

Members:

Ed Donaldson, Chairman
(Vacant), Vice-Chair
Horace Humphrey
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
SEPTEMBER 19, 2013
7:00 PM

A meeting of the Cumberland County Board of Adjustment is to be held on Thursday, September 19, 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. OATH OF OFFICE

3. SPECIAL RECOGNITION

Mrs. Melree Hubbard Tart

4. VOTE FOR VICE-CHAIR

Horace Humphrey

Joseph Dykes

Vickie Mullins

George Lott

5. SWEAR IN STAFF

6. ADJUSTMENTS TO THE AGENDA

7. APPROVAL OF THE JULY 18, 2013 MINUTES

8. ABSTENTIONS BY BOARD MEMBERS / BOARD MEMBER DISCLOSURES

9. PUBLIC HEARING DEFERRALS

10. POLICY STATEMENT REGARDING APPEAL PROCESS

11. PUBLIC HEARING(S):

- 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.

- 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).

12. RECOMMENDATION FOR NOMINATIONS TO FILL VACANCIES

13. DISCUSSION

14. UPDATE(S)

15. ADJOURNMENT

Members:

Ed Donaldson, Chairman
Melree Hubbard Tart, Vice-Chair
Horace Humphrey
Joseph Dykes
(Vacant)



Alternates:

Carrie Tyson-Autry
Yvette Carson
Vickie Mullins
Winton McHenry
George Lott

Cumberland County Board of Adjustment

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

MINUTES
JULY 18, 2013
7:00 P.M.

Members Present

Ed Donaldson, Chairman
Melree Hubbard Tart
Horace Humphrey
Joseph Dykes
Winton McHenry (voting)
George Lott (non-voting)

Absent Members

None

Staff/Others Present

Patti Speicher
Melodie Robinson
Ken Sykes
Robert Hasty, Jr. (Assistant
County Attorney)

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

1. ROLL CALL

Ms. Speicher called the roll and stated a quorum was present. For this meeting, Mr. McHenry is a voting member and Mr. Lott is a non-voting member.

2. MS. SPEICHER: Gave the Oath of Office to Winton McHenry and George Lott.

3. CHAIR DONALDSON SWORE IN THE STAFF

4. ADJUSTMENTS TO THE AGENDA

MS. SPEICHER: Item 11 – RECOMMENDATION FOR NOMINATION – We need to add Yvette Carson to the recommendation as an alternate member. Her term is up in August 2013 and she does want to be reinstated as an alternate.

5. APPROVAL OF THE MAY 16, 2013 MINUTES

A motion was made by Mr. Dykes and seconded by Mr. Humphrey to approve the May 16, 2013 minutes as submitted. The motion passed unanimously.

6. CORRECTION OF THE APRIL 18, 2013 MINUTES – PAGE 19

A motion was made by Mrs. Tart and seconded by Mr. Humphrey to approve the correction to page 19 of the April 18, 2013 minutes. The motion passed unanimously.

7. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

8. PUBLIC HEARING DEFERRAL(S)

There were none.

9. POLICY STATEMENTS REGARDING APPEAL PROCESS

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

10. PUBLIC HEARING(S)

Opened Public Hearing

A. P13-04-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 250 FOOT TOWER IN A RR RURAL RESIDENTIAL DISTRICT ON 16.00+/- ACRES, LOCATED ON THE SOUTH SIDE OF MUSCAT ROAD (SR 1119) AND WEST OF EARP COURT; SUBMITTED BY JOHN MCNEILL, JR. AND BETTY GAINNEY RAY (OWNERS) AND THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.

CHAIR DONALDSON: Is it Mr. Johnson who is going to speak on behalf of the owners of the property?

MR. JOHNSON: Yes, I will, in addition to Mr. Smathers.

CHAIR DONALDSON: Mr. Aman, I understand you have signed up to speak in opposition to it?

MR. AMAN: Yes, and with your permission, I would like to ask four questions. [Passed out copies of his typed questions – Exhibit 1]

CHAIR DONALDSON: Okay, if you will listen, I will let him put his questions out and we will come back to you.

MR. AMAN: I have copies of the questions so there will not be any misunderstanding.

MS. SPEICHER: Presented the zoning, land use and photos of the site to the Board with the following correction: On the site profile where it says water availability, even though the tower doesn't need it, the subject property would be required to be developed with PWC water for any future development.

CHAIR DONALDSON: Does any of the board members have any questions?

MS. SPEICHER: I would like to note that in your packet we have provided you with all the documentation that was attached to the application. All ordinance standards for towers were met or conditioned, which is the last three pages of your packet, the conditions of approval.

CHAIR DONALDSON: Swore in Ron Aman.

CHAIR DONALDSON: What were your questions sir?

MR. AMAN: I'll ask the question and there are points of discussion the respondent can use to guide his response to it. Question 1. What is the cell phone tower density protocol? That is, how many are there going to be? How do we justify adding more towers?

CHAIR DONALDSON: Go ahead and ask all of your questions and we will let him respond when he gets up.

MR. AMAN: Question 2. Can the applicant confirm that this action will not result in the damaging of property value immediately approximate to this new tower? The bottom line for me is, if that tower had been there when I bought this \$200,000 home, I wouldn't have bought it and I'm sure other people would feel pretty much the same way. Question 3. Is there any other construction planned for this 16 acre proposal site in addition to the antenna and the attendant electronics in direct support of this antenna? Question 4. What is the longest tower separation allowable in the current plan for the Hope Mills area? Again, that is antenna density. Hope Mills is receiving several towers, maybe there is going to be more.

CHAIR DONALDSON: Well, I'm sure there will be as communication systems grow. I have one question. Where do you live in relation to that piece of property?

MS. SPEICHER: If we could Chair, also get the address for the record.

MR. AMAN: My address is 5472 Kentucky Lane. [pointed to his house on the presentation]

CHAIR DONALDSON: So your back property line adjoins the property line of the subject property? Are there any other questions that you have?

MR. AMAN: No sir, this is more of an education thing for me.

CHAIR DONALDSON: Swore in Thomas Johnson.

MR. JOHNSON: The gentleman said he lived right here. [pointing to the presentation] The tower site itself is to be sited way over here. [pointing to the presentation] This is a wood line and this is a wood line here too. So we are tucking it back in here between the wood lines, just to the edge of the woods. Just for the very reason that Mr. Aman was talking about, we wanted to make sure it was tucked in there so you would not be able to see it so much as you got away from the trees. The tower; as you get further away, less and less of it would be visible; and as I mentioned, from his property, it would be less visible because he is all the way down here on the other end of the whole 16 acre tract. We are leasing a 100' x 100' area, accessing off Earp Court with the equipment length of the tower, which is another one of his questions. I want to show these maps to answer some of the questions he had. This is a good map, showing the existing coverage in the area without the tower. These are the existing towers that AT&T has in the area. The goal is to have the red color and the yellow color, with the red color being more in building commercial coverage and the yellow more in building residential. You get into outside coverage as you get into this green area. Basically, when you see this white, there is no effective coverage in the area. So, this new tower is going right in here to try to cover this gap that we have in the area. On the next slide,

you see how it covers up the white. If you say, why the difference, this has less red than here. That all has to do with terrain, but it does effectively cover the gap between these two towers. It is not perfect with this one, but we tried to do the best we can in terms of siting it. Obviously you've got a lot of residential lots over here and we can't very well site the tower on a residential lot. We tried to do it on a vacant property. That's the other question and that is what we are trying to cover. As you can see, these are all AT&T sites in the area, there is a lot of coverage, but there is some coverage gaps. AT&T is in an aggressive stance right now to come into Cumberland County, really into the State of North Carolina and to cover these areas where AT&T does not have good coverage. It is for two reasons; one, people are relying more on wireless phones in their homes, they are dropping landlines so we want to make sure customers have dependable service when they are using their wireless devices at home. The second part is data usage by 2016 is going to be tremendously more than it is now. It is because people have multiple devices. I've got an iPhone here that obviously has data on it; I can get the internet and all of that. People have tablets and other kinds of smart phones. The desire is to be able to get to the internet and you have to have a stronger signal for that. That is why you are seeing more towers going in. You need that stronger signal to have access to, as they call it now, the 4G LTE and in order to have that access you need to have that strong signal. In Fayetteville, there is a 4G LTE market. It is not in all markets in the state yet, but it is part of the investment campaign by AT&T. On the property value, we submitted an impact study report in the application and basically it states property values will not be adversely impacted by this site. I have Mr. Smathers here with me, he can speak to that as well, and he is the real estate expert. The construction on the rest of the parcel, I don't know what the property owner has planned for the rest of this parcel; it has been vacant for a long time. I know we are planning on tucking the tower back into approximately a 100'x 100' area. Tower separation – there is not a separation requirement in the County; basically we are trying to cover this gap that we showed you on the map. As you can see, there are other existing towers in the area. I'll be glad to answer any questions that the board may have. I do ask that the application and all supporting documentation that you have before you be admitted as evidence in support of our application.

CHAIR DONALDSON: Are there any questions?

MR. HUMPHREY: The owner of the property is not here tonight, is that correct?

MR. JOHNSON: He appointed me as his agent. He is well aware of it, the documentation is in file.

MR. DYKES: Is this a case that is a continuation from earlier this year or last year sometime?

MR. JOHNSON: No, this is an entirely new case.

CHAIR DONALDSON: We heard a case last year. It was down in Hope Mills.

MR. JOHNSON: We did have one in the Hope Mills area and I actually made a presentation. Again, we were trying to get those areas covered that don't have good service.

MR. DYKES: Okay. I knew it was something similar, I just wanted to make sure.

MS. SPEICHER: Also, I believe the one you are talking about is the one that was across the street from the AT&T tower near Black Bridge and the Lake Upchurch area that was deferred. That tower still has not been built.

CHAIR DONALDSON: Mr. McHenry?

MR. MCHENRY: You say it is 250' high?

MR. JOHNSON: Yes sir.

MR. MCHENRY: It is sitting around a bunch of trees, so has anyone looked at how far away you would have to get before you would actually see the tower?

MR. JOHNSON: We did not in this case because your ordinance doesn't require it. Some ordinances do require that you fly a balloon and check visibility. In this case, this is a large vacant tract of land and we are putting it behind the trees. Having done this for a long time, the prevailing tree height in mature trees is roughly 90'. So you got 90' at the bottom of the tower covered up, we have to get above that in order to have effective coverage. Plus, to allow as your ordinance requires; that we have additional carriers who can locate on this tower in the future and still be above the tree line. That is a combination of what we are trying to do in addition to trying to cover that gap, so you need to be a little bit higher in order to cover the gap without having to go into the residential area. If you have a small residential lot, we can't put a tower in there, so we try to find vacant tracts in the area that needs coverage and so we can get high enough to match up with the existing tower sites. Just by logic, over distance, the tower appears shorter on the horizon as you get further away from it. That is why this gentleman's property being further away, he's going to have less visibility than those that are closer to the tower. But even those closer, the good thing is we have mature standing trees.

MRS. TART: You are leasing just a corner of that property?

MR. JOHNSON: Yes. We are leasing a site that is 100' x 100' and then we have the access road that is coming off of Earp Court.

CHAIR DONALDSON: At the end of Earp Court is just woods, you are going to have to build a driveway in, right?

MR. JOHNSON: Correct, we will have to cut what we need to get that driveway in.

CHAIR DONALDSON: Please show the overview again. You are going to come in off Earp Court right there to the open field?

MR. JOHNSON: Correct, we are coming right here to the open field. [pointing to the aerial view] The 100' x 100' area is right here on the edge of this tree line.

CHAIR DONALDSON: Sort of down in the corner?

MR. JOHNSON: I have a better aerial for you. Earp Court is here and we are coming in right here [pointing to the aerial view]. You can see the defined tree lines. It is wooded all along these edges of the property.

CHAIR DONALDSON: So you are going to come out into the open field and put it in there?

MR. JOHNSON: Correct. We are coming straight out into the open field and putting it in there. It has a little bit of a curve to it.

CHAIR DONALDSON: Okay. Is there going to be a gate at the end of the dirt road?

MR. JOHNSON: We weren't planning a gate there. The facility itself will be gated.

CHAIR DONALDSON: I knew that. I was just wondering if you were blocking off that road there. Can you go back to the aerial coverage map one more time? What is the pink and the light green?

MR. JOHNSON: When you get into the blue and the pink, the green is automobile coverage. The blue and pink is south side coverage, but the pink is going to be spots. The white is no effective signal. Could you get a signal in the white area at a given point in time? You might, just like back in the old days when you might be able to move the antenna on your TV to get a signal when you could.

CHAIR DONALDSON: Now this is going to be not just an AT&T use, but will be open to others, Verizon and all of them, right?

MR. JOHNSON: Absolutely. My client and American Towers built the towers for the company. AT&T came to American Towers and said we need a tower in this location, can you build it for us. When we do, we build it so that others can come, and they do.

MS. SPEICHER: In the application there is a certification that AT&T is the initial user and they will provide a co-location for at least three additional users.

CHAIR DONALDSON: Does anybody else have any questions?

MRS. TART: At the end of Earp Court, when you are extending access to the tower, there will not be a gate there?

MR. JOHNSON: There will not be a gate there. We need for emergency services to get back there. We have gated them before, but that was required then, an ox box maybe by the fire department.

CHAIR DONALDSON: But it will be gated and locked around the site itself?

MR. JOHNSON: A ten foot security fence and it will be locked.

MRS. TART: This question is for the staff. The property owner, what kind of access would he have to the rest of his acreage?

MS. SPEICHER: He would at least have better access than he had before.

MRS. TART: He would basically go that road and around there?

CHAIR DONALDSON: He can go in the property; he is just leasing that 100' x 100' property.

MRS. TART: That's what I'm saying. He's got a tremendous amount left and it makes sense to extend Earp Court.

MS. SPEICHER: In answering one of the gentleman's questions concerning future plans, I can tell you my office does a plan review regardless of what type of improvement for the County and in the Hope Mills Municipal Influence Area and we have no plans submitted for that site.

CHAIR DONALDSON: Did you hear that sir? [Mr. Aman] Is there anything else you wanted to say Mr. Johnson?

MR. JOHNSON: No, other than I'm available for any additional questions and also Mr. Smathers if you have any real estate questions.

CHAIR DONALDSON: Sir, did you want to say anything in response? [Asking Mr. Aman]

MR. AMAN: I'm satisfied with the respondent in what he said, I don't always agree, but yes, I'm okay.

CHAIR DONALDSON: Are there any other questions or comments by the board? Do I hear a motion?

MR. HUMPHREY: We didn't hear anything about the real estate value.

CHAIR DONALDSON: He didn't bring it up. Under the law, he has to have expert witnesses if he is contesting that anyway.

MR. JOHNSON: I would be happy to have Mr. Smathers come up and give a presentation if you would like him to.

CHAIR DONALDSON: That is okay. The gentleman has already stated he is satisfied with the responses. Does anybody else want to be heard on this matter?

Public Hearing Closed

CHAIR DONALDSON: Are there any comments?

MRS. TART: Mr. Chairman, I move that we approve.

MR. AMAN: I would like to say that in the future, regarding all the cell towers that are being built, that you all could put something into the planning of these towers that would state that at the point when they are no longer needed, that it would be a requirement of the same company to tear those down.

CHAIR DONALDSON: We don't have any authority to do that; it would be up to the legislature.

MS. SPEICHER: Chair, the Ordinance does require it after six months. If it is not used, that is addressed in condition # 21 on the conditions of approval. The Code Enforcement Officer, Mr. Sykes will order the owner of the tower to remove the tower.

CHAIR DONALDSON: I'm sure that is observed more in the briefs than in reality; based on the amount of money spent on those things to put them up.

MR. JOHNSON: We agree with that condition.

CHAIR DONALDSON: That is beyond the scope of what we can do as far as in the future because who knows as far as communications; in ten years they may not need towers.

MR. AMAN: That is what I was getting at. Who would be responsible for tearing it down? It would be nice to have that stated.

CHAIR DONALDSON: It's in the requirements if they don't use it. Now if they ever stop utilizing it; that would be the same thing. It would be a matter of code enforcement doing it, but I don't foresee that happening. You are correct; most people are getting rid of their landline phone. I'm dropping my landline. I only get about five calls a month on my landline and most of those are from the staff other than junk calls. There is no sense paying \$75.00 a month to Century Link for it. Mrs. Tart has made a motion to approve the request, is there a second?

MR. HUMPHREY: I second that motion.

CHAIR DONALDSON: All those in favor, say aye.

The motion passed with a unanimous vote.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
TART	YES	
HUMPHREY	YES	
DYKES	YES	
MCHENRY	YES	

CHAIR DONALDSON: One thing I want to do is incorporate into the record the response of the request, all the supporting documents and the four questions the gentlemen submitted.

MS. SPEICHER: Chair, if I could read into the record the findings that the Board is required to make for the findings. Also, to clarify when you said incorporate into the record, that you are establishing that they met these findings.

In granting the Special Use, the Board has found that:

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

The proposed tower will be located on a 16.00 +/- acre tract, a wooded area surrounding the site. The tower base will be enclosed in a chain link fence ten feet in height, it will be setback 250' on all sides from the property lines and structures, if it were to fail; the public will not be harmed. The tower's power density levels are lower than the Federal and ANSI required standards. In addition, it will comply with all Federal, State and local ordinances, including all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines.

2. The use meets all required conditions and specifications;

The proposed tower meets all of the conditions and specifications of the ordinance. Furthermore, the applicant/property owners verbally agreed to all Ordinance Related Conditions contained within the board packet material.

