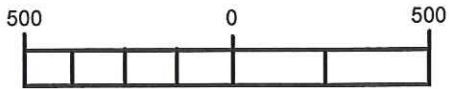
First Class and Record Owners' Mailed Notice Certification

A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.

NOTE: PARCEL IN AOD



N



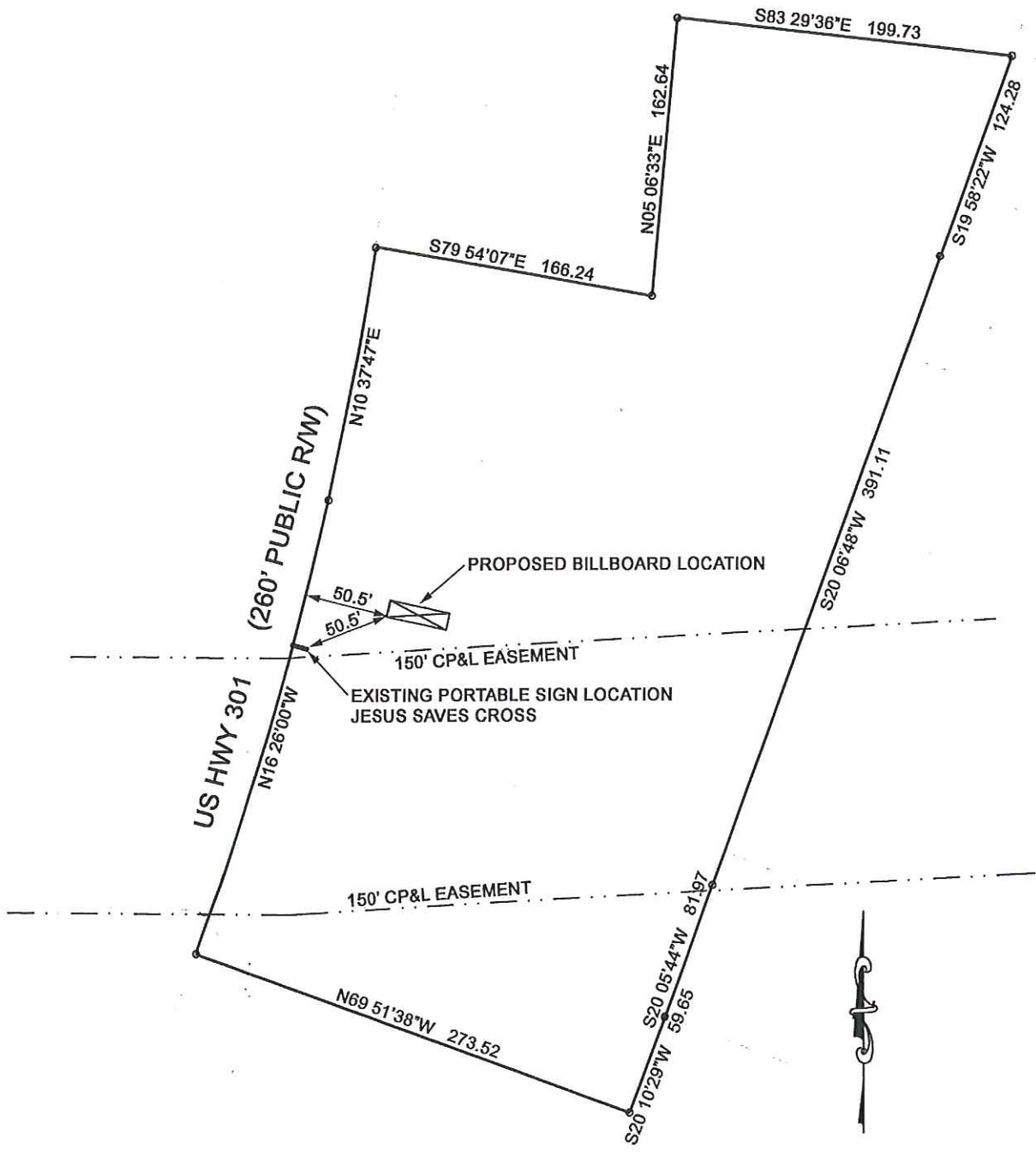
SCALE IN FEET

BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 3.68 AC.+/-	HEARING NO: P13-11-C	
ORDINANCE: COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		

PORT. OF PIN: 0435-08-9106

WL
10/24/13



**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

**REQUEST: TO ALLOW A BILLBOARD IN A C(P)
PLANNED COMMERCIAL DISTRICT**

CASE: P13-11-C ACREAGE: 3.68 AC.+/-

ZONED: C(P) SCALE: NTS

*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 2589 Gillespie St. Fayetteville, NC

OWNER: Michael Keith Sutton

ADDRESS: Po Box 535 Fayetteville, NC ZIP CODE: 28312

TELEPHONE: HOME 910-308-9911 WORK 910-308-9911

AGENT: M. Grey Vick

ADDRESS: Po Box 494 Wrightsuille Beach, NC 28480

TELEPHONE: HOME 910-620-3567 WORK same

E-MAIL: waterwayoutdoor@gmail.com

APPLICATION FOR A SPECIAL USE PERMIT

As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0435-08-9106
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 3.68 Frontage: 450 Ft Depth: 840

C. Water Provider: county PWC 270 FT second

D. Septage Provider: PWC

E. Deed Book 04601, Page(s) 0466, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: car lot / vacant office

G. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail including hours of operation, number of employees, signage, parking, landscaping, etc.) erect a 480 sq ft Billboard sign east side
35 FT Overall Height, Steel I-Beam

STATEMENT OF ACKNOWLEDGMENT

Regarding appearance before the Board of Adjustment, the undersigned owner(s), agents, or their assigns, by virtue of their signature(s) to this application, hereby acknowledge the following:

- That although appearance before the board is not required, it is strongly encouraged;
- The board will hear any and all argument for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the board has the authority to approve, deny, or defer the request for additional information to be provided;
- If the petitioner or their representative for this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case.
- If the board's decision is to deny the matter before them, the aggrieved party shall file a **"Notice to Intent to Appeal" with the Planning & Inspections Staff on the next business day following the meeting in which the board's decision was made final, or the next business day following receipt of the written copy thereof.**
- Any petition for review by Superior Court shall be file with the Clerk of Superior Court within 30 days after the decision of the board is made final.

Signed acknowledgment that the Planning and Inspections Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above.

SIGNATURE OF OWNER(S) *M. Keith Sutton*

PRINTED NAME OF OWNER(S) Michael Keith Sutton

DATE 8-19-2013

Special Use Permit – Board of Adjustment

DRAFT

Ordinance Related Conditions

Pre- Permit Related:

1. The owner/developer(s) must contact the tax mapping office to activate the plat recorded under plat Bk. 94, Pg. 88 and acquire a new parcel identification number (PIN). The owner/developer(s) must provide the new parcel identification number (PIN) to Code Enforcement prior to any permits being issued.

Permit-Related:

2. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
3. At the time of application for permits, the developer must provide to Code Enforcement approval from the entity that owns and/or regulates the type water and sewer serving the proposed development.
4. At the time of zoning/building permit application, the developer must provide documentation from the NC Department of Transportation (NCDOT) to the Code Enforcement office that indicates the billboard and its proposed location is permitted by the NCDOT.
5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
6. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
7. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
8. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.
9. Because the subject property is located within the Airport Overlay District and in the event the proposed billboard is greater than 200 feet in height from sea level, the developer will be required to provide a FCC Form 7460-1 to Code Enforcement at the time of permit application. This form must be acknowledged by the FCC that the structure is not a hazard or obstruction to air traffic.

Site-Related:

10. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the C(P) zoning and Airport Overlay districts must be complied with, as applicable. In addition the contents of the application and site plan are incorporated as part of this conditional approval.
11. Any future freestanding signs, buildings, or other structures located on the subject property must be located in accordance with Section 1307, County Zoning Ordinance in relation to the billboard.

