

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



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

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

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

TENTATIVE AGENDA
OCTOBER 17, 2013
7:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, October 17, 2013, 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. SWEAR IN STAFF
3. ADJUSTMENTS TO THE AGENDA
4. APPROVAL OF THE SEPTEMBER 19, 2013 MINUTES
5. ABSTENTIONS BY BOARD MEMBERS / BOARD MEMBER DISCLOSURES
6. APPROVAL OF THE 2014 DEADLINE / MEETING SCHEDULE
7. PUBLIC HEARING DEFERRALS / WITHDRAWALS
 - **P13-05-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1102 YARD REGULATION, SUB-SECTION G. BUFFER REQUIREMENTS 1-E, WHICH REQUIRES A SOLID BUFFER WHEN ANY OUTSIDE STORAGE OF MATERIALS, EQUIPMENT OR PRODUCT IS VISIBLE AND/OR ABUTTING ANY RESIDENTIAL DISTRICT AND/OR PUBLIC STREET, FOR A MOTOR VEHICLE STORAGE YARD IN A C(P) PLANNED COMMERCIAL DISTRICT ON 4.30 +/- ACRES, LOCATED AT 5523 US HWY 301 SOUTH (SR 2284); SUBMITTED BY ROBERT D. TAYLOR JR (OWNER) AND TOM HOLT.
8. POLICY STATEMENT REGARDING APPEAL PROCESS
9. PUBLIC HEARING(S):
 - A. **P13-06-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 300 FOOT TOWER IN AN A1 AGRICULTURAL DISTRICT ON 78.35+/- ACRES, LOCATED AT 4208 NC HWY 242; SUBMITTED BY DALE R. AND ANNA B. ACKERMAN (OWNERS) AND THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.

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

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

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

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

10. DISCUSSION

11. UPDATE(S)

12. ADJOURNMENT

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



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

Cumberland County Board of Adjustment

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

MINUTES
SEPTEMBER 19, 2013
7:00 P.M.

Members Present

Ed Donaldson, Chairman
Horace Humphrey
Joseph Dykes
Vickie Mullins
George Lott
Winton McHenry (non-voting)
Nathan Feinberg (non-voting)

Absent Members

None

Staff/Others Present

Patti Speicher
Melodie Robinson
Ken Sykes
Joan Fenley
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. SPECIAL RECOGNITION

Chair Donaldson recognized George Quigley and Melree Hubbard Tart, former chair and vice-chair. Each was presented with a plaque in appreciation of their service to the Board of Adjustment.

2. ROLL CALL

Ms. Speicher called the roll and stated a quorum was present. Ms. Speicher stated alternate members Winton McHenry and Nathan Feinberg are present.

3. VOTE FOR VICE-CHAIR

MS. SPEICHER: Chair Donaldson, we did poll all the regular members and each one stated they would be interested in that position.

CHAIR DONALDSON: I will open the floor to any nominations. Mrs. Mullins?

MRS. MULLINS: I decline to be nominated for vice-chair.

MR. LOTT: I'm willing, but I don't know anybody good enough to nominate them. I'm sure we all qualify.

CHAIR DONALDSON: Mr. Dykes?

MR. DYKES: What does the vice-chair do? He comes to the regular meetings and sits in?

CHAIR DONALDSON: If I'm not here, or if I have to recuse myself, you would take over and conduct the meeting.

CHAIR DONALDSON: No reflection on the rest of you all, but you all haven't been on the board very long. My suggestion is either Mr. Humphrey or Mr. Dykes because they have been on the board for a while and they know how it runs from session to session. I would move to nominate both of them, and then we can vote on it. I need a second.

MRS. MULLINS: I second the motion.

CHAIR DONALDSON: All those in favor of Mr. Dykes as the vice-chair, raise your hand.

IN FAVOR
DYKES

CHAIR DONALDSON: All those in favor of Mr. Humphrey as the vice-chair, raise your hand.

IN FAVOR
HUMPHREY
MULLINS

CHAIR DONALDSON: I'll abstain from voting. The vote is 2-1. Mr. Humphrey will be the new vice- chair.

4. MS. SPEICHER: Gave the Oath of Office to Nathan Feinberg.

5. CHAIR DONALDSON SWORE IN THE STAFF

6. ADJUSTMENTS TO THE AGENDA

There were none.

7. APPROVAL OF THE JULY 18, 2013 MINUTES

A motion was made by Mr. Lott and seconded by Mr. Humphrey to approve the July 18, 2013 minutes as submitted. The motion passed unanimously.

8. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

9. PUBLIC HEARING DEFERRAL(S)

There were none.

10. POLICY STATEMENTS REGARDING APPEAL PROCESS

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

11. PUBLIC HEARING(S)

Opened Public Hearing

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

MS. SPEICHER: Presented the zoning, land use and photos of the site to the Board. You have the conditions of approval that were placed on this property in July 2012 in your packet. The only matter before us tonight is condition #14. The plan has been approved. The applicant is requesting a variance from the buffer that is required along the front of the property to shield the stored trucks and vehicles from view from the public street. Highway 301 is a public street. I'm available for questions if you have any.

CHAIR DONALDSON: Does anybody on the board have questions for the staff?

MR. LOTT: Could you put the aerial photo up of the whole area. The property directly across the street is a wooded area, behind it is a wooded area, and then you have the Caterpillar to the south and some other business to the north on Hwy 301?

MS. SPEICHER: Yes, Taylor Express, also the same as the current applicant.

MR. LOTT: Did I not notice that some of the property boundaries are buffered, with the exception of the front?

MS. SPEICHER: You are correct.

CHAIR DONALDSON: Swore in Robert Taylor.

ATTORNEY HOLT: I would like to point out a couple of things and I appreciate this photograph being left open. As Mr. Lott pointed out, this property in question is here [pointing to the presentation]. It abuts the service road through Hwy 301, not the 301 property. That is part of the problem and why we are here for this variance. You all may remember this property formerly as Hope Harbor Operation. When it closed, Taylor Express purchased it and cleared the old building off of it and frankly, that is an improvement. The chain link fence was already there. The difficulty we have is, and you might have seen it in the other photos, is that fence is directly adjacent to the right-of-way line for that service road. Do you see that right there? That is a good picture right there. That fence was here when it was purchased. This is right-of-way and obviously is all drainage usage in here. The first thing I want to point out is, in order to comply with condition #14, which requires either a solid berm or a vegetative berm, it has to be between the right-of-way and the fence. Obviously, that can't be done here. A berm that would go 6 feet tall would have to have a base close to 15 feet. You couldn't do it here. Obviously, even for vegetation to go in here; there is no room for it to be planted on the right-of-way. That is part of

the problem. The other problem as Mr. Lott also pointed out; this property is already surrounded by cypress, vegetative barriers on three sides, the rear lot line and the two side lot lines. It is important I think to note, that this property does not abut any residential property. The closest residential property is across Hwy 301 and is not being used. This is our only R6 zoned property anywhere around and it has obviously not been built on at all. It is surrounded by forest in the back. This property here is owned by Joe Riddle and it is being used as forest and not being used for any type of commercial purpose. This is Taylor Express' main building and work site. The ordinance calls for a solid berm if the property is visible from a public highway when it is used for storage of materials, equipment or products. We would contend that this is not a storage lot per say. There is no berm or vegetation in front of the Caterpillar Plant. There is no berm or vegetation in front of these other industrial areas either. There is none in front of Taylor. This lot is being used for parking and therefore, the drivers park their vehicles here when they come to get their trucks and they pick up their trucks there. [pointing to the location on the presentation] We contend this is more like a parking lot and would be subject to Part B of the ordinance rather than dropping down to 4a and that indicates that you need that buffer when commercial off-street parking or loading space abuts a residential district along the side of the rear property line, which doesn't apply here. We will contend that Ordinance G, about buffer, particularly, subparagraph 4c, does not apply in this case. Another reason that we really would need this variance is for security purposes. If there is a solid berm or vegetative barrier between the road and along the front lot line, law enforcement personnel can't see what is going on in there without going back in there. There is no visibility into it at all because they just can't drive by it and see anything. Leaving it without a barrier, a drive by is able to see if there is anybody in there with the way it is now with the chain link fence and the bob wire top. There have been break-ins there. There have been break-ins at the Caterpillar Plant. In fact, someone came in through the subject property, the Caterpillar Plant. There have been three since Taylor bought the property last summer.

CHAIR DONALDSON: When you say last summer, are you talking about the summer of 2012?

ATTORNEY HOLT: Yes, 2012 was when it was purchased and the conditional use permit was issued. We think for all those reasons a variance is justified here in this particular case. We think that all the reasons that are normally used in regard to declare a variance are satisfied and we ask that the board rule in our favor and allow this variance and not require the barrier, the berm or the vegetative barrier to be required in this particular case. Mr. Taylor is here to answer any questions that the board may have.

MS. SPEICHER: If I could clarify for the applicant, his agent and the board, I should have made it clear in my presentation that the buffer that is required is a solid fence, a vegetative buffer or it can be a combination of the two.

CHAIR DONALDSON: Okay.

ATTORNEY HOLT: The buffer ordinance does say if it is vegetated, it has to be between the fence and the outside of the fence. That allows someone to get in there behind their fence.

MR. HUMPHREY: That was one of my questions, exactly, when she talked about the solid fence. She just addressed my concern and I thought it would come up. Does it have to be vegetative; does it have to be wood?

CHAIR DONALDSON: It can be a solid fence.

MS. SPEICHER: It can be any solid fence; it cannot be chain link no matter what you do to it.

CHAIR DONALDSON: But it is a chain link.

MR. HUMPHREY: Under solid, I'm assuming that I know what solid fences are, but I may not, so what is solid?

ATTORNEY HOLT: That is a good question and the staff has a good point. You would normally think you could do this by laying the plastic strips in there and would that make it solid? My understanding and I could be wrong because this is not my forte, but that does not comply.

CHAIR DONALDSON: It is still a chain link fence.

ATTORNEY HOLT: That is the dilemma that we are in. Do we give up the security issue, either remove the fence which is very expensive or put up a solid fence. Even if we were to plant a vegetative barrier around there, it would have to go on the inside of the fence, which is not allowed there.

MS. SPEICHER: If I could read the definition for solid fence for Mr. Humphrey, please?

CHAIR DONALDSON: Yes.

MS. SPEICHER: A solid fence or wall is defined as one in which the openings through which clear vision and the free passage of air from one side to the other does not exceed 25 percent of the fence or wall. So it would have to be seventy-five percent solid.

MR. HUMPHREY: Seventy-five percent closed?

MS. SPEICHER: Yes.

CHAIR DONALDSON: What is the frontage?

MR. TAYLOR: About 400 and something feet, I believe.

MS. SPEICHER: We have it as 560'.

CHAIR DONALDSON: 560'. If you built a solid fence, you would have to build a solid fence that had a 140' gaps in it to be broken out over that. If it is 25 percent because 25 percent of 560' is 140'. You would have to figure out the spacing which might be as much as.....I could do the math, but I'm not going to do it.

MS. SPEICHER: Chair, the definition is 25 percent of the materials of the fence, not 25 percent of the lot width.

MR. LOTT: In other words, you couldn't space them apart.

MR. DYKES: Would there be any overlapping?

CHAIR DONALDSON: Ms. Speicher just read it could only have flow through of twenty-five percent, which means to me, if you can have a gap, how are you going to get twenty-five percent flow through if you don't have a gap? Do you see what I'm saying?

MS. SPEICHER: I do.

MR. LOTT: Normally, in most cases, we have these rules and regulations that our staff enforces and most of the time they are pretty fair about it. They have been through the process of the Planning Board and put in place and normally I would agree with most of them. In my business I've run up against these things occasionally. I think here it is not a matter of what it would cost. I don't know Mr. Taylor personally, I know of him, and I don't think money would be a problem if he had to put up to do whatever he needs to do. I think here we are talking about security purposes and that is a very valid issue for our County Sheriff's Department to contend with. They are the ones I'm sure who are responsible for the security out there other than what he might have on his own.

MR. TAYLOR: Well, that is true. The trucks are in there.

MR. LOTT: This is almost a semi-industrial type situation with the Caterpillar place like it is, his trucking company up there and I know over on Shipman Road, there are several other garaged type situations.

CHAIR DONALDSON: Mr. Lott, the discussion you are in now is for after we get the facts in.

MR. LOTT: I'm sorry. I stand corrected.

CHAIR DONALDSON: It is okay, it's just that we are getting the cart before the horse. Do you have questions Mr. Dykes and Mrs. Mullins? I have some questions for Mr. Taylor. Is the fence right on your property line?

MR. TAYLOR: Yes.

CHAIR DONALDSON: The state right-of-way runs right to the fence?

MR. TAYLOR: The issue out there is that years ago the set back was thirty feet and I think it is sixty feet now. There is also the ditch and drainage on both ends of the property.

CHAIR DONALDSON: How much would it cost you to put a berm up?

MR. TAYLOR: The real issue is the berm would take up so much land. I'm so tight there now that we've got bumper pads for the trucks. If you went and put a berm there and it was 18 or 20 feet across there, it would probably eat up about three quarters of an acre of land.

CHAIR DONALDSON: What is the depth on the lot?

MR. TAYLOR: The lot is a little over 400 feet.

CHAIR DONALDSON: Is the lot totally clear?

MR. TAYLOR: Yes, there is nothing on this lot. It is just a parking lot with lights on it.

CHAIR DONALDSON: Is the lot paved or gravel?

MR. TAYLOR: It is gravel.

CHAIR DONALDSON: On average, how many trucks do you keep there?

MR. TAYLOR: Between that yard and the other yard, probably 150, but just think of this lot as like a rest area on Hwy 301. The trucks are not there all of the time. Most of the time on the weekend the trucks come in, the drivers take a rest, the trucks are there. If you go by there on a Wednesday, it would be kind of like what you see right there [pointing to the photo in the presentation]. That yard is designed for about 150 trucks.

CHAIR DONALDSON: What would you say is the average length of stay for a truck?

MR. TAYLOR: I would say a truck would not be in there for more than two days.

CHAIR DONALDSON: Are these all your trucks or are they independent truckers?

MR. TAYLOR: These are all my trucks.

CHAIR DONALDSON: They sort of rotate in with their loads.

ATTORNEY HOLT: Part of it is for the drivers' private vehicles.

MR. TAYLOR: The other end of that is a private parking lot. On the left is room in there for about 80-100 cars.

CHAIR DONALDSON: Does any board member have questions? I have a question for the staff. The Caterpillar place doesn't have any trees buffering theirs, do they?

MR. TAYLOR: I went from downtown to the Robeson County line and there is not a berm on Hwy 301 in front of anyplace.

CHAIR DONALDSON: I understand that but, I'm just talking.....

MS. SPEICHER: No sir, but this is a very thin line, we admit this, but those are considered display, if you can go on the site and buy it, it's not a storage.

CHAIR DONALDSON: Okay. Given they are only staying an average of two days; I don't think this is a storage facility.

MR. TAYLOR: That is our point.

CHAIR DONALDSON: It's more of a parking lot with temporary parking for the work vehicles as they come in and out. That is my opinion, but the board may disagree with me.

MS. SPEICHER: If the board wishes, we can take this back, redo the conditional approval of the site plan as a commercial parking lot and then the buffer requirement would be resolved and the variance wouldn't be needed.

CHAIR DONALDSON: That would solve everybody's problem, wouldn't it? To me, it's not like you are storing junk vehicles or like it's a permanent storage.

MR. LOTT: But does it meet those requirements?

MS. SPEICHER: For a commercial parking lot? The county doesn't have any provision that requires paving or improving.

CHAIR DONALDSON: It's not like the city.

MS. SPEICHER: And as long as it didn't become storage. Realistically, it would be impossible for Code Enforcement to track how long the vehicle has been there; is it being stored vs. being parked. It would be very hard on Code Enforcement to keep up with that.

CHAIR DONALDSON: Let me ask the board. Does anyone have any objection with the staff taking it back and rezoning it to a commercial parking lot?

MR. LOTT: If we were to approve or disapprove this request; that would put the official stamp on it as a storage facility?

CHAIR DONALDSON: If we approve it, we were just going to give a variance. My feelings are right now, without us taking a vote; I would grant the variance because it is so close to being a parking lot. It is not a storage facility in the sense that you just store vehicles there long term or a junk yard or mechanical place where they would store vehicles for weeks or months until they could get them repaired. To me, it is a parking lot, which I think Mr. Taylor figures it is too.

MR. TAYLOR: Well, it is. These are all new trucks.

CHAIR DONALDSON: How many trucks do you have?

MR. TAYLOR: About 300.

CHAIR DONALDSON: They are all rotating in off the road?

MR. TAYLOR: About two thirds of them are in and out of this location. We've got some other locations in another state.

MR. LOTT: If we grant this variance, would it be making a nonconforming site?

MS. SPEICHER: No, a variance would clear the nonconformance.

CHAIR DONALDSON: The staff is saying they could go back and rewrite it and make it a commercial parking lot. Is that what you all want to do or would you rather we do the variance? We can do either one.

MS. SPEICHER: Mr. Taylor made a statement about some cars being stored on one end; if we could get clarification on that.

CHAIR DONALDSON: That's on a different parking lot, isn't it?

MR. TAYLOR: It is part of this, but it is the driver's vehicles so when he comes in that vehicle goes back home.

CHAIR DONALDSON: That is a work parking lot for the employees.

MRS. MULLINS: They are only in there part-time anyway, just the same as the rigs, a couple of days at the most.

CHAIR DONALDSON: Which way do you all want to do it as long as we get the same result that we want?

MS. SPEICHER: We can leave it either up to the applicant or to the board to just withdraw and staff will rework the approval as a commercial property.

CHAIR DONALDSON: How long will it take?

MS. SPEICHER: Tomorrow.

CHAIR DONALDSON: Okay.

ATTORNEY HOLT: With the understanding they would rewrite it as a commercial parking lot.

CHAIR DONALDSON: If they don't, we can just defer this hearing until next month.

ATTORNEY HOLT: I have full confidence that they will.

CHAIR DONALDSON: Well, you never know. Things fall apart.

MS. SPEICHER: First thing in the morning.

CHAIR DONALDSON: Without any objection from the board, we will just continue this hearing over, you all rewrite it, if you are satisfied with it, we will just take it off the agenda next month. If you are not, it will be on the agenda and we will be right back here. Is that fine with you Mr. Taylor?

MR. TAYLOR: Yes, that is fine.

CHAIR DONALDSON: Is everybody on the board okay with this? The vote was unanimous.

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

ATTORNEY HOLT: Thank you and the staff. You have been very helpful.

B. P96-25-C: REVOCATION OF A SPECIAL USE PERMIT (NEÉ SPECIFIED CONDITIONAL USE PERMIT) OF AN AUTOMOBILE JUNKYARD, IN A RR/CU RURAL RESIDENTIAL/CONDITIONAL USE OVERLAY DISTRICT WHERE TWO MANUFACTURED HOMES ARE ALLOW ON 2.10+/- ACRES, LOCATED AT 1440 KINGSTOWN COURT; EZRA LEE DAVIS, THOMAS EDWIN DAVIS, RICHARD DAVIS AND VICTORIA D. CAUGHMAN (OWNERS).

MS. SPEICHER: I apologize, but I have to do it for the record. I found one of the letters pertinent to the next case that is not included in your packet. [Ms. Speicher gave each board member a copy of the letter] If it is okay with the Chair, I will pass on reading the heading because the property owner is not here.

CHAIR DONALDSON: That is fine. Is there anybody here on this case?