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

The applicant/property owner submitted as evidence, a property value report prepared by Graham Herring, a North Carolina Licensed Real Estate Broker. In his report, Mr. Herring stated that the tower site will maintain the value of the adjoining or abutting properties and will not be detrimental if developed as proposed. The tower site will be compatible with the existing areas and proposed use, and will not have a substantial negative impact on existing or future plan development of the surrounding properties. Wireless services are many times considered a public necessity and are often the only access that citizens have to emergency services.

4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent Land Use Plan;

The applicant/property owner testified that the tower will be structurally designed and sounded to accommodate three more users in addition to the initial user. The proposed tower will provide much needed access to emergency services and meet the infrastructure needs that the 2030 Growth Vision Plan requires in this area of the County. In addition, the applicant/property owner presented a map as evidence that there are not other existing towers, buildings or other useable structures suitable for collocation within the coverage area. The proposed tower is in harmony with the purpose and intent of the Ordinance and will not be injurious to the neighborhood or the general welfare. The use is permitted through the request of a Special Use Permit, and will not change the district boundaries.

CHAIR DONALDSON: Now I will incorporate all the documents submitted to support those findings.

11. RECOMMENDATION FOR NOMINATION(S)

MS. SPEICHER: We need a replacement as a regular member for Mr. Newsome. It's my understanding that Mr. McHenry and Mr. Lott would be interested in becoming a regular member, and Ms. Mullins is interested as well. In addition to that, you have in your packet the applicant list that

we got from the Clerk's Office. Mr. Feinberg stated he would prefer to be a regular member but would also be okay as an alternate. Mr. McManus said he was not interested in serving at this time. Alberta Ortiz wants alternate only and if we could fill Mr. Newsome's vacancy first.

CHAIR DONALDSON: What was the reason why he resigned?

MS. SPEICHER: The reason I was told is because of the demands of his business, so he was not able to continue participation with the board.

CHAIR DONALDSON: So we have to fill two regular spots?

MS. SPEICHER: We have two regular spots and two alternate spots. One of the alternates is Mrs. Carson and she is willing to serve again only as an alternate.

CHAIR DONALDSON: We got Mr. Lott, Mr. McHenry and the two applicants on the back, well actually, the first one on the list, right?

MRS. TART: So we need two regulars and one alternate.

MS. SPEICHER: Yes.

CHAIR DONALDSON: So the both of you are interested in serving as regulars?

MR. MCHENRY: Yes.

MR. LOTT: Yes.

MS. SPEICHER: It might be helpful to the board if you let them tell a little bit about themselves and what they do.

CHAIR DONALDSON: We could do that, but the last time we let the Board of Commissioners decide.

MS. SPEICHER: Well, it is the Board of Commissioners that has the final word.

CHAIR DONALDSON: Yes, we just didn't make any recommendation because we didn't know any of the people. Mr. Lott, could you tell us a little bit about yourself?

MR. LOTT: Gave the board a brief summary of his background.

MR. MCHENRY: Gave the board a brief summary of his background.

CHAIR DONALDSON: Of course we have the other applicant, the gentleman that is a soldier. Do we know anything about him?

MS. SPEICHER: No.

CHAIR DONALDSON: Do we have a resume or anything?

MS. SPEICHER: A couple of days ago, I did have Pier call over to make sure we had all of the applicants and that is the first time his name popped up. The notes that you see below his name will start showing up on all the applicants. We're not just singling him out. It's just that the other two names were already on the applicant list.

CHAIR DONALDSON: It would be nice if we had a little sheet on each one with certain standardized information e.g., age, education.

MS. SPEICHER: I relayed that to the Clerk's Office when you stated that before.

CHAIR DONALDSON: It would be nice to have some background, work history or something. We are trying to screen and all we have is a name. Ms. Ortiz, didn't her name come up once before?

MS. SPEICHER: Yes, Ms. Ortiz has been on the list for quite a while and she has requested to only be considered as an alternate.

CHAIR DONALDSON: And Mrs. Carson wants to be considered as a regular member, right?

MS. SPEICHER: Mrs. Carson wants only the alternate position.

CHAIR DONALDSON: We have two choices; we can select two of the three names and submit to the board; that would be either Mr. McHenry, Mr. Lott or Mr. Feinberg. Or we can submit all three names and let the board select. Are there any comments?

MR. DYKES: I make a motion that we submit all three names to the Board of Commissioners and let them take it from there.

MS. SPEICHER: We still have one more vacant alternate seat coming open, besides Mrs. Carson's seat. I'm talking about Mrs. Carrie Tyson-Autry's seat.

CHAIR DONALDSON: Yes, but we are talking about the two regular seats now. We have three names who want to be considered as a regular member, Mr. McHenry, Mr. Lott and Mr. Feinberg.

MRS. TART: We have four, including Ms. Mullins.

CHAIR DONALDSON: Do we know anything about her?

MS. SPEICHER: She's been here a couple of times for our meetings. She's worked I think for the Agro Expo, with the gardening and farm stuff. She told me that one night after a meeting.

MRS. TART: I think we are in a little better position this time to make recommendations. I move that we recommend Mr. George Lott and Ms. Vickie Mullins for the regular members.

MR. HUMPHREY: I will second that.

CHAIR DONALDSON: Are there any comments or discussions on the motion? All those in favor say aye.

The motion passed with 3 in favor, with a simple majority.

	IN FAVOR	OPPOSED
DONALDSON		YES
TART	YES	
HUMPHREY	YES	
MCHENRY		YES
DYKES	YES	

MS. SPEICHER: Did you want to specify a name for either seat or just send the names over?

CHAIR DONALDSON: We will just send the names over. I would have supported Mr. Dykes' motion to send all four names to the Board of Commissioners and let them decide.

MRS. TART: I wouldn't object to sending all four names over.

CHAIR DONALDSON: Mr. Humphrey, how do you feel about that?

MR. HUMPHREY: About undoing her motion?

MRS. TART: Can we do that?

CHAIR DONALDSON: It's just a simple motion to set aside the previous vote and then do a new motion. I would like to have some unanimity if we send it over basically saying we all agree. We're parting on this one. You all can do what you want to do.

MR. HUMPHREY: That would be fine with me.

CHAIR DONALDSON: I need a motion to set aside the previous vote.

MRS. TART: I so move.

MR. DYKES: I second.

CHAIR DONALDSON: All those in favor say aye.

The motion passed with a unanimous vote.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
TART	YES	
HUMPHREY	YES	
DYKES	YES	
MCHENRY	YES	

CHAIR DONALDSON: Do we have to revote on his motion? All we did was set aside the vote. I now motion to have a motion to strike the previous motion.

MRS. TART: That is what we just did.

CHAIR DONALDSON: No, that was the vote, we struck the vote. The motion is set aside. Strike the previous motion.

MRS. TART: I so move.

CHAIR DONALDSON: Actually, the best way to do it is for you to withdraw your motion. You made the motion and you can withdraw your motion.

MRS. TART: I withdraw my motion but it was already set aside in the vote.

CHAIR DONALDSON: I need a motion to submit all four names to the Board of Commissioners.

MR. DYKES: I motion that we submit all four names to the Board of Commissioners.

MRS. TART: I second.

CHAIR DONALDSON: All those in favor say aye.

The motion passed with a unanimous vote.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
TART	YES	
HUMPHREY	YES	
DYKES	YES	
MCHENRY	YES	

CHAIR DONALDSON: We need to recommend for the alternates.

MR. HUMPHREY: I motion to recommend Yvette Carson be reappointed as an alternate member.

MR. DYKES: I second.

CHAIR DONALDSON: All those in favor say aye.

The motion passed with a unanimous vote.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
TART	YES	
HUMPHREY	YES	
DYKES	YES	
MCHENRY	YES	

MS. SPEICHER: Staff can send a memo over stating whichever of the recommendations for the regular members that are not nominated or selected for the regular position is considered for the alternate position.

CHAIR DONALDSON: That is fine with me. Does everybody agree?

The motion passed with a unanimous vote.

12. DISCUSSION

Right now I don't have the definite details, but the County Clerk's Office will have a Cumberland County Appointed Board Welcome and Information Session. The tentative date is August 13, 2013, Tuesday evening at the Department of Social Services in one of the conference rooms from 6:30 to 8:30 pm. Melodie will email the date, time & location to you, but I wanted to make you all aware that it was coming up. We encourage you to attend. It's a Welcome and Information Session. It's for all boards, not just the Board of Adjustment, it is for all County appointed boards.

CHAIR DONALDSON: Who is sponsoring this?

MS. SPEICHER: The County Clerk's Office will do the presentation. I don't know who any of the other speakers will be.

13. UPDATE(S)

MS. SPEICHER: There are more significant changes that came out with the telecommunications towers and wireless support zoning. One is the maximum coverage and things like that. In my opinion, in October 1, 2013, the tower companies are not going to want to show those anymore. The State passed a bill stating they did not have to basically give away their industry secrets or their coverage's. If they start changing their presentations, I didn't want you all to think they were holding back on us.

CHAIR DONALDSON: We can always ask the question, but they don't have to tell us. You can ask them to bring the slide with them because we may ask.

MS. SPEICHER: It's kind of like with the emissions and how we can't address at the local level, the emissions from the towers and their effect on your health.

CHAIR DONALDSON: I have one other thing that I want to bring up. I think we all owe a debt to Mrs. Melree Hubbard Tart for her service for the last eight years. She has done a magnificent job. I've only been here three years and she has always been wonderful in her work and has been very conscientious. I make a motion that the board commends Mrs. Tart for her excellent service to the community and to the Board of Adjustment for the past eight years. Do I have a second?

MR. HUMPHREY: I would agree and I second the motion.

The motion passed with a unanimous vote.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
TART	YES	
HUMPHREY	YES	
DYKES	YES	
MCHENRY	YES	

MRS. TART: Thank you Mr. Chairman.

CHAIR DONALDSON: You're welcome. You have done a wonderful job and you are a wonderful person.

14. ADJOURNMENT

The meeting adjourned at 8:00 pm, motioned by Mr. Dykes and seconded by Mr. McHenry.

P13-05-C
SITE PROFILE

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.

Site Information:

Frontage & Location: 560' +/- on US Hwy 301 South (SR 2284)

Depth: 340' +/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Motor vehicle storage yard

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

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: C(P) (County & Hope Mills), C3 & R6A; West: C(P), C3, M(P) & RR; East: C(P) (County & Hope Mills); South: C(P) (County & Hope Mills) & R10

Surrounding Land Use: 2-truck terminal activity, tower, metal work, 2-warehouse distribution, machinery sales, residential (including manufactured homes) and woodlands

2030 Growth Strategy Map: Suburban fringe

Special Flood Hazard Area (SFHA): None

Soil Limitations: None

Water/Sewer Availability: Well/Septic

Municipal Influence Area: Town of Hope Mills

School Capacity/Enrolled: Gallberry Farms Elementary: 900/840; Gray's Creek Middle: 1,000/1,035; Gray's Creek High: 1,270/1,259

Subdivision/Site Plan: Site plan approval on 7/13/12, see Condition No. 14 on attached conditions of approval

Average Daily Traffic Count (2010): 17,000 on US Hwy 301 South (SR 2284)

Highway Plan: US Hwy 301 South is identified in the Highway Plan as a major thoroughfare. The plan calls for widening to a multi-lane facility with a right-of-way of 160 feet. No road improvements are included in the 2012-2018 MTIP. This is priority #3 in the Highway Portion of the LRTP

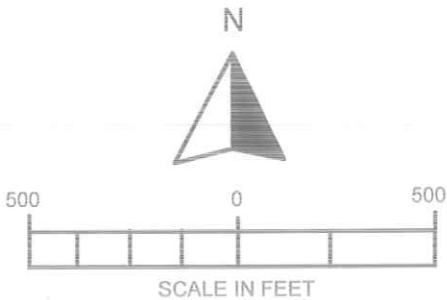
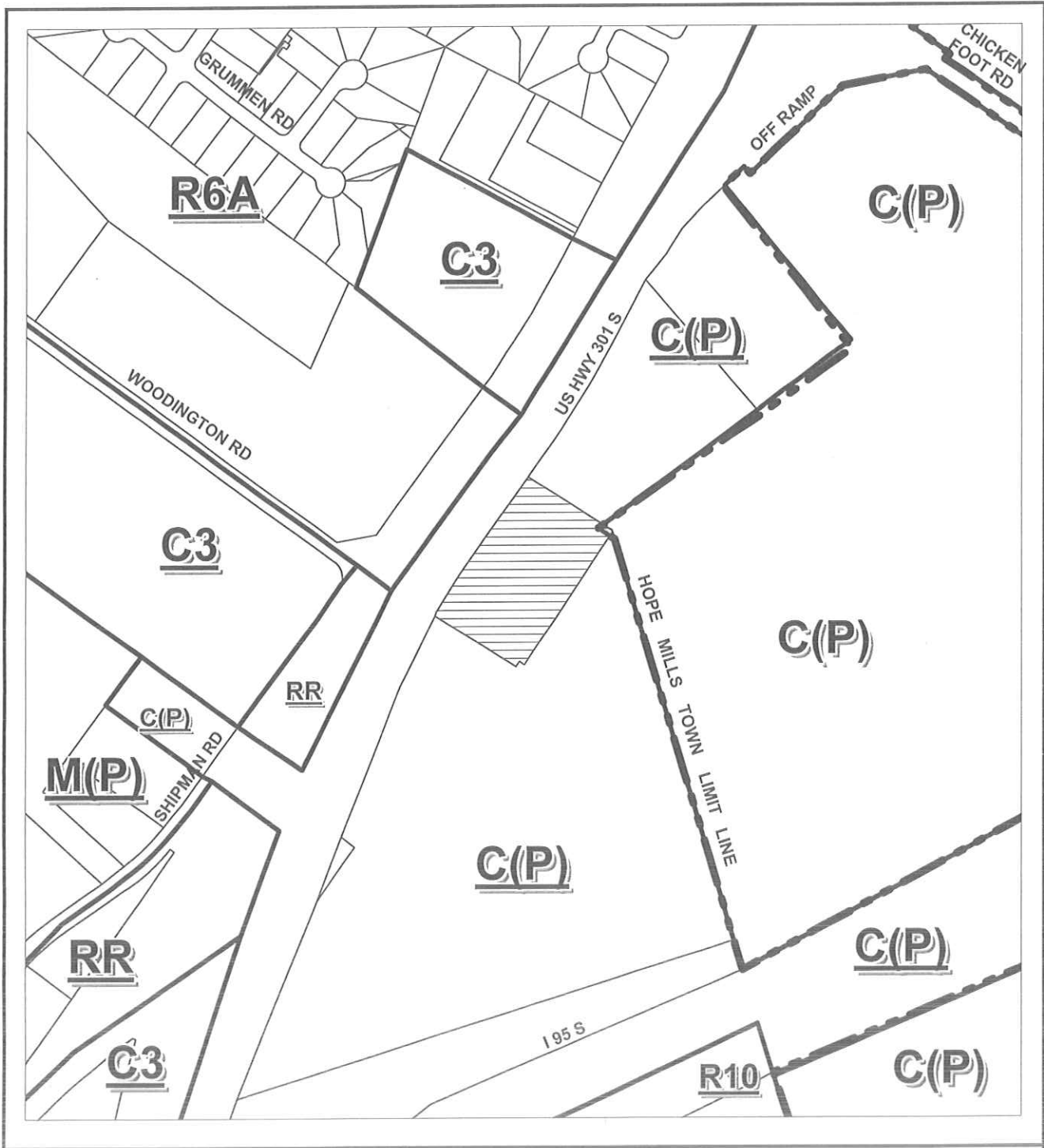
County Zoning Ordinance Reference: Section 1102 Yard Regulation, G. Buffer Requirements 1.e

Notes:

- Summary of request: The property owner is requesting a variance from the requirement to buffer the subject property. The ordinance requires a minimum six foot high buffer – can consist of solid fence or vegetation – when outside storage is visible from residentially zoned property and/or a public street. US HWY 301 (and service road) is a public street and the developer has been conditionally approved for a motor vehicle storage yard at this location.

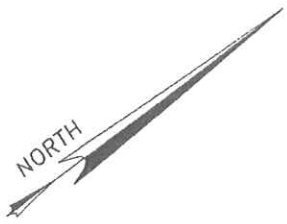
First Class and Record Owners' Mailed Notice Certification

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.

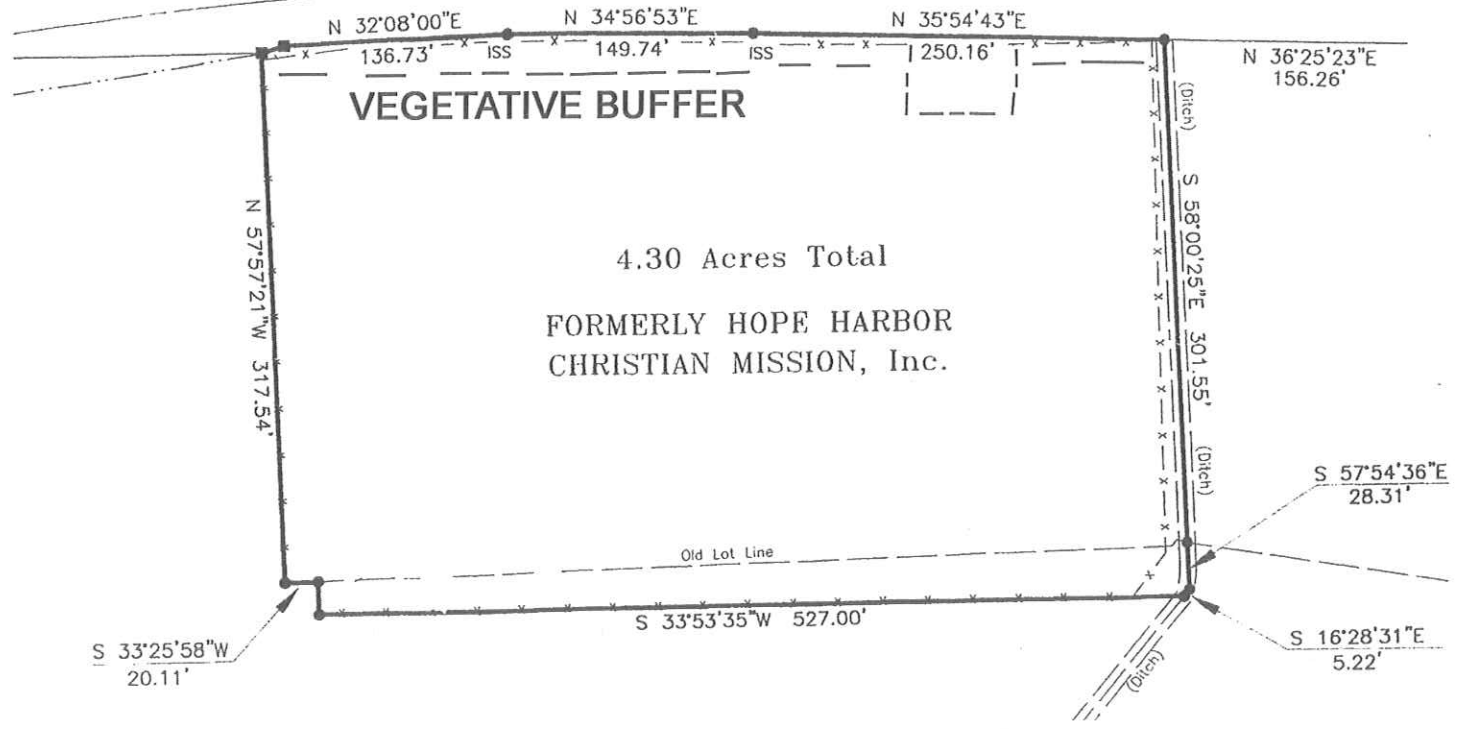


BOARD OF ADJUSTMENT VARIANCE

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



U.S. HIGHWAY 301
(SERVICE ROAD)



BOARD OF ADJUSTMENT VARIANCE

REQUEST: A VARIANCE FROM THE COUNTY ZONING
ORDINANCE, SECTION 1102 YARD REGULATION, SUB-SECTION

G. BUFFER REQUIREMENTS 1.e

CASE: P13-05-C ACREAGE: 4.30 AC +/-

ZONED: C(P) SCALE: NTS

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

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: 5523 U.S. 301 South, Hope Mills, NC

OWNER: Robert D. Taylor

ADDRESS: P.O. Box 1806, Hope Mills NC ZIP CODE: 28348

TELEPHONE: HOME 910-423-2114 x124 WORK SAME

AGENT: NONE

ADDRESS: _____

TELEPHONE: HOME _____ WORK _____

E-MAIL: rtaylor@taylorexpressinc.com

APPLICATION FOR A VARIANCE
As required by the Zoning Ordinance

A. Parcel Identification Number (PIN #) of subject property: 0413-92-7750
(also known as Tax ID Number or Property Tax ID)

B. Acreage: 4.30 Frontage: 537' Depth: 344'

C. Water Provider: NO

D. Septage Provider: NO

E. Deed Book 2695, Page(s) 271, Cumberland County

F. Existing and/or proposed use of property: Parking lot
employee cars and company trucks

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: Section 1102 Yard Req., G-Buffer Req, 1-E

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: Planting a buffer along the 537'
frontage would increase our security
risk. We have had 3 break in's
since we purchased the property
last year. Planting shrubbery only gives
a place for thieves to hide while
collecting holes into the fence.

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 issue a final approval or denial decision on this request, or defer the request for additional information to be provided;
- If the petitioner or the representative of this application does not appear personally before the board, whether there is opposition or not, the board has full authority to consider the case and defer, approve, or deny the case;
- If the board's action is to deny the matter before them, the course of appeal to their decision will be that of Cumberland County Superior Court. (Affected parties of the board's decision have 30 days from proper notification which to serve notice of appeal).

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

SIGNATURE OF OWNER(S) Robert D. Taylor

PRINTED NAME OF OWNER(S) Robert D. Taylor

DATE 8-4-13

Roy Turner,
Chair
Cumberland County

Walter Clark,
Vice-Chair
Cumberland County

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Patricia Hall,
Town of Hope Mills
Charles C. Morris,
Town of Linden



COUNTY of CUMBERLAND
Planning and Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Lori Epler,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

Donovan McLaurin,
Wade, Falcon & Godwin

STAFF REVIEW: 07-13-12 PLANNING BOARD DECISION: N/A

CASE NO: 12-096 NAME OF DEVELOPMENT: TAYLOR EXPRESS, INC.

MIA: HOPE MILLS C(P) SITE PLAN REVIEW (MOTOR VEHICLE STORAGE YARD)

LOCATION: 5523 US HWY 301 S ZONING: C(P)

PIN: 0413-92-7750-

OWNERS / DEVELOPER: DOUG TAYLOR ENGINEER OR DESIGNER: N/A

PLANNING & INSPECTIONS DEPARTMENT ACTION:

- PRELIMINARY
- EXTENSION REVISION
- APPROVED CONDITIONALLY
- DENIED

PLANNING BOARD DECISION:

- PRELIMINARY
- EXTENSION REVISION
- APPROVED CONDITIONALLY
- DENIED

The development plat/plan you submitted to this office is conditionally approved. Your approval is subject to the following 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 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 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 *Post-Construction 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 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:

7. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the C(P) zoning district must be complied with, as applicable.
8. Storage of junked vehicles on this site is not permitted; the temporary storage of motor vehicles must be temporarily stored in such an area that the vehicles are screened from view and cannot be seen from a public street or the adjacent residential property.

9. 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.)
10. 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 Ordinance)
11. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
12. 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.
13. 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.
14. A solid buffer must be provided and maintained along the US HWY 301 S – SR 2284 Service Road in order to screen the motor vehicles from view from the street right-of-way in accordance with the provisions of Section 1102 G, Buffer Requirements, County Zoning Ordinance. (Note: Chain link fencing cannot be used to satisfy the buffer requirement.)
15. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
16. 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:

17. The applicant is advised to consult an expert on wetlands before proceeding with any development.
18. Site plan review and approval is required prior to commencement of any changes to the site or the use.
19. If/when any structure is proposed landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance.
20. 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.

Thank you for doing business in Cumberland County and the Hope Mills area!

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

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

Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Daniel Ortiz	433-3680
Town of Hope Mills:		424-4555*
Town Clerk:	Melissa P. Adams	
Chief Building Inspector:	Mike Bailey	
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) 807-6374

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

cc: Mike Bailey, Town of Hope Mills

OFFICIAL PRELIMINARY STAMP
CUMBERLAND COUNTY
CASE NO: 12-096

THIS PLAN APPROVED BY THE CUMBERLAND COUNTY PLANNING &
INSPECTION DEPARTMENT ON: 7-13-12

COMMENTS: SUBJECT TO CONDITIONS

I CERTIFY THAT THIS PLAN HAS BEEN APPROVED BY THE CUMBERLAND
COUNTY PLANNING & INSPECTIONS DEPARTMENT AS DRAWN HEREON
AND MAY BE USED FOR ANY OFFICIAL PURPOSE AS PERMITTED BY LAW.
THIS APPROVAL IS VALID UNTIL: 7-13-14

Patricia S. Spicher GB

SUPERVISOR, LAND USE CODES

P96-25-C
SITE PROFILE

P96-25-C: REVOCATION OF A SPECIAL USE PERMIT (NEE 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).

Site Information:

Frontage: None

Depth: 340.00'+/-

Jurisdiction: Cumberland County

Adjacent Property: No

Current Use: Residential and abandoned single wide manufactured home, junk and debris

Initial Zoning: R10- January 7, 1977 (Area 11), rezoned to RR/CU (two manufactured homes) on 10/18/04

Nonconformities: No direct road frontage

Zoning Violation(s): None

Surrounding Zoning: North: CD, RR, R10 & R7.5 & R5A (Spring Lake); South: R6A, M1(P)/CUD (mini-warehousing), C(P), R10 & R6 (Spring Lake); West: R6A, CD, R10/CU (manufactured home), R10 & R6 (Spring Lake); East: C3 & R5A (Spring Lake & County), M(P), RR, R7.5 & R6A

Surrounding Land Use: Motor vehicle wrecking yard and junkyard, mini-warehousing, residential (including manufactured homes, and abandoned dwelling) and woodlands

2030 Growth Strategy Map: Urban area

Special Flood Hazard Area (SFHA): No flood

Water/Sewer Availability: Well/Septic

Municipal Influence Area: Town of Spring Lake

Soil Limitations: None

Subdivision/Site Plan: Site plan review for group development conditionally approved on 4/4/13

School Capacity/Enrolled: Manchester Elementary: 340/371; Spring Lake Middle: 700/496; Pine Forest High: 1,750/1,626