12. This conditional approval is not approval of any additional freestanding signs on the subject property.
13. "US HWY 301" must be labeled as "US HWY 301/I-95 BUS (Gillespie Street)" on all future plans.
14. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision and Development Ordinance)
15. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
16. If driveways are changed or added, the developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). If required, a copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
17. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.

Advisories:

18. The applicant is advised to consult an expert on wetlands before proceeding with any development.
19. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.
20. Because the subject property is located within the Airport Overlay District, the developer is strongly encouraged to discuss their development plans with Land Use Codes Section and/or the Fayetteville Regional Airport Director early in the planning stage to ensure that the proposed height of any proposed structure can be found to be no obstruction or hazard to air navigation.

Thank you for doing choosing Cumberland County and the Fayetteville area for your business location!

If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605 with the Land Use Codes Section; otherwise, contact the appropriate agency at the contact numbers below.

Contact Information (Area Code is 910 unless otherwise stated):

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
Fayetteville Planning:	Marsha Bryant	433-1416
Corp of Engineers (wetlands):	Crystal C. Amschler	(910) 251-4170
NCDENR (E&S):	Sally Castle	433-3300
Location Services:		
Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
NCDOT (driveways/curb-cuts):	Gary Burton	486-1496
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545

cc: Marsha Bryant, City of Fayetteville

P14-02-C
SITE PROFILE

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.

Site Information:

Frontage & Location: 185'+/- on Applegate Road

Depth: 488'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Religious worship activities

Initial Zoning: RR – February 03, 1977 (Area 7)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: R10, RR, RR/CU (firewood cutting, storage, and sales), C1(P), C(P), & C(P)/CUD; South: RR, R6, R6A, R7.5, R10, & R20; East: R6, R6A, & R10; West: RR, & R10

Surrounding Land Use: residential (including manufactured dwellings), religious worship activities, mini-warehousing (no outside commercial storage of motor vehicles)

2030 Growth Vision Plan: Urban Area

Southwest Cumberland Land Use Plan: Low Density Residential

Special Flood Hazard Area (SFHA): No

Soil Limitations: No

School Capacity/Enrolled: N/A

Water/Sewer Availability: N/A

Subdivision/Site Plan: See attached "Ordinance Related Conditions"

Average Daily Traffic Count (2010): 7900 on Camden Road (SR 1003)

RLUAC: No objection

Highway Plan: No improvements planned for Applegate Road

Cumberland County Zoning Ordinance Reference: Section 927 Towers

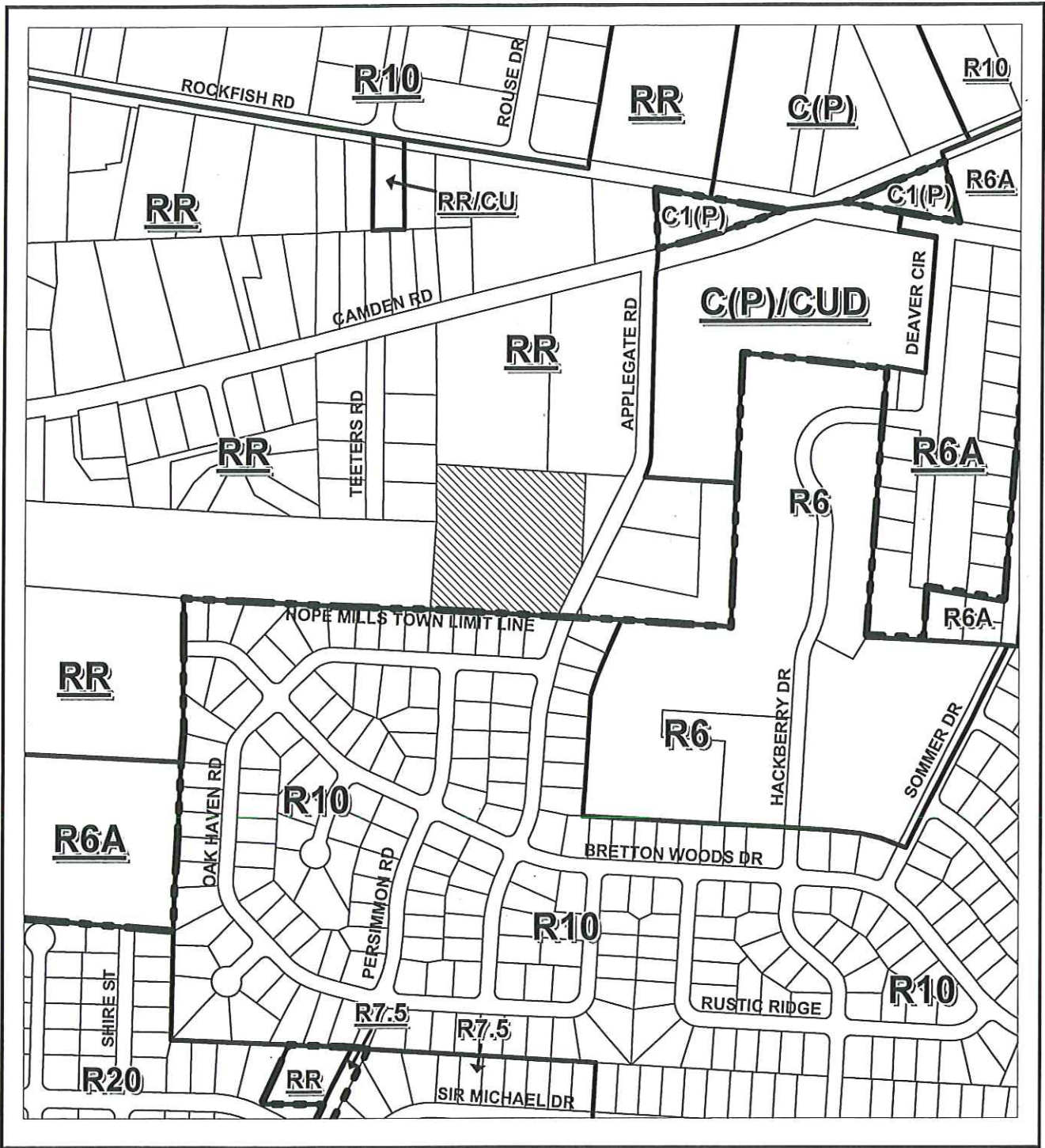
Notes:

1. Contents of the application:
 - a. Proposed 150' monopole tower
 - b. Proposed 75'x75' (5625 sq ft) lease area
 - c. Proposed 30' access/utility easement for tower site
 - d. No outside storage at the tower site
 - e. No employees on site, tower will be monitored, inspected and maintained twice each month
 - f. Scana Communication's statement indicating its willing to share the tower with three other users
 - g. Scana Communication's report stating its power density levels meets the federally approved and ANSI levels
 - h. Licensed engineer's statement signed and sealed, stating tower will have the structural integrity and have the capacity to support or to accommodate more than one use or user
 - i. Scana Communication's affidavit certifying tower will meet Federal, State and local laws including FCC and FAA

2. All documentation required by the ordinance is attached to the application or contained within the case file, and is available for review upon request.

First Class and Record Owners' Mailed Notice Certification

A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.



RR

R6A

R20

R10

R10

R10

R7.5

R7.5

R6

R6

R6A

R6A

R6A

R10

RR

C(P)

RR/CU

RR

RR

C(P)/CUD

C1(P)

C1(P)

NOPE MILLS TOWN LIMIT LINE

BRETTON WOODS DR

RUSTIC RIDGE

ROCKFISH RD

CAMDEN RD

TEETERS RD

APPLEGATE RD

SOMMER DR

HACKBERRY DR

DEAVER CIR

ROUSE DR

OAK HAVEN RD

PERSIMMON RD

SHIRE ST

SIR MICHAEL DR

BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 5.30 AC.+/-

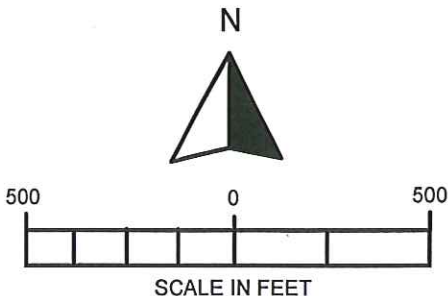
HEARING NO: P14-02-C

ORDINANCE: COUNTY

HEARING DATE

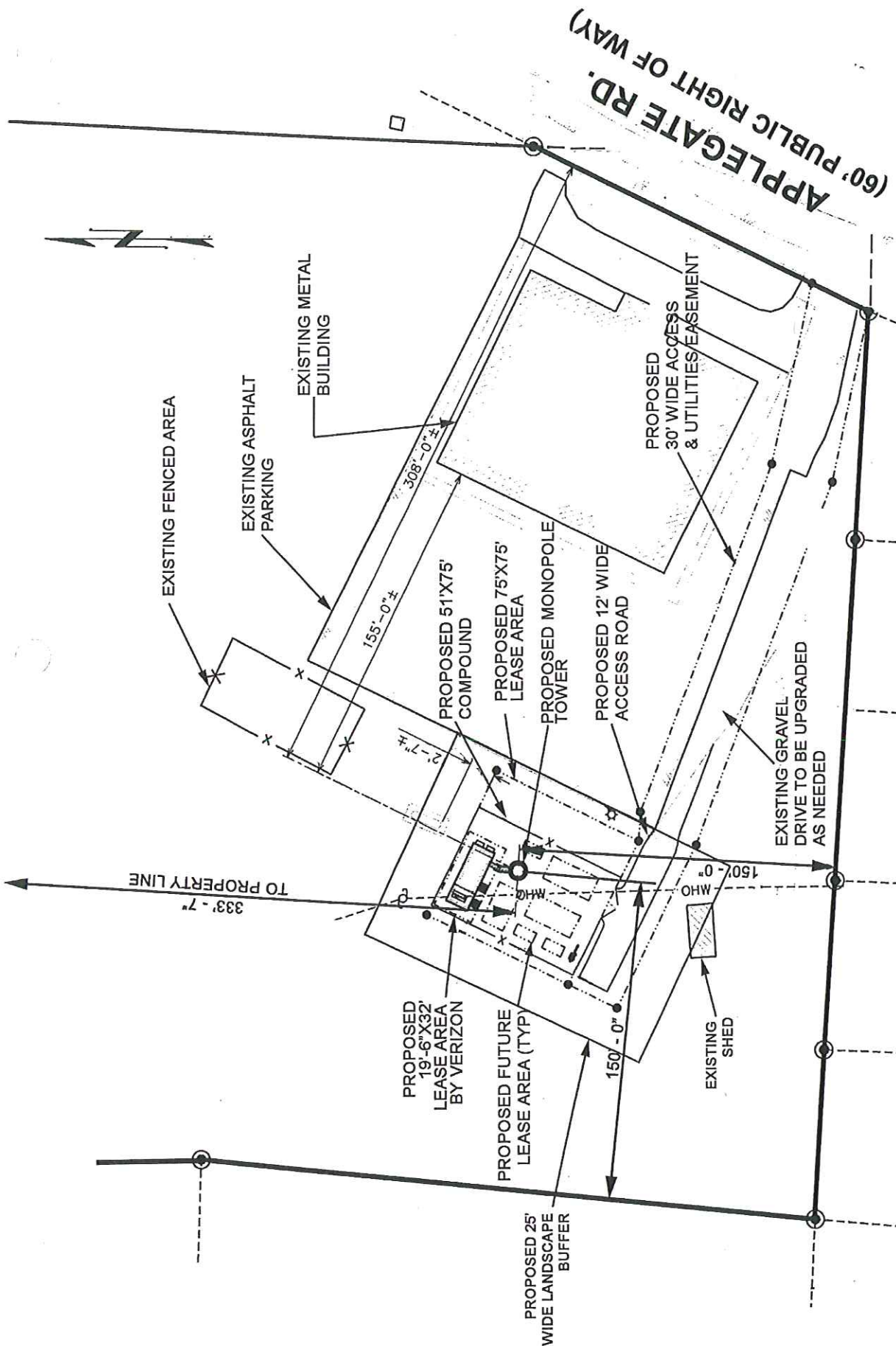
ACTION

GOVERNING BOARD



PIN: 0404-35-1557

WL



**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

REQUEST: TO ALLOW A 150' TOWER IN A
RR RESIDENTIAL DISTRICT

CASE: P14-02-C ACREAGE: 5.30 AC +/-

ZONED: RR SCALE: NTS

*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST

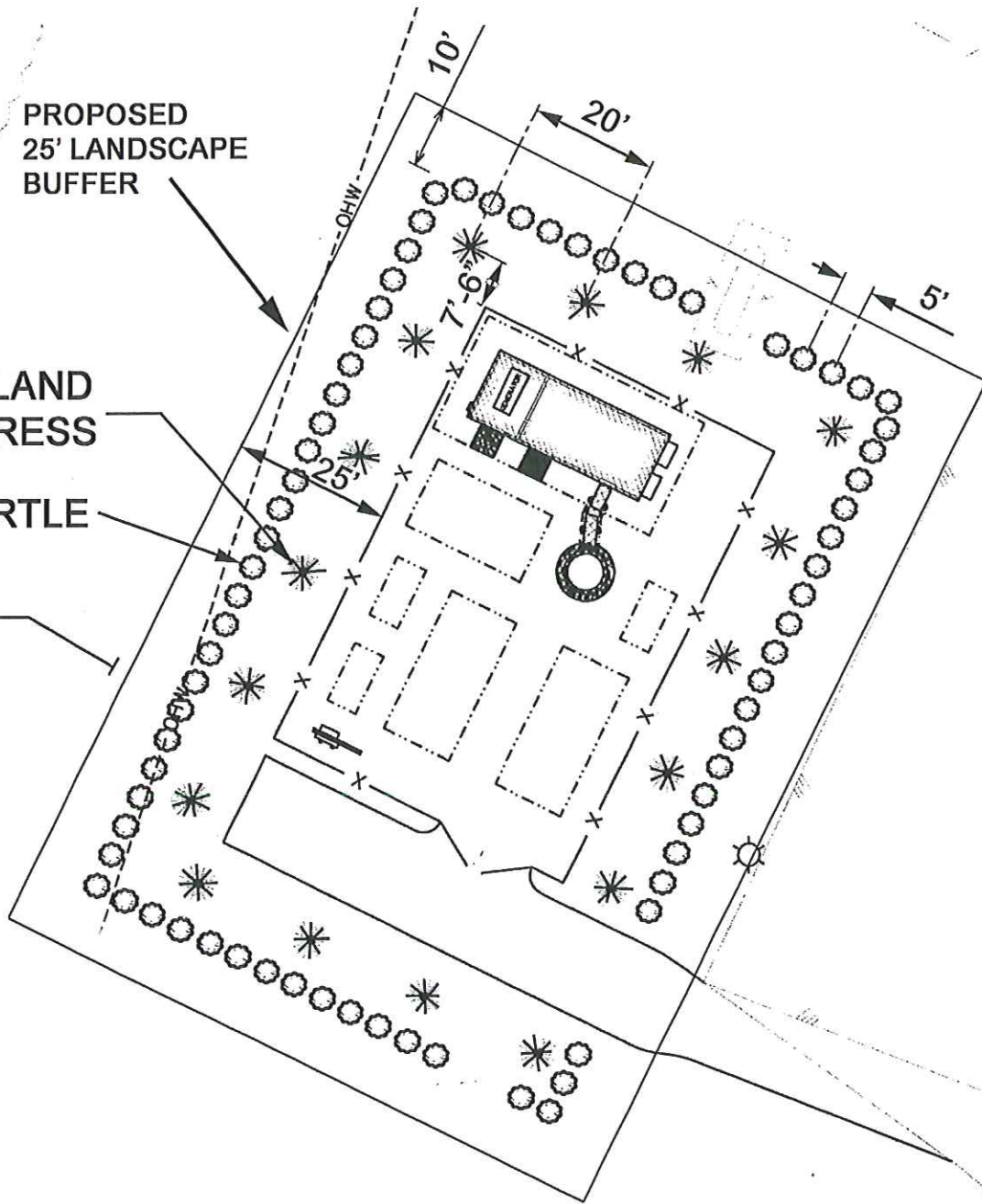


PROPOSED
25' LANDSCAPE
BUFFER

LEYLAND
CYPRESS

WAX MYRTLE

MULCH



P14-02-C

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 3640 Applegate Road, Hope Mills, North Carolina 28348

OWNER: Word of Life Evangelistic Ministry Inc.

ADDRESS: 3640 Applegate Road, Hope Mills, NC ZIP CODE: 28348

TELEPHONE: HOME _____ WORK (910) 423 - 4351

AGENT: SCANA Communications, Inc. c/o Gary Pennington, Esquire

ADDRESS: Post Office Box 2844, Columbia, SC 29202

TELEPHONE: HOME _____ WORK (803) 929-1070

E-MAIL: JennaHendricks@pennlawfirm.com; GaryPennington@pennlawfirm.com

**APPLICATION FOR A SPECIAL USE PERMIT
As required by the Zoning Ordinance**

A. Parcel Identification Number (PIN #) of subject property: 0404-35-1557
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 5.3 acres Frontage: _____ Depth: _____

C. Water Provider: N/A

D. Septage Provider: N/A

E. Deed Book 4429, Page(s) 427, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: The property is currently being used as a church.

G. It is proposed that the property will be put to the following use: (Describe proposed use/activity in detail including hours of operation, number of employees, signage, parking, landscaping, etc.) The property will continue to be used as a church. The proposed future use is for the construction of a telecommunications tower and related appurtenances. The tower will be unmanned. Subsequent to the short-term construction of the telecommunications tower, there will be limited access to the telecommunications tower by service personnel. Routine maintenance of the site may require two (2) visits per month by a single vehicle. The tower will be fenced. There will be a twenty-five (25) foot wide landscape buffer.

The undersigned hereby acknowledge that the County Planning Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

✓ Pastor Tyrone Tillman for Grace Tabernacle Christian Center
NAME OF OWNER(S) (PRINT OR TYPE)

3640 Applegate Road, Hope Mills, North Carolina 28348
ADDRESS OF OWNER(S)

E-MAIL

HOME TELEPHONE #

(910) 423-4151
WORK TELEPHONE #

✓ SCANA Communications, Inc. c/o Gary Pennington, Esquire
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

Post Office Box 2844, Columbia, SC 29202
ADDRESS OF AGENT, ATTORNEY, APPLICANT

JennaHendricks@pennlawfirm.com; GaryPennington@pennlawfirm.com
E-MAIL

HOME TELEPHONE #

(803) 929-1070
WORK TELEPHONE #

Tyrone Tillman
SIGNATURE OF OWNER(S)

[Handwritten Signature]
SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

1/14/2014
SIGNATURE OF OWNER(S)

The contents of this application, upon submission, become "public record."

STATEMENT OF ACKNOWLEDGMENT

Regarding appearance before the Board of Adjustment, the undersigned owner(s), agents, or their assigns, by virtue of their signature(s) to this application, hereby acknowledge the following:

- That although appearance before the board is not required, it is strongly encouraged;
- The board will hear any and all argument for and against this matter before them and such relevant facts will be given under sworn testimony;
- At the public hearing the board has the authority to approve, deny, or defer the request for additional information to be provided;
- If the petitioner or their representative for this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case.
- If the board's decision is to deny the matter before them, the aggrieved party shall file a **"Notice to Intent to Appeal"** with the **Planning & Inspections Staff on the next business day following the meeting in which the board's decision was made final, or the next business day following receipt of the written copy thereof.**
- Any petition for review by Superior Court shall be file with the Clerk of Superior Court within 30 days after the decision of the board is made final.

Signed acknowledgment that the Planning and Inspections Staff has explained the application process and procedures regarding this request and the public hearing procedure stated above.

SIGNATURE OF OWNER(S) 

PRINTED NAME OF OWNER(S) Tyrone Tillman, Pastor

DATE 1/14/2014

Special Use Permit – Board of Adjustment

DRAFT

Ordinance Related Conditions

(Proposed Tower w/ Existing Religious Worship Facility)

Pre- Permit Related:

1. Prior to application for any permits, three copies of a revised site plan addressing the following must be submitted for staff review and approval:
 - a. A 25-foot wide evergreen buffer area surrounding the tower compound is required – the buffer shown on the site plan does not adequately meet this condition and is not clearly delineated – an existing shed, LP tank, and a proposed light pole are shown within the buffer. This buffer must shield the compound area from the entire remaining tract. No structures, including guyed wires or anchors, may be located within the buffer. The buffer area is required to be planted in accordance with Section 927.F, County Zoning Ordinance.

Note: The developer is required to modify the lease area to include the required buffer or obtain a statement from the owner that has been recorded with the Cumberland County Register of Deeds granting permission to maintain this buffer area outside the actual lease lot area. The buffer area shall be planted with evergreen trees that will attain a minimum height of 25 feet within four years and spaced no greater than 20 feet apart. The inner fringe of the buffer area shall be planted with an evergreen hedge with an initial height of three feet and an expected attainment of six feet in height within four years of planting. This buffer shall be maintained for the duration of the lease. (Section 927.F, Towers, County Zoning Ordinance.)
 - b. The proposed relocation of the power line and overhead wiring crosses through the required 25 foot wide evergreen buffer. Written confirmation from the power company, which has been recorded with the Cumberland County Register of Deeds, establishing that the power line will not affect the landscaping within the buffer area must be submitted to Code Enforcement. Otherwise, the site plan must be modified and the power line located outside of the 25-foot wide evergreen buffer area.
 - c. A sealed copy of the site plan must indicate that the tower is setback from all property lines a minimum of 150' – on the site plan as submitted the tower scales at 145' from the western property line.
 - d. The sealed site plan must clearly indicate and label the 10' in height fence location surrounding the entire tower compound.. (Section 927.E, Towers, County Zoning Ordinance.)
2. Prior to application for any permits, the religious worship site plan (Case No. 06-138) must be submitted for staff review and approval. This condition is necessary due to components of the tower compound and buffer being located within the approved off-street parking area for the religious worship facility. Off-street parking for religious worship is calculated at the rate of one space for each five seats within the facility.

Permit-Related:

3. The owner/developer(s) of these lots must obtain detailed instructions on provisions of the County Zoning Ordinance and permits required to place any structure within this development from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street. For additional information, the developer should contact a Code Enforcement Officer.
4. Applicable to any future development related to the religious worship, connection to public water and sewer will be required, the Public Works Commission (PWC) must approve water and sewer plans prior to application for any permits. A copy of the PWC approval must be provided to Code Enforcement at the time of application for building/zoning permits. (Section 2306 A.1, Public Water and Sewer Systems, County Subdivision and Development Ordinance)

Note: Due to an existing agreement between the PWC and the Town of Hope Mills, an annexation petition most likely will be required prior to the PWC's review of any utility plans.

5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.

6. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Division of Water Quality, North Carolina Department of Environment and Natural Resources. If one acre or more of land is to be disturbed, prior to the issuance of any building/zoning permits for this site, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement.
7. For any new development where the developer disturbs or intends to disturb more than one acre of land, the developer must provide the Code Enforcement Section with an approved NC Department of Environment and Natural Resources (NCDENR) sedimentation and erosion control plan (S&E) prior to any application for permits. (Note: If any retention/detention basins are required for state approval of this plan, then three copies of a revised plan must be submitted and approved by Planning & Inspections prior to application for any building/zoning permits.) A copy of the NCDENR approval must be provided to Code Enforcement at the time of application for any building/zoning permits.
8. Prior to issuance of a building permit for the tower, the applicant/owner or developer must submit to Code Enforcement, drawings sealed by a licensed engineer and a certification letter from the licensed engineer who prepared the plans that the tower will meet all applicable Federal, State and local building codes and structural standards. (Section 927.H, Towers, County Zoning Ordinance.)
9. Prior to issuance of building permits for the tower, if lighting is required by the FAA, the applicant/developer/owner shall submit documentation from the FAA that the proposed lighting is the minimum lighting required by the FAA. (Section 927.P, Towers, County Zoning Ordinance.)
10. Prior to issuance of the final occupancy permit for the tower, the owner/operator of the tower shall submit a sign and seal engineer's statement that the tower is structurally sound. (Section 927.R, Towers, County Zoning Ordinance.)
11. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.
12. If the proposed lease area for the proposed cell tower is to be recorded as lease lot and split out for tax or other purposes, prior to application for any permits, the developer must submit to the Planning and Inspections Department a subdivision review to subdivide the lease lot.
13. In the event Applegate Road is improved and/or accepted for maintenance purposed by the Town of Hope Mills or the NC Department of Transportation and if an additional driveway for tower use only is desired prior to application for permits for tower construction, the developer must obtain a driveway permit from the appropriate public entity. If required, a copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.

Site-Related:

14. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the RR zoning district must be complied with, as applicable.
15. This conditional approval is not approval of any new freestanding signs. If a new freestanding sign is desired, re-submittal of the site plan is required prior to application for any freestanding sign permits. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is not approval of the size, shape, or location of any signs.)
16. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environment and Natural Resources' (NCDENR) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2306 D, County Subdivision and Development Ordinance)
17. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)

18. In the event a stormwater utility structure is required by the NC Department of Environment and Natural Resources (NCDENR), the owner/developer must secure the structure with a four foot high fence with a lockable gate, and is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.
19. All lighting is required to be directed internally within this development and comply with the provisions of Section 1102 M, Outdoor Lighting, County Zoning Ordinance.
20. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of one off-street parking space is required for the tower. See Condition No. 2 regarding the religious worship facility's off-street parking.
21. In the event the tower is not used for a period of six months, the tower shall be considered abandoned and must be removed. The owner of the tower is required to remove any abandoned, unused or structurally unsound tower within 90 days of receiving notice requiring removal. The Code Enforcement Coordinator may establish a shorter period of time for removal in the event the tower is determined to be structurally unsound. (Section 927.Q, Towers, County Zoning Ordinance.)

Advisories:

22. The applicant is advised to consult an expert on wetlands before proceeding with any development.
23. The subject property is located within the Town of Hope Mills Municipal Influence Area (MIA) and the town has tree preservation standards in their ordinances. The developer is encouraged to retain as many of the existing trees as possibly on this site.
24. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.
25. This conditional approval is not to be construed as all encompassing of the applicable rules, regulations, etc. which must be complied with for any development. Other regulations, such as building, environmental, health and so forth, may govern the specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.

Thank you for choosing Cumberland County and the Hope Mills area for your business location!

If you need clarification of any conditions, please contact Ed Byrne at 910-678-7609 or Patti Speicher at 910-678-7605 with the Land Use Codes Section; otherwise, contact the appropriate agency at the contact numbers below.

Contact Information (Area Code is 910 unless otherwise stated):

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
Fire Marshal – Emergency Services	Rodney Ward	321-6625
County Engineer's Office:	Wayne Dudley	678-7636
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
PWC:	Heidi Maly	223-4737
Town of Hope Mills:		424-4555*
Town Clerk:	Melissa P. Adams	
Chief Building Inspector:	Mike Bailey	
Stormwater Administrator:	Melanie Clerkley	
Zoning Inspector:	Jeff Wade	
Corp of Engineers (wetlands):	Crystal C. Amschler	(910) 251-4170
NCDENR (E&S):	Sally Castle	433-3300
Location Services:		
Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549
N.C. Division of Water Quality:	Mike Randall	(919) 733-5083 ext. 545

*This is the main telephone number for the Town of Hope Mills; once connected, the caller will be directed to the various departments.

cc: Mike Bailey, Town of Hope Mills

P85-03-C
SITE PROFILE

P85-03-C: REVOCATION OF A SPECIAL USE PERMIT (NEÉ 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)

Site Information:

Frontage: 425'+/- on Gillespie St

Depth: 303'+/-

Jurisdiction: Cumberland County

Adjacent Property: Yes, northeast of subject property

Current Use: Retail sales of storage buildings and carports (No longer used as a junkyard)

Initial Zoning: C(P) – November 17, 1975 (Area 4); SUP for billboard approved 2/20/2014
(Case no. P14-01-C)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: C(P),O&I(P) R6A & R10; West: C(P), R10 & R6A; East: C(P), M(P), R6A, RR; South: C(P), R10 & R6A

Surrounding Land Use: 4-retailing or servicing, residential (including manufactured dwellings), cemetery, 3-motor vehicle repair, motor vehicle sales, nursery operations, convenience retail w/ gasoline sales, vacant commercial, food production/wholesale sales

School Enrolled/Capacity: Baldwin Elementary: 745/790; South View Middle: 783/900; South View High: 1784/1800

2030 Growth Strategy Plan: Urban Area

Southwest Cumberland Land Use Plan: Heavy Commercial

Special Flood Hazard Area (SFHA): None

Water/Sewer Availability: PWC/PWC

Municipal Influence Area: Town of Hope Mills

Soil Limitations: None

Subdivision/Site Plan: Group development approved on 2/20/2014

RLUAC: No objection

US Fish & Wildlife: No objection

Average Daily Traffic Count (2010): 23,000 on I-95 Bus N

Highway Plan: US 301/Bus 95 (Gillespie Street) is identified in the Highway Plan as a major thoroughfare. The plan calls for widening to a multi-lane facility (6 Ln-div). The current ROW (260') is adequate

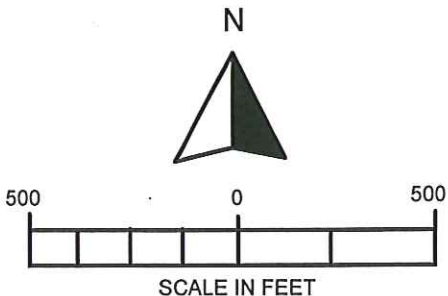
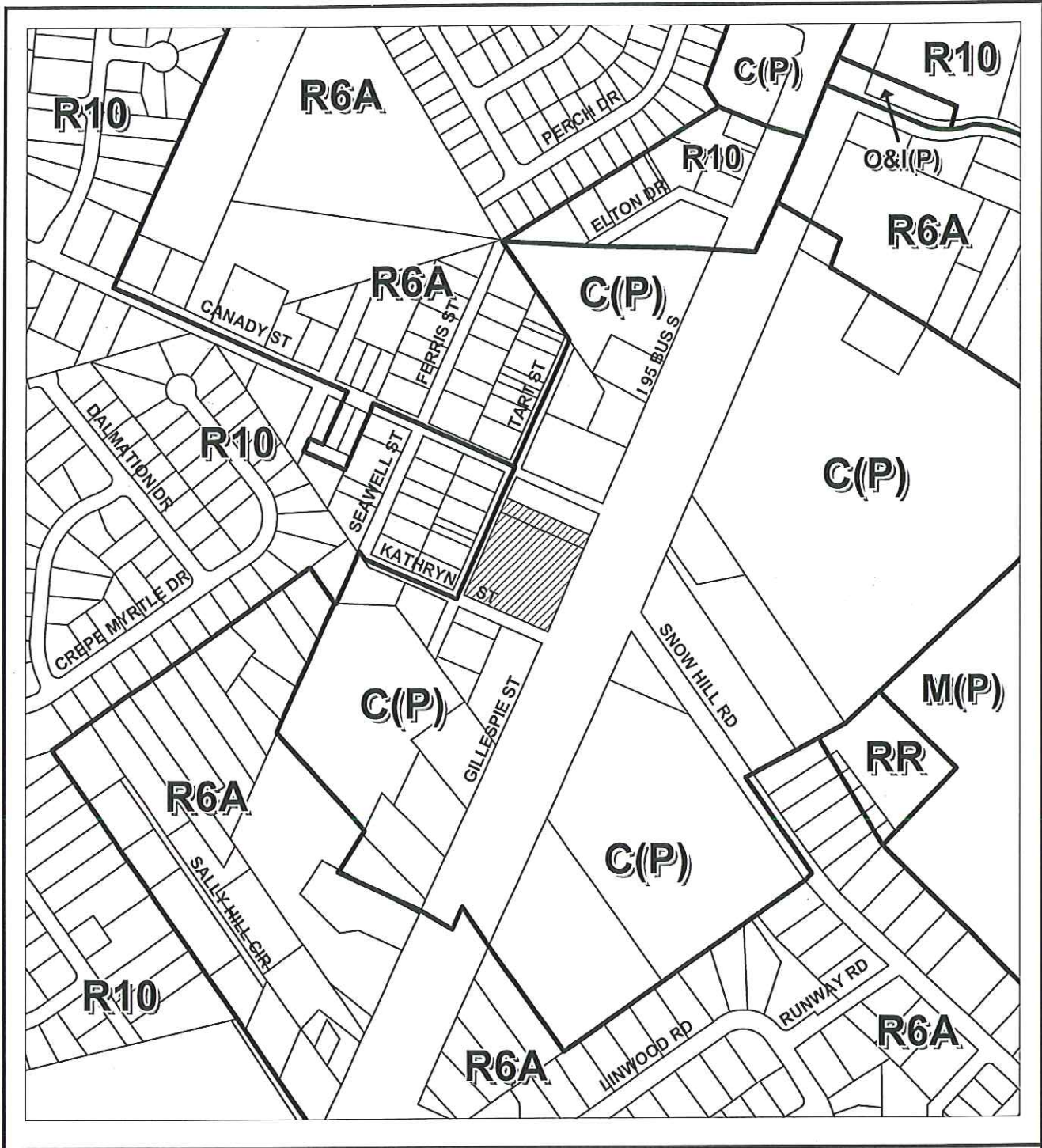
Notes:

1. Revocation of Specified Conditional Use Permit Case No. P85-03-C approved on 11/19/1998
2. Contents of the original application:
 - a. Proposed to operate a motor vehicle wrecking yard and junkyard
 - b. 8 foot screened fence to enclose storage area
 - c. No stacked cars and no cars outside of the fenced area

First Class and Record Owners' Mailed Notice Certification

A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.

NOTE: LOCATED IN AOD



**BOARD OF ADJUSTMENT
REVOCATION
CONDITIONAL USE PERMIT**

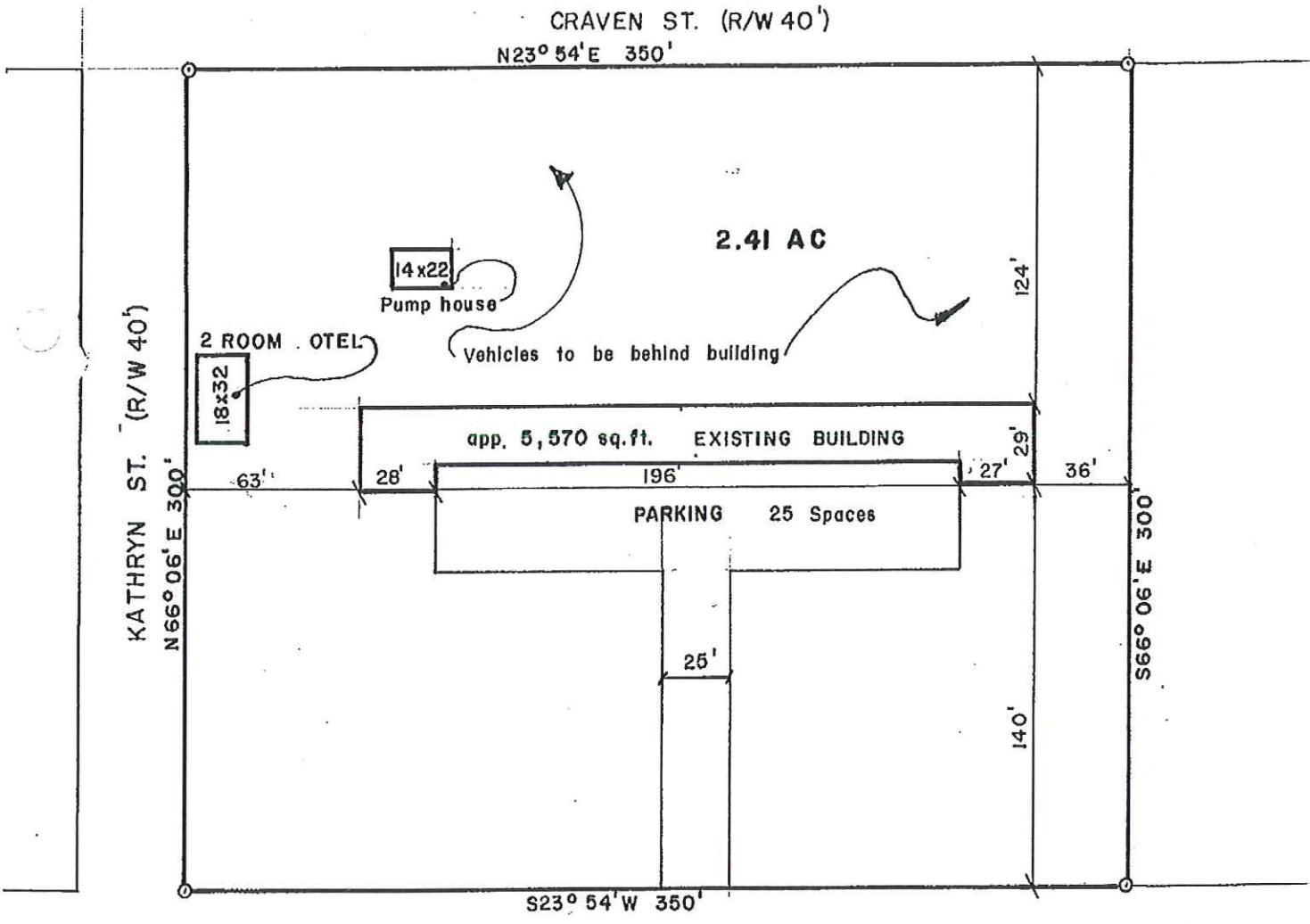
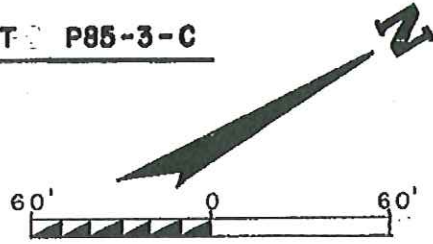
ACREAGE: 2.41 AC.+/-		HEARING NO: P85-03-C	
ORDINANCE: COUNTY		HEARING DATE	ACTION
GOVERNING BOARD			

PIN: 0424-78-6591
PIN: 0424-78-6325

AM

NOTE: SITE PLAN APPROVED JAN. 31, 1985

CONDITIONAL USE PERMIT P85-3-C



HWY 301 SOUTH Service Road

APPLICATION FOR CONDITIONAL USE PERMIT

Application No.: P85-3-C Date: 1/3/84

To the Planning Board and the Board of Adjustment of Cumberland County, I (We), the undersigned, do hereby respectfully make application and petition to the Board of Adjustment to grant a Conditional Use Permit as required in the Zoning Ordinance. In support of this application, the following facts are shown:

1. The property sought for Conditional Use Permit is located at 301 south between Canady Street and Kathryn Street on the West side of the street and known as lot(s) number(s) 15-28, 51-64, Campbell Park. It has a frontage of 350 on road feet and consists of an acreage of 2.5 acres.
2. The area sought for Conditional Use is described as follows:

Deed Description

Map Accompanies

3. The property sought for Conditional Use is owned by George and Thersa Frame as evidenced by deed from plot recorded in Book No. 14, Page 22, Registry of Cumberland County.

4. The following are all of the individuals, firms, or corporations owning property adjacent to both sides and rear, and the property in front of (across the street from) the property sought for Conditional Use.

NAME	ADDRESS	ZIP CODE
✓ Fowler, Melvin and Wife	3208 swen Mtn. Drive, Fay. NC	28306
✓ Williams, Glenola B.	303 Valley Rd. Fay. NC	28305
✓ Young, Elijah B.	Rt15 Box123 Fay. NC	28306
✓ Swenson, Douglas	Rt15 Box93 Fay. NC	28301
✓ Fowler, Mildred A	P.O. Box 73 Spring Lake NC	28390
✓ Tart, Ben F	Rt15 Box41 Fay. NC	28306
✓ Calhoun, Elbert B and Wife	1805 Cherokee Dr. Fay. NC	28303
✓ Pate, Marvin and Wife cont. on back	Rt15 Box 36 Fay. NC	28301

5. It is proposed that the property will be put to the following use: _____

Used Cars and Auto Parts - *Commercial wrecking, dismantling and storage of junked vehicles*

property zoned C(P)

6. It is proposed that the following setbacks and offstreet parking provisions will be made:

The existing parking area, buildings and driveways will be used.

Ralph Holloman

Printed Name of Applicant or Agent

Ralph Holloman

Signature of Applicant or Agent

1122 Gillespie St Fay. NC 28306

Address of Applicant or Agent

323-0072 and 4253011

Telephone Number(s)

P14-17
Cumberland County Zoning Ordinance Text Amendment
(Coliseum Tourism Overlay District and Billboards)

AMEND Article II Interpretations, Calculations, and Definitions; Section 203. Definition of Specific Terms and Words by INSERTING the terms *Hotel* and *Motel* with definitions as follows:

ARTICLE II
INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS

SECTION 203. DEFINITION OF SPECIFIC TERMS AND WORDS.

Hotel: An establishment which provides compensated lodging on a short-term basis with access to units from interior lobbies or hallways, and provides numerous amenities intended to increase guests' lodging satisfaction.

Motel: An establishment that provides short-term and long-term lodging for compensation, usually with less guest amenities than a hotel, has independent exterior entrances/exits to each unit from the off-street parking area and is typically one or two stories.

AMEND Article III Zoning Districts, Section 308.1. Overlay Districts by ESTABLISHING sub-section "B" to be entitled: *Coliseum Tourism Overlay District (CTOD)*, with contents to read as follows:

ARTICLE III
ZONING DISTRICTS

SECTION 308.1. OVERLAY DISTRICTS.

B. ~~Reserved for future use~~ Coliseum Tourism Overlay District (CTOD). The primary purpose of this district is to ensure development within the district boundary is compatible with the objective of promoting the Crown Coliseum Complex and establishing the image as a contemporary, vibrant retail area that is harmonious with the complex events. Ensuring that new construction and re-development is oriented to serving the users of the coliseum complex, particularly the traveling public, the economic well being of the county will be maximized.

C. Reserved for future use.

AMEND Article VIII.I Overlay Districts, by CREATING Section 8.102. to be entitled: *Coliseum Tourism Overlay District (CTOD)*, with contents to read as follows:

ARTICLE VIII.I
OVERLAY DISTRICTS

SECTION 8.102. COLISEUM-TOURISM OVERLAY DISTRICT (CTOD).

A. Applicability. The provisions of this section shall apply to the proposed development and any re-development of properties within the Coliseum-Tourism Overlay District, including any addition, remodeling, relocation or construction requiring a zoning or building permit. In the event there is a conflict between the requirements of provisions of this ordinance and this overlay district, the overlay provisions shall prevail.

B. Coliseum-Tourism Overlay District Map. The boundary of the CTOD is established as a layer on the *Official Zoning Map, Cumberland County North Carolina* in digital format and is hereby adopted and made a part of the provisions of this section as if the map itself were contained herein – see Appendix 3 for informational sketch maps.

C. Land Uses.

1. Principal Uses. All new uses of property and any change in an existing use shall first require approval of a Conditional Zoning application subject to the provisions of Article V prior to commencement of the proposed or change in use. To ensure the primary objective of the district is attained and not including officially sanctioned government events, land uses within the district are limited to the following:

- a. Alcoholic Beverage Control Sales;
- b. Apparel and Accessory Sales;
- c. Assemblies, Community, Assembly Hall, Armory, Stadium, Coliseum, Community Center, Fairgrounds, and similar uses;
- d. Banks, Savings and Loan Company and Other Financial Activities;
- e. Books & Printed Matter Sales, not including those regulated by Section 924;
- f. Convenience Retail with Gasoline Sales, including drive through motor vehicle washing;

- g. Dry Cleaning/Laundry, self service;
- h. Farmers' Market;
- i. Flower Shop;
- j. Hotel, except as regulated by Section 924;
- k. Motor Vehicle Rentals;

l. Office Use – with no on-premises stock or goods for sale to the general public and the operations and services of which are customarily conducted and concluded by means of written, verbal or mechanically reproduced communications material;

m. Public/Community Utility Stations/Sub-stations;

n. Recreation/Amusement Indoor (Section 920) conducted inside building for profit, not otherwise listed and not regulated by Section 924;

o. Recreation or Amusement Public/Private (Section 920) not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, and similar uses, and not regulated by Section 924;

p. Restaurant, operated as commercial enterprise, not including those regulated by Section 924;

q. Swimming Pools, incidental to a principal use (Section 1002.C);

r. Veterinarian.

2. Accessory, Ancillary and Incidental Uses. In conjunction with the above allowed principal uses as listed in sub-section 1,

a. Permanent outdoor sales and displays shall be permitted only within a physically defined area that is delineated on the site plan as approved by the Board of Commissioners, and all physical improvements defining the sales/display area shall be constructed of materials comparable to the primary building(s) on site – this provision shall not apply to a farmers' market, see Section 907.1 for specific regulations pertaining to farmers' markets;

b. Outdoor storage shall be prohibited within this district;

c. Temporary or promotional events conducted outside must have the prior approval of the Planning & Inspections Director, or the director's designee;

3. Nonconformities. To ensure the primary objective of the district is attained, strict implementation of the below provisions regulating nonconformities within the district is paramount. For purposes of this section, permissible repair is defined as those repairs, not replacement, that are limited to routine or ordinary maintenance and which would not result in the extension of the normal life of the structure. Impermissible replacement is defined as maintenance, construction or re-construction of a nonconforming structure or part thereof or structure housing a nonconforming use within the district that is damaged by fire, storm or other causes including natural deterioration to an extent exceeding 40 percent of the structure's reproducible value or its bulk (including foundations)

a. All nonconforming uses not carried on within a structure, except those which are specifically allowed as an accessory, ancillary or incidental to an allowed use subject to the provisions of this section, shall be discontinued within one calendar year from the effective date of this ordinance, regardless whether or not the nonconforming use status applies to structure(s) and premises in combination with the nonconforming outdoor use – any subsequent use of the land and structures placed thereon shall conform to the provisions of this section.

b. A nonconforming use may not be changed or expanded, or resumed if the nonconforming use has ceased for a period of 180 calendar days within the district.

c. Any structure that is nonconforming due to noncompliance with dimensional requirements, but which houses an allowed use within the district may continue provided that its nonconformity is not increased, except where specifically approved by the County Board of Commissioners, and provided that prior to any upgrades to any nonconforming structure housing an allowed use beyond permissible repairs, the minimum landscaping and pedestrian improvements are implemented on the site.

d. Owners of properties within the district shall not allow for the impermissible replacement of any nonconforming structure located inside the district unless specifically approved by the County Board of Commissioners.

D. Site Design/Site Layout.

1. Yard Setbacks. The lot and yard setback provisions of Article XI as applied to the C2(P) district shall apply to properties fronting on Gillespie Street (US HWY 301/I-95 Bus) and Owen Drive (SR 1007), except that for proposed buildings with a height of greater than 25 feet, the front yard setback shall be a minimum distance equaling twice the building height. For developments along all other streets, regardless whether public or private and including new or proposed streets, the yard setbacks shall be as follows:

a. Minimum of 35 feet from each street right-of-way/property line for the front yard setbacks, except that for structures more than 25 feet in height, the front yard setback shall be a minimum distance equaling twice the height of the building;

b. Minimum of 15 feet from a side or rear property line where the adjacent property is also within the district or zoned for non-residential use; and

c. Minimum of 30 feet from a side or rear property line where the adjacent property is zoned residential.

In the event development is proposed for a property without direct frontage on a public or approved private street, the yard setbacks as requested by the developer must afford public safety and be delineated on the site plan. In addition, the plan for ingress/egress must clearly be shown on the site plan, addressed in the application and the requisite easements provided to the Code Enforcement Manager at the time of permit application.

2. Off-Street Parking, Loading and Drives. Off-street parking and loading shall be provided as required by Article XII; however, all required parking shall be surfaced with asphalt, concrete or pervious material and shall be maintained in proper repair. Interconnectivity between parcels within the district is mandatory and shall be included on the site plan indicating the location and width of the proposed interconnecting drive areas along with all driveways to the street right-of-way.

3. Signs. Signage shall be allowed in the district consistent with the provisions for the C1(P) zoning district, to include all related regulations of Article XIII, except that the maximum height of any freestanding sign shall be 25 feet within the overlay district.

4. Buffers. The provisions of Section 1102.G shall apply along the periphery of every developed lot within the district that is also adjacent to a residentially-zoned property.

5. Dumpster and Utility Screening. All dumpster and utility areas shall be located on concrete pads and screened on a minimum of three sides with a solid fence between the dumpster or utility and complimented with vegetative plantings.

6. Fencing. Any fencing proposed must be specifically identified as to type and location on the site plan; if not included on the plan, the permit for said fence shall be denied – this provision includes open fences as well as solid.

7. Landscaping. Landscaping shall be provided in accordance with the provisions of Section 1102.N, except that for the streetscape landscaping a

minimum of four small ornamental trees per 50 linear feet of street frontage shall be required. Healthy existing large shade trees may be utilized for calculation of landscaping compliance in lieu of the ornamental streetscape trees only if they are in the appropriate area on the subject lot and a minimum of eight inch caliper. The developer is strongly encouraged to retain as many existing trees of significant stature as possible.

8. Stormwater Utility Structures. Any stormwater utility structure proposed within the front yard or within view from the public or private street shall be integrated into the proposed project design and aesthetically pleasing. The burden shall be on the developer to address the stormwater utility structure aesthetic design plans proposed within the application or on the site plan.

9. Underground Utilities. All utilities shall be located underground except where specifically prohibited by the utility provider.

10. Other Regulations. The developer/property owner shall ensure compliance with all applicable Federal, State and local regulations.

AMEND Article XIII Sign Regulations, Section 1307. Billboards (Off-Premises Signs), sub-section A. General Provisions, paragraph 1 as indicated below:

ARTICLE XIII SIGN REGULATIONS

SECTION 1307. BILLBOARDS (OFF-PREMISES SIGNS)

In addition to other applicable standards contained within this article, the following provisions shall apply to all billboards:

A. General Provisions.

1. Billboards shall be allowed only along rights-of-way with full-control or limited control of access, such as freeways and major thoroughfares, except that billboards shall be prohibited within 1,000' of either side of the right-of-way of the following:

a. US Highway 301 (South Eastern Boulevard/Gillespie Street) from NC Highway 87 (Martin Luther King Jr Freeway) south to SR 2286 (Seven Mountain Drive); and

b. Reserved for future use.

2. Billboards shall not face or be oriented toward any adjoining or abutting residentially-zoned or residentially-used property and shall not be located within 200 feet of a residential zoning district boundary line;
(Amd. 02-19-08)

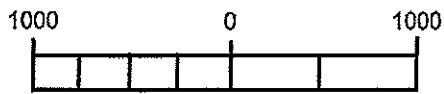
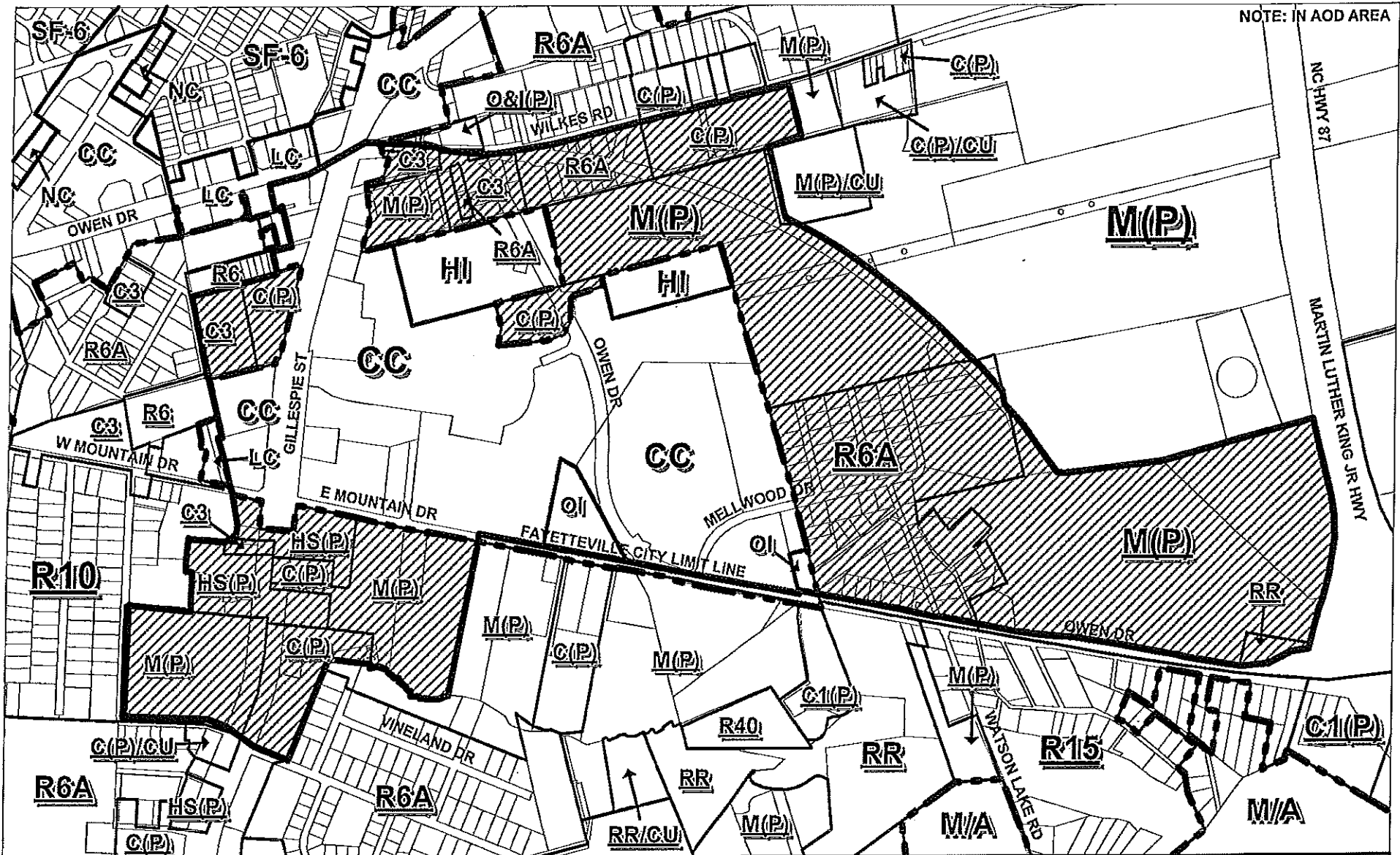
3. Billboards shall not exceed a sign height of 35 feet;

4. All billboards are considered as a principal use of property, not accessory, and shall be allowed in the C(P) Planned Commercial District, upon approval of a Special Use Permit (Section 1606), and M(P) Planned Industrial District, upon approval of the site plan (Article XIV) as a permitted use, provided that the dimensional criteria outlined below is complied with;
(Amd. 01-19-10)

5. All Federal, State, and other local regulations shall be complied with and
(Amd. 01-19-10)

6. Billboards are exempt from the landscaping and buffering provisions of this ordinance.
(Amd. 01-19-10)

NOTE: IN AOD AREA



COLISEUM TOURISM OVERLAY DISTRICT REZONING

ACREAGE: 327.98 AC +/-		HEARING NO: P14-17	
ORDINANCE: COUNTY		HEARING DATE	ACTION
STAFF RECOMMENDATION			
PLANNING BOARD			
GOVERNING BOARD			