MS. SPEICHER: No sir. For the board's information, I did call one of the property owners on Tuesday, to query whether they understood what was going on with this hearing and this case tonight. I explained it in full detail to them, which is why I expect they are not here. Years ago, at the very end of Kingstown Court which is off of Chapel Hill Road, which is the subject property in the center of the screen, Mr. Tommie Davis got approval through the same board for a junk yard on this site. That was in 1996. In 2004, Mr. Davis came in and requested.....there was one existing manufactured home on this site and he came in and requested a second home and got a conditional use overlay from the County Commissioners with the promise that Mr. Davis would clean that site up and was abandoning the junk yard. The site has been partially cleaned up over the years. Most recently, I just found out Mr. Davis has passed away and his children now have the site. Most recently, his son came in trying to find out what it would take for them to get approval for a second home. This was in the spring of this year, April of this year. We explained that it would still have to get cleaned up. He did submit a plan including the single wide and the double wide on the property; and we were good with that, but the letter that he was issued when he changed his plan is the one I just passed out. I highlighted it just for time savings for you and marked the pertinent conditions, which he has agreed to. He stated they just haven't had the means or the time to get the property the rest of the way cleaned up, but they really want to get moved into their home.

CHAIR DONALDSON: Does it have junk cars on it?

MS. SPEICHER: No, it is more debris and a dilapidated mobile home. Joan Fenley is here, she is from Code Enforcement, who was on site, if you want detail about it. I can show you the photos.

CHAIR DONALDSON: If you would. I want to know where it is.

MS. SPEICHER: Chapel Hill Road which is on the north side of Spring Lake.

CHAIR DONALDSON: Right, I know where that is.

MS. SPEICHER: This is a dirt trail; it is not a street, not a road.

MR. LOTT: It cuts over from Hwy 87 to Hwy 210.

MS. SPEICHER: No, Chapel Hill does, but Kingstown Court goes straight north. It is just a dirt trail. This is the mobile home [referring to the pictures in the presentation]. The first time I saw this property myself was in 1996.

CHAIR DONALDSON: This is what is confusing me. I know where Chapel Hill Road is, it comes in right there where the old Wal-Mart was in Spring Lake and goes all the way over there where the new Wal-Mart is and I don't see how that falls between the Fort Bragg training area and the Overhills tract at Fort Bragg. That is what is confusing to me; because there is no training area in there, that is all community, that is a city in there.

MS. SPEICHER: It is off the map.

CHAIR DONALDSON: I know that. Fort Bragg is here, the main post is here, Spring Lake is here and it's up here in the middle of Spring Lake and runs into Lillington. In the middle of that you've got the Little River and then the Overhills Farm starts there on the other side of the river.

MS. SPEICHER: Are you familiar with where the Food Lion Shopping Center is on Hwy 210?

MR. LOTT: Past where Mrs. Tart had her office.

CHAIR DONALDSON: Okay.

MS. SPEICHER: Chapel Hill Road intersects Hwy 210 right at that shopping center and this is right after you come around that sharp curve from Chapel Hill is a dirt trail to the right. It is a dirt trail that goes north.

CHAIR DONALDSON: Who made the determination that the U. S. Wildlife had anything to do with this piece of property?

MS. SPEICHER: We send every application that comes in, regardless whether it is zoning, subdivision, site plan or watershed to the U. S. Fish and Wildlife.

CHAIR DONALDSON: Every one of them?

MS. SPEICHER: Every single application we get, yes sir.

CHAIR DONALDSON: Did they kick this one back?

MS. SPEICHER: No they didn't. They just want them to retain as many trees.

CHAIR DONALDSON: They want them to.

MS. SPEICHER: They want them to, but they cannot make them.

CHAIR DONALDSON: That was my question.

MS. SPEICHER: We also send everything that is within five miles of the military base. We were sending it to the Garrison Commander, but he has delegated that to Jim Dougherty with RLUAC, Regional Land Use Area Commission. We sent it to them and they had no issue with it.

CHAIR DONALDSON: That is what was confusing me. It is in the city.

MS. SPEICHER: We get comments from the Fish & Wildlife in Wade out near Parkton Road and Hope Mills sometimes. Basically, all we are trying to do tonight is to revoke this board's original approval of the junk yard which the applicant is on record with the County Commissioners when they got their Conditional Use in 2004 that they were abandoning the junk yard.

CHAIR DONALDSON: Okay.

MS. SPEICHER: They did begin cleaning it up at that time, they just have a little bit more to go.

CHAIR DONALDSON: He is not objecting to it?

MS. SPEICHER: No, he is not.

CHAIR DONALDSON: Basically, they are going to clean it up.

MS. SPEICHER: They are going to do what they can to get their new home and get the lights turned on, that is what they are doing.

CHAIR DONALDSON: To get their lights turned on?

MS. SPEICHER: The power to their manufactured home.

MRS. MULLINS: So they are putting a new one in the place of that one you showed us, right?

MS. SPEICHER: That one is already a minimum housing issue, which is outside of this board. One way or the other; that one is coming off site.

MRS. MULLINS: Maybe I heard you wrong. I thought you said there was a double wide going in front of it or behind it.

MS. SPEICHER: They were flipping from what they originally got, which is what brought all this back up again.

MRS. MULLINS: Okay.

CHAIR DONALDSON: So, they don't have any objection to that?

MS. SPEICHER: No sir, they do not. I strongly encouraged them to make sure they continue working with Code Enforcement because the minimum housing issue is way separate from zoning. I explained to them that we, my office, had nothing to do with it and could not help them with the minimum housing matter.

CHAIR DONALDSON: You mean to make it habitable or to build on it?

MS. SPEICHER: Or whether the county pulls it and puts a lien on their property or whatever they may do or whatever may happen.

CHAIR DONALDSON: Did you all take pictures of it?

MS. SPEICHER: [Showed the pictures on the presentation]

CHAIR DONALDSON: Is that the only thing on the property other than the trash?

MS. SPEICHER: Yes, and some small stuff. They are working on it. He has told me more than once. Keep in mind this use to be a junk yard.

CHAIR DONALDSON: Oh, it was?

MS. SPEICHER: Yes. They have a way to go, but it doesn't look impossible for them to get this site cleaned up.

CHAIR DONALDSON: Does anybody else have any questions? Do I hear a motion to grant the revocation? You want the conditional use revoked?

MS. SPEICHER: We just want the junk yardit was a Specified Conditional Use at that time, revoked.

CHAIR DONALDSON: Do I hear a motion to revoke the Special Use Permit?

MR. LOTT: I motion to revoke the Specified Use Permit.

MRS. MULLINS: I second the motion.

CHAIR DONALDSON: All in favor please say aye.

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

12. RECOMMENDATION FOR NOMINATIONS TO FILL VACANCIES

MS. SPEICHER: I will tell you that in the past Mr. McManus and Ms. Ortiz were called and have stated they were not interested at that time or we couldn't get in touch with them. They have been on the list for quite a while. I do not know anything about anyone else on the list.

MR. HUMPHREY: Mr. Chairman, may I have some clarification please? Even though we recommend somebody, it still rest with the County Commissioners?

MS. SPEICHER: Yes, exactly.

MR. HUMPHREY: Okay, thank you.

CHAIR DONALDSON: Does anybody have any comments or want to make a recommendation? We could do what we did last time and pass it on to the Commissioners and let them select.

MR. LOTT: I have a nomination, Alfonso Ferguson.

MR. DYKES: I would like to nominate Joseph DeCosta.

CHAIR DONALDSON: Didn't Mr. DeCosta at one time put his name in and pulled it off? I thought sometime last year he had actually put his name in.

MS. SPEICHER: I do not remember.

CHAIR DONALDSON: For some reason I thought he put his name in last year and then pulled it off.

MS. SPEICHER: I did notice that maybe his interest is restarted because he also signed up for the Citizens Academy.

CHAIR DONALDSON: Mr. Humphrey, who are you nominating?

MR. HUMPHREY: I'm going to go with Mr. Lott's nomination of Alfonso Ferguson.

CHAIR DONALDSON: Mr. Dykes?

MR. DYKES: I'm going with Mr. DeCosta.

CHAIR DONALDSON: Mrs. Mullins, do you have anybody?

MRS. MULLINS: I'm going with Mr. Ferguson.

CHAIR DONALDSON: All those in favor of nominating Mr. Ferguson, say aye. The vote was unanimous.

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

CHAIR DONALDSON: Does anyone else want to nominate someone else other than Mr. DeCosta?

MRS. MULLINS: Ms. Ortiz is out, right?

CHAIR DONALDSON: She is not out; they will still have this list. As I understand, the County Commissioners will still have this list. They can take our recommendations or they can say no and put another person on there. Mr. Dykes has recommended Joseph DeCosta. All those in favor of recommending Mr. DeCosta, say aye.

	IN FAVOR	OPPOSED
DYKES	YES	
MULLINS	YES	
LOTT	YES	
DONALDSON	YES	
HUMPHREY	(abstained from voting)	

CHAIR DONALDSON: Mr. Ferguson and Mr. DeCosta will be referred to the Board of Commissioners.

13. UPDATE(S)

Assistant County Attorney Rob Hasty's update on the TigerSwan Case is that the new application for the case is scheduled for the Planning Board on October 1, 2013 and then scheduled for the Board of Commissioners on October 21, 2013. The new application has been submitted under the amendment passed by the commissioners this summer. The previous case may be sent back to the Board of Adjustment.

14. ADJOURNMENT

The meeting adjourned at 8:05 pm, motioned by Mr. Humphrey and seconded by Mr. Lott.

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



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

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

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

2014

COUNTY BOARD OF ADJUSTMENT **DEADLINE/MEETING SCHEDULE**

Application Deadline

Monday, December 9, 2013

Thursday, January 16, 2014

Friday, February 14, 2014

Friday, March 14, 2014

Thursday, April 10, 2014

Thursday, May 15, 2014

Thursday, June 12, 2014

Friday, July 18, 2014

Thursday, August 14, 2014

Friday, September 12, 2014

Thursday, October 16, 2014

Wednesday, November 12, 2014

Tuesday, December 9, 2014

Meeting Date

Thursday, January 16, 2014

Thursday, February 20, 2014

Thursday, March 20, 2014

Thursday, April 17, 2014

Thursday, May 15, 2014

Thursday, June 19, 2014

Thursday, July 17, 2014

Thursday, August 21, 2014

Thursday, September 18, 2014

Thursday, October 16, 2014

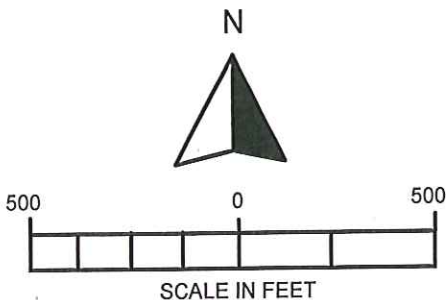
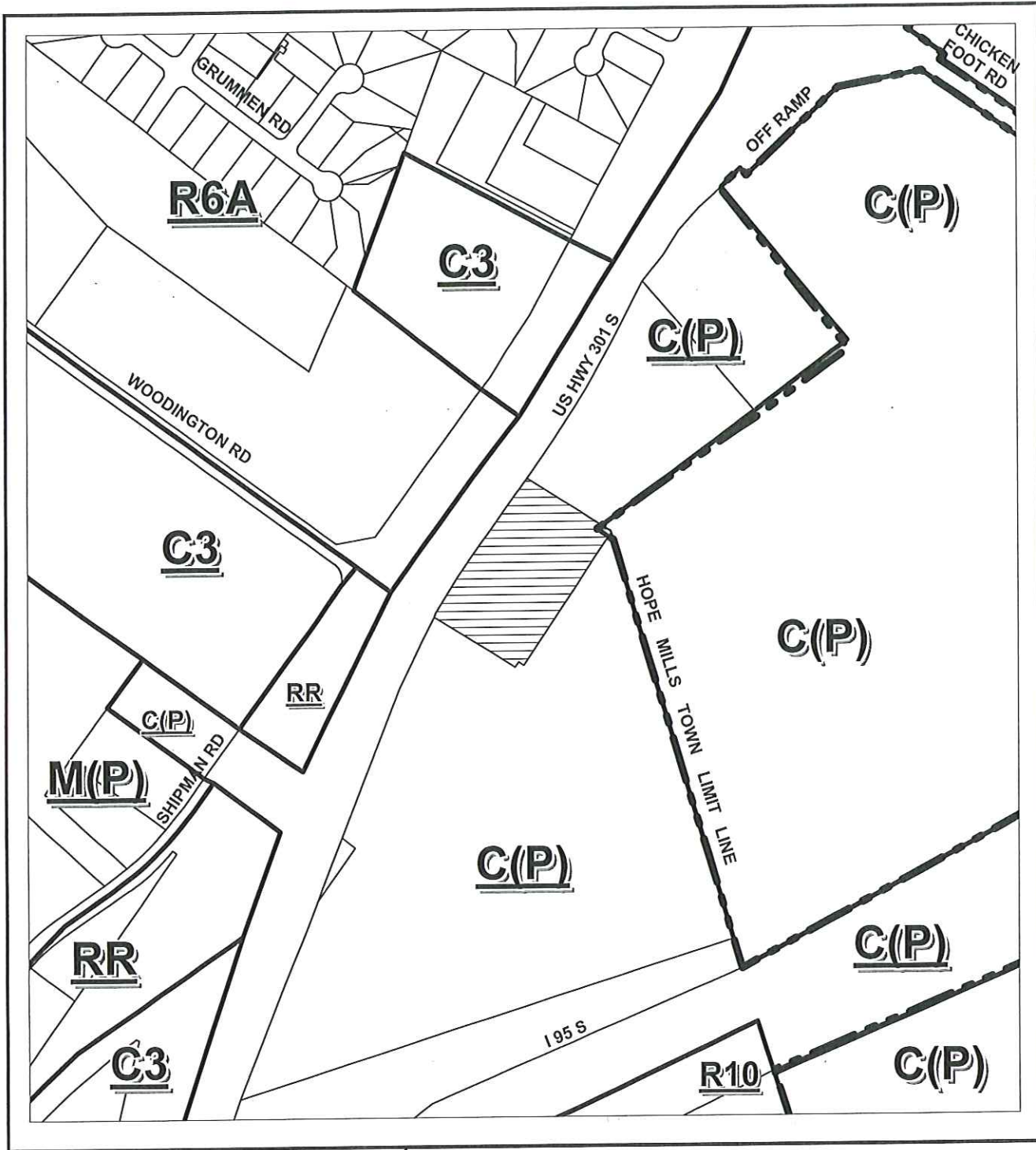
Thursday, November 20, 2014

Thursday, December 18, 2014

Thursday, January 15, 2015

NOTE: Generally, deadlines are set 24 working days prior to the Board meeting date.

Revised Oct 2013



BOARD OF ADJUSTMENT VARIANCE

ACREAGE: 4.30 AC.+/-		HEARING NO: P13-05-C	
ORDINANCE: COUNTY		HEARING DATE	ACTION
GOVERNING BOARD			

P13-06-C
SITE PROFILE

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

Site Information:

Frontage & Location: 1,110+/- on Ludhorne Road (SR 2038)

Depth: 3,770'+/-

Jurisdiction: Cumberland County

Adjacent Property: Yes, two tracts located on the east side of subject property

Current Use: Residential, farmland and woodland

Initial Zoning: A1 – September 3, 1996 (Area 23)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: A1; West: A1 & RR; South: A1 & R40A; East: CD, A1 & R40A

Surrounding Land Use: Cemetery, hog farm, residential (including manufactured homes), farmlands and woodlands

2030 Growth Vision Plan: Rural area & conservation area

Special Flood Hazard Area (SFHA): Yes, extends across the center of the tract approximately—does not affect the current proposed development

Soil Limitations: Yes, hydric soils: TR-Torhunta and Lynn Haven soils; JT-Johnston loam and Le-Leon sand

School Capacity/Enrolled: Beaver Dam Elementary: 105/115; Mac Williams Middle: 1,270/1,163; Cape Fear High: 1,425/1,570

Water/Sewer Availability: Well/Septic

Subdivision/Site Plan: See attached “Ordinance Related Conditions”; particular attention should be paid to Condition No. 12

Average Daily Traffic Count (2010): 1,300 on NC HWY 242

RLUAC: No objection

Highway Plan: There are no road improvements/constructions specified for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program

Cumberland County Zoning Ordinance Reference: Section 927 Towers

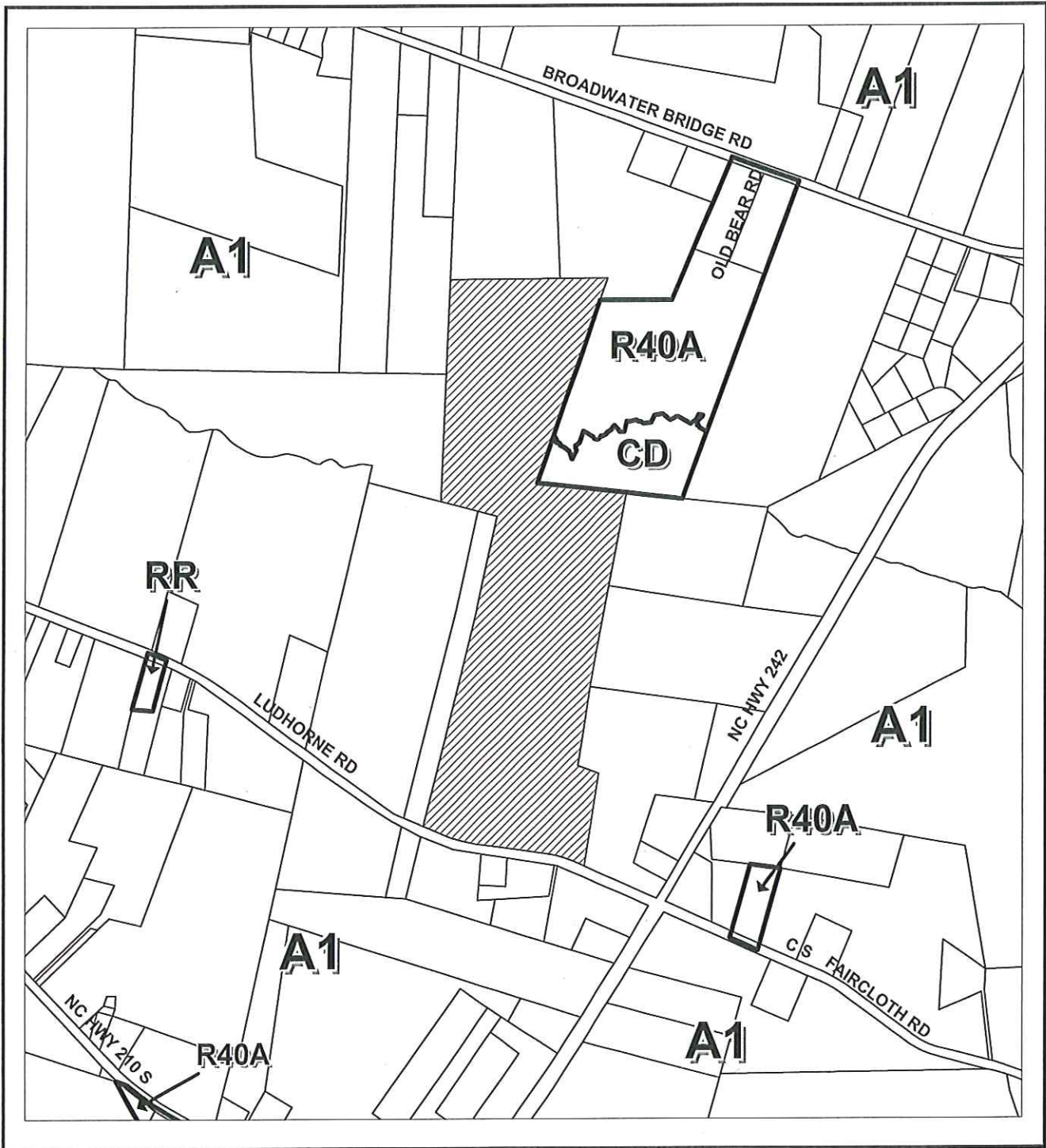
Notes:

1. Contents of the application:
 - a. Proposed 300' self support tower
 - b. Proposed 100x100 (10,000 sq ft) acre 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 monthly
 - f. American Tower's statement indicating its willing to share the tower with three other users
 - g. AT&T 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. American Tower 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.



BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 78.35 AC.+/-

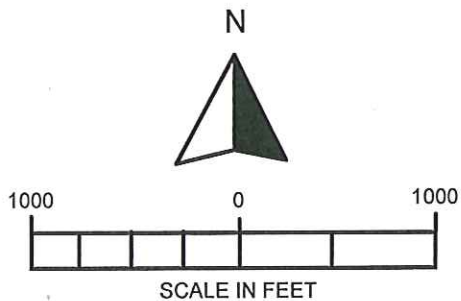
HEARING NO: P13-06-C

ORDINANCE: COUNTY

HEARING DATE

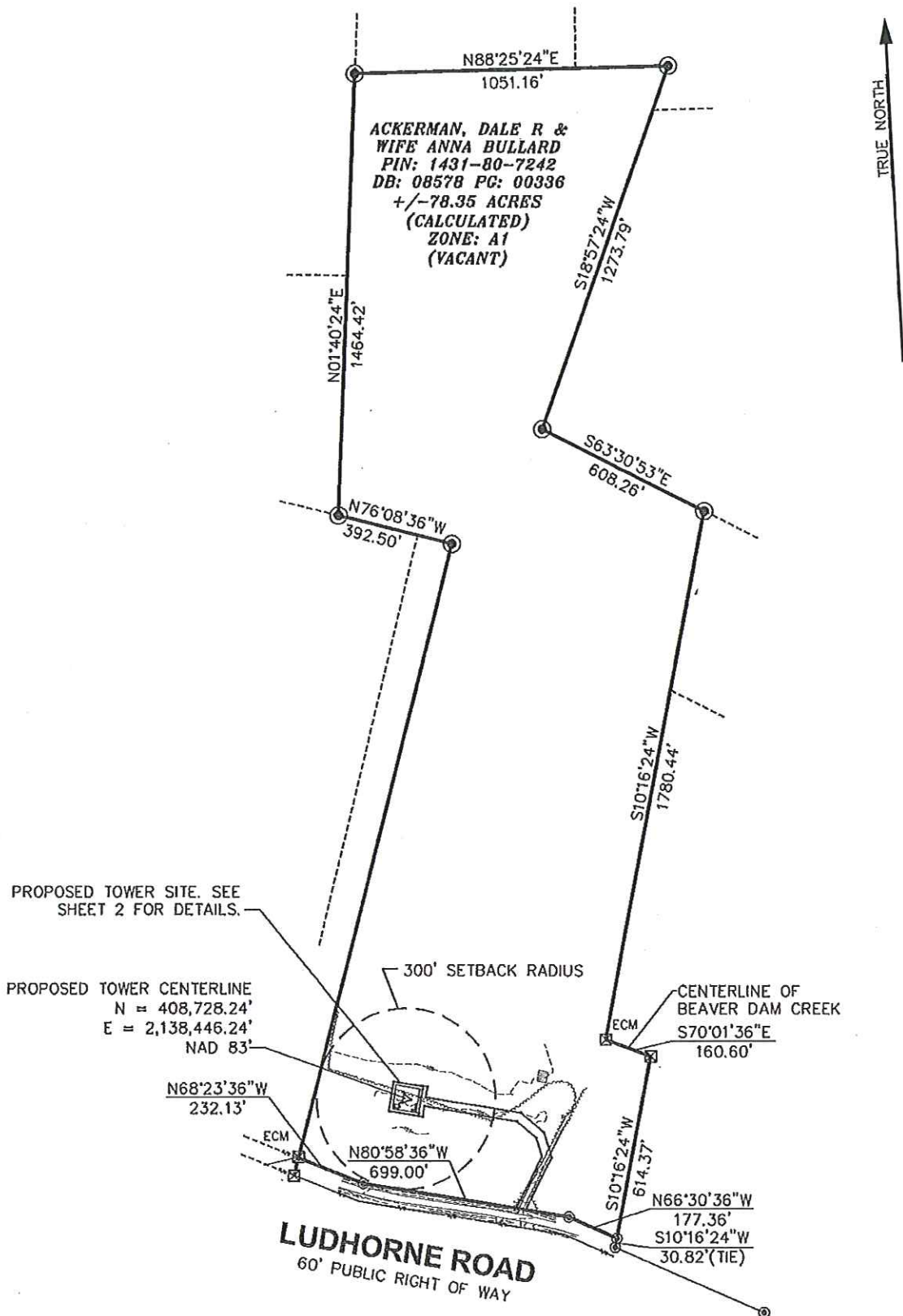
ACTION

GOVERNING BOARD



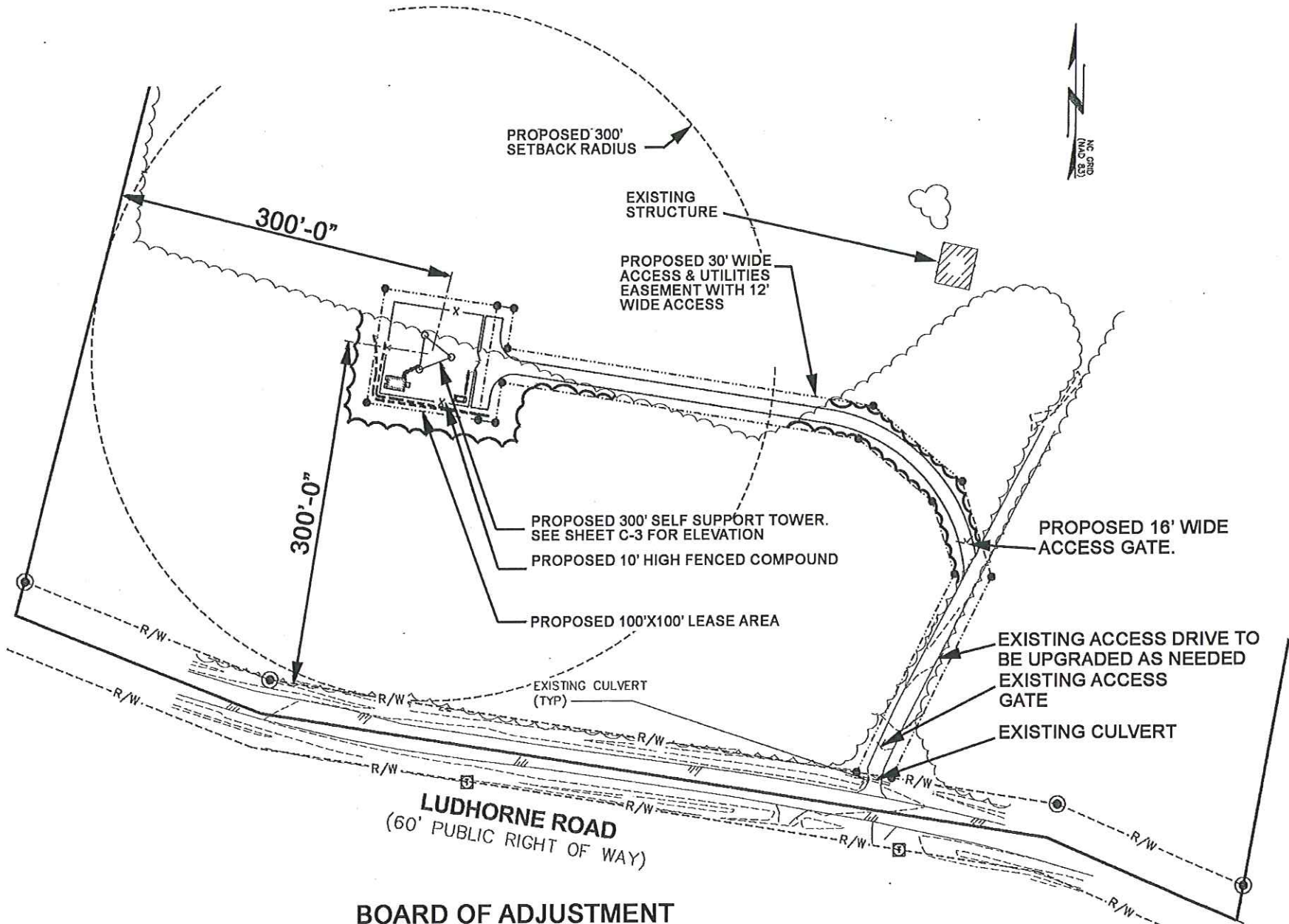
PIN: 1431-80-7242

AM



**BOARD OF ADJUSTMENT
 SPECIAL USE PERMIT**
**REQUEST: TO ALLOW A 300 FOOT TOWER IN AN
 A1 AGRICULTURAL DISTRICT**
CASE: P13-06-C ACREAGE: 78.35 AC +/-
ZONED: A1 SCALE: NTS

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



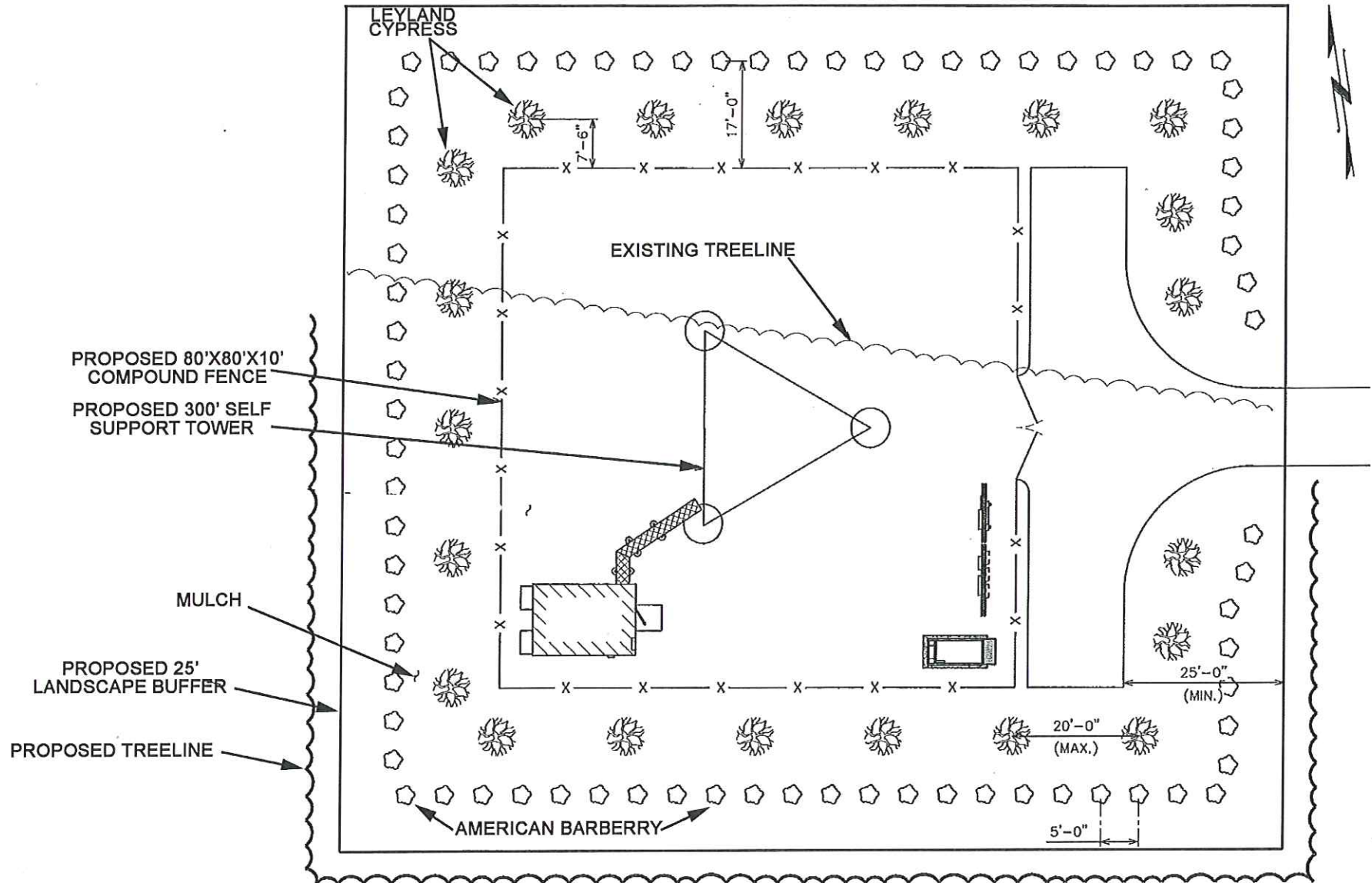
**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

**REQUEST: TO ALLOW A 300 FOOT TOWER IN AN
A1 AGRICULTURAL DISTRICT**

CASE: P13-06-C ACREAGE: 78.35 AC+/-

ZONED: A1 SCALE: NTS

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



**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**
 REQUEST: TO ALLOW A 300 FOOT TOWER IN AN
A1 AGRICULTURAL DISTRICT
 CASE: P13-06-C ACREAGE: 78.35 AC +/-
 ZONED: A1 SCALE: NTS

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

10/2/2013

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: Ludhorne Road, Roseboro, NC 28382

OWNER: Dale R. Ackerman and wife, Anna Bullard Ackerman

ADDRESS: 4340 NC 242 Highway, Roseboro, NC ZIP CODE: 28382

TELEPHONE: HOME _____ WORK _____

AGENT: Thomas H. Johnson, Jr., Esq., Nexsen Pruet, PLLC

ADDRESS: 4141 Parklake Avenue, Suite 200, Raleigh, NC 27612

TELEPHONE: HOME CELL 910-616-3100 WORK 919-653-7807

E-MAIL: tjohnson@nexsenpruet.com

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

A. Parcel Identification Number (PIN #) of subject property: 1431-80-7242
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 78.35 acres Frontage: _____ Depth: _____

C. Water Provider: N/A

D. Septage Provider: N/A

E. Deed Book 08578, Page(s) 336, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: _____

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.) _____

unmanned radio telecommunications facility consisting of a 300' self support tower

Appointment of Agent

The undersigned Dale R. Ackerman ("Owner") hereby appoints Nexsen Pruet, PLLC as Owner's exclusive agent for the purpose of petitioning Cumberland County for all necessary zoning, site plan, building permit and other local governmental approvals required for the location of a wireless telecommunications tower on the property located at 4424849 including, without limitation, the following:

1. To submit the proper applications and the required supplemental materials.
2. To appear at public meetings to give representation and commitments on behalf of the Owner.
3. To act on the Owner's behalf without limitation with regard to any and all things directly or indirectly connected with or arising out of the applications for zoning, site plan, building permit and other local governmental approvals required for the wireless telecommunications tower.

This agency agreement shall continue in effect until written notice of revocation by the Owner is delivered to _____.

This the _____ day of _____, 20 ____

Agent's Name, Address & Telephone

Signature of Owner(s)

Nexsen Pruet, PLLC



4141 Parklake Avenue, Ste. 200

Dale R. Ackerman

Raleigh, NC 27612

919-786-2764

Thomas H. Johnson, Jr.
Member
Admitted in NC

August 28, 2013

VIA ELECTRONIC MAIL AND UPS

Ms. Pier Varner
Cumberland County Planning and Inspections Department
130 Gillespie Street
Fayetteville, NC 28301

Re: Proposed Telecommunication Tower located on Ludhorne Road,
Roseboro, North Carolina 28382; ATC Site Number 280933; AT&T
Number 141-204 ("Tower")

Dear Ms. Varner:

As you know, I represent American Towers LLC in connection with the enclosed Application for a Special Use Permit for the telecommunications tower located on Ludhorne Road, Roseboro, North Carolina 28382. The owners of the property are Dale and Anna Ackerman.

I am enclosing the signed Application along with a check in the amount of \$200.00 for the necessary fees, a copy of the recorded deed, a copy of the site plan/construction drawings and all supporting materials. We request that this matter be placed on the agenda for the October 17, 2013 meeting of the Board of Adjustment.

The tower will be a self support tower 300 feet in height on a 78.35 acre site. The building area will be 100 feet by 100 feet in size. The site is in a wooded area which will be cleared only as necessary to construct the tower site. The site is zoned A1. The Cumberland County Zoning Ordinance (the "Ordinance") allows towers as a special use in the A1 District. The tower will be setback the height of the tower from any structures.

The site plan as required under Section 927 of the Ordinance is included in the enclosed drawings. The construction drawings include all that is required under the Ordinance.

4141 Parklake Avenue T 919.786.2764
Suite 200 F 919.890.4553
Raleigh, NC 27612 E TJohnson@nexsenpruet.com
www.nexsenpruet.com Nexsen Pruet, PLLC
Attorneys and Counselors at Law

Ms. Pier Varner
August 28, 2013
Page 2

By separate cover, we will forward to you a certification by a North Carolina professional engineer, that the tower will be designed to have the structural integrity and/or capacity to support or accommodate more than one user and the tower as designed will be structurally sound. The drawings show one proposed user, AT&T, and space for up to three (3) additional users (Sheet C-3).

As required by Section 927B.3., a statement is enclosed with a map of the search area for the proposed tower showing that there are no existing towers, buildings or other useable structures suitable for collocation within the coverage area.

A statement by American Towers LLC, the tower owner, is enclosed indicating its intent and willingness to permit shared use of the tower, and, as stated earlier, the construction drawings show space for up to three (3) users in addition to the initial user. American Towers LLC also includes in its statement that it commitment to comply with all federal, state and local ordinances, including all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines. The tower as proposed will be setback the height of the tower from all property lines and no structures are located within the tower setback. As required by Section 927E., the tower base is enclosed in a chain link fence ten feet in height and the fence is a minimum of ten feet from the base of the tower. The landscape buffer required in subsection F. is detailed on Sheets L-1 and L-2. There will be no building or structure on the site that may be used as a work site for any worker. Only periodic maintenance, inspection and renovation of the facility will occur on the tower site.

As required by Section 927M., we will forward by separate cover a report prepared by Graham Herring, a licensed real estate broker. Mr. Herring will provide his opinion regarding property value of the surrounding neighborhood based upon his experience with other tower sites in similar situations.

In compliance with Section 927O., enclosed is a report from AT&T that shows that its power density levels will be much less than both the federally approved and ANSI levels. The lighting on the site will be in compliance with FAA standards and the requirements of Section 927P. There will be no outside storage on the site.

Through compliance with the Ordinance provisions above, the site will not materially endanger the public health or safety. The power density levels are much lower than federal and ANSI standards. The tower is designed and setback from existing structures such that if it were to fail, the public will not be harmed. The tower will benefit public safety by providing better wireless coverage in the area. Many depend on their wireless devices to call public safety officials in the event of an emergency.

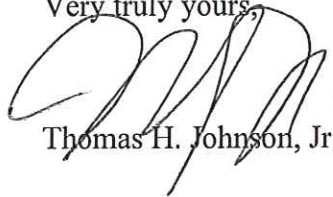
Ms. Pier Varner
August 28, 2013
Page 3

In fact, wireless phones are often used in the home instead of traditional landline phones. This use as proposed meets all of the conditions and specifications of the Ordinance.

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 Comprehensive Land Use Plan. The proposed tower will meet the infrastructure needs of this area of the County and will provide much needed access to emergency services, both of which are supported in the 2030 Growth Vision Plan. By virtue of this proposed tower site meeting the requirements of Section 927 for residential areas, the site is in conformity with the Comprehensive Land Use Plan as implemented by the Ordinance.

If you have any questions or need any additional information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. Johnson, Jr.', written over the typed name below.

Thomas H. Johnson, Jr.

cc: Greg Csapo (via email, w/encl.)



AMERICAN TOWER®
CORPORATION

Ms. Pier Varner
Cumberland County Planning and Inspections
130 Gillespie Street
Fayetteville, NC 28301
September 26, 2013

ATC Site: 280933 Ludhorne NC (11867 Ledhorne Rd. Roseboro, NC 28382)

Subject: Confirmation of Tower Structural Capacity

The above noted tower will be designed by the manufacturer to have structural integrity and capacity to support or accommodate more than one user. The tower will be designed in to meet the ANSI/TIA-222-G codes and the 2012 North Carolina Building code.

Please contact the undersigned with any questions regarding this report at 919.466.5209.



9/27/13

Jessica Abbott, E.I.
Structural Engineer I

Raphael Mohamed, PE,
Structural Strategic Implementation Lead

Special Use Permit – Board of Adjustment

(Tower)

DRAFT

Ordinance Related Conditions

Permit-Related:

1. 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.
2. For any future development of subject property, the County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision and Development Ordinance)
3. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
4. 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 NPDES permit must be provided to County Code Enforcement.
5. 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.
6. The *Special Flood Hazard Area* (SFHA) exists on this tract; any development within SFHA must have first flood elevations, including all mechanical and electrical equipment above base flood elevation (BFE) plus two feet of freeboard. Proper flood plain development permits are required, issued by the County Engineer, prior to any building/permit application. A copy of the approved flood plain permit must be provided to Code Enforcement at the time of building/zoning permit applications. (Note: The SFHA extends across approximately the center of the tract – does not affect the current proposed development.)
7. 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.)
8. 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.)
9. 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.)
10. The 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.

11. A review of the data available to the Army Corp of Engineers indicates that jurisdictional waters are likely to be present on this property and therefore are likely to be impacted by the proposed project. However, without an official Jurisdictional Determination at the property, these findings cannot be confirmed.

A permit will be required for this project if construction will involve the temporary and/or permanent placement of fill in waters of the United States including wetlands. If a permit is required, the applicant will be required to avoid and minimize impacts to wetland/waters of the United States and may need to provide compensatory mitigation for unavoidable impacts.

12. If the proposed lease area for the 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. **(Note: The current size of the lease area shown on the site plan – not capable of supporting setbacks – and not including the minimum of 20 foot of road frontage, a subdivision cannot be approved as designed. The entire drive area and the fall zone area around the tower would need to be part of any division if the lease area is to be recorded as a lease lot.)**
13. 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.

Site-Related:

14. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the A1 zoning district must be complied with, as applicable.
15. This conditional approval is not approval of any freestanding signs. If a 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. "Ludhorne Road" must be labeled as "SR 2038 (Ludhorne Road)" on all future plans.
17. 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)
18. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
19. 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.
20. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
21. Turn lanes may be required by the NC Department of Transportation (NCDOT).
22. 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.
23. The tower base shall be enclosed by a chain link fence that is at least 10 feet in height. (Section 927.E, Towers, County Zoning Ordinance.)
24. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of one off-street parking spaces are required for this development.

25. A 25 foot wide buffer shall surround the tower compound area and that no structures be erected within this buffer area. Note: The developer is required to obtain an owner's statement 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 spaced no greater 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.)
26. 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:

27. The applicant is advised to consult an expert on wetlands before proceeding with any development. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.
28. Because the subject property is within the Present Use Program, the property owner(s) are encouraged to contact the County Tax Office prior permit application to ensure the owner(s) clearly understand the effect of this development approval as related to any tax exemptions currently applied to the subject property.
29. 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.
30. Any minor modifications or changes to the site must follow the requirements set out in Section 506, County Zoning Ordinance.

Thank you for doing business in Cumberland County!

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):

Site Plan/Plat	Ed Byrne	678-7609
Board of Adjustment:	Pier Varner	678-7602
Code Enforcement (Permits):	Ken Sykes	321-6654
County Engineer's Office:	Wayne Dudley	678-7636
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
County Public Utilities:	Amy Hall	678-7637
County Tax Office, Exempt Property:	Diana Lyman	678-7559
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: Diana Lyman, County Tax Office

P13-07-C
SITE PROFILE

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

Site Information:

Frontage & Location: 1,640+/- on John McMillan Road (SR 2244)

Depth: 1,800'+/-

Jurisdiction: Cumberland County

Adjacent Property: Yes, one tract located on the east side of subject property

Current Use: Farmland and woodland

Initial Zoning: A1 – June 25, 1980 (Area 13)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North & East: A1; West: A1 & R40; South: A1 & A1/CU (to require homes be at least 2,000 sq. ft.)

Surrounding Land Use: Equestrian facility, residential (including manufactured homes), farmlands and woodlands

2030 Growth Vision Plan: Rural area

Special Flood Hazard Area (SFHA): None

Soil Limitations: Yes, hydric soils: JT-Johnston Loam; and Ra-Rains sandy loam

School Capacity/Enrolled: Gray's Creek Elementary: 495/437; Gray's Creek Middle: 1,100/1,067; Gray's Creek High: 1,270/1,271

Water/Sewer Availability: Well/Septic

Subdivision/Site Plan: See attached "Ordinance Related Conditions"; particular attention should be paid to Condition No. 11

Average Daily Traffic Count (2010): 1,200 on McMillan Road (SR 2244)

RLUAC: No objection

Highway Plan: John McMillan Road is identified in the Highway Plan as a major thoroughfare. The plan calls for widening to a "two way left turn lane" facility with a right-of-way of 60 feet. No road improvements are included in the 2012-2018 MTIP. This is Priority #3 in the Highway Portion of the LRTP

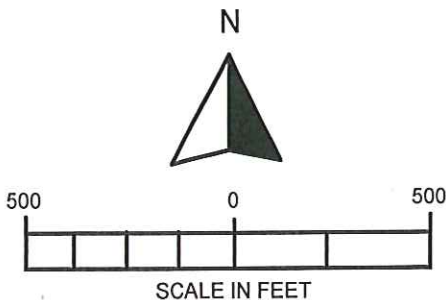
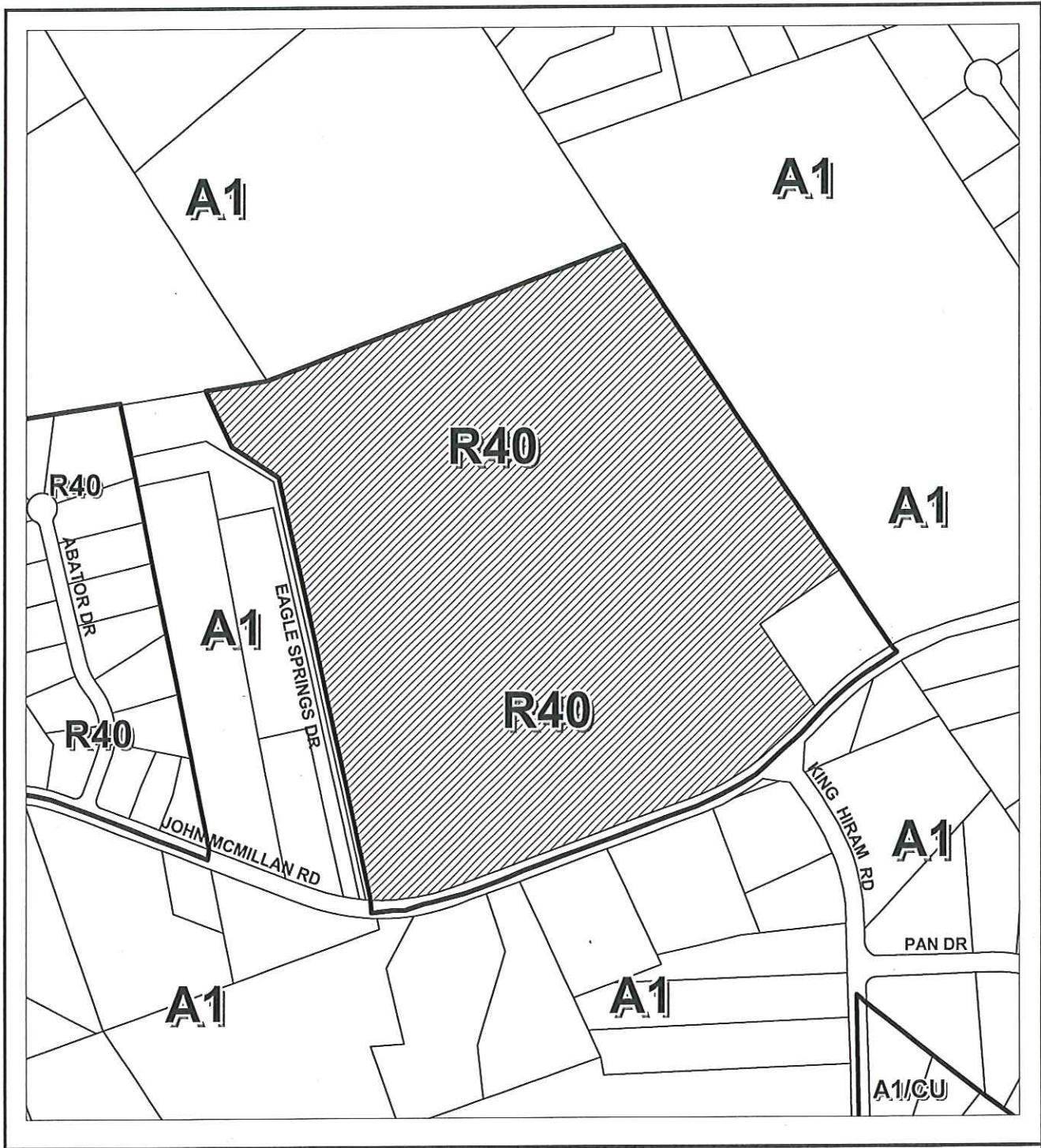
Cumberland County Zoning Ordinance Reference: Section 927 Towers

Notes:

1. Contents of the application:
 - a. Proposed 195' monopole tower
 - b. Proposed 100x100 (10,000 sq ft) acre 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 monthly
 - f. American Tower's statement indicating its willing to share the tower with three other users
 - g. AT&T 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. American Tower 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.

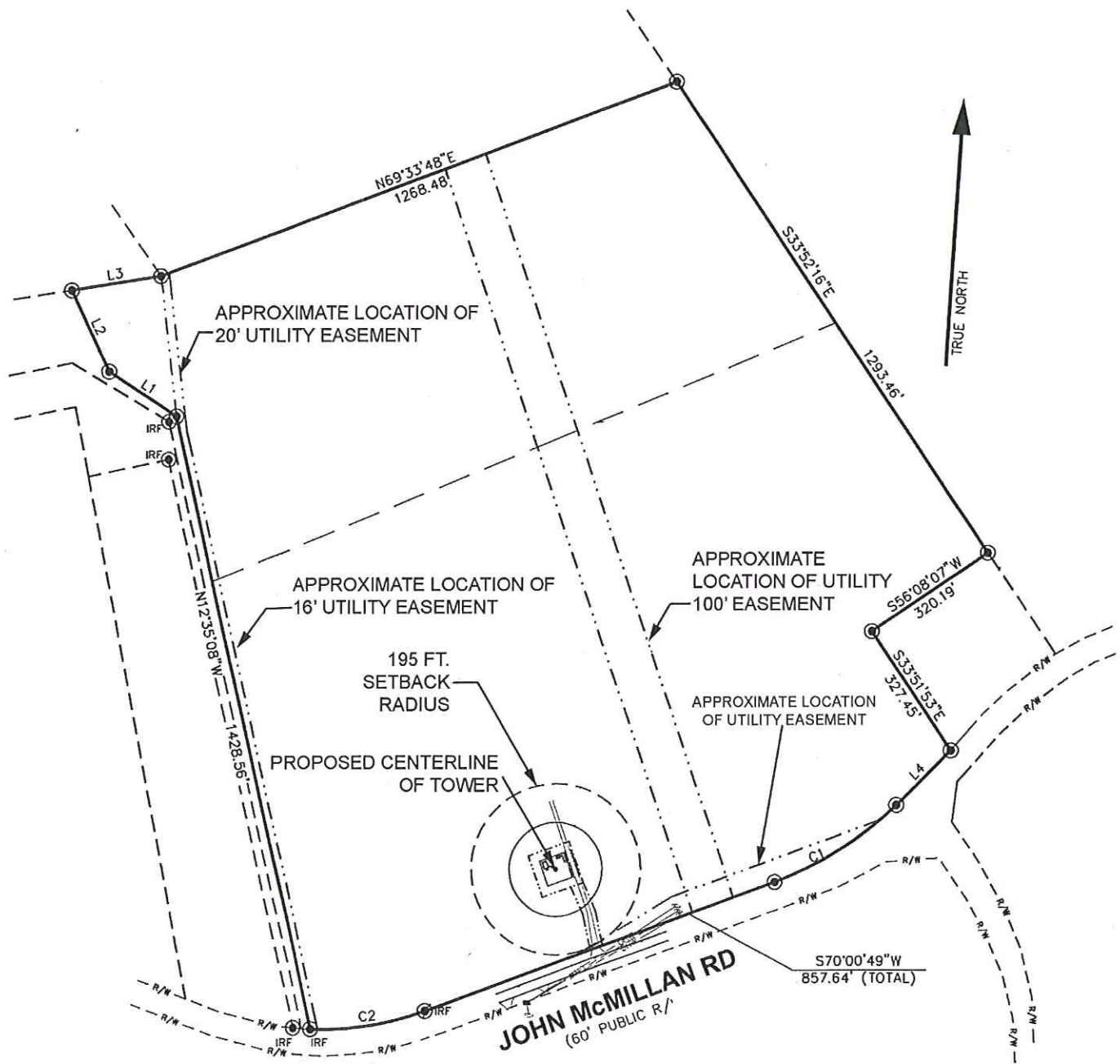


BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 63.63 AC.+/-	HEARING NO: P13-07-C	
ORDINANCE: COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		

PIN: 0431-38-6667

WL



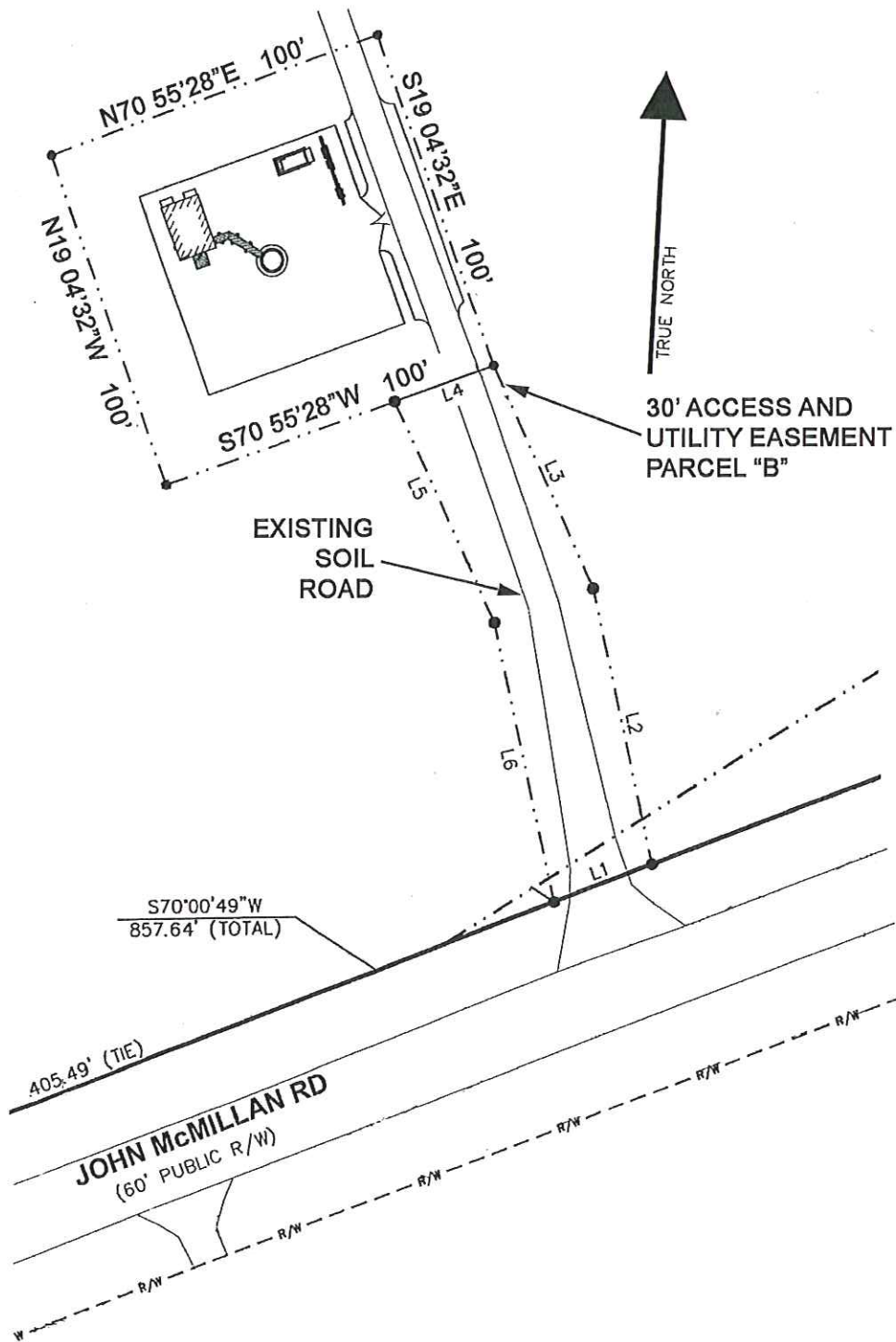
**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

**REQUEST: TO ALLOW A 195' TOWER IN AN
R40 RESIDENTIAL DISTRICT**

**CASE: P13-07-C ACREAGE: 63.63 AC. +/-
ZONED: R40 SCALE: NTS**

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

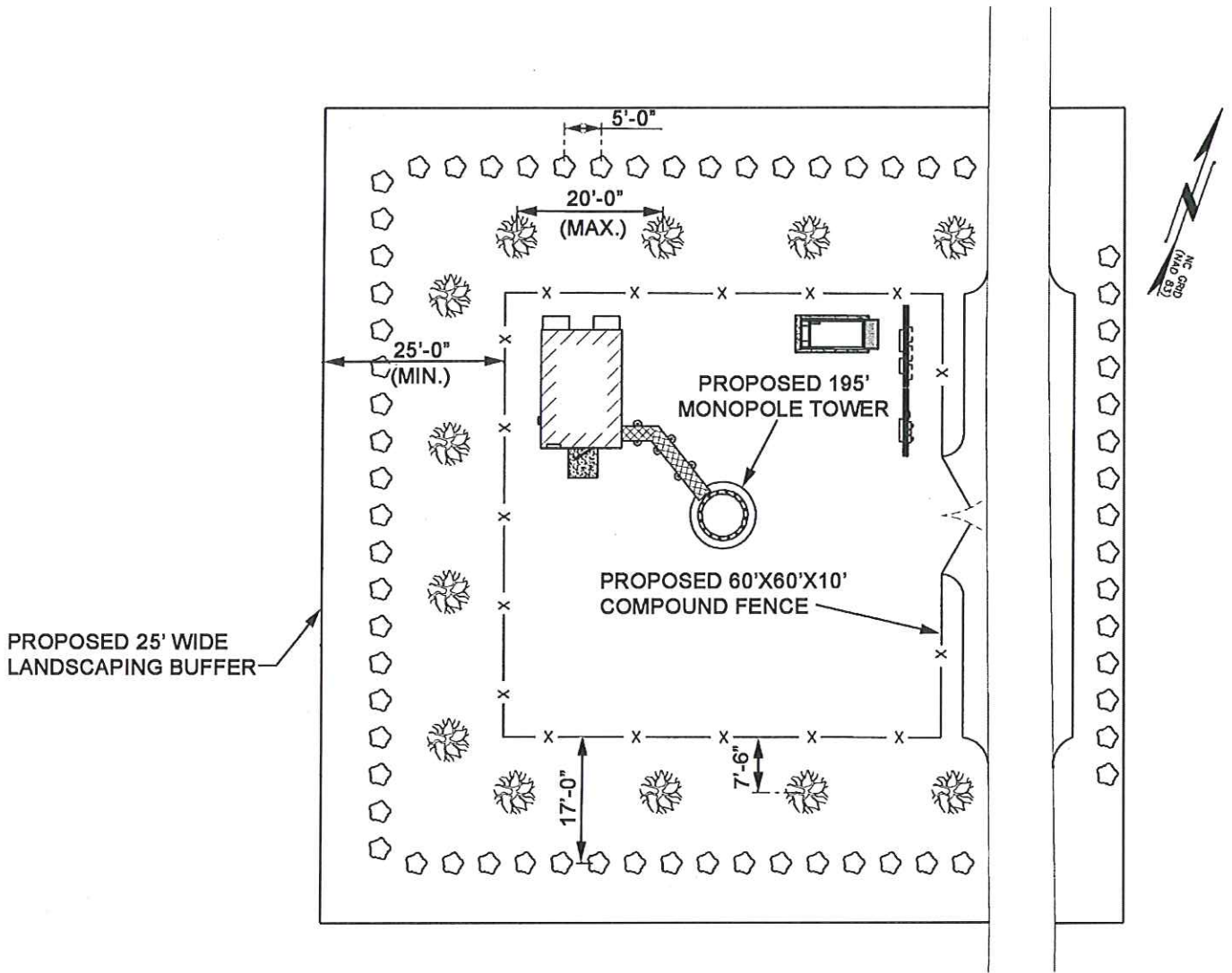
10/2/13



**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

REQUEST: TO ALLOW A 195' TOWER IN AN
R40 RESIDENTIAL DISTRICT
CASE: P13-07-C ACREAGE: 63.63 AC.+/-
ZONED: R40 SCALE: NTS

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



**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

**REQUEST: TO ALLOW A 195' TOWER IN AN
R40 RESIDENTIAL DISTRICT**

CASE: P13-07-C ACREAGE: 63.63 AC.+/-

ZONED: R40 SCALE: NTS

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

10/2/13

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: on John McMillan Road, Hope Mills, North Carolina 28348

OWNER: Phillip C. Smith

ADDRESS: on John McMillan Road, Hope Mills, NC ZIP CODE: 28348

TELEPHONE: HOME _____ WORK _____

AGENT: Thomas H. Johnson, Jr., Esq., Nexsen Pruet, PLLC

ADDRESS: 4141 Parklake Avenue, Suite 200, Raleigh, NC 27612

TELEPHONE: HOME CELL 910-616-3100 WORK 919-653-7807

E-MAIL: tjohnson@nexsenpruet.com

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

*Correct PIN # for lot
0431 - 38 - 6667*

A. Parcel Identification Number (PIN #) of subject property: 0413-14-3743
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 63.63 acres Frontage: _____ Depth: _____

C. Water Provider: N/A

D. Septage Provider: N/A

E. Deed Book 2636, Page(s) 551, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: _____

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.) _____

unmanned radio telecommunications facility consisting of a 199' monopole

Appointment of Agent

The undersigned Phillip Smith ("Owner") hereby appoints Nexsen Pruet, PLLC as Owner's exclusive agent for the purpose of petitioning Cumberland County for all necessary zoning, site plan, building permit and other local governmental approvals required for the location of a wireless telecommunications tower on the property located at 2525720 including, without limitation, the following:

1. To submit the proper applications and the required supplemental materials.
2. To appear at public meetings to give representation and commitments on behalf of the Owner.
3. To act on the Owner's behalf without limitation with regard to any and all things directly or indirectly connected with or arising out of the applications for zoning, site plan, building permit and other local governmental approvals required for the wireless telecommunications tower.

This agency agreement shall continue in effect until written notice of revocation by the Owner is delivered to _____.

This the _____ day of _____, 20____

Agent's Name, Address & Telephone

Signature of Owner(s)

Nexsen Pruet, PLLC



4141 Parklake Avenue, Ste. 200

Phillip Smith

Raleigh, NC 27612

919-786-2764

Thomas H. Johnson, Jr.
Member
Admitted in NC

August 28, 2013

VIA ELECTRONIC MAIL AND UPS

Ms. Pier Varner
Cumberland County Planning and Inspections Department
130 Gillespie Street
Fayetteville, NC 28301

Re: Proposed Telecommunication Tower located on John McMillan Road, Hope Mills, North Carolina 28348; ATC Site No. 280754; AT&T Site No. 141-109

Dear Ms. Varner:

As you know, I represent American Towers LLC in connection with the enclosed Application for a Special Use Permit for the telecommunications tower located on John McMillan Road, Hope Mills, NC 28348. The owner of the property is Phillip C. Smith.

Charleston

Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

Raleigh

I am enclosing the signed Application along with a check in the amount of \$200.00 for the necessary fees, a copy of the recorded deed, a copy of the site plan/construction drawings and all supporting materials. In addition, we will be forwarding an Impact Study by separate cover early next week. We request that this matter be placed on the agenda for the October 17, 2013 meeting of the Board of Adjustment.

The tower will be a monopole tower 199 feet in height on a 63.63 acre site. The building area will be 100 feet by 100 feet in size. The site is zoned R40. The Cumberland County Zoning Ordinance (the "Ordinance") allows towers as a special use in the R40 District. The tower will be setback the height of the tower from any structures.

The site plan as required under Section 927 of the Ordinance is included in the enclosed drawings. The construction drawings include all that is required under the Ordinance.

Ms. Pier Varner
August 28, 2013
Page 2

By separate cover we will forward to you a certification by a North Carolina professional engineer, that the tower will be designed to have the structural integrity and/or capacity to support or accommodate more than one user and the tower as designed will be structurally sound. The drawings show one proposed user, AT&T, and space for up to three (3) additional users (Sheet C-3).

As required by Section 927B.3., a statement is enclosed with a map of the search area for the proposed tower showing that there are no existing towers, buildings or other useable structures suitable for collocation within the coverage area.

A statement by American Towers LLC, the tower owner, is enclosed indicating its intent and willingness to permit shared use of the tower, and, as stated earlier, the construction drawings show space for up to three (3) users in addition to the initial user. American Towers LLC also includes in its statement that it commitment to comply with all federal, state and local ordinances, including all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines. The tower as proposed will be setback the height of the tower from all property lines and no structures are located within the tower setback. As required by Section 927E., the tower base is enclosed in a chain link fence ten feet in height and the fence is a minimum of ten feet from the base of the tower. The landscape buffer required in subsection F. is detailed on Sheets L-1 and L-2. The only exterior structure will be an equipment shelter that will be built to per the jurisdiction requirements. There will be no building or structure on the site that may be used as a work site for any worker. Only periodic maintenance, inspection and renovation of the facility will occur on the tower site.

As required by Section 927M., we will forward by separate cover a report prepared by Graham Herring, a licensed real estate broker. Mr. Herring will provide his opinion regarding property value of the surrounding neighborhood based upon his experience with other tower sites in similar situations.

In compliance with Section 927O., enclosed is a report from AT&T that shows that its power density levels will be much less than both the federally approved and ANSI levels. The lighting on the site will be in compliance with FAA standards and the requirements of Section 927P. There will be no outside storage on the site.

Through compliance with the Ordinance provisions above, the site will not materially endanger the public health or safety. The power density levels are much lower than federal and ANSI standards. The tower is designed and setback from existing structures such that if it were to fail, the public will not be harmed. The tower will benefit public safety by providing better wireless coverage in the area. Many depend

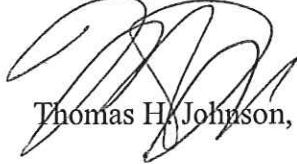
Ms. Pier Varner
August 28, 2013
Page 3

on their wireless devices to call public safety officials in the event of an emergency. In fact, wireless phones are often used in the home instead of traditional landline phones. This use as proposed meets all of the conditions and specifications of the Ordinance.

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 Comprehensive Land Use Plan. The proposed tower will meet the infrastructure needs of this area of the County and will provide much needed access to emergency services, both of which are supported in the 2030 Growth Vision Plan. By virtue of this proposed tower site meeting the requirements of Section 927 for residential areas, the site is in conformity with the Comprehensive Land Use Plan as implemented by the Ordinance.

If you have any questions or need any additional information, please do not hesitate to contact me.

Very truly yours,



Thomas H. Johnson, Jr.

cc: Greg Csapo (via email, w/encl.)



AMERICAN TOWER®
CORPORATION

Ms. Pier Varner
Cumberland County Planning and Inspections
130 Gillespie Street
Fayetteville, NC 28301
September 26, 2013

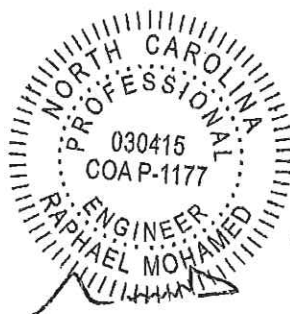
ATC Site: 280757 JMAC NC (John McMillan Rd. Hope Mills, NC 28348)

Subject: Confirmation of Tower Structural Capacity

The above noted tower will be designed by the manufacturer to have structural integrity and capacity to support or accommodate more than one user. The tower will be designed in to meet the ANSI/TIA-222-G codes and the 2012 North Carolina Building code.

Please contact the undersigned with any questions regarding this report at 919.466.5209.

Jessica Abbott, E.I.
Structural Engineer I



9/27/13

Raphael Mohamed, PE,
Structural Strategic Implementation Lead

Special Use Permit – Board of Adjustment

(Tower)

DRAFT

Ordinance Related Conditions

Permit-Related:

1. 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.
2. For any future development of subject property, the County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision and Development Ordinance)
3. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
4. 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 NPDES permit must be provided to County Code Enforcement.
5. 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.
6. 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.)
7. 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.)
8. 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.)
9. The 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.
10. A review of the data available to the Army Corp of Engineers indicates that jurisdictional waters are likely to be present on this property and therefore are likely to be impacted by the proposed project. However, without an official Jurisdictional Determination at the property, these findings cannot be confirmed.

A permit will be required for this project if construction will involve the temporary and/or permanent placement of fill in waters of the United States including wetlands. If a permit is required, the applicant will be required to avoid and minimize impacts to wetland/waters of the United States and may need to provide compensatory mitigation for unavoidable impacts.

11. If the proposed lease area for the 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. (Note: The current size of the lease area shown on the site plan – not capable of supporting setbacks – and not including the minimum of 20 foot of road frontage, a subdivision cannot be approved as designed. The entire drive area and the fall zone area around the tower would need to be part of any division if the lease area is to be recorded as a lease lot.)
12. 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.

Site-Related:

13. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the R40 zoning district must be complied with, as applicable.
14. This conditional approval is not approval of any freestanding signs. If a 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.)
15. "John McMillan Road" must be labeled as "SR 2244 (John McMillan Road)" on all future plans.
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. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
20. Turn lanes may be required by the NC Department of Transportation (NCDOT).
21. 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.
22. The tower base shall be enclosed by a chain link fence that is at least 10 feet in height. (Section 927.E, Towers, County Zoning Ordinance.)
23. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of one off-street parking spaces are required for this development.
24. A 25 foot wide buffer shall surround the tower compound area and that no structures be erected within this buffer area. Note: The developer is required to obtain an owner's statement 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 spaced no greater 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.)

25. 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:

26. The applicant is advised to consult an expert on wetlands before proceeding with any development. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.

27. Because the subject property is within the Present Use Program, the property owner(s) are encouraged to contact the County Tax Office prior permit application to ensure the owner(s) clearly understand the effect of this development approval as related to any tax exemptions currently applied to the subject property.

28. 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.

29. Any minor modifications or changes to the site must follow the requirements set out in Section 506, County Zoning Ordinance.

Thank you for doing business in Cumberland County!

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):

Site Plan/Plat	Ed Byrne	678-7609
Board of Adjustment:	Pier Varner	678-7602
Code Enforcement (Permits):	Ken Sykes	321-6654
County Engineer's Office:	Wayne Dudley	678-7636
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
County Public Utilities:	Amy Hall	678-7637
County Tax Office, Exempt Property:	Diana Lyman	678-7559
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: Diana Lyman, County Tax Office

P13-08-C
SITE PROFILE

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

Site Information:

Frontage & Location: 1,180'+/- on Cedar Creek Road (NC 53)

Depth: 3,630'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Woodland

Initial Zoning: A1 – September 3, 1996 (Area 22)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North, East, West, and South: A1

Surrounding Land Use: Residential (including a manufactured home), and woodlands

2030 Growth Vision Plan: Rural area

Special Flood Hazard Area (SFHA): None

Soil Limitations: Yes, hydric soils: TR-Torhunta and Lynn Haven soils, Le-Leon sand, Ct-Croatan muck

School Capacity/Enrolled: J.W. Seabrook Elementary: 310/284; Mac Williams Middle: 1270/163 Cape Fear High: 1425/1570

Water/Sewer Availability: Well/Septic

Subdivision/Site Plan: See attached "Ordinance Related Conditions"; particular attention should be paid to Condition No. 11

Average Daily Traffic Count (2010): 1,300 on Cedar Creek Road (NC 53)

RLUAC: No objection

Highway Plan: This portion of Cedar Creek Road is identified in the Highway Plan as a major thoroughfare with adequate right-of-way

Cumberland County Zoning Ordinance Reference: Section 927 Towers

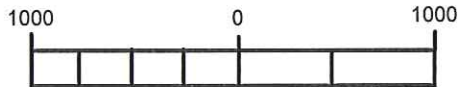
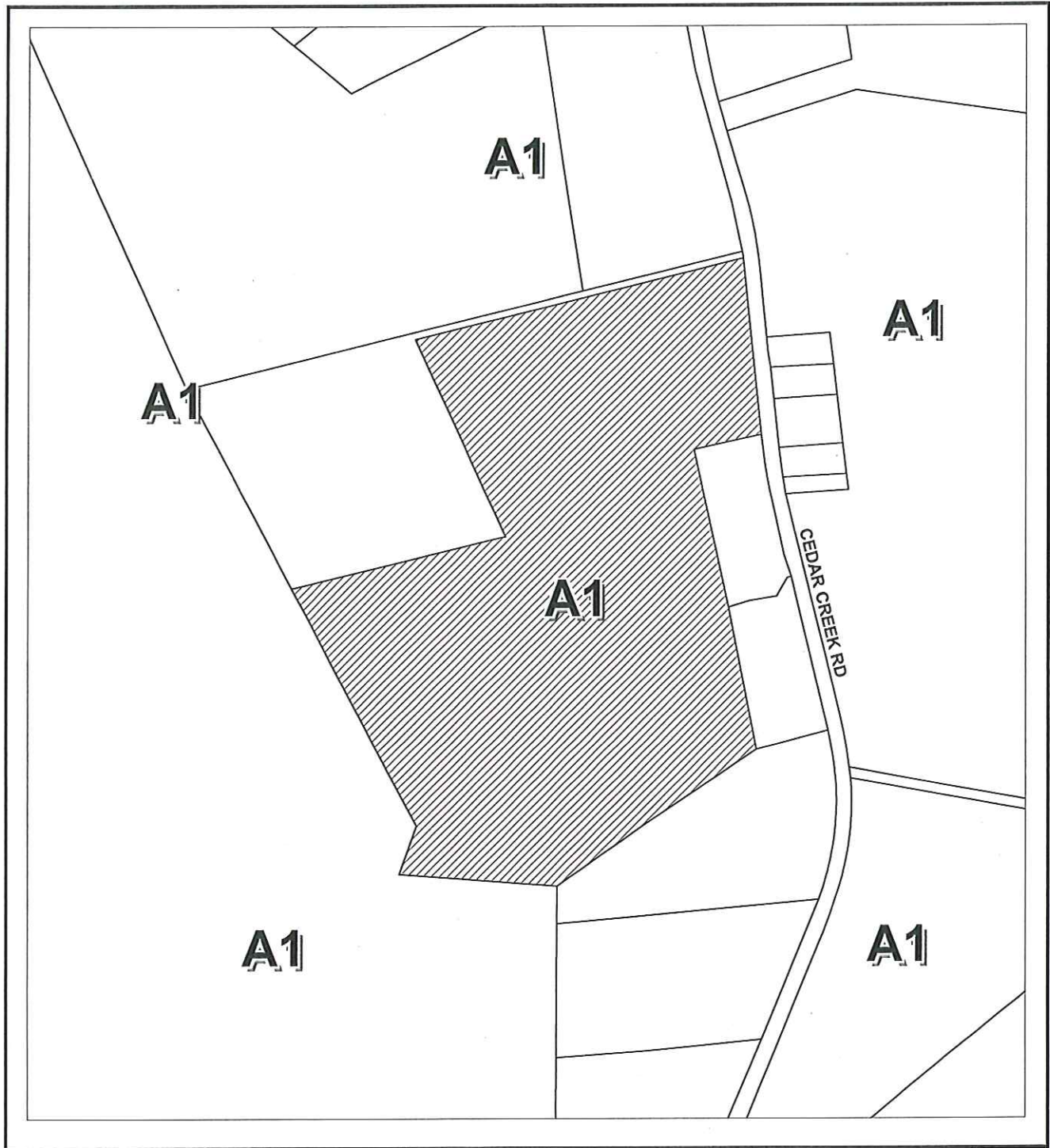
Notes:

1. Contents of the application:
 - a. Proposed 300' self support tower
 - b. Proposed 100x100 (10,000 sq ft) acre 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 monthly
 - f. American Tower's statement indicating its willing to share the tower with three other users
 - g. AT&T 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. American Tower 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.



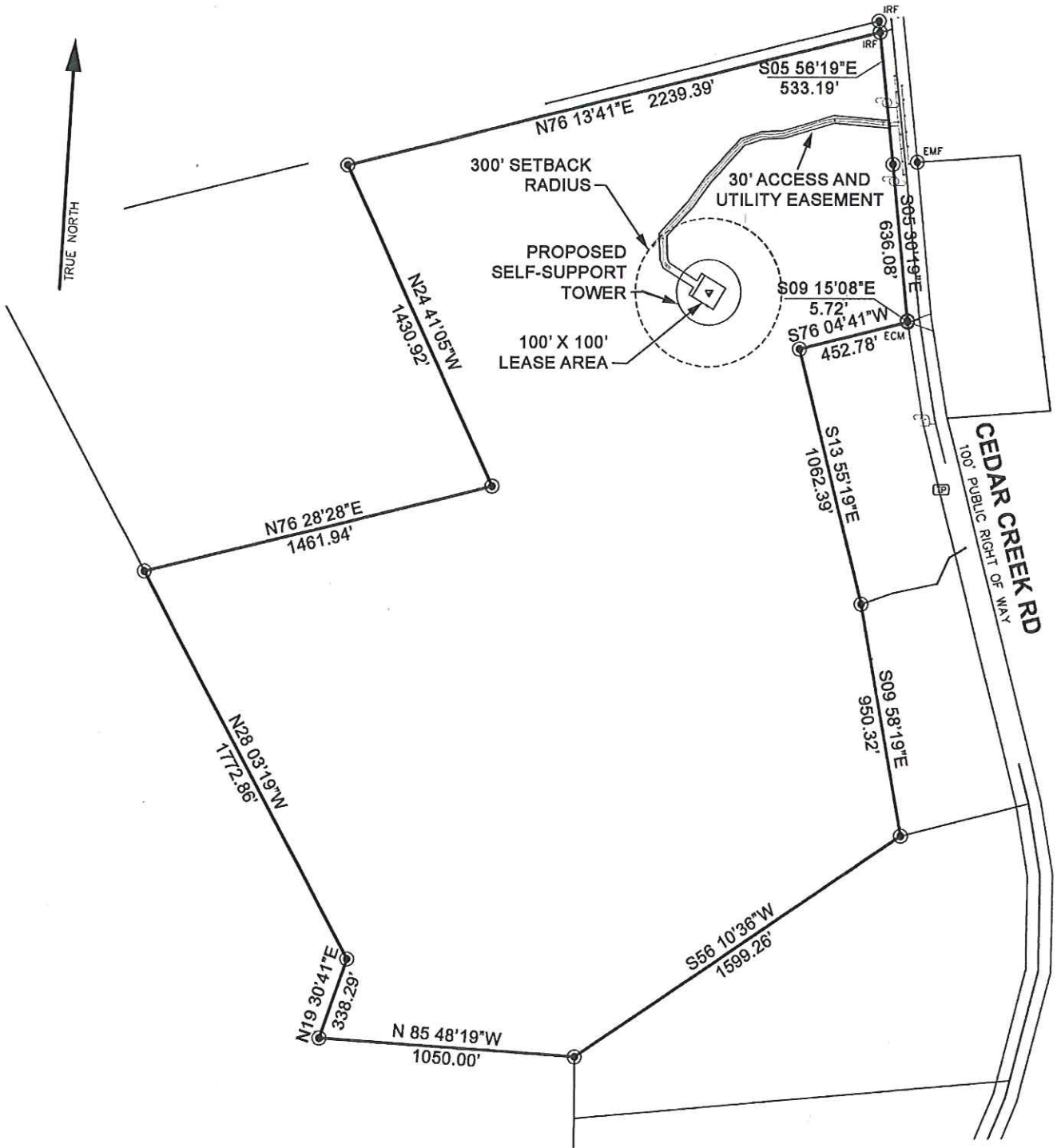
SCALE IN FEET

BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 184.85 AC.+/-	HEARING NO: P13-08-C	
ORDINANCE: COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		

PIN: 0470-95-1106

WL

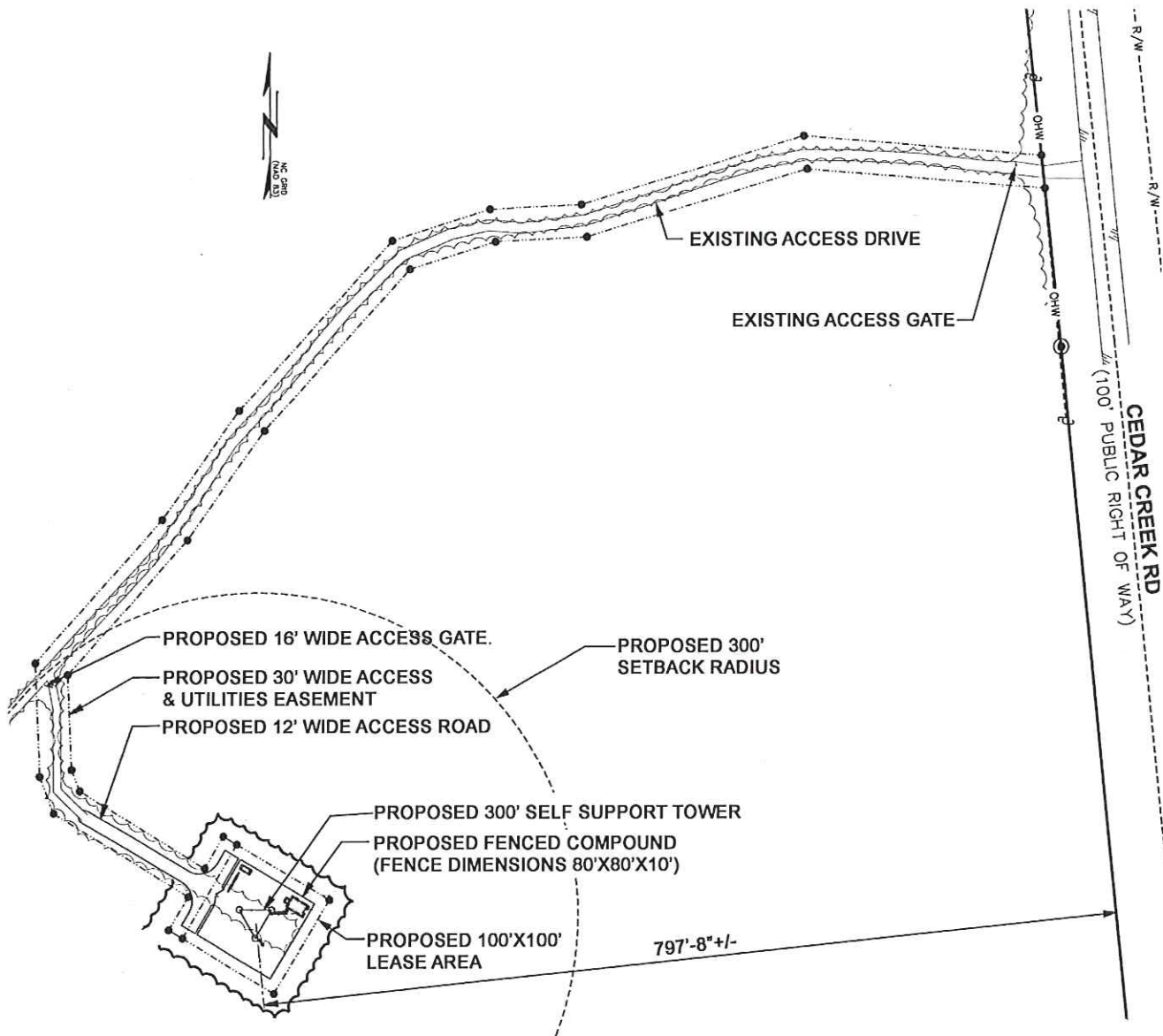


**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

REQUEST: TO ALLOW A 300' TOWER IN AN
A1 AGRICULTURAL DISTRICT

CASE: P13-08-C ACREAGE: 184.85 AC. +/-
ZONED: A1 SCALE: NTS

*SCALED DETAILED SITE PLAN IN FILE AVAILABLE FOR REVIEW UPON REQUEST
10/2/13



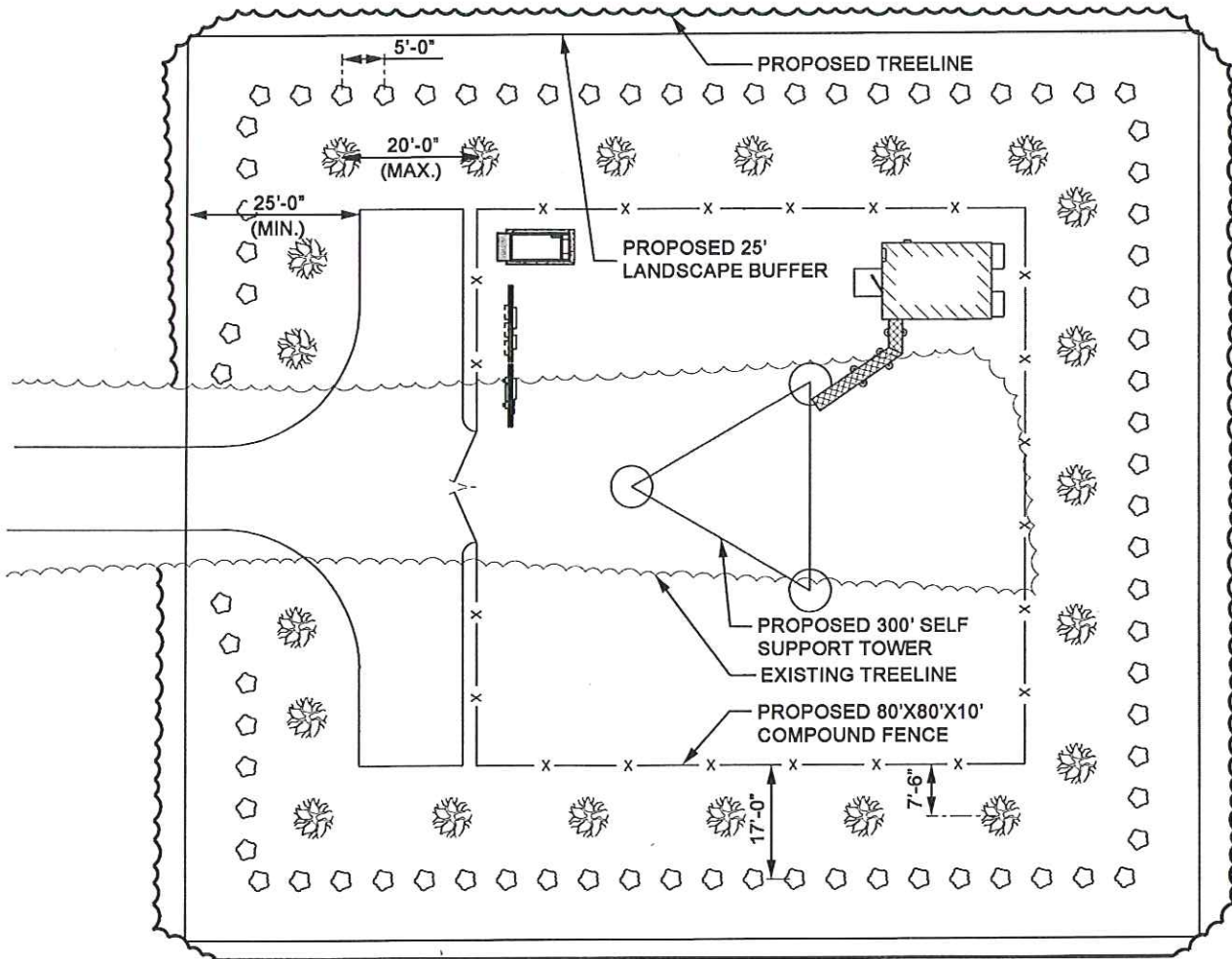
**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

REQUEST: TO ALLOW A 300' TOWER IN AN
A1 AGRICULTURAL DISTRICT

CASE: P13-08-C ACREAGE: 184.85 AC.+/-
ZONED: A1 SCALE: NTS

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

10/2/13



**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

**REQUEST: TO ALLOW A 300' TOWER IN AN
A1 AGRICULTURAL DISTRICT**

**CASE: P13-08-C ACREAGE: 184.85 AC.+/-
ZONED: A1 SCALE: NTS**

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

10/2/13

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: Cedar Creed Road, Fayetteville, NC 28301

✓ OWNER: Wyman A. and Sarah O. Nichols

ADDRESS: 6719 Turnbull Road, Fayetteville, NC ZIP CODE: 28312

TELEPHONE: HOME 910-322-2385 WORK _____

✓ AGENT: Thomas H. Johnson, Jr., Esq., Nexsen Pruet, PLLC

ADDRESS: 4141 Parklake Avenue, Suite 200, Raleigh, NC 27612

TELEPHONE: HOME _____ CELL 910-616-3100 WORK 919-653-7807

E-MAIL: tjohnson@nexsenpruet.com

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

A. Parcel Identification Number (PIN #) of subject property: 0470-95-1106
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 100' x 100' Frontage: _____ Depth: _____

C. Water Provider: N/A

D. Septage Provider: N/A

E. Deed Book 0507, Page(s) 808, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: _____

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.) _____

unmanned radio telecommunications facility consisting of a 300' self support tower

Appointment of Agent

The undersigned Wyman A. Nichols Jr., and spouse, Sarah O. Nichols ("Owner") hereby appoints Nexsen Pruet, PLLC as Owner's exclusive agent for the purpose of petitioning Cumberland County for all necessary zoning, site plan, building permit and other local governmental approvals required for the location of a wireless telecommunications tower on the property located at 3422431 including, without limitation, the following:

1. To submit the proper applications and the required supplemental materials.
2. To appear at public meetings to give representation and commitments on behalf of the Owner.
3. To act on the Owner's behalf without limitation with regard to any and all things directly or indirectly connected with or arising out of the applications for zoning, site plan, building permit and other local governmental approvals required for the wireless telecommunications tower.

This agency agreement shall continue in effect until written notice of revocation by the Owner is delivered to Nexsen Pruet.

This the 22nd day of July, 20 13.

Agent's Name, Address & Telephone

Nexsen Pruet, PLLC

4141 Parklake Avenue, Ste. 200

Raleigh, NC 27612

919-786-2764

Signature of Owner(s)

Wyman A. Nichols, Jr.

Wyman A. Nichols Jr.

Sarah O. Nichols

Sarah O. Nichols

Thomas H. Johnson, Jr.
Member
Admitted in NC

August 28, 2013

VIA ELECTRONIC MAIL AND UPS

Ms. Pier Varner
Cumberland County Planning and Inspections Department
130 Gillespie Street
Fayetteville, NC 28301

Re: Proposed Telecommunication Tower located on Cedar Creek Road,
Fayetteville, North Carolina 28301; ATC Site No. 280791; AT&T
Site No. 141-205 ("Tower")

Dear Ms. Varner:

As you know, I represent American Towers LLC in connection with the enclosed Application for a Special Use Permit for the telecommunications tower located on Cedar Creek Road, Fayetteville, NC 28301. The owners of the property are Wyman A. and Sarah O. Nichols.

Charleston

Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

Raleigh

I am enclosing the signed Application along with a check in the amount of \$200.00 for the necessary fees, a copy of the recorded deed, a copy of the site plan/construction drawings and all supporting materials. We request that this matter be placed on the agenda for the October 17, 2013 meeting of the Board of Adjustment.

The tower will be a self support tower 300 feet in height on a 184.85 acre site. The building area will be 100 feet by 100 feet in size. The site is in a wooded area which will be cleared only as necessary to construct the tower site. The site is zoned A1. The Cumberland County Zoning Ordinance (the "Ordinance") allows towers as a special use in the A1 District. The tower will be setback the height of the tower from any structures.

The site plan as required under Section 927 of the Ordinance is included in the enclosed drawings. The construction drawings include all that is required under the Ordinance.

4141 Parklake Avenue
Suite 200
Raleigh, NC 27612
www.nexsenpruet.com
T 919.786.2704
F 919.890.4553
E TJohnson@nexsenpruet.com
Nexsen Pruet, PLLC
Attorneys and Counselors at Law

Ms. Pier Varner
August 28, 2013
Page 2

By separate cover, we will forward to you a certification by a North Carolina professional engineer, that the tower will be designed to have the structural integrity and/or capacity to support or accommodate more than one user and the tower as designed will be structurally sound. The drawings show one proposed user, AT&T, and space for up to three (3) additional users (Sheet C-3).

As required by Section 927B.3., a statement is enclosed with a map of the search area for the proposed tower showing that there are no existing towers, buildings or other useable structures suitable for collocation within the coverage area.

A statement by American Towers LLC, the tower owner, is enclosed indicating its intent and willingness to permit shared use of the tower, and, as stated earlier, the construction drawings show space for up to three (3) users in addition to the initial user. American Towers LLC also includes in its statement that it commitment to comply with all federal, state and local ordinances, including all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines. The tower as proposed will be setback the height of the tower from all property lines and no structures are located within the tower setback. As required by Section 927E., the tower base is enclosed in a chain link fence ten feet in height and the fence is a minimum of ten feet from the base of the tower. The landscape buffer required in subsection F. is detailed on Sheets L-1 and L-2. There will be no building or structure on the site that may be used as a work site for any worker. Only periodic maintenance, inspection and renovation of the facility will occur on the tower site.

As required by Section 927M., we will forward by separate cover a report prepared by Graham Herring, a licensed real estate broker. Mr. Herring will provide his opinion regarding property values of the surrounding neighborhood. Mr. Herring supports his opinion based upon his experience with other tower sites in similar situations.

In compliance with Section 927O., enclosed is a report from AT&T that shows that its power density levels will be much less than both the federally approved and ANSI levels. The lighting on the site will be in compliance with FAA standards and the requirements of Section 927P. There will be no outside storage on the site.

Through compliance with the Ordinance provisions above, the site will not materially endanger the public health or safety. The power density levels are much lower than federal and ANSI standards. The tower is designed and setback from existing structures such that if it were to fail, the public will not be harmed. The tower will benefit public safety by providing better wireless coverage in the area. Many depend

Ms. Pier Varner
August 28, 2013
Page 3

on their wireless devices to call public safety officials in the event of an emergency. In fact, wireless phones are often used in the home instead of traditional landline phones. This use as proposed meets all of the conditions and specifications of the Ordinance.

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 Comprehensive Land Use Plan. The proposed tower will meet the infrastructure needs of this area of the County and will provide much needed access to emergency services, both of which are supported in the 2030 Growth Vision Plan. By virtue of this proposed tower site meeting the requirements of Section 927 for residential areas, the site is in conformity with the Comprehensive Land Use Plan as implemented by the Ordinance.

If you have any questions or need any additional information, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. Johnson, Jr.', is written over the typed name.

Thomas H. Johnson, Jr.

cc: Greg Csapo (via email, w/encl.)



AMERICAN TOWER®
CORPORATION

Ms. Pier Varner
Cumberland County Planning and Inspections
130 Gillespie Street
Fayetteville, NC 28301
September 26, 2013

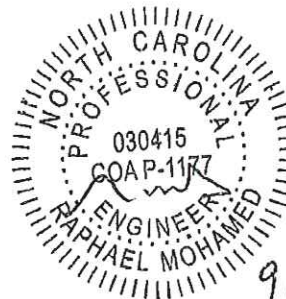
ATC Site: 280791 Cedar Fay NC (8936 Cedar Creek Rd Fayetteville, NC 28312)

Subject: Confirmation of Tower Structural Capacity

The above noted tower will be designed by the manufacturer to have structural integrity and capacity to support or accommodate more than one user. The tower will be designed in to meet the ANSI/TIA-222-G codes and the 2012 North Carolina Building code.

Please contact the undersigned with any questions regarding this report at 919.466.5209.

Jessica Abbott, E.I.
Structural Engineer I



9/27/13

Raphael Mohamed, PE,
Structural Strategic Implementation Lead

Special Use Permit – Board of Adjustment

(Tower)
DRAFT

Ordinance Related Conditions

Permit-Related:

1. 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.
2. For any future development of subject property, the County Health Department must approve water and sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision and Development Ordinance)
3. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
4. 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 NPDES permit must be provided to County Code Enforcement.
5. 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.
6. 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.)
7. 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.)
8. 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.)
9. The 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.
10. A review of the data available to the Army Corp of Engineers indicates that jurisdictional waters are likely to be present on this property and therefore are likely to be impacted by the proposed project. However, without an official Jurisdictional Determination at the property, these findings cannot be confirmed.

A permit will be required for this project if construction will involve the temporary and/or permanent placement of fill in waters of the United States including wetlands. If a permit is required, the applicant will be required to avoid and minimize impacts to wetland/waters of the United States and may need to provide compensatory mitigation for unavoidable impacts.

11. If the proposed lease area for the 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. **(Note: The current size of the lease area shown on the site plan – not capable of supporting setbacks – and not including the minimum of 20 foot of road frontage, a subdivision cannot be approved as designed. The entire drive area and the fall zone area around the tower would need to be part of any division if the lease area is to be recorded as a lease lot.)**
12. 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.

Site-Related:

13. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the A1 zoning district must be complied with, as applicable.
14. This conditional approval is not approval of any freestanding signs. If a 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.)
15. "Cedar Creek Road" must be labeled as "NC HWY 53 (Cedar Creek Road)" on all future plans.
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. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
20. 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.
21. The tower base shall be enclosed by a chain link fence that is at least 10 feet in height. (Section 927.E, Towers, County Zoning Ordinance.)
22. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of one off-street parking spaces are required for this development.
23. A 25 foot wide buffer shall surround the tower compound area and that no structures be erected within this buffer area. Note: The developer is required to obtain an owner's statement 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 spaced no greater 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.)
24. 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:

- 25. The applicant is advised to consult an expert on wetlands before proceeding with any development. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.
- 26. Because the subject property is within the Voluntary Ag District (VAD) and the Present Use Program, the property owner(s) are encouraged to contact the County Tax Office and the NC Extension Office prior permit application to ensure the owner(s) clearly understand the effect of this development approval as related to any tax exemptions currently applied to the subject property.
- 27. 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.
- 28. Any minor modifications or changes to the site must follow the requirements set out in Section 506, County Zoning Ordinance.

Thank you for doing business in Cumberland County!

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):

Site Plan/Plat	Ed Byrne	678-7609
Board of Adjustment:	Pier Varner	678-7602
Code Enforcement (Permits):	Ken Sykes	321-6654
County Engineer's Office:	Wayne Dudley	678-7636
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
County Public Utilities:	Amy Hall	678-7637
County Tax Office, Exempt Property:	Diana Lyman	678-7559
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: Diana Lyman, County Tax Office

P13-09-C
SITE PROFILE

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

Site Information:

Frontage & Location: 1,820'+/- on Maxwell Road (SR 1006)

Depth: 2,890'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Woodland & farmland

Initial Zoning: A1 – September 20, 1996 (Area 20)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: C(P)/CZ (consignment shop & other uses), A1, R40 & RR; West: A1; South: A1 & A1A; East: A1, R40 & RR

Surrounding Land Use: Residential (including manufactured homes), farmlands and woodlands

2030 Growth Vision Plan: Rural area & conservation area

Special Flood Hazard Area (SFHA): Yes

Soil Limitations: Yes, hydric soils: JT-Johnston loam

School Capacity/Enrolled: Stedman Primary (K-1): 200/163; Stedman Elementary (2-5): 300/298; Mac Williams Middle: 1,270/1,163; Cape Fear High: 1,425/1,570

Water/Sewer Availability: ESD/Septic

Subdivision/Site Plan: See attached "Ordinance Related Conditions"; particular attention should be paid to Condition No. 13

Average Daily Traffic Count (2010): 5,100 on Maxwell Road (SR 1006)

RLUAC: No objection

Highway Plan: Maxwell Road is identified in the Highway Plan as a major thoroughfare with adequate right-of-way

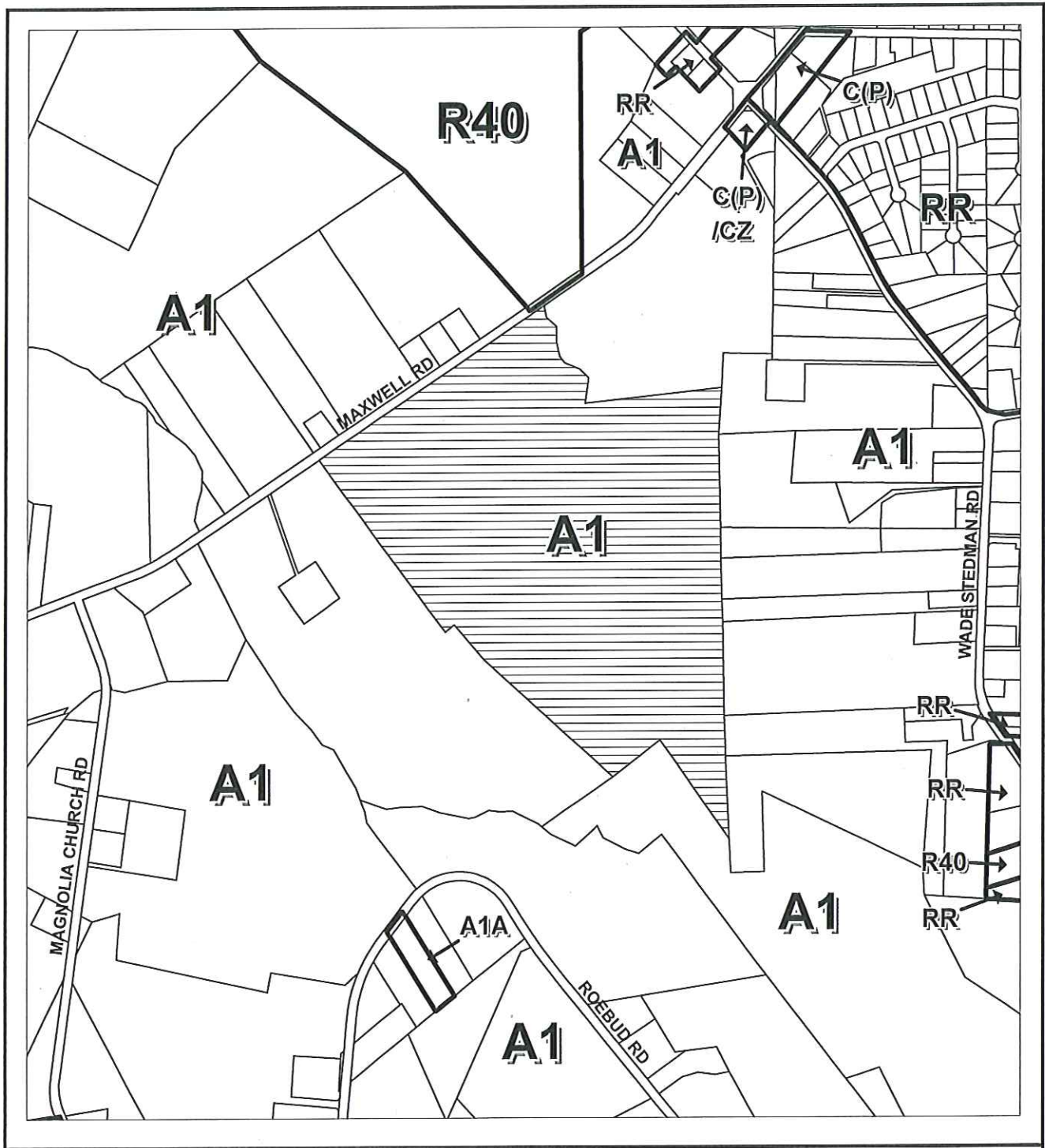
Cumberland County Zoning Ordinance Reference: Section 927 Towers

Notes:

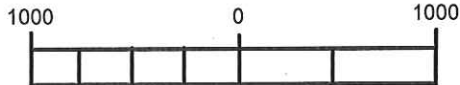
1. Contents of the application:
 - a. Proposed 250' self support tower
 - b. Proposed 100x100 (10,000 sq ft) acre lease area
 - c. Proposed 30' access/utility easement for tower site
 - d. No outside storage at the tower site
 - e. No employees on site, tower will be monitored, inspected and maintained monthly
 - f. American Tower's statement indicating its willing to share the tower with three other users
 - g. AT&T 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. American Tower 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.



N



SCALE IN FEET

BOARD OF ADJUSTMENT SPECIAL USE PERMIT

ACREAGE: 118.07 AC.+/-

HEARING NO: P13-09-C

ORDINANCE: COUNTY

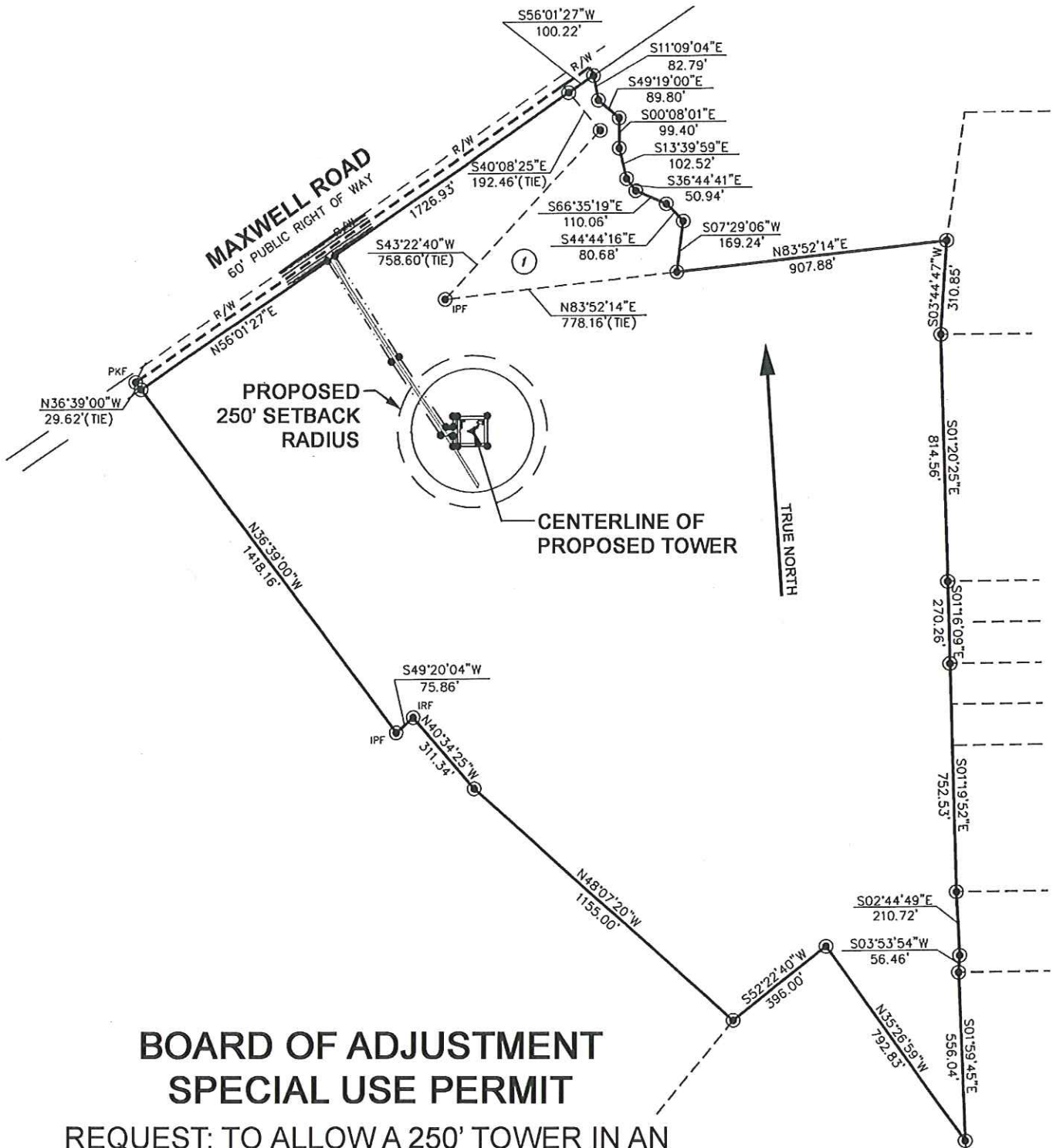
HEARING DATE

ACTION

GOVERNING BOARD

PIN: 0487-95-6119

WL



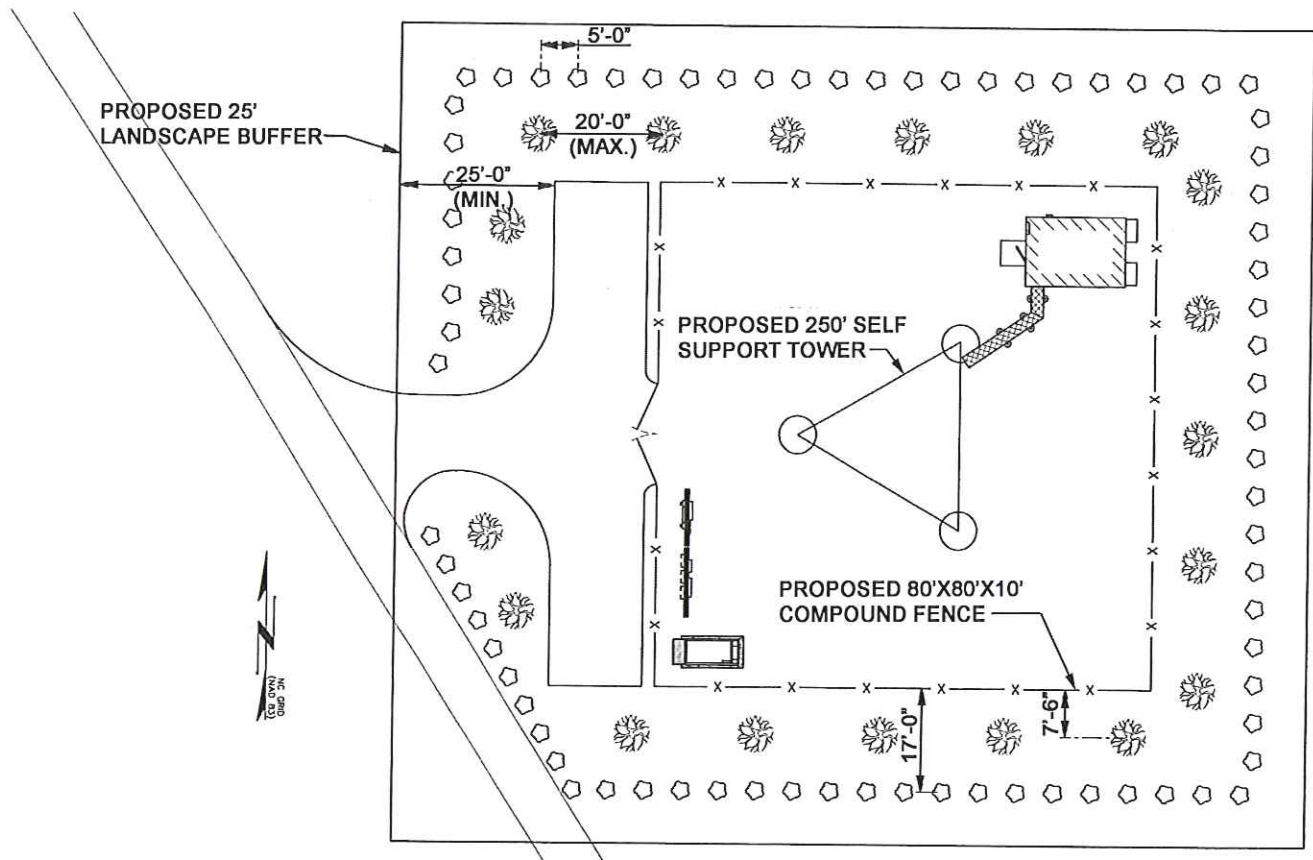
**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

REQUEST: TO ALLOW A 250' TOWER IN AN
A1 AGRICULTURAL DISTRICT

CASE: P13-09-C ACREAGE: 118.07 AC.+/-
ZONED: A1 SCALE: NTS

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

10/2/13



**BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

**REQUEST: TO ALLOW A 250' TOWER IN AN
A1 AGRICULTURAL DISTRICT**

**CASE: P13-09-C ACREAGE: 118.07 AC.+/-
ZONED: A1 SCALE: NTS**

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

10/2/13

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 6775 Maxwell Road, Stedman, NC 28391

OWNER: Gary F. McMillan

ADDRESS: 6569 Maxwell Road, Stedman, NC ZIP CODE: 28391

TELEPHONE: HOME _____ WORK _____

AGENT: Thomas H. Johnson, Jr., Esq., Nexsen Pruet, PLLC

ADDRESS: 4141 Parklake Avenue, Suite 200, Raleigh, NC 27612

TELEPHONE: HOME _____ CELL 910-616-3100 WORK 919-653-7807

E-MAIL: tjohnson@nexsenpruet.com

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

A. Parcel Identification Number (PIN #) of subject property: 0487-95-6119
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 100' x 100' Frontage: _____ Depth: _____

C. Water Provider: N/A

D. Septage Provider: N/A

E. Deed Book 7918, Page(s) 222, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: _____

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.) _____

unmanned radio telecommunications facility consisting of a 250' self support tower

Appointment of Agent

The undersigned Gary F. McMillan, and spouse, Kathy L. McMillan ("Owner") hereby appoints Nexsen Pruet, PLLC as Owner's exclusive agent for the purpose of petitioning Cumberland County for all necessary zoning, site plan, building permit and other local governmental approvals required for the location of a wireless telecommunications tower on the property located at 2753277 including, without limitation, the following:

1. To submit the proper applications and the required supplemental materials.
2. To appear at public meetings to give representation and commitments on behalf of the Owner.
3. To act on the Owner's behalf without limitation with regard to any and all things directly or indirectly connected with or arising out of the applications for zoning, site plan, building permit and other local governmental approvals required for the wireless telecommunications tower.

This agency agreement shall continue in effect until written notice of revocation by the Owner is delivered to _____.

This the 25 day of July, 2013

Agent's Name, Address & Telephone

Nexsen Pruet, PLLC

4141 Parklake Avenue, Ste. 200

Raleigh, NC 27612

919-786-2764

Signature of Owner(s)

Gary F. McMillan

Gary F. McMillan

Kathy L. McMillan

Kathy L. McMillan

Thomas H. Johnson, Jr.
Member
Admitted in NC

August 28, 2013

VIA ELECTRONIC MAIL AND UPS

Ms. Pier Varner
Cumberland County Planning and Inspections Department
130 Gillespie Street
Fayetteville, NC 28301

Re: Proposed Telecommunication Tower located at 6775 Maxwell Road,
Stedman, North Carolina 28391; ATC Site Number 280768; AT&T
Number 141-123 ("Tower")

Dear Ms. Varner:

As you know, I represent American Towers LLC in connection with the enclosed Application for a Special Use Permit for the telecommunications tower located at 6775 Maxwell Road, Stedman, NC 28391. The owner of the property is Gary F. McMillan.

Charleston
Charlotte
Columbia

I am enclosing the signed Application along with a check in the amount of \$200.00 for the necessary fees, a copy of the recorded deed, a copy of the site plan/construction drawings and all supporting materials. We request that this matter be placed on the agenda for the October 17, 2013 meeting of the Board of Adjustment.

Greensboro
Greenville
Hilton Head
Myrtle Beach

Raleigh

The tower will be a self support tower 250 feet in height on a 118.7 acre site. The building area will be 100 feet by 100 feet in size. The site is in a wooded area which will be cleared only as necessary to construct the tower site. The site is zoned A1. The Cumberland County Zoning Ordinance (the "Ordinance") allows towers as a special use in the A1 District. The tower will be setback the height of the tower from any structures.

The site plan as required under Section 927 of the Ordinance is included in the enclosed drawings. The construction drawings include all that is required under the Ordinance.

4141 Parklake Avenue T 919.786.2764
Suite 200 F 919.890.4553
Raleigh, NC 27612 E T.Johnson@nexsenpruet.com
www.nexsenpruet.com Nexsen Pruet, PLLC
Attorneys and Counselors at Law

Ms. Pier Varner
August 28, 2013
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By separate cover, we will provide a certification by a North Carolina professional engineer, that the tower will be designed to have the structural integrity and/or capacity to support or accommodate more than one user and the tower as designed will be structurally sound. The drawings show one proposed user, AT&T, and space for up to three (3) additional users (Sheet C-3).

As required by Section 927B.3., a statement is enclosed with a map of the search area for the proposed tower showing that there are no existing towers, buildings or other useable structures suitable for collocation within the coverage area.

A statement by American Towers LLC, the tower owner, is enclosed indicating its intent and willingness to permit shared use of the tower, and, as stated earlier, the construction drawings show space for up to three (3) users in addition to the initial user. American Towers LLC also includes in its statement that it commitment to comply with all federal, state and local ordinances, including all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines. The tower as proposed will be setback the height of the tower from all property lines and no structures are located within the tower setback. As required by Section 927E., the tower base is enclosed in a chain link fence ten feet in height and the fence is a minimum of ten feet from the base of the tower. The landscape buffer required in subsection F. is detailed on Sheets L-1 and L-2. There will be no building or structure on the site that may be used as a work site for any worker. Only periodic maintenance, inspection and renovation of the facility will occur on the tower site.

As required by Section 927M., we will provide by separate cover a report prepared by Graham Herring, a licensed real estate broker stating his opinion as to the property values of the surrounding neighborhood.

In compliance with Section 927O., enclosed is a report from AT&T that shows that its power density levels will be much less than both the federally approved and ANSI levels. The lighting on the site will be in compliance with FAA standards and the requirements of Section 927P. There will be no outside storage on the site.

Through compliance with the Ordinance provisions above, the site will not materially endanger the public health or safety. The power density levels are much lower than federal and ANSI standards. The tower is designed and setback from existing structures such that if it were to fail, the public will not be harmed. The tower will benefit public safety by providing better wireless coverage in the area. Many depend on their wireless devices to call public safety officials in the event of an emergency. In fact, wireless phones are often used in the home instead of traditional landline

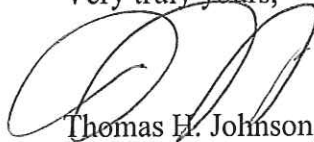
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phones. This use as proposed meets all of the conditions and specifications of the Ordinance.

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 Comprehensive Land Use Plan. The proposed tower will meet the infrastructure needs of this area of the County and will provide much needed access to emergency services, both of which are supported in the 2030 Growth Vision Plan. By virtue of this proposed tower site meeting the requirements of Section 927 for residential areas, the site is in conformity with the Comprehensive Land Use Plan as implemented by the Ordinance.

If you have any questions or need any additional information, please do not hesitate to contact me.

Very truly yours,



Thomas H. Johnson, Jr.

cc: Greg Csapo (via email, w/encl.)



AMERICAN TOWER®
CORPORATION

Ms. Pier Varner
Cumberland County Planning and Inspections
130 Gillespie Street
Fayetteville, NC 28301
September 26, 2013

ATC Site: 280768 Wade-Stedman NC (6638 Maxwell Rd. Fayetteville, NC 28312)

Subject: Confirmation of Tower Structural Capacity

The above noted tower will be designed by the manufacturer to have structural integrity and capacity to support or accommodate more than one user. The tower will be designed in to meet the ANSI/TIA-222-G codes and the 2012 North Carolina Building code.

Please contact the undersigned with any questions regarding this report at 919.466.5209.

Jessica Abbott
Jessica Abbott, E.I.
Structural Engineer I



9/27/13

Raphael Mohamed, PE,
Structural Strategic Implementation Lead

Special Use Permit – Board of Adjustment

(Tower)

DRAFT

Ordinance Related Conditions

Permit-Related:

1. 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.
2. For any future development of subject property, the County Health Department must approve sewer plans prior to application for any permits. Site and soil evaluations must be conducted on the property by the County Environmental Health Department prior to application for permits. A copy of the Health Department approval must be provided to Code Enforcement at the time of application for any building/zoning permits. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Section 2306 A, Water and Sewer, County Subdivision and Development Ordinance)
3. For any future development of subject property, the Eastover Sanitary District (ESD) must approve water plans prior to application for any permits. A copy of the ESD approval must be provided to Code Enforcement at the time of application for any building/zoning permits
4. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
5. 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 NPDES permit must be provided to County Code Enforcement.
6. 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.
7. The *Special Flood Hazard Area* (SFHA) exists on this tract; any development within SFHA must have first flood elevations, including all mechanical and electrical equipment above base flood elevation (BFE) plus two feet of freeboard. Proper flood plain development permits are required, issued by the County Engineer, prior to any building/permit application. A copy of the approved flood plain permit must be provided to Code Enforcement at the time of building/zoning permit applications. (Note: It is the developer's responsibility to provide documentation indicating that the proposed tower site is outside the SFHA.)
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 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. A review of the data available to the Army Corp of Engineers indicates that jurisdictional waters are likely to be present on this property and therefore are likely to be impacted by the proposed project. However, without an official Jurisdictional Determination at the property, these findings cannot be confirmed.

A permit will be required for this project if construction will involve the temporary and/or permanent placement of fill in waters of the United States including wetlands. If a permit is required, the applicant will be required to avoid and minimize impacts to wetland/waters of the United States and may need to provide compensatory mitigation for unavoidable impacts.

13. If the proposed lease area for the 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. **(Note: The current size of the lease area shown on the site plan – not capable of supporting setbacks – and not including the minimum of 20 foot of road frontage, a subdivision cannot be approved as designed. The entire drive area and the fall zone area around the tower would need to be part of any division if the lease area is to be recorded as a lease lot.)**
14. 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.

Site-Related:

15. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the A1 zoning district must be complied with, as applicable.
16. This conditional approval is not approval of any freestanding signs. If a 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.)
17. "Maxwell Road" must be labeled as "SR 1006 (Maxwell Rd)" on all future plans.
18. 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)
19. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
20. 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.
21. The developer must obtain a driveway permit from the NC Department of Transportation (NCDOT). A copy of the approved driveway permit must be provided to Code Enforcement at the time of application for building/zoning permits.
22. 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.
23. The tower base shall be enclosed by a chain link fence that is at least 10 feet in height. (Section 927.E, Towers, County Zoning Ordinance.)
24. 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 this development.

25. A 25 foot wide buffer shall surround the tower compound area and that no structures be erected within this buffer area. Note: The developer is required to obtain an owner's statement 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 spaced no greater 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.)
26. 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:

27. The applicant is advised to consult an expert on wetlands before proceeding with any development. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.
28. Because the subject property is within the Present Use Program, the property owner(s) are encouraged to contact the County Tax Office prior permit application to ensure the owner(s) clearly understand the effect of this development approval as related to any tax exemptions currently applied to the subject property.
29. 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.
30. Any minor modifications or changes to the site must follow the requirements set out in Section 506, County Zoning Ordinance.

Thank you for doing business in Cumberland County!

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):

Site Plan/Plat	Ed Byrne	678-7609
Board of Adjustment:	Pier Varner	678-7602
Code Enforcement (Permits):	Ken Sykes	321-6654
County Engineer's Office:	Wayne Dudley	678-7636
County Health Department:	Daniel Ortiz	433-3680
Ground Water Issues:	Matt Rooney	678-7625
County Public Utilities:	Amy Hall	678-7637
County Tax Office, Exempt Property:	Diana Lyman	678-7559
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: Diana Lyman, County Tax Office

P13-10-C
SITE PROFILE

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

Site Information:

Frontage & Location: 100.00'+/- on Gillespie Street

Depth: 247.3'+/-

Jurisdiction: Cumberland County

Adjacent Property: Yes, one tract on the north side of subject property

Current Use: Moving Company

Initial Zoning: C(P) – November 17, 1975 (Area 4)

Nonconformities: Existing structure on subject property does not meet the side setback of the C(P) zoning district on the north side – structure built 1969

Zoning Violation(s): None

Surrounding Zoning: North: M(P), C(P), R10 & R6A; West: HI & CC (Fayetteville), M(P), C(P) & R10; East: HI (Fayetteville), M(P), C(P)/CU (open storage), C(P)/CUD (permitted uses with exclusions); South: CC (Fayetteville), M(P) & C(P)

Surrounding Land Use: Retail w/ outside storage, trade school, second hand sales, 2-manufactured home sales, fire station operation, trade contractor, industrial sales of equipment, industrial operation [Fayetteville], and convenience retail w/ gasoline sales

School Capacity/Enrolled: Elizabeth Cashwell Elementary: 800/722; Ireland Drive Middle (6): 340/356; Douglas Byrd Middle (7-8): 700/713; Douglas Byrd High: 1280/1243

2030 Growth Strategy Plan: Urban area

Proposed Southwest Cumberland LUP: Heavy Commercial

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): 20,000 on US Hwy 301

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

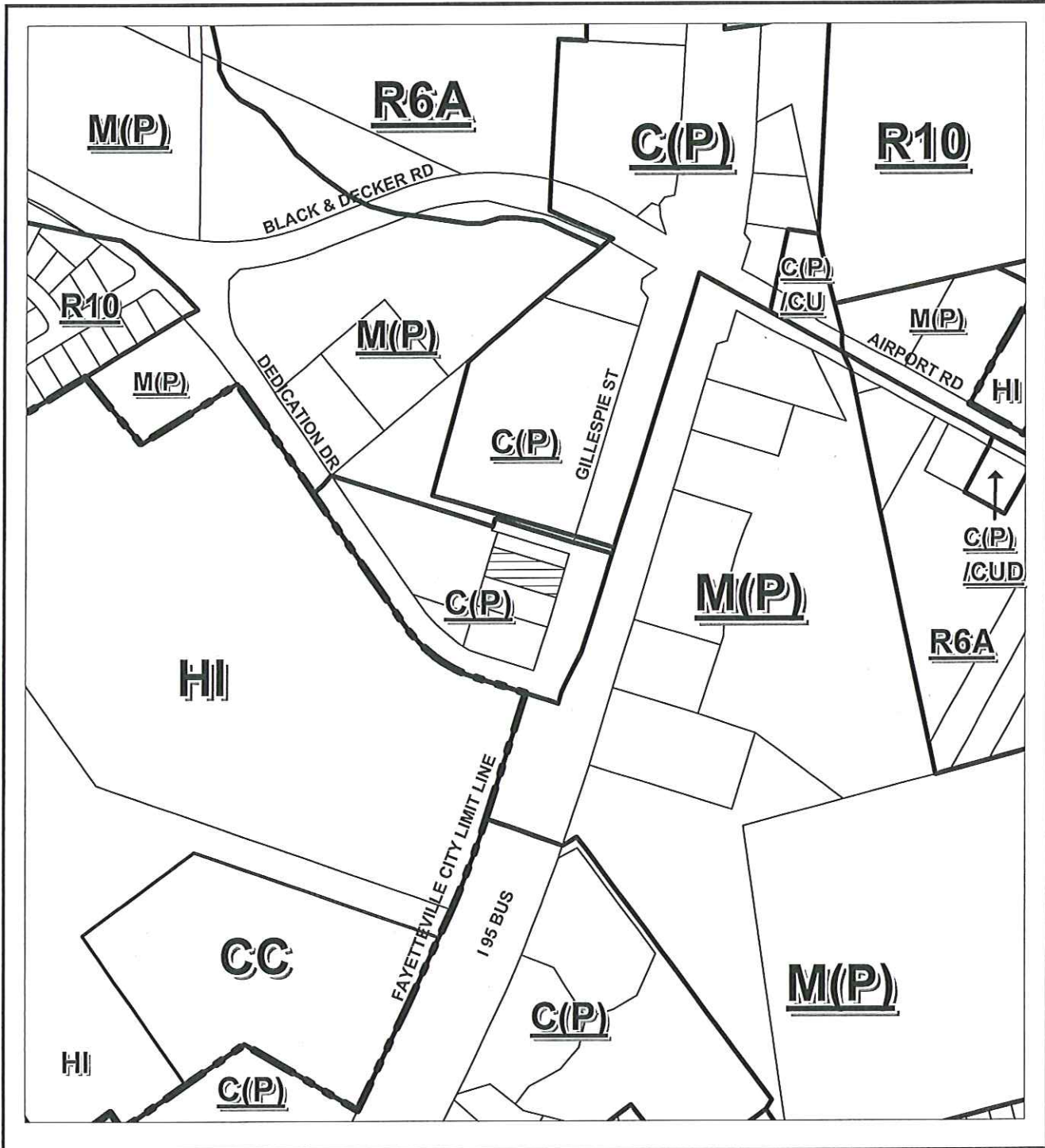
Cumberland County Zoning Ordinance Reference: Section 1307 Billboards (off-premises signs)

Notes:

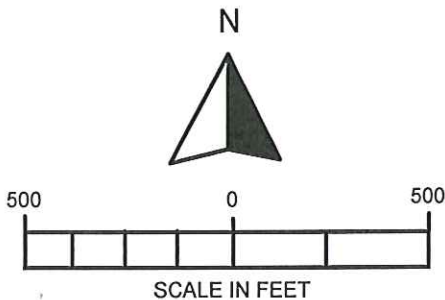
1. Contents of the Application:
 - a. Proposed billboard with a steel single, maximum height 35 feet
 - b. Billboard will be illuminated
 - c. Billboard sign area: 480 square feet on each side
 - d. Billboard design: Static face

First Class and Record Owners' Mailed Notice Certification

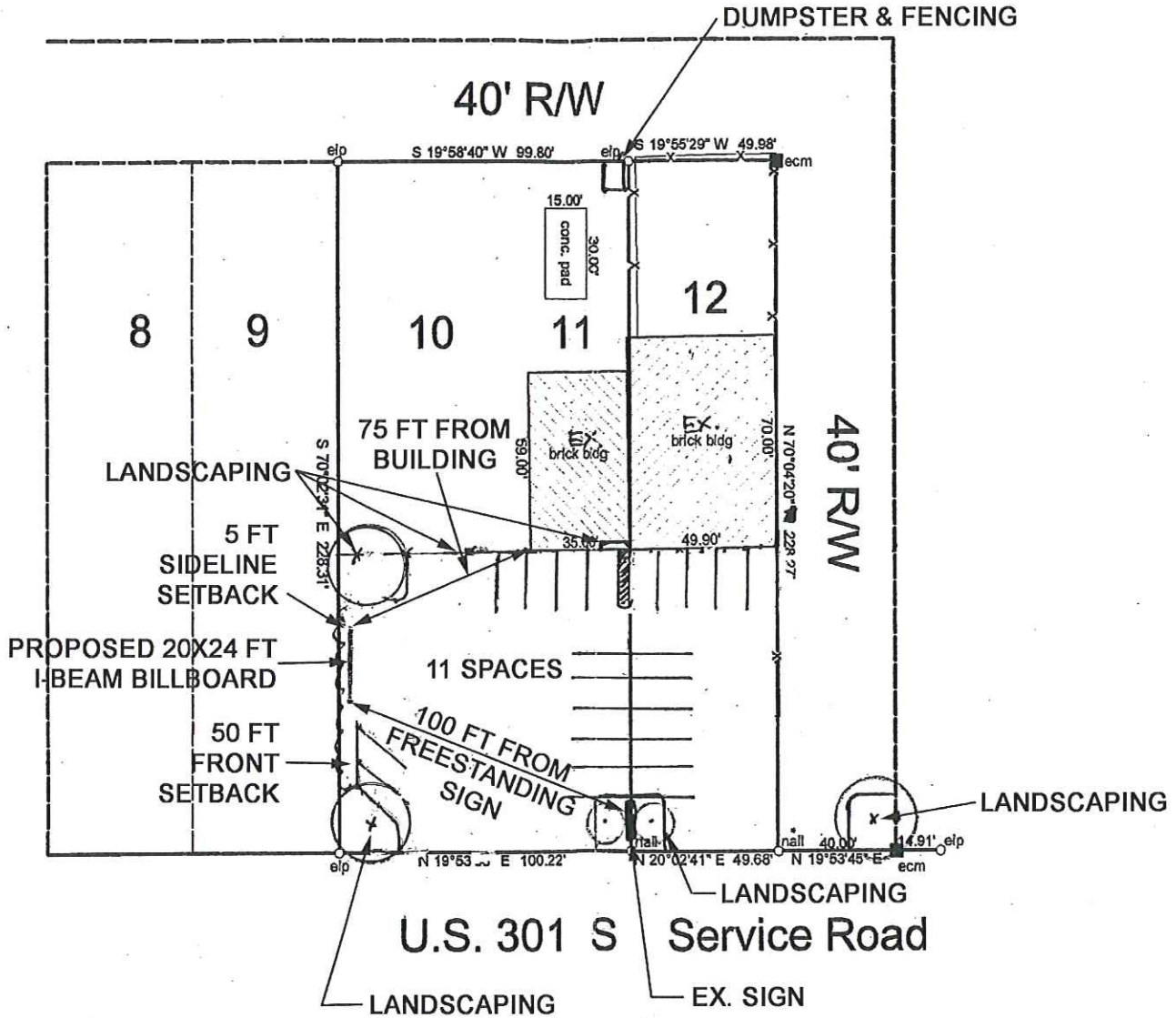
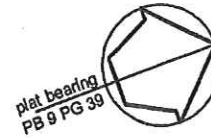
A certified copy of the tax record owner(s) of the subject and adjacent properties and their tax record mailing address is contained within the case file and is incorporated by reference as if delivered herewith.



BOARD OF ADJUSTMENT SPECIAL USE PERMIT



ACREAGE: 0.57 AC.+/-		HEARING NO: P13-10-C	
ORDINANCE: COUNTY		HEARING DATE	ACTION
GOVERNING BOARD			



BOARD OF ADJUSTMENT
SPECIAL USE PERMIT
 REQUEST: TO ALLOW A BILLBOARD IN A C(P)
PLANNED COMMERCIAL DISTRICT
 CASE: P13-10-C ACREAGE: .57 AC.+/-
 ZONED: C(P) SCALE: NTS

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

10/2/13

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 2980 Gillespie Street 28306

OWNER: Charles & Cindy Allen

ADDRESS: 2233 Wilmington Hwy. Fayetteville NC ZIP CODE: 28306

TELEPHONE: HOME 910-483-3213 WORK 910-323-8811

AGENT: M. Grey Vick / Waterway Outdoor, LLC

ADDRESS: PO Box 494 Wrightsville Beach NC 28480

TELEPHONE: HOME 910 620 3567 WORK same

E-MAIL: waterway outdoor@gmail.com

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

A. Parcel Identification Number (PIN #) of subject property: 0425-94-5038
(also known as Tax ID Number or Property Tax ID)

B. Acreage: .57 Frontage: 100 Depth: 250

C. Water Provider: PWC

D. Septage Provider: PWC

E. Deed Book -7603, Page(s) 0691, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).

F. Existing use of property: commercial activity - rental
Moving company

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 sqft face on each side
billboard. 35 FT overall height
Steel I-Beam Static Face Sign

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)  Cindy Allen
PRINTED NAME OF OWNER(S) C.A. ALLEN IV Cindy M. Allen
DATE 7/1/13

Special Use Permit – Board of Adjustment

(Billboard)

DRAFT

Ordinance Related Conditions

Permit-Related:

1. 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.
2. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
3. 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.
4. The 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.

Site-Related:

5. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance and Zoning Ordinances for the C(P) zoning district must be complied with, as applicable.
6. Because the subject property is located within the Airport Overlay District and in the event the support structure for the billboard is intended to be 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.
7. 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.
8. "U.S. Highway 301/I-95 Business Loop" must be labeled as "US HWY 301/I-95 BUS (Gillespie Street)" on all future plans.
9. 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)
10. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision and Development Ordinance)
11. New driveway(s) are not permitted with this conditional approval.
12. 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.
13. The owner/developer is responsible and liable for maintenance and upkeep of this site, all structures, and appurtenances, to include ensuring that the site is kept free of litter and debris, all grass areas mowed, all buffers and shrubbery kept trim and maintained, so that the site remains in a constant state of being aesthetically and environmentally pleasing.

Advisories:

14. The applicant is advised to consult an expert on wetlands before proceeding with any development.
15. 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.
16. 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 choosing Cumberland County and the Fayetteville area!

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
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Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Daniel Ortiz	433-3680
Fayetteville Planning:	Marsha Bryant	433-1416
Fayetteville Airport:	Bradley Whited	433-1160
Location Services:		
Site-Specific Address:	Ron Gonzales	678-7616
Tax Parcel Numbers:		678-7549