RLUAC: No objection

US Fish & Wildlife: No objection

Average Daily Traffic Count (2010): 3,600 on Chapel Hill Road (SR 1601)

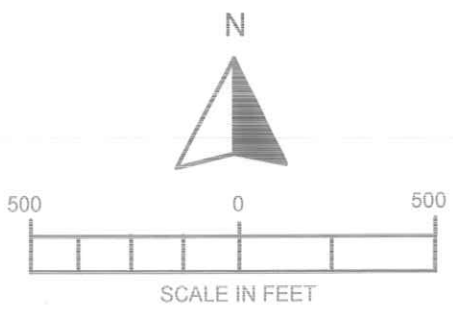
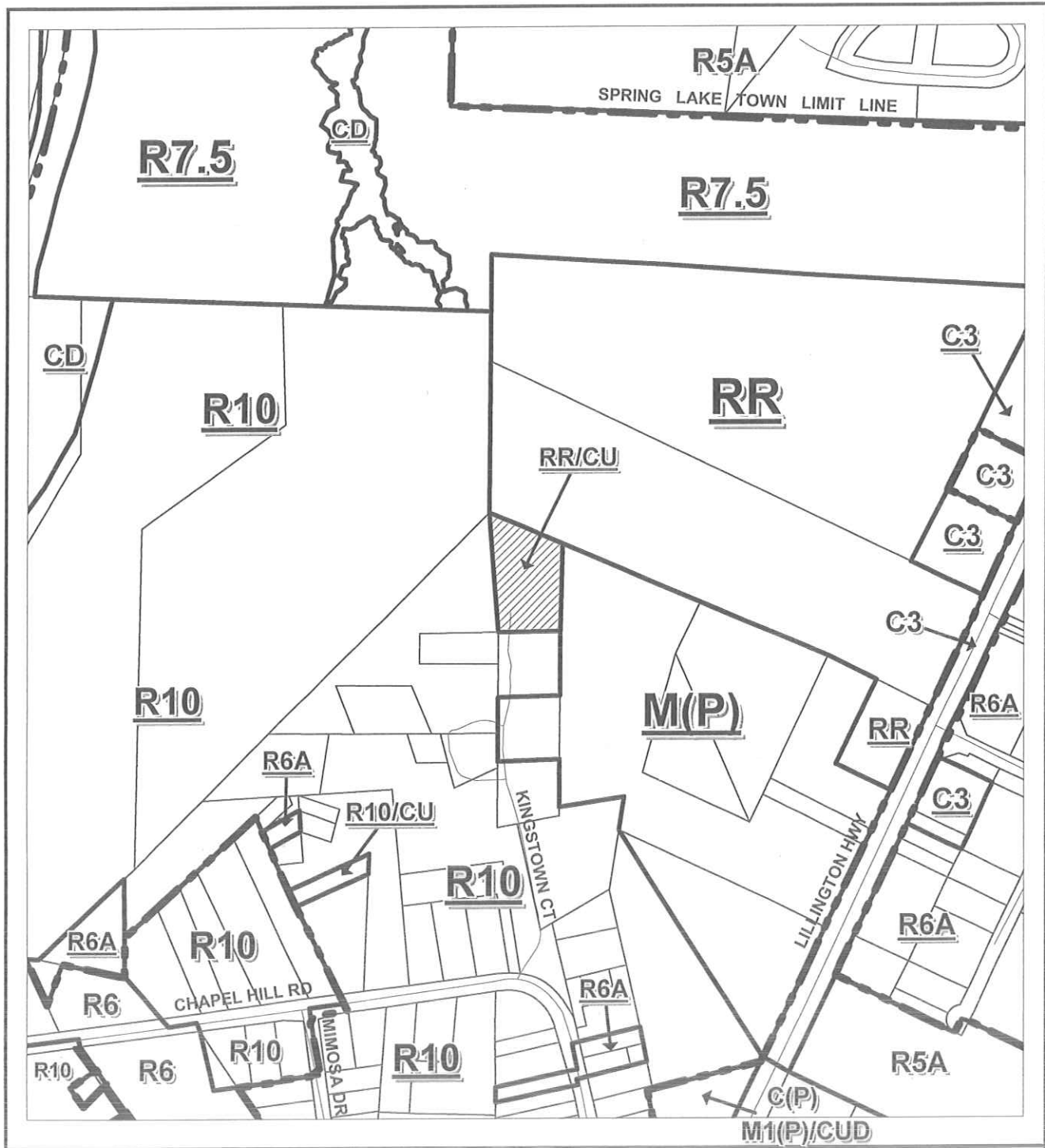
Highway Plan: There are no road improvements/constructions specified for this area. This case has no impact on the current Highway Plan or Transportation Improvement Program

Notes:

1. Revocation of Specified Conditional Use Permit Case No. P96-25-C approved on 6/20/1996
2. Contents of the original application:
 - a. Proposed to operate a motor vehicle wrecking yard and junkyard
 - b. Storage of auto parts in a designated area
 - c. 1 employee
 - d. Hours of operation: Monday through Friday from 7:00 am to 6:00 pm, Saturday from 8:00 am to 1:00 pm
3. The motor vehicle wrecking yard and junkyard on subject property has been inactive since 2004. The applicant requested to close it down on rezoning case P04-36. Staff initiated the revocation.

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.



REVOCATION SPECIAL USE PERMIT

ACREAGE: 2.1 AC.+/-	HEARING NO: P96-25-C	
ORDINANCE: COUNTY	HEARING DATE	ACTION
GOVERNING BOARD		

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

130 Gillespie Street
Fayetteville, NC 28302
(910) 678-7600

June 25, 1996

MEMO TO: CUMBERLAND COUNTY INSPECTIONS DEPARTMENT

FROM: FRANCES JACKSON, SECRETARY
CUMBERLAND COUNTY BOARD OF ADJUSTMENT

SUBJECT: CASE NO. P96-25-C. AN APPLICATION BY TOMMIE L. DAVIS FOR A SPECIFIED CONDITIONAL USE PERMIT AS PROVIDED FOR BY THE CUMBERLAND COUNTY CODE OF ORDINANCES, ARTICLE III, SECTION 3.1, TABLE 1-J TO ALLOW AN AUTOMOBILE JUNKYARD IN AN M(P) PLANNED INDUSTRIAL DISTRICT FOR AN AREA LOCATED AT 1354 KINGSTON COURT.
(COUNTY ORDINANCE)

The Cumberland County Board of Adjustment met on June 20, 1996 and voted unanimously to approve the application subject to the following conditions:

1. That all fluids from vehicles, transmission, brake fluid, gasoline, etc. be drained before they are stored. That they be drained into approved containers and be disposed of according to approved environmental procedures and the EPA regulations.
2. That if at any inspection, fluids are found to have been placed in the ground/soil, the permit is to be revoked immediately.
3. That the site be developed according to the Cumberland County, state and local ordinances.
4. That operation must be in compliance with all applicable Federal, State and Local regulations at all times.
5. That cars will not be stacked.
6. That no more than 400 vehicles may be stored on the property at one time.
7. That storage be limited to the area behind the existing mobile home.
8. That the property must be screen on all sides by a well maintained buffer that is at least 6 feet in height and that the vegetation met that height within 2 years.

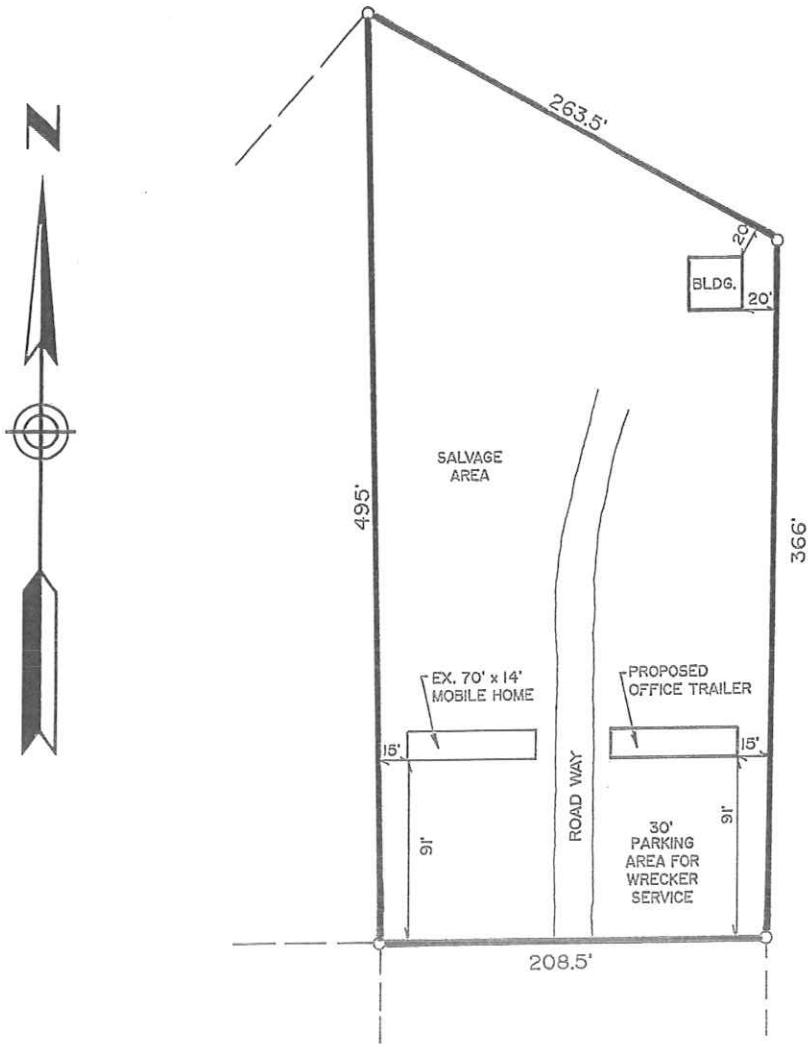
(Continued next page)

MEMORANDUM TO COUNTY INSPECTIONS
CASE NO. P96-25-C
PAGE TWO

9. That appropriate rodent control procedures be adopted in accordance with the Health Department procedures.
10. That the fence be installed around the site to enclose the salvage area.
11. That all conditions be met within 1 year.

cc: Tommie L. Davis
1354 Kingstown Ct
Spring Lake, NC 28390

Attachments



SPECIFIED CONDITIONAL USE PERMIT

REQUEST: TO ALLOW FOR THE OPERATION OF AN AUTOMOBILE
JUNKYARD

CASE NO: P96-25-C ZONE: M(P) ACREAGE: 2.1 AC.±

SCALE: 1" = 100'

DATE APPLICATION SECURED _____

DEADLINE DATE TO RETURN 5-20-96

THE COUNTY BOARD OF ADJUSTMENT MEETING
DATE WILL BE ON _____

DATE RETURNED TO PLANNING _____

RECEIPT # 80233

**CUMBERLAND COUNTY
SPECIFIED CONDITIONAL USE PERMIT**

The attached application must be filled out completely for all requests for a Specified Conditional Use Permit. The legal description should be a copy of the recorded deed of the property as it appears in the Register of Deeds Office; if this is not available or applicable, then a complete metes and bounds (survey) description of the subject property is required.

All applications for a Specified Conditional Use Permit must be accompanied by an accurate and detailed plat of the proposed use, showing location of all buildings, yard dimensions, driveways, parking areas, and all other pertinent data necessary for the Cumberland County Board of Adjustment to determine that all requirements have been complied with.

The application must be submitted to the Planning Department at least twenty-five (25) days prior to the Board of Adjustment meeting at which it is to be heard. A check for One Hundred Dollars (\$100) made payable to **CUMBERLAND COUNTY** must accompany the completed application. Upon receipt of the completed application and check, the Planning Department will contact the Chairman of the Board of Adjustment and a public hearing will be set. The Planning Department will then advertise the public hearing and a notice will also be mailed or delivered to surrounding residents or property owners which in the opinion of the Board may have an interest in the proposed case.

The Board of Adjustment is a quasi-judicial review board and all persons wishing to appear before this Board should be prepared to give sworn testimony on relative facts.

CHECK LIST

We will need:

1. A complete application.
2. A copy of the deed or a written legal description.
3. A copy of a detailed site plan.
4. A check made payable to Cumberland County for the amount of \$100.00.

(NOTE: THE APPLICATION FEE IS NON-REFUNDABLE.)

APPLICATION FOR SPECIFIED CONDITIONAL USE PERMIT

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

1. The property sought for Specified Conditional Use Permit is located at 1354 Kingstown Ct. (mailing address) between Chapel Hill Rd. (street name)

and _____ on the _____ (north, south, east, west) side of the street and known as lot(s) number(s) _____.

It has frontage of 208 feet and consists of an acreage of 2.1 acres.

2. The area sought for Specified Conditional Use is described in Deed Book 2854, Page 225, Cumberland County Registry. (Attach copy of recorded deed or complete metes and bounds (survey) description of subject property.)

3. The property sought for Specified Conditional Use is owned by Tommye Davis.

4. The tax parcel identification number (PIN#) of the subject property is: D562-16-93-8350

5. 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 or clients, etc.)

Mr. Davis is interested in operating a automobile wrecking yard and junkyard. The storage auto parts is desirable with designated area.

Operating hours will be from 7:00am - 6:00pm M-F
Saturday 8:00am - 1:00pm

Employees will be 1 additional person other than Mr. Davis.

6. Attach copy of detailed site plan of subject property. (Note: Site Plan to be drawn to an engineering scale, reflecting entire parcel, street name and right-of-way width, foot print of all buildings on site or to be built, curbcut(s) location and width, parking spaces, setbacks to all property lines and indicate fencing (if applicable).

MAILING LIST

7. The following are all of the individuals, firms or corporations owning property adjacent to BOTH SIDES and REAR, and the property in FRONT of (across the street from) the property sought for Specified Conditional Use Permit: (This information should be obtained from the Tax Mapping office on the 5th floor of the New Courthouse.)

ADJACENT PROPERTY OWNERS

NAME	ADDRESS	ZIP
William Wellons ✓	PO Box 766 Springlake	28390
Ruby Brazell ✓	1511 HWY 210 North	28390
William King ✓	1352 Kingstown Ct	28390
Dotson King Jr. ✓	1352 Kingstown Ct	28390

✓ TOMMIE L DAVIS
 Print Name of Applicant or Agent

Tommie L Davis
 Signature of Applicant or Agent

135A Kingstown
 Address of Applicant or Agent

Spring Lake NC 28390
 Address Zip Code

Telephone: Home: 497 2439

Work: 436 219

opposition to the request. There was none.

A motion was made by Mr. Lynch to approve the request. The motion was seconded by Mr. Vaughan and passed unanimously.

D. CASE NO. P96-24-C. AN APPLICATION BY WAYNE CLOW FOR A VARIANCE AS PROVIDED FOR BY THE CUMBERLAND COUNTY CODE OF ORDINANCES, ARTICLE VII, SECTION 7.3, TO ALLOW A REAR YARD SETBACK OF TWENTY-EIGHT (28) FEET WHERE THIRTY-FIVE (35) FEET IS REQUIRED IN AN RR RURAL RESIDENTIAL DISTRICT FOR AN AREA LOCATED AT 9381 CLIFFDALE ROAD. (COUNTY ORDINANCE.)

Ms. Jackson presented the zoning and land use in the area. Ms. Jackson stated that the applicant is asking for a variance to install a proposed screened in porch. She stated that 35 feet is required in the rear and there is only 28 feet on that property.

Wayne Clow was sworn in by Chairman Mathis.

Mr. Clow, the applicant, stated that the house was constructed to align with other houses on the road. He stated that his back yard has 2 water tanks owned by Brookwood Water Company and felt that there was no one behind him that would object. He stated that he has Cypress trees planted and felt that in about 3 years there will be no one to see his property from the road.

Chairman Mathis asked if there was any one to speak in favor or in opposition to the request. There were none.

A motion was made by Mr. Lynch to approve the application as requested. The motion was seconded by Mr. McNeill and passed unanimously.

E. CASE NO. P96-25-C. AN APPLICATION BY TOMMIE L. DAVIS FOR A SPECIFIED CONDITIONAL USE PERMIT AS PROVIDED FOR BY THE CUMBERLAND COUNTY CODE OF ORDINANCES, ARTICLE III, SECTION 3.1, TABLE 1-J TO ALLOW AN AUTOMOBILE JUNKYARD IN AN M(P) PLANNED INDUSTRIAL DISTRICT FOR AN AREA LOCATED AT 1354 KINGSTON COURT. (COUNTY ORDINANCE).

Ms. Jackson presented the zoning and land use in the area. She stated that the applicant is proposing an office trailer and the front area is the parking area for the wrecker service. She stated that there is presently a 70 by 14 foot mobile home on the site.

Mr. McArthur, Zoning Officer, stated that according to the regulations that mobile homes are not allowed to be used as offices.

Mr. James Williams was sworn in by Chairman Mathis.

Mr. Williams stated that he was representing Mr. Davis [He was present in the audience]. He stated that Mr. Davis presently owns a wrecker/salvage service and would like to open a junk yard along with

that business.

Chairman Mathis asked if there was any opposition. There was none.

Mr. Lynch asked if Mr. Davis was living in that mobile home and could he live there in an MP zoning. Ms. Jackson stated that Mr. Davis appeared before the Planning Board and Commissioners to get approval for a conditional use overlay district to allow the mobile home as a residence and also received approval of the zoning to M(P) to allow the Wrecker and Salvage Yard. She stated Mr. Davis had to obtain the Board of Adjustment's approval for the junk yard.

Mr. McNeill asked if they were proposing any fencing. Mr. Williams stated that they are. Mr. McNeill asked why if was not shown on the site plan. Mr. Williams stated that a lot of vegetation was cut down and now the fencing was needed.

Concern was expressed by the board members about a mobile home being on the site and not being in compliance with the regulations.

Mr. Williams stated that the mobile home is part of the salvage yard. It has no electricity, plumbing or water. It would be used to get in and out of the weather.

A motion was made by Mr. McNeill to approve the request subject to the following conditions:

1. That all fluids from vehicles, transmission, brake fluid, gasoline, etc. be drained before they are stored. That they be drained into approved containers and be disposed of according to approved environmental procedures and the EPA regulations.
2. That if at any inspection, fluids are found to have been placed in the ground/soil, the permit is to be revoked immediately.
3. That the site be developed according to the Cumberland County, state and local ordinances.
4. That operation must be in compliance with all applicable Federal, State and Local regulations at all times.
5. That cars will not be stacked.
6. That no more than 400 vehicles may be stored on the property at one time.
7. That storage be limited to the area behind the existing mobile home.
8. That the property must be screen on all sides by a well maintained buffer that is at least 6 feet in height and that the vegetation meet that height within 2 years.

9. That appropriate rodent control procedures be adopted in accordance with the Health Department procedures.
10. That the fence be installed around the site to enclose the salvage area.
11. That all conditions be met within 1 year.

Mr. Flanders seconded the motion and it passed unanimously.

4. DISCUSSION

The board requested that the staff provide clarification on the location of the sites. The board stated that there has been problems finding the sites and asked that the staff provide a site location in the packets along with copies of the sample conditions as it pertains to each case.

5. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:15 p.m.

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Ken Sykes,
Code Enforcement Manager

Carol M. Post
Office Processing Assistant



**CUMBERLAND
★ COUNTY ★**
NORTH CAROLINA

Planning & Inspections Department

FINDINGS OF FACT AND ORDER

8/21/2013

George Hatcher,
Inspector

Joey Lewis,
Inspector

Joan Fenley,
Inspector

Debra Johnson,
Inspector

Chris Fulton,
Inspector

Thomas Davis & Parties of Interest
1354 Kingstown Court
Spring Lake, NC 28390

CASE # MH-139-2013

PROPERTY AT: 1440 Kingstown Court, Spring Lake, NC

A Complaint, Notice of Hearing and Report of Inspection were legally served to the owner or owner's agent, and any party of interest. These documents were in fact received by the owner or owner's agent and party of interest on 8/14/2013.

Pursuant of law, a Hearing was conducted in Room 101, of the old courthouse at 130 Gillespie Street, Fayetteville, NC on 7/24/2013 at 9:30 AM. The items identified below took place at the Hearing:

- 1. No owner or party of interest, or their agent, or representative appeared.
- 2. An answer was filed by owners and/or parties of interest. The answer was heard, read, and considered. Those present were: Thomas Davis, Joan Fenley, and Debra Johnson
- 3. The undersigned inspector personally inspected the dwelling described in the Complaint and Notice of Hearing dated 6/21/2013. Upon the record and all of the evidence offered and contentions made, the undersigned Hearing Officer does thereby find the following fact:
 - a. The dwelling in question is violative of the Cumberland County Housing Ordinance as per findings in the inspection report with an assigned case number of MH-139-2013, dated 6/16/2013.
 - b. Due to these findings, the dwellings are found to be in a substandard condition in accordance with the Cumberland County Ordinance.
 - c. The dwelling is unfit for human habitation.

4. Due to facts presented above, the Hearing Officer orders as follows:
- a. The owners and/or parties of interest of the dwelling named above are required to bring such dwelling into compliance with the Cumberland County Housing Ordinance by either repairing, altering, and improving the dwelling up to a minimum standard or by demolishing the structure and then causing the debris to be removed from the premises by a date not later than 11/13/2013. **All required permits must be obtained. A copy of this order must be presented when obtaining permits.**
 - b. The dwelling shall remain vacated until compliance with this order is completed and removed by the inspector, and the lot must be continuously maintained.
 - c. The structure shall be/remain secured to prevent entry by _____ and shall remain secured.
 - d. By authority of North Carolina General Statutes 14-4, violation of the County code is punishable as a Class 3 Misdemeanor in criminal court and also subjects the violator to injunctive relief and/or a civil penalty of \$50.00 per day for each day's continuing violation after _____.
 - e. The County Planning/Inspection Department may immediately begin procedures to seek a demolition ordinance from the Cumberland County Board of Commissioners for failure to bring the property into compliance by 11/13/2013. The cost of said demolition will be assessed against the real property in the form of a lien.

An appeal may be made to the Cumberland County Housing Board of Appeals. If an appeal is requested, it must be made in writing and within the time limits specified in the enclosed appeal procedures.



Ken Sykes
Hearing Officer



Debra Johnson
Code Enforcement Officer

Enclosed: Appeals Procedure Form

Cc: Thomas Davis, 2603 Cattail Circle,
Fayetteville, NC 28312

Sworn to and Subscribed to by me
this the 21st day of August, 2013





Notary Public
My Commission Expires: 11-03-14

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Ken Sykes,
Code Enforcement Manager

Carol M. Post
Office Processing Assistant



**CUMBERLAND
★ COUNTY ★
NORTH CAROLINA**

Planning & Inspections Department

**COMPLAINT AND NOTICE OF HEARING
BEFORE THE HOUSING INSPECTOR**

6/21/2013

Thomas Davis & Parties of Interest
1354 Kingstown
Spring Lake NC 28390

91 7199 9991 7031 6128 6916

CASE # MH-139-2013

Dear Thomas Davis

- I. On 2013-06-16, the property located at 1440 Kingstown Ct., was inspected for compliance with Cumberland County Article IV, Minimum Housing Code.
- II. You are hereby notified that the dwelling located at the place designated above appears to be substandard as defined by Cumberland County Code, Article IV, Minimum Housing Code. The enclosed Report of Inspection indicates the items which appear to violate this Code.
- III. A hearing has been scheduled before the Hearing Officer at the Department of Inspection, Room 101, Old County Courthouse, 130 Gillespie Street, Fayetteville, NC on July 24, 2013, at 9:00 AM for the purpose of finding facts as to whether or not the condition of such dwelling falls within the scope of the above mentioned Code. At the Hearing, you shall be entitled to file answer to the Complaint and to be heard in person or by counsel upon all factual or legal questions relating to this matter.
- IV. The Findings of Fact and Order will be mailed to you following the hearing specifying the corrective action to be taken and the date by which the corrections must be completed. Failure to comply with the Order is punishable as a Class 3 Misdemeanor and subjects the owner or party of interest to a civil penalty of fifty dollars (\$50.00) per day for each and every day the violation(s) exist.
- V. You are further notified that you have the right to file a request for an appeal to the Cumberland County Housing Board of Appeals. The appeal procedures will be provided with the Order.

If you have any questions contact the undersigned between 8:00 - 9:00 A.M. and 4:00 - 5:00 P.M., Monday through Friday, or you may leave a voice mail message anytime at (910) 321-6655.


Debra Johnson
Code Enforcement Officer

Debra Johnson,
Inspector

George Hatcher,
Inspector

Joey Lewis,
Inspector

Joan Fenley,
Inspector

COUNTY OF CUMBERLAND
INSPECTION DEPARTMENT
REPORT OF MINIMUM HOUSING INSPECTIONS

Case #: **MH-139-2013**
Property Location: 1440 Kingstown Ct PIN: 0502-93-9338
Date of Inspection: 2013-06-16
Property Owner: Thomas Davis
Mailing Address: 1354 Kingstown Spring Lake NC 28390
Occupant:

BUILDING USE	TYPE CONSTRUCTION	NUMBER STORIES
<input checked="" type="checkbox"/> ONE FAMILY	<input type="checkbox"/> FRAME	<input checked="" type="checkbox"/> ONE STORY
<input type="checkbox"/> APARTMENT COMPLEX	<input type="checkbox"/> BRICK VENEER	<input type="checkbox"/> TWO STORY
<input type="checkbox"/> DUPLEX	<input type="checkbox"/> BLOCK	<input type="checkbox"/> THREE STORY
<input type="checkbox"/> OTHER	<input checked="" type="checkbox"/> MANUFACTURED	

APPRAISED TAX VALUE (STRUCTURE:) DATE OF APPRAISAL:

DOES DAMAGE OR DETERIORATION OF STRUCTURE EXCEED 50% OF ITS PHYSICAL VALUE? YES NO

DOES STRUCTURE CONFORM TO ZONING REGULATIONS? YES NO

ITEMS LISTED BELOW ARE TO BE CORRECTED:

A lot cover with rubbish and debris and is creating a breeding ground for rodents, vermin and other disease vectors. All rubbish, debris and outside storage must be removed from the lot. The lot must be continuously maintained free of rubbish, debris and open storage. A mobile home has been placed on this property and is currently unfit for human habitation. Structure has no heat, water, sewage disposal service or electrical service, or is in disrepair and does not meet the current Cumberland County Minimum Housing Ordinance standards.

You must: Obtain the required demolition permit and demolish the dwelling and remove all the debris from the lot.