

Members:

Ed Donaldson, Chairman
Horace Humphrey, Vice-Chair
Joseph Dykes
Vickie Mullins
George Lott



Alternates:

Yvette Carson
Winton McHenry
Nathan Feinberg
Joseph Decosta
Alfonso Ferguson Sr

Cumberland County Board of Adjustment

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

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

Members Present

Ed Donaldson, Chairman
Horace Humphrey
Joseph Dykes
Vickie Mullins
George Lott

Absent Members

None

Staff/Others Present

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

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

1. ROLL CALL

Mr. Haigh called the roll and stated a quorum was present.

2. SWEAR IN STAFF

Chair Donaldson swore in the staff.

3. ADJUSTMENTS TO THE AGENDA

Swear in new alternate Board member, Alfonso Ferguson, Sr.

4. OATH OF OFFICE – ALFONSO FERGUSON, SR.

Ms. Speicher administered the oath to Mr. Ferguson.

5. APPROVAL OF THE OCTOBER 17, 2013 MINUTES

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

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

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

7. PUBLIC HEARING WITHDRAWALS

A. **P13-13-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. **(WITHDRAWN)**

B. **P12-08-C:** RECONSIDERATION OF THE BOARD DECISION FOR APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR TO ISSUE A ZONING PERMIT TO TIGERSWAN INC. TO OPERATE THE TIGERSWAN TRAINING COLLABORATION CENTER AS A USE CONSISTENT WITH OUTDOOR RECREATION/AMUSEMENT FOR PROFIT AND WITH MECHANIZED VEHICLES ON A PROJECT SITE CONSISTING OF 978.4 +/- ACRES LOCATED SOUTHWEST OF SR 2053 (DOE HILL ROAD) AT 2850 TIGERSWAN DRIVE SUBMITTED BY RAEFORD B. LOCKAMY, II; SAMUEL D. AND DORIS M. FORT; JULIA KATHERINE FAIRCLOTH; OK FARMS OF CEDAR CREEK, LLC; AND ARNOLD DREW SMITH **(DEFERRED UNTIL LEGAL ISSUES RESOLVED)**

Mr. Lott made a motion to defer case P12-08-C, seconded by Mr. Humphrey. The motion passed unanimously.

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

8. POLICY STATEMENTS REGARDING APPEAL PROCESS

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

9. PUBLIC HEARING(S)

A. **P13-11-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A BILLBOARD IN A C(P) PLANNED COMMERCIAL DISTRICT ON 3.68 +/- ACRES; LOCATED AT 2589 GILLESPIE STREET; SUBMITTED BY MICHAEL KEITH SUTTON (OWNER) AND M. GREY VICK ON BEHALF OF WATERWAY OUTDOOR, LLC.

Chair Donaldson asked all speakers to come forward.

Chair Donaldson read the case heading.

CHAIR DONALDSON: Is this the same company we dealt with in October? What is this about? Is this a separate sign that they want to put up on the same property?

MS. SPEICHER: No sir, it's a different property

CHAIR DONALDSON: Okay. I recognized the name and I was just wondering. Is this in the same area that is currently under consideration for a consolidated ordinance between the County and the City, to control the signage?

MS. SPEICHER: Yes chair.

CHAIR DONALDSON: That's what I thought, they took my recommendation, which was to do that and started working on it the next week.

MS. SPEICHER: Yes sir.

CHAIR DONALDSON: I'm going to make a motion to continue this case pending the outcome of the ordinance. Now I need a second.

MRS. MULLINS: second

The motion passes unanimously.

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

CHAIR DONALDSON: Mr. Talley we're going to continue this case, they're working on a new ordinance to unify the County and City. It is my understanding that it still has to be presented to the respective boards of the County and City. What is the status of the ordinance?

MR. TALLEY (ATTORNEY FOR APPLICANT): My client does not object to a deferral.

MS. SPEICHER: It is still in draft form, it's not set for public hearing at this time. We have met with the City staff, County Commissioners' Policy Committee, and the Crown Coliseum's commission.

CHAIR DONALDSON: My recommendation as Chairman is to continue this case for 90 days and if nothing is done by then we will hear this case. It's not fair to the homeowners and the owner of the property for this to go on indefinitely. Given what happened last time, I think the results will be the same if there is no ordinance in place.

MS. SPEICHER: So we will say the County Board of Adjustment March meeting?

CHAIR DONALDSON: We will hear this case on March 20th.

B. P13-12-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 195 FOOT TOWER IN AN A1 AGRICULTURAL DISTRICT ON 34.27+/- ACRES, LOCATED ON THE EAST OF HUCKLEBERRY ROAD (SR 1864) AND SOUTH OF SANDEROSA ROAD (SR 1833); SUBMITTED BY BROADWELL LAND COMPANY (OWNER) AND THOMAS H. JOHNSON, JR., NEXSEN PRUET, PLLC ON BEHALF OF AMERICAN TOWERS, INC.

Chair Donaldson read the case heading.

CHAIR DONALDSON: Asked all speakers to come forward.

MR. HAIGH: Reviewed the land use.

CHAIR DONALDSON: Swore in all speakers and opened the public hearing.

TOM JOHNSON: This is a thickly wooded piece of property as you could see from the aerial. It's a 195 foot self-supporting tower; is it's a mono pole. It's a thickly wooded area and we're removing enough trees for the access road and the tower compound. We are here on behalf of AT&T, I represent American Tower; the use of wireless phones has increased and it's shifted to the point where a lot of folks are wireless only now. So the demand has gone up tremendously. The next slide shows what's happening with the folks who are dropping their landline phones both in the United States and in North Carolina. Basically, 33 percent of the residents of North Carolina are wireless only, another 13 percent are mostly wireless; they have their landline phone but don't use it. As a result about 75 percent of calls on average to 911 are placed with wireless devices. That's why we have to get out there and improve the signal. When folks call in an emergency they can use their phone to reach 911. In addition a lot of EMS services are using wireless to transmit data back and forth to the hospital. Many times when fire responds they get a floor plan of the house they're going to from tax records wirelessly and download it to a laptop. That happens a lot. Wireless is not the only big thing but also data. When the iPhone was released in 2007 the use of phones for data, access the internet, use applications; has skyrocketed. Data taxes the demand on towers. There is limited capacity on each cell tower. The younger people are using wireless more than the older generation because that's what they grew up with, and that will continue. The next slide shows how much data taxes the system versus just using it for voice. The smartphone uses 50 times the bandwidth of just regular old voice, a laptop uses 368 times the bandwidth than a voice phone uses. That's why data is such a significant factor. The next slide shows that more and more people are using smartphones; the chart shows how many people are using smartphones, the gray part shows how many people use laptops, the orange shows tablet usage. People are moving to wireless devices. The next slide shows the adjoining tower sites, the triangles are the adjoining tower sites. The slide shows the existing sites that AT&T has in the area. The next slide shows the propagation map, it basically shows the strength of signals from the existing towers and these are the existing towers. The red color is in building commercial use, the yellow color is in building residential use, we're trying to get the signals strong enough in buildings so that folks can use their wireless devices, the green is outside coverage, the green and blue is outside coverage when you're in a car or outside your home. The white areas show no coverage, its spotty coverage in this area. The next slide shows what it will be once the tower is in place. The next slide shows where the access road will come in at. There was also an impact study that was done which is a part of the record.

MS. SPEICHER: Asked if Mr. Johnson would state his address for the record.

MR. JOHNSON: Tom Johnson, 4141 Parklake Ave., Suite 200, Raleigh NC 27616. If the Board has any questions I am more than happy to answer, I reserve the right to respond to any questions that the public may have.

CHAIR DONALDSON: Does anyone have any objection to receiving the application and supporting documents? No one had any objections.

MRS. MULLINS: At our last meeting you have another tower that was placed on Wade Stedman Road, this one that you want to do now off of Baywood is not 5 to 10 miles from the other ones, what is the radius for it to pick up?

MR. JOHNSON: This is what it is, this shows (pointing to slide presentation) the propagation map and the coverage 5, 10 miles is a long way when you are trying to provide in building coverage for data service. The actual search room for this site is 6/10 of a mile in radius, so it's small. There is about a ½ mile radius, and we're trying to close this gap (pointed out on map).

MRS. MULLINS: You stated that you could have more servers like Verizon that would be tapped in with this.

MR. JOHNSON: Yes ma'am, in fact your ordinance requires that we have that in terms of additional space. Even though this is built to suit for AT& T now, it's available for space for anybody. Our experience has been given the way that the market is now as soon as we get this built for AT& T the others will come soon.

MR. JOHNSON: Those were all good questions, this is a very technical industry and it has changed over the course of time and it's because of the nature of the consumer and how they are using wireless now.

MRS. MULLINS: Our standpoint as consumers you've got Verizon who might say our phones are better than yours, AT&T will say theirs is better...

MR. JOHNSON: There is competition and that's where the Federal Government comes into it because the Federal Government sold a limited number of licenses to carriers in this area, but it's a free market amongst the carriers.

CHAIR DONALDSON: Are there any more questions?

MR. LOTT: I have no questions.

MR. DYKES: Are you adding to something that is already there?

MR. JOHNSON: This is a new tower in a different location.

MR. DYKES: Is any of this controlled or mandated by the FCC?

MR. JOHNSON: The way the federal law is written, it's written that this Board reviews location, aesthetics and those kinds of things. But as far as where a particular tower is located in the business needs of the carrier that is restricted. That is not really a matter this Board gets into, except to show you why the need is there. But the state law and local law say that local boards only review setbacks, landscaping, aesthetics, and those kinds of things. But the design of the system is up to them.

MR. MARVIN HAMMOND: Mr. Hammond indicated where his property was located on the map (adjacent to west side of subject property). One of my concerns was the rezoning, than I found out that you don't need rezoning, another concern is are there any hazards that I should be aware of for me and my family.

MR. JOHNSON: There are no hazards, the FCC licenses this tower and we had to turn in a certification that it will operate at less than a fraction of 1 percent of the maximum amount of radio frequency that this tower could operate. Also, by law because we are governed by federal law, this board doesn't consider health effects or health impacts of towers but the federal government takes that into consideration. And it is safe.

CHAIR DONALDSON: Ms. Carter do you want to be heard?

MS. CARTER: I stay on Hummingbird

MR. BLAKE ROGERS: I own property at 4389 Huckleberry Road and wanted to know if I could get a copy of the impact statement (Ms. Speicher gave Mr. Rogers a copy of the impact statement).

Public Hearing Closed

MR. LOTT: I offer the motion that we accept this with the same conditions as set out by the Planning & Land Use Committee.

CHAIR DONALDSON: I second the motion. Is there any objection or any discussion? All those in favor say aye.

The motion passed unanimously.

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

C. P98-32-C: REVOCATION OF A SPECIAL USE PERMIT (NEÉ SPECIFIED CONDITIONAL USE PERMIT) OF AN AUTOMOBILE WRECKING YARD/JUNKYARD, IN A M(P) PLANNED INDUSTRIAL DISTRICT FOR AN AREA LOCATED AT 1079 S EASTERN BLVD. PROMISED LAND PARTNERS (OWNER)

CHAIR DONALDSON: Is there anybody here to be heard on this matter other than the petitioner? We need a motion.

MS. SPEICHER: For the record Robert did contact the property owner, and they are aware and understand why we are doing this.

MR. HAIGH: Yes it was an auto repair and junk yard and it's no longer being used for its permitted uses.

Public Hearing Open

Public Hearing Closed

MR. LOTT: I offer the motion that we revoke the permit.

MR. HUMPHREY: I second the motion.

CHAIR DONALDSON: Is there any discussion or are there any questions? All those in favor say aye.

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

10. DISCUSSION

There was none.

11. UPDATE(S)

There was none.

12. ADJOURNMENT

There being no further business at 8:15 pm, Mr. Dykes made a motion to adjourn, seconded by Mrs. Mullins.