

Members:

George Quigley, Chairman
John R. Swanson, Vice-Chair
Joseph Dykes
Horace Humphrey
Melree Hubbard Tart



Alternates:

Martin J. Locklear
Randy Newsome
William Lockett Tally
Carrie Tyson-Autry

Cumberland County Board of Adjustment

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

MINUTES
JULY 15, 2010
7:00 P.M.

Members Present

George Quigley, Chair
John Swanson
Joseph Dykes
Melree Hubbard Tart
Horace Humphrey

Absent Members

None

Staff/Others Present

Patricia Speicher
Pier Varner
Melodie Robinson
Angela Perrier

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

1. ROLL CALL

Mrs. Varner called the roll and stated a quorum was present.

2. ADJUSTMENTS TO THE AGENDA

There were none.

3. APPROVAL OF THE APRIL 15, 2010 MINUTES

A motion was made by Mr. Swanson and seconded by Mrs. Tart to approve the minutes as submitted. The motion passed unanimously.

4. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board Members.

5. PUBLIC HEARING DEFERRALS

There were no deferrals.

6. BOARD MEMBER DISCLOSURE

There were none.

7. POLICY STATEMENTS REGARDING APPEAL PROCESS

Mrs. Varner read the Board's policy regarding the appeal process to the audience.

8. PUBLIC HEARING(S)

Opened Public Hearing

- **P10-10-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 160 FOOT TOWER IN A R10 RESIDENTIAL DISTRICT ON 11.09+/- ACRES ZONED R10 AND R6 (HOPE MILLS), LOCATED ON THE NORTH SIDE OF CHURCH STREET (SR 2996) AND WEST OF BAFFLE CIRCLE; SUBMITTED BY FORREST T. AND DARLENE HARDIN (OWNER) AND THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.

Mrs. Varner presented the zoning, land use and photos of the site to the Board.

MRS. VARNER: I want to make a remark that a little portion of this property is located in the Hope Mills jurisdiction, but the tower is located in Cumberland County's jurisdiction. For the site plan there are two conditions that we should pay particular attention to. They are conditions #6 and #7. Condition #6 reads: If the proposed leased 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. Condition #7 reads: The minimum acceptable road frontage for subdivision purposes in this area is 20' in width if the lot is to be split out for tax or other purposes. In order to get a permit, the area shown as an "ingress/egress easement" must be made a part of the lot and must be a minimum of 20' in width.

CHAIR QUIGLEY: Does any member of the Board have questions for the staff? We have a significant number of persons signed to discuss the case and I assure you that everyone who has signed will have an opportunity to be heard. I want to suggest to you that if you have exactly the same testimony that someone else has presented, if you would just indicate to us that your testimony would replicate what another witness has presented, then we might get through this a little more quickly. If you have new evidence to introduce, you're certainly welcome to do so and everyone will be heard. The usual protocol is that we ask those in favor to present their side of the case first and then we hear those opposed. Is there anyone here who would like to speak first? I have four individuals signed up to speak in favor of the case.

Chair Quigley swore in Thomas H. Johnson, Jr.

MR. JOHNSON: My name is Thomas H. Johnson, Jr., I'm with the law firm of Nexsen Pruet at 201 Shannon Oaks Circle, Suite 100, Cary, NC 27511.

CHAIR QUIGLEY: What's your relationship with the case?

MR. JOHNSON: I am the attorney representing American Towers who is the builder of the tower. I would like to use my presentation on the slide show. I would like to introduce into evidence the packet [Exhibit 1] and all accompanying materials as Mrs. Varner went over in compliance with the ordinance and also I would like to say that staff did have us review the conditions and we are in favor and agreement with the conditions placed on the permit. I want to explain a little bit about why we are here tonight.

MR. SWANSON: Can we back up to the first slide? Just for clarification, this slide says Variance.

MR. JOHNSON: I'm sorry, it should not say Variance and Special Use permit. It is a slide from a prior presentation use and it should only read Special Use Permit. The reason why we are here is because of consumer demand. It's not because we want to put a tower there just to put a tower there. It is because customers have submitted complaints that they don't have good service and so based upon that, this has become one of the priority sites to be built in this area because of the poor service. Wireless service has become more and more important. These are some of the figures to support that. There are approximately 300,000 calls to 911 daily using mobile phones. Approximately 50 – 70 percent of those calls to 911 are made from mobile phones and 25 percent are indoors so you need to have extra strong signals to get through the walls of the buildings to provide the service so that everybody's wireless phone works in the event of an emergency. Recently I had a case in Johnston County, we actually called the 911 center to ask them how many calls they are experiencing from mobile phones. Theirs is 80 percent which is higher than these figures; these are national figures that we've obtained from a national organization. Eighty-seven percent of Americans have a mobile phone that they take with them that they have either on their hip, in their pocket and with them all the time. More than twenty percent of the homes are wireless only, that's their only phone, they don't have that land line phone that all of us were used to having over the years. They've gone completely wireless just because of economics, it's cheaper to do that and more convenient. A third rely on mobile phones even if they have a land line. They may have a land line, but they tend to rely on their mobile phone because as I said earlier they have it with them and it's very available to them to use. Wireless devices are depended upon by Emergency Service Providers. A lot of information is transmitted by EMS wirelessly such as heart monitors and other monitoring equipment and if your loved one is in an ambulance, you don't want that equipment to go out; you want that equipment to be working properly when they are being attended to by EMS workers. This is consistent with the Cumberland County Emergency Operations Plan; we pulled some information from that. That plan says one of the top priorities for the Emergency Services is the communications facilities and networking. In another location mentioned a prime concern is damage to the communications network, to make sure you have a reliable communications network. Some people get concerned about exposure from radio frequency. This is a chart that very well explains. A tower doesn't emit much power at all and any power that is emitted goes out from the tower, it does not go down to the ground. I commend you because your Ordinance requires us to submit documentation that we're operating within FCC guidelines which we submitted as part of the application. This shows some common devices and what kind of exposure you get. Police and mobile radio is 250 exposure in terms of microwatts per square cm. FM radio transmission is 100, a cordless phone in the home is at 15, a cordless wireless baby monitor is at 1. A WiFi router, if you have a wireless computer in your home, operates at .13 in terms of the exposure. A cell site is 0.1. So you're getting many more

times exposure on other various types of household devices than you would from this tower. I also want to mention the legal requirements and I'm going to have the representative expert from AT&T speak in just a moment. It is recognized both in federal and state law that if we're operating within FCC parameters, we're operating safely; there is no harm to the public. This is the General Statute 153A349.52. It gives you authority to rule in terms of towers but at the bottom in the last provision it says it is for purposes of this park; public safety shall not include requirements relating to radio frequency emissions of wireless facilities. That is, that's not part of your duty here tonight. That's governed by federal law and the fact that we have to correspond and comply with FCC rules as we've submitted to your staff. This shows the search ring for our area. We submit it as part of our documentation. This is the area we were looking for a tower. There are no other towers in that area so we had to end up building a tower in order to provide the service that was necessary for the customers in that area. This is just a duplicate of what Mrs. Varner showed earlier, basically showing an aerial view of the site which is just toward the top of the screen from that letter A. I did this just to show it is a wooded site and we will only remove as much as the trees, a minimum amount, in order to get the road and the tower in there. This is the coverage we are proposing for this site. Just an isolation; the marks around it are the existing towers in the area. The red site is where we are proposing the tower and as you can see, the goal is to provide in building coverage shown by the magenta or orange color in the middle. We have a lot of white space and that is no coverage. We're trying to cover that area that is blank in the middle of all these towers. Sometimes there are concerns about going next to schools and I wanted to show some pictures to help understand. This is a site, a middle school in Chapel Hill, a ball field. Our proposed site will go next to the existing ball field at Hope Mills Middle. At this school in Chapel Hill, a company had put towers on the light poles for the baseball fields and it's adjacent to the school. Here is another tower on another light pole with the same school. These are at either end. The nice thing about this is the phone exposure is much more powerful than anything you'll get from the tower, but the closer you are to a tower and the stronger signal you have the less power your phone uses because your phone is trying to get to that signal on the tower and if its close by its much safer because it operates at a lower power. The other thing is schools are particularly sensitive and you know about all the emergency incidents that have happened at schools. In those incidents people are relying on their wireless phones just like they do normally and having wireless service near a school is very important. Often times schools are used as emergency shelters as well and again it becomes more important. I know from personal experience during Hurricane Floyd the wireless system was the only system available because land line systems went out and that was the life line form of communication for folks during that storm. This is Daniel's Middle school in Raleigh and it has a tower on the school ground. These homes are adjacent to the school and this is a nice residential area and it just shows it is adjacent to both the school and the residences. This is the actual tower on the school grounds and this is the school. This is the play ground at the school. It's not unusual for us to go to a school in this situation. What I would like to do is have Dave Lacava, he is with AT&T and he can explain just a little bit more about the maps I showed you earlier and about the information that we did submit in terms of radio frequency from the tower and how very minimum it is especially at this location.

Chair Quigley swore in David Lacava.

MR. LACAVA: My position is a Radio Frequency Engineer for AT&T Mobility in Raleigh. I just wanted to mention a couple of things specific to this project. As Tom mentioned, one of the purposes of locating this site where we did was to be able to provide better indoor service and indoor coverage to our customer base which is continually growing in our subscriber base. One

of the things we have continued to do as our network matures is to provide additional indoor coverage for our customers. The other point that I'd like to mention is an enhancement of what Tom has mentioned. As our subscriber base grows, the usage of our network goes up and the traffic, the voice communication increases. In some instances that we're dealing with in many of our markets the current sites can only be expanded through software and through equipment to a certain point where the sites can no longer handle all of the traffic. We call it a capacity issue and one of the important features of this site is that it will help satisfy the voice traffic and the data traffic from all of our users, the increased traffic that comes from increased data usage and increased subscriber base. The issue of RF exposure pertaining to this specific site, Tom mentioned some examples of different devices and what kind of radio frequency they typically have. In regard to this site, specifically with the regulation and requirements defined by the FCC and also defined by the American National Standards Institute, if you were to stand a couple feet at the base of the tower, you would be exposed to less than one percent of the maximum permissible exposure level defined by the FCC. If you were to stand about 100 feet out from the base of this tower, you would be about 4/10 of a percent of the maximum permissible exposure level that is defined by the FCC. That's all I have.

CHAIR QUIGLEY: Does any member of staff have any questions for Mr. Lacava? Thank you.

MR. JOHNSON: I would like to have Mr. Graham Herring come up, he's the one who did the impact statement, the real estate broker that completed that in connection with the application and I would like him to speak about his impact statement and answer any questions the Board may have.

Chair Quigley swore in Graham Herring.

MR. HERRING: I'm a licensed North Carolina and South Carolina Commercial Real Estate Broker. I was employed by American Tower and AT&T to evaluate this site with reference to any possible creation of diminution of value or adverse influence with regard to this tower if built as constructed and planned. The documentation is in your packet. My findings after looking at this site, its location and separation from the public arterials, residential development and the nature and character of the neighborhood and mixed uses, is that there would be no adverse influence or diminution of value created by the building of this tower as proposed. That's my statement.

CHAIR QUIGLEY: Thank you sir, does any member of the Board have any questions for Mr. Herring?

MR. HUMPHREY: We're talking about diminishing value, not any increasing value by having it there, right?

MR. HERRING: No, it does not increase it, it would increase the value of the property it's being built on, based on the tax value and the income stream for it to be capitalized and done as an evaluation and an appraisal process. That's not what I do.

MRS. TART: I have a question for Mr. Herring. How did you arrive at the fact that this would have no negative impact on property value?

MR. HERRING: Based on my experience and having looked at and evaluated well over 1700 towers in six states in the Southeastern United States over the last seventeen years. This tower is not dissimilar to many other hundreds of towers much like this that are not nearly as well camouflaged or located with regard to its surroundings in any other type of development whether it be industrial, commercial, residential, or public use.

MRS. TART: Well, do we have any other comparables in this area, perhaps property that has changed ownership built next to towers?

MR. HERRING: Oh yes, quite a bit, absolutely. Hope Mills itself, the water towers. Again, towers are not just cell towers you have water towers and public facilities, the water tower there in Hope Mills has antennas on it as a matter of fact and I believe AT&T is located on that water tower. That's one of the hand-off towers to this proposed tower, to complete the coverage for Hope Mills. More recently, a tower that you all approved off of Gillespie at Brookhaven is a lighter pole similar to this one in a more open area; a brand new residential subdivision being built in the shadow of that tower as we speak. Like many other towers in residential areas throughout Cumberland County and throughout Wake, Durham, Orange and other counties through the state in the Southeast. Thank you

MR. SWANSON: Based on your study of this particular proposal, is it in keeping with the harmony of the neighborhood?

MR. HERRING: Yes, generally speaking. Looking at Hope Mills and this development as it stands and future development on a peripheral with all the new road systems going in and new subdivisions to accommodate the growth of the Military contingent here and the fact that on Church Street, just some 500+ ft. down Church Street, facing the street, the CP&L compound as shown as Figure 1 on the site is a very similar type public use supplying a public need. It's not nearly as camouflaged with regard to vegetation coverage, there is no landscaping, it is open, there is signage posted on it, "Trespassing and High Voltage", so this would be a similar type use for public facilities which is one of the contributing factors to making this with the mixed-use area.

MR. SWANSON: Based on your notice of and detailing of signs, is it fair to ask you if you have driven the area, are you familiar with it?

MR. HERRING: Yes, absolutely, it's imperative; I do that in all cases.

MR. JOHNSON: I'll wrap up now and I know there are a couple of other folks who want to speak. The couple of points I did want to make is towers are an infrastructure just like electrical power and water and sewer and they are becoming more important because of the figures I used earlier in terms of the necessity of wireless telephone service, wireless data service that everyone is using now. Like Mr. Lacava said, more and more of that is happening now so we need more of that infrastructure. It becomes a safety factor and economic development factor and we find many new subdivisions want towers in their subdivisions because their residents want access and good phone coverage, they don't want to walk from one room to the other in their house and lose their call. If they are working from their laptop in their home office which we often find in a lot of areas, people are beginning to telecommute, work from home, use their laptop to work or use their Black Berry and other similar devices. It becomes more and more important that they have reliable service in building as Mr. Lacava said. That's what we're

after. It is consistent in terms of infrastructure. It's adjacent to a school. As you were shown, there are many instances where a tower is adjacent to schools, in many different areas. It's also consistent with the electrical power substation that is there. Again, that's much less camouflaged and can be much more dangerous because of the posted signs and the trespassing signs. We won't have near the kind of voltage that sight has as it exists now. We also have some commercial uses around this site as Mrs. Varner went over earlier, so there is a combination of commercial infrastructure type uses and residential uses in this area so it's most definitely in harmony of what's already in this area. I'll be glad to answer any question, now or after everyone else speaks. Jason Groseclose with American Towers is here and he's available for answering any questions, he wasn't going to make any presentation.

MR. SWANSON: This may not be a fair question because you may not have the information. One of the requirements for Special Use Permit is to demonstrate that it is a public necessity. I really appreciate your demonstration of the emergency use of wireless but the thought occurs to me, do you have any data that the first responders in Cumberland County, if their rate of dropped calls, do you have any data as to whether or not any indication for first responders, law enforcements, fire, or paramedics?

MR. JOHNSON: We may not have any specifically, but Mr. Lacava may be able to speak to dropped calls in this area because that will become very important because if responders were coming or people were trying to get access to responders and they are dropping calls in that area that's just as significant. Can you speak to that at all Dave? Do you have any of that information?

MR. LACAVAL: I do not have any specific information.

MR. SWANSON: Again, I don't want to try to ambush you and it may not be a fair question.

MR. JOHNSON: We'd love to have that figure, in fact, the figure I gave you in Johnston County, we had another tower site there we pulled that information together from the 911 center.

MR. SWANSON: To include dropped calls?

MR. JOHNSON: In terms of dropped calls?

MR. SWANSON: From first responders.

MR. JOHNSON: I will tell you this; actually I think I have the slide on this. There was a news article in Johnston County, this is not specific, but there was someone in Johnston County in 2006, WRAL reported it, that made a call because their loved one was having a heart attack and dropped a call and that person was fully convinced that as a result of that their loved one did not make it because of the dropped call. That's just an example of how dependent we've all become on our wireless devices. It's infrastructure now because of the figures I showed you. It's infrastructure and a public necessity now as electrical power is now. It's just become that way because of the dependence. It is a utility just like any other utility because when you start substituting wireless for telephones then you are substituting that necessity and the necessity of that coverage for your land line telephone. That's where everything is going. Just as I stated earlier even if you've got a land line phone, people reach for their cell phone because it is more

available to them when they are in an emergency. If you're in one room and your land line is in another, you're typically going to reach for your wireless device. That's the habit and typically what people have started doing. I think everybody can recognize that and I don't know how many of you have wireless phones, but if you have one you realize it, then you recognize it.

MR. SWANSON: Essentially, you don't have any supporting data for dropped calls.

MR. JOHNSON: We don't have the supporting data for dropped calls, but I can say this and I think Mr. Lacava can say this: we are proposing the tower for this location because there is not enough coverage to prevent dropped calls. Those maps we showed you show there is insufficient in-building coverage so anybody that is in a building will be subject to dropped calls for two reasons. One is coverage, just not having a tower close enough and the other as Mr. Lacava explained is capacity. The signals from these towers are basically split, so the more people that use a signal at a given tower, the coverage area of that tower or the ability of that tower to complete and maintain the call goes down. Many of you may have experienced this if you've got a wireless phone and travelling in rush hour or when there is high capacity usage of a phone, you tend to drop more call than if you go into that same area at a time when there are not a lot of people travelling. You experience that more in your car than anyplace else. You may experience it in your home if there is a lot of traffic at certain times, whether it be people communicating because of a big sporting event or an emergency. The key for us goes back to the emergency thing because you need to have that reliable coverage when there is an emergency. Say there is a flood or a storm; you are going to have more people using their phones at that time. That's going to decrease that signal strength as Mr. Lacava said so therefore, we want to get those towers where they are closer together so you don't lose signal when more people start using their phones and the time is generally in the event of an emergency.

CHAIR QUIGLEY: Thank you; does anyone have any other questions?

MRS. TART: This is a rather large parcel of property. Is this tower placed on this property in a location that would have the least impact upon the surrounding residential?

MR. JOHNSON: It is and I can give you a couple of reasons for that. One is you've got the electrical substation that already exist right up against the road. We're trying to get in a situation where it is convenient to get in and out without building a large road which in turn creates more run off. The more soil you disturb the more it becomes an environmental issue and we try to reduce that and it's consistent with the electrical substation that is already right there on the road and not as well camouflaged by the way. The other part is we try to put it near the ball field because we know the ball field has lights and we wanted a pole that was similar to what the lighting structure was much as I showed you that school earlier in the pictures, with antennas on the light pole. We wanted the sky line to look similar. The other thing we're doing is we're putting the tower within the trees so that it will block the bottom portion. It just makes the most sense. If there are other uses that want to go in there and want to use this tract of property, it becomes more difficult for those uses if you put it in the middle of the property.

MRS. TART: I was thinking about the impact on the surrounding neighbors.

MR. JOHNSON: Oh, I understand and that's why we did it where we did because we put it back far enough where it is actually next to the ball field and it's a tower like the light towers at the ball field so it's consistent with that and it was very much in our decision making process when putting it there. If you notice the road curves a little bit so it's not a straight sight so you look down the road and see the tower, it's got a hook at the end and again that allows the hiding of the tower a little bit more from the road. There is a dirt road there, the site plan showed it, where we are actually using the existing road to some degree, but we're changing the direction at the end if you see the existing road it kind of curves more sharply, we are softening that a little bit. Part of our requirements are new fire department access rules that we have to meet and so the width and the turnaround at the end has to be more larger and so we are providing that so we can provide good fire access to this area as well. I hope I answered your question.

MRS. TART: Thank you, you did.

CHAIR QUIGLEY: I do have several names of individuals here to speak in opposition. Is there one person in particular who wants to speak first.

Chair Quigley swore in Dovie Clark.

MRS. CLARK: My name is Dovie Clark and I live at 5320 S. Main Street, Hope Mills, and my age is 74 years old. I retired from Cumberland County School in 2000. I worked approximately 25 years with the children and I'm a little bit nervous, and our property joins this property.

Chair Quigley asked for the slide to be put up so Mrs. Clark could point out the area of her residence.

CHAIR QUIGLEY: Can you show us where your property is? Is this your residence property?

MRS. CLARK: [Mrs. Clark pointed to the map to indicate where she lives] We have 2 ½ acres. We purchased the property from the same lady, the Pates, who owns this property, where they have proposed to put the tower. We have been living in this home since 1986. Part of the property is in Hope Mills. There is an imaginary line so we are next to the school property south of the Hope Mills Middle School. Our house is in Hope Mills but we have a lot on the side next to the tower that goes right along with the Hope Mills school property. My concern is the school. We have a subdivision on the other side of Church Street. We're north of Church Street and there are approximately forty homes and the kids walk to and from the subdivision into the school property everyday when school is in. My concern is you have the ball field, the play ground and the tower being put where it is right where the children walk through on a daily basis. I don't think that's a good place for it because you have the children and I have some documentation [Exhibit 2] which explains some of the possibilities that being next to and physically near a cell phone transmission mass on the incidence of cancer. There has not been a lot about it in the news about that, but if you would like to look at it. We're a little behind on some things, like the tower that he is proposing, it's awful close to the other tower. So if it is all that necessary, couldn't the tower be located further out in another location away from the children? The children do come through there. The place that he calls a road is not a road. Basically what it is, my son's house is on one side of that, that is a ride-away to the property, but it is not a road. Like I said about the children going to and from the school, we watch and we take care of them. We have a garden next to the school property the kids will go through,

it's a little indention there and they go through there and come out to their home, etc. That is one concern. Another is with the property, the ten acres, if the tower had to be placed there, why in one corner at the back next to the school? We have people north of the tower that could not be here tonight because they have heart conditions and pace makers. They said we would like to be here tonight, but were not able to attend. The health concern I have is one thing and it does not go with the neighborhood. It's a nice place to live, everybody looks after one another and we take care of one another. We're very unhappy and we probably will sell our property and we will move. We have two acres there and maybe we'll be like others and won't be concerned what happens to the property. That's not good, we're destroying neighborhoods, uprooting families, doing things people that at our age...

CHAIR QUIGLEY: Mrs. Carter, may I interrupt you? What evidence do you have that people are being uprooted and displaced?

MRS. CLARK: Because the neighbors said they are going to sell and move.

CHAIR QUIGLEY: Has any neighbors moved and sold their house.

MRS. CLARK: Not yet, but we have been looking at other property. I'm serious.

CHAIR QUIGLEY: Well then it's not evidence until they in fact do that. That's what I'm trying to suggest to you.

MRS. CLARK: So maybe you think I'm an alarmist or that I'm going overboard.

CHAIR QUIGLEY: No, what we have to have is factual information Mrs. Clark.

MRS. CLARK: Well, I did my best. If you notice sir, all these people are from out of town, they don't live in Hope Mills. My mother was born 1895 in a log cabin within a mile and a half of this property. I'm a second generation. This is our home and we want to take care of our property, we don't want to destroy it. In our neighborhood we have all kinds of people and we get along good and we're friends. You can't find that everywhere.

CHAIR QUIGLEY: Does anyone have any questions?

MR. SWANSON: I've got a question. You indicated at the beginning of your testimony that your residence was on Main Street in Hope Mills, did I hear you right?

MRS. CLARK: No, on Church Street, sir. 5320 Church Street.

MR. SWANSON: I'm trying to follow your testimony. Is it your testimony that the FCC regulations are inadequate to protect the public, children and those that have pace makers? Is that what you're trying to tell the Board?

MRS. CLARK: I'm trying to say that we have neighbors that are north of this tower.

MR. SWANSON: That wasn't my question. I had a very specific question. Is it your testimony that the FCC regulations that the applicant has to meet are inadequate to protect the children? Initially you said your testimony was for the concern of the children. So my question to you is, what evidence do you have that government provisions are inadequate?

MRS. CLARK: I have as much evidence as he does that we need a tower there because it's awful close to another tower. Now he says we need all this in Hope Mills. We've gotten along very well without it, am I right?

MR. SWANSON: We don't have any evidence to support that, ma'am.

MRS. CLARK: Well, let me look at some of my notes. I do know that the neighbors north of the tower say that they are selling and moving and I'm pretty sure that we will because we're pretty much in good health my husband and I. That's what people from other places will come and do to your homes and your properties that do not live here and reside here.

CHAIR QUIGLEY: Well I regret that you feel like that is going to happen. Thank you ma'am, for your testimony.

CHAIR QUIGLEY: Mr. Clark, did you want to supplement that testimony?

Chair Quigley swore in Jimmy Clark.

MR. CLARK: My name is Jimmy Clark, 5294 Church Street, Hope Mills, NC 28348. Mr. Clark submitted a packet [Exhibit 3]. I'm the closest resident to the proposed cell tower. What I'm handing to you is one complete study and five partial studies that state that anything closer than 400 meters to a cell phone tower, that is living, and that study is based on 1000 MHz. This tower is proposed to run at 1650 MHz. Anything closer than 1200 ft., the likelihood of cancer is three times greater. It also causes disruption in sleep, causes allergy, the list goes on. Anybody can sit down and Google this, it will come up and you can read for days and days. I summarized it so I could put something in your hand.

CHAIR QUIGLEY: This is a document that comes from Germany?

MR. CLARK: That is a document that comes from Germany. It is the latest from 2005. It was self paid for. The cell phone companies, it's hard to find information in the United States. They funded a study, but when the results started being negative, they pulled the funding and stopped.

CHAIR QUIGLEY: What evidence do you have that they pulled funding?

MR. CLARK: I have the evidence that is out in cyberspace.

CHAIR QUIGLEY: What evidence do you have that you can show us that proves that is true?

MR. CLARK: Me, personally, it would have cost me \$3000.00 to have professional representation here tonight, and we would have had time for disclosure, we would have had time to pull all the documentation of everything that's out there to be here tonight to be ready to testify before your board to have solid proof. These things are documentation that we can pull

off the internet that is readily available. There's neighborhood all over this country that are protesting cell phone towers going in. We know what cigarette tobacco companies did in the 80's and 90's, they still deny until this day that cigarettes cause cancer. I know that in 1997 the Communications Act that allows these folks to come into any area and put a cell phone tower cost them \$400,000,000 to get it enacted. That's big money, it costs \$400,000,000

CHAIR QUIGLEY: Sir, how is this relevant to the fact that this tower is in your neighborhood?

MR. CLARK: Here's the point, we allow the FCC for \$400,000,000, we allow ten times more exposure to radiation that they do in Europe. That is a fact, I don't have it in this literature, but if I had time to pull it down, it's readily available. Ten thousand times more exposure than they do in Europe to here, that's what the \$400,000,000 paid for.

MS. SPEICHER: Excuse me Chair, I need to brief the Board quickly on a state statute.

CHAIR QUIGLEY: Pardon, we are in a brief recess for just a moment, Mr. Clark.

MS. SPEICHER: The statute states a County's review of an application for a tower shall only address public safety, plan development or zoning issues and it goes on to say public safety shall not include requirements relating to radio frequency emissions of wireless facilities.

CHAIR QUIGLEY: Thank you.

MR. CLARK: It also states the 1997 address. It also states that any particular Board does not have to approve an additional cell phone tower unless adequate evidence is submitted by the cell phone companies that there is a gap in coverage or there is not a cell phone tower located in that city. It's not a blank check that they can go around and put a cell phone tower anywhere they want to when there's one at the tower in Hope Mills that has been there less than a mile from this location. There's a new one on the bypass in Hope Mills, there's a new one on Hwy 301 behind us. Also, I'd like to address the fact of the drop calls. I was a candidate for Hope Mills Commissioner this last election term. We'd been dealing with 911 and consolidating with the County. Our chief testified last month, last year there was a total of three dropped calls the Hope Mills emergency response had to deal with. That's in the minutes of the town minutes. I can produce that, only three dropped calls. I'd also like to testify that I had AT&T in 1995 and I received cell phone service in my house and outside of my house where I live and I would submit that as evidence there is no gap in the coverage in my neighborhood. I'd like to also submit into evidence that there is no one from our neighborhood, only hired professionals that are from Raleigh and Cary that are represented tonight. No one is speaking favorably of this cell phone tower. We do have people that are in our neighborhood who are not able to be here. They have emphysema, heart problems, they are located less than 500 feet from this and I would suggest to you that even though we can't consider health reasons for disapproving the location of the tower because we know that big money has taken care of that; we can ask the big money folks if they do have a gap and if they've submitted any evidence that there is a sufficient gap, they have towers within one mile of this particular tower and I don't see why it has to be a blanket if they want to put a tower up. I'm kind of disappointed that my neighbor, who won't look me in the eye, who wants a lease per month, won't show up and say hey I'm in favor of this, I want you to have that. Talking about moving, I'm able to move, but I don't want to move. My parents are there and they are approaching eighty. I live there because I want to be around. We have transmission lines besides my house, I knew the health effects of that, but I

chose to build my house there anyway, I made that choice. We have the substation on the other side. We are getting a magnetic field already and my mother didn't say this but my father has a brain tumor today and it's one of the reasons why I moved back to Hope Mills. They see it when they dilate his eyes. It's in the front of his head, I don't know if it came from him gardening outside beside the substation. I can't prove that and he's got it and he's been fortunate enough that it hasn't grown and he hasn't had to do anything about it. Now we're going to add on top of magnetic field from a substation that has grown over the years to twice the size it was and the transmission lines on my side and I agree, it's a ideal location, I'm in the construction business and I would want to locate the tower as close to those transmission lines as possible. He's going to need to pull a lot of power over to that station where he's building that thing. If he moves over 500 ft. that costs him more money. If he's got 800 ft. or 1100 ft. or whatever it is, when he moves over it's just going to cost him more money to pull that power over to that location. It puts it in the middle of the property and I think if you are a property owner and you were willing to lease 11 acres and take a monthly payment on it to pay the taxes on it, I think if you want it you should be able to put it right in the middle of the property. Why would you get over on one edge other than it's cost effective and then at least when I lay down at night the map says it's 300 feet from the point that I lay down at night to sleep. The information that I have put in your hand says that in Europe where they have studied this.....

CHAIR QUIGLEY: Sir, we don't have to consider that information.

MR. CLARK: We can't use it here because of the FCC, but I'm telling you we allow ten thousand more times exposure than they do in Europe and in that exposure we are just beginning, we are just at the forefront of seeing the long term effects. They have already come out and said don't hold it up beside your head, it causes brain tumors.

CHAIR QUIGLEY: Sir, very little of what you have told us you could substantiate with factual information. We appreciate your opinion and that's what we consider it to be. I want to thank you for your testimony.

MR. CLARK: I'd like to remind you that a violation of civil rights allows each person as personally reliable that they are for a violation of civil rights for which I plan to pursue. Each person individually is liable to an individual's

CHAIR QUIGLEY: We appreciate your testimony. Does anyone have any questions for Mr. Clark.

Chair Quigley swore in Lucinda Lathrop.

MRS. LATHROP: I'm Lucinda Lathrop, I live at 5321 Church Street, Hope Mills. I live across from the Clarks. [Mrs. Lathrop pointed to the map to indicate where she lives] I'm military, we have six children. My husband is gone again, probably for two years. Four of our six children are chronically ill. If they were looking around, they would see the signs of [SLOW – CHILDREN] that's one of my kids. We moved here in 2004 and the main reason why we did is because we have moved all over the U.S. and I fell in love with Church Street. I grew up in upstate New York in the Adirondack Mountains on Church Street, which went from Church Street to Mills Street which is kind of eerie, but we took it and I fell in love with it. I grew up in a village of 537 people. We don't have cell phones half the time there, we have land lines, we didn't get cable there until three years ago. We still don't have 911 service in the area because

there's not enough people, they're working on it. My point is, he says you can't live without a cell phone. Well I'm forty-two years old and I've lived without a cell phone my whole life until the last couple of years. Even as sick as my children are I have a ten year old who has some type of virus. It attacked his liver. He was in the hospital for thirty days at UNC. People gave us phone cards because we weren't allowed to use cell phones in the hospital. The Army did not supply those, we had people who donated them. From then what ever virus it is moved to his bone marrow. He's going to have to go through chemotherapy and they are going to have to wipe out his whole immune system and he's going to have to have a bone marrow transplant which they call Aplasticaniemia. From there, now its moved and is attacking his thyroid. He's ten years old and he weighs 187 lbs. From there they are now testing his adrenal glands. My oldest son, Jeremy, also has an autoimmune disease, he was premature, he weight 1 lb 6 oz. He's hearing impaired, he has a lung disease. They have already had to remove one of his kidneys. He's ADD/ADHD and he has epilepsy. My daughter also has an autoimmune disease. She has juvenile rheumatoid arthritis, kidney disease and has been in and out of a wheel chair since she was ten years old. My step daughter who lives with us is also sick now. She's eighteen years old, she's only 4 ft. 1 in. and she has some kind of disease that begins with an "S". It's something with an insulin growth hormone. She also has auto hypo disease and she's anemic along with my other son. My concern is there's enough from the power plant and we had thirty days to buy a home because my son was in the hospital at UNC. We didn't have time to..... that was actually the second house we looked at, we saw it, put in a bid and we got it and we had to move and go back to the hospital. I go to Cape Fear a lot and I can't use my cell phone in there. I was a DOD employee for three years and I cannot use a cell phone in Womack Hospital nor in any of our meetings we had for DOD. We did not use cell phones, we were not allowed. If you go around the housing area on post at Fort Bragg, how many towers do you see in the housing area? I have never seen any. I don't want a tower there, I know they say, yes, it's showing evidence, this isn't going to affect the kids, but how do I know this? Are you willing to take that chance with your kids? Tomorrow my son can die, we don't know, everyday is a new day and I've got enough stress worrying about my husband deploying, defending everybody so they have this right to do what they want to do here and I'm tired, I'm very tired. Since we've moved in here, I ended up having a mass and tons of tumors on both my breast. I had to go in for eight biopsies and they had to remove all tumors. They sent me to Greensboro, and once again, I could not use my cell phone in the hospital. So, I'm very opposed to this and I hope they can find someplace else or I don't want to move and my kids have got to come first and I'm already worried about these kids walking across the road, but they don't realize there is no cross walks there. I have called CC Schools a dozen times and they say the reason why is when they built the school, this area housing division and subdivision was a car lot or something years and years ago. There's no cross walks, if they were to walk without going around these towers or substations, they would have to go down on Main Street and everybody knows how busy that is, turn, walk all the way around and they turn around and go towards CVS that way, which I am not having my ten year old as sick as he is walk there. Every day for the last two weeks, I have had doctor's appointments. I've had to have my kids at the specialists that I cannot take them and drive them to school when they are able to walk. I'm not going to have them walk near this power plant either, so I'm going to need help. I have other diagnosis here, which I didn't realize.....

CHAIR QUIGLEY: We certainly sympathize with your family condition.

MRS. LATHROP: I don't want to move, I'm tired of moving. My husband's been in twenty-three years. We plan on living here, but I can't take that chance with my kids. I hope everybody believes and prays because I'm worried at this point. Thank you.

CHAIR QUIGLEY: Thank you for your testimony. Does anyone have any questions?

Chair Quigley swore in John C. DeMario.

CHAIR QUIGLEY: Can you please point out on the map where you live.

MR. DEMARIO: My name is John C. DeMario, 5313 Church Street, Hope Mills, NC. [Mr. DeMario pointed to the map to indicate where he lives] Ladies and gentleman, my concern is for the kids. As you can see I have a six and ten year old. My little girl will be attending Hope Mills Middle School. Likewise I help her to walk across the street. My concern is the emissions of the signals from the tower. The gentleman also implied that cell phones do give off power so there has to be connection between the signals and that was not stated. We know how much RF frequency is given off the tower, but we don't know how much is coming from the cell phone to the tower. Since my little girl will be going to the middle school, she will be in the affected area 24 hours a day. At ten years old she is still growing, still developing and a lot of things can go wrong. With a lot of the studies that Mr. Clark has provided for you, you see the long term effects we're now seeing in ten year time frames. She'll probably be here another seven or eight years. After she moves away, we may not know what happens, but these are the prime years. The towers that are presented are on top of a light pole, I'm not sure of the measurements, maybe 50 or 60 feet. They are proposing a 160 foot tower. That's colossal. The lights of the ball field, it won't blend in with the sky line and of course it will be above the tree line and that worries me also. There's more ample space all around Hope Mills, not in residential areas. Where they paint this prime location is not prime for the residents around it. My concern again is for the kids, for the neighborhood, for our well being. Thank you.

MR. SWANSON: I want to make sure I hear you right. Your concern is for what you perceive is the adverse affects of the emissions of the tower on the children?

MR. DEMARIO: Yes, where the cell phone tower will be located, the signals is coming from all around the outside area and have to enter that area where my children will be 24 hours a day, unlike like other children in school for six or seven hours a day, that's minimum exposure. My children will be in constant exposure, that's my concern.

MR. QUIGLEY: Thank you. Is there any rebuttal testimony from the people in favor?

MR. JOHNSON: Thank you Mr. Chairman. One thing I want to point out is in concurrence with what I shared earlier and what Ms. Speicher shared with the Board and that is public safety doesn't include radio frequency emissions. If we demonstrate compliance with the FCC rules, which we have, well within compliance at one percent even further from the tower point at four percent of what the maximum allowed by the FCC would be. Since we've shown we've met those rules then the State statute says that's not a consideration for this Board, as does federal law. The only testimony I heard concerning the gap in coverage was something from 1995 about using the phone for coverage which is irrelevant to today, that's fifteen years ago. We're showing the use of the tower actually the gap in service we have using technology and techniques and from an expert who is Mr. Lacava, he's an RF engineer. There's not impact on

the property because we have an expert, Mr. Herring who is here and who did testify that there would be no impact on property values. We've gone step by step and provided all the technical and expert information that your Ordinance required and we've met all those requirements because those requirements are there for a reason and that's why we were very meticulous in making sure we come through and meet all of those requirements. I just ask you to rule based upon the fact that both the evidence that we have presented....we are from out of town but we're experts and that's what your Ordinance requires and that's why we've come here to present that testimony here tonight. There are towers in our town just like there are here in Hope Mills so towers are around for everybody and for everybody's benefit. There is specific evidence and if you want to hear from Mr. Groseclose, he can speak specifically. There are antennas on top of the hospital in Ft. Jackson and Columbia. Those antennas are there not so much as to provide cell phone service for individuals, but actually to help operate the equipment at the hospital, that's the reason they are there. There are multiple sites on Ft. Bragg and there may be particular locations where there are not towers but there are multiple towers there and in fact we are in recent negotiations to put additional coverage at Ft. Bragg because of the need of the armed forces to have coverage just like everyone else has. I'd be glad to answer any questions and I have the others here if you have specific questions for their area of expertise.

CHAIR QUIGLEY: Does any member of the Board have questions for Mr. Johnson?

MR. HUMPHREY: The towers, I'm talking about AT&T, Verizon, etc. Do you share towers, does that happen? If you were to get this Special Permit, would it just be for you or would you sell out space to others?

MR. JOHNSON: American Towers is a company that leases space to others. They are building the tower for AT&T because AT&T needed coverage in this area. There are numerous towers we have applied for recently in Cumberland County and Fayetteville where we're having multiple tenants, T-Mobile and AT&T. We just did one behind Fayetteville Christian Church in Fayetteville. It's both T-Mobile and AT&T. We're actively looking at other sites to share with T-Mobile and AT&T. Your Ordinance requires that we co-locate if we can. We have to show that we can't. We've provided our search range and the fact that where our gap in coverage was and within that search range which is where we're trying to cover. There's no existing tower that we can use. We've provided that evidence as part of the package because we have to, that's what your Ordinance requires. AT&T would much rather go under an existing facility if they could. It's less expensive for them, but the need is here in this area combination; there's just no coverage and the higher usage that they've been experiencing in this area has made the existing towers not cover the distance that they would have originally covered. That's what Mr. Lacava testified here today. We have also, as required by your Ordinance, certified we have space for co-locators and we've designed the tower to have additional carriers on it and would encourage that.

CHAIR QUIGLEY: Any other questions for Mr. Johnson?

MR. DYKES: In the event that this tower would need to be serviced, who would it be serviced by if there were any discrepancies?

MR. JOHNSON: For any problems, we have maintenance personnel, typically on average once a month that go in and check the tower and the equipment. Otherwise in the event of a malfunction or emergency there will be a technician that will come out to test it and to repair.

MR. DYKES: Based on the previous testimony, is there any way they could put a fence around it or would it be open?

MR. JOHNSON: It's not open, there are existing trees and we are going to preserve as many of those large pines in that area as we can, that's our goal, but on top of that the Ordinance requires a 25 foot landscape buffer that we have to meet. The Ordinance also requires a 10 foot chain link fence that we have to meet so all of that will be provided as required by your Ordinance which address the very issue Mr. Dykes that you've asked the question about. I see that staff has pulled up the diagram showing the landscaped buffer and the fencing and the existing tree line is indicated on there as well and again we are not going to remove any more trees than we have to in order to get the site in there. That obviously provides more buffering and landscaping than the existing electrical substation which really doesn't have anything.

CHAIR QUIGLEY: Thank you. Are there any other questions for Mr. Johnson? Is there any other rebuttal testimony that would introduce new information from the opposition? Thank you very much.

CHAIR QUIGLEY: The hearing is closed. Are there any Board discussion? We have the four elements that have to be considered as mandatory: Materially endangering public health, conditions and specifications, maintaining or enhancing the value of adjoining property and keeping in harmony with the surrounding terrain.

MR. SWANSON: In the first element, the applicant provided testimony as to the improvement of public safety in the coverage of the cell phones. The public health that was raised, the concerns; the Board is effectively stopped from considering those elements because every one of those concerns were in frequency, things we can't consider as part of the application and part of the opposition. We've heard testimony from the staff that they've met the specifications in condition of the Special Use Permit. We've also heard expert testimony from a real estate professional that there is no adverse impact on value, that it will maintain the values of adjoining properties. In terms of harmony with the area, again going back to all the information we've heard in opposition to this the disharmony is over things that the Board can consider. We have heard no person speak in opposition as to the aesthetics of the impact of the study on the neighborhood; the quality of life, and so I think those are the things that stick out in my mind from all the information that I've heard, Mr. Chairman.

CHAIR QUIGLEY: Mr. Humphrey, you have a comment?

MR. HUMPHREY: I'm okay for right now.

MRS. TART: I just would like to.... maybe this should be made after we have a motion and a second.

CHAIR QUIGLEY: Okay, thank you.

MR. DYKES: Was this case presented before?

MR. JOHNSON: No, not this specific case. There was a previous tower in another location. This is the first tower that we've proposed in this location.

MS. SPEICHER: The other one was on Lake Upchurch Road.

MR. DYKES: Thank you.

CHAIR QUIGLEY: Do I have a motion?

MRS. TART: Mr. Chairman, I move that we approve the Special Use Permit based upon the following findings:

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 presented that the public's health is in danger or that of the safety of the community because the evidence that the opposition would like us to consider is inadmissible by our statute so we cannot consider that.

2. The use meets all required conditions and specifications as outlined by the Cumberland County Code for Towers.

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

The use is a public necessity. People do not go out and spend millions or hundreds or thousands of dollars when they are in business if there is not a need for that particular business. We all know there are areas where you cannot always get a good connection with your cell phone.

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.

The plan that was presented to us by Staff and that the applicant has agreed to will be carried out to the exact specifications. Having heard all this evidence, we find that the application is complete and that it complies with all of the applicable requirements of the Cumberland County Zoning Ordinance and that the applicant shall complete the development in accordance with application and site plan submitted to and approved by this Board, a copy of which is filed in the Cumberland County Planning and Inspections Office. The applicant is the responsible party for the information contained within the site plan including but not limited to the property boundaries, easement locations and right away boundaries. The applicant/property owner is the responsible party to ensure with compliance with all other Federal, State and local regulation including but not limited to the North Carolina Building Code.

CHAIR QUIGLEY: Do we have a second motion?

MR. SWANSON: Seconded the motion

Quigley: Yes
Swanson: Yes
Dykes: Yes
Tart: Yes
Humphrey: Yes

The motion was approved unanimously.

CHAIR QUIGLEY: It's been properly moved and seconded that we approve the Special Use Permit.

CHAIR QUIGLEY: We want to thank all the witnesses for coming tonight and presenting evidence. We're sorry that everybody could not be satisfied by the decision of this Board.

9. ALTERNATE BOARD MEMBER VACANCY:

MS. SPEICHER: The County Commissioners are getting ready to consider Mr. Humphrey's replacement as an alternate. These are the applicants. The Deputy Clerk called me and asked me if you all would like to recommend a nominee?

CHAIR QUIGLEY: Does anyone want to make any comments about any of the candidates.

MR. SWANSON: Is it just one?

CHAIR QUIGLEY: How many vacancies?

MS. SPEICHER: Just one, Mr. Humphrey's alternate position. He was just moved to regular.

MR. SWANSON: I would nominate Mr. Donaldson.

CHAIR QUIGLEY: Mrs. Tart, your input?

MRS. TART: I'm okay with that.

CHAIR QUIGLEY: We have no objection to the nomination of Mr. Donaldson.

10. DISCUSSION:

MS. SPEICHER: Our attorneys, Mr. Moorefield, Mr. Raynor and Mrs. Jones; all three are at a conference this week and Mr. Moorefield did send his apologies that he couldn't be here.

MR. SWANSON: One of the things we might want to consider for the next revision of the County Ordinance is probably words that exactly mirror the statute that addresses frequency. The effects of frequency on public health and the consideration of approval of towers, and I would take that right out of the statute word for word and put it into the County Ordinance.

MS. SPEICHER: That does make sense and we should make it clear. I'm going to read to you just as a reminder concerning legal standing. If you remember in 2007 we had the Bowers

case? That was the rehabilitation support facility. The court found that our process affords sufficient due process opportunity for aggrieved parties to establish their status. Regarding standing, opponents or appellants must demonstrate sufficient damages to establish their legal right to be aggrieved parties entitled to bring an action.

When you look at what are sufficient damages, this paragraph is directly from Grainger, from that lawsuit. "Factual evidence presented that appropriately supports that party's contention that they have separate or will suffer special damages including damages resulting in the parties property value that are distinct from those damages to the public at large."

I know you have heard Grainger say that but, if the Board finds that a party has not provided sufficient facts, meaning the Board doesn't have subject matter jurisdiction, the Board should find that they don't have jurisdiction and rule against the party and not address the substantive merits of a case or in an appeal or something of that nature. In a case like tonight, just disregard the testimony on the basis of lack of standing.

One more thing, Mr. Humphrey, in the tower package, when they come in, one of the sheets that we require along with the statement is showing the possibility and the ability for co-location.

MR. HUMPHREY: I just remembered from some other cases they were going to share some towers. It seems if you are going to build a new tower and you have plans for that it should be exposed. That was my thinking. If you are going to build one specifically for AT&T then Verizon comes next month and wants to go on the other side of town.

MS. SPEICHER: We make them. Even if the application came in not showing that, we wouldn't accept it.

MR. HUMPHREY: Thank you.

11. UPDATES:

None.

12. ADJOURNMENT:

A motion to adjourn was made by Mr. Swanson and seconded by Mr. Dykes. The vote was unanimous. The meeting adjourned at 8:45 pm.