

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
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 & Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Walter Clark,
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

DATE: JANUARY 9, 2009

MEMO TO: CUMBERLAND COUNTY BOARD OF ADJUSTMENT

FROM: CUMBERLAND COUNTY PLANNING & INSPECTIONS DEPARTMENT

SUBJECT: TENTATIVE AGENDA

A meeting of the Cumberland County Board of Adjustment will be Thursday, January 15, 2009 at 7:00 p.m. in Hearing Room #3 of the Historic Courthouse at 130 Gillespie Street. The Tentative Agenda is as follows:

1. ROLL CALL
2. APPROVAL OF THE DECEMBER 18, 2008 MINUTES
3. ABSTENTIONS BY BOARD MEMBERS
4. PUBLIC HEARING DEFERRALS – STAFF INITIATED
 - **P09-02-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1102, YARD REGULATION, SUB-SECTION C, TO ALLOW A 10 FOOT SOLID FENCE WHERE 7 FEET IS THE MAXIMUM HEIGHT ALLOWED WHEN ENCLOSING A MINIMUM SIDE YARD FOR A RESIDENTIAL USE IN A R6A RESIDENTIAL DISTRICT ON 0.26+/- ACRES, LOCATED AT 144 HUNTSVILLE CIRCLE, SUBMITTED AND OWNED BY CHARLES M. AND CYNTHIA S. ROMANS.
5. BOARD MEMBER DISCLOSURE
6. POLICY STATEMENTS REGARDING APPEAL PROCESS READ
7. PUBLIC HEARING(S):
 - **P09-01-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 925, SUB-SECTION A, TO ALLOW A SOLID WASTE DISPOSAL FACILITY WITHIN 2,500 FEET OF EXISTING RESIDENTIAL STRUCTURES AND A SPECIAL USE PERMIT IN AN A1 AGRICULTURAL DISTRICT ON A 1.00+/- ACRE PORTION OF A 80.91+/- ACRE TRACT; LOCATED AT THE NORTHEAST QUADRANT OF THE INTERSECTION OF I-295 AND SR 1719 (RICH WALKER ROAD), SUBMITTED BY MICHAEL TATE FOR CUMBERLAND COUNTY SOLID WASTE, OWNED BY SHIRLEY BEARD COOPER.
8. DISCUSSION
9. ADJOURNMENT

Members:
George Quigley, Chair
Oscar L. Davis, III, Vice-Chair
Steve Parsons
Melree Hubbard Tart
Joseph Dykes



Alternates:
Martin J. Locklear
John Swanson
Horace Humphrey
Carrie Tyson-Autry
William Lockett Tally

Cumberland County Board of Adjustment

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

MINUTES
DECEMBER 18, 2008
7:00 P.M.

Members Present

George Quigley, Chair
Steve Parsons
Melree Hubbard Tart
John Swanson
Carrie Tyson-Autry

Members Absent

Oscar Davis, III, Vice-Chair
Joseph Dykes

Staff/Others Present

Patricia Speicher
Rita Perry
Angela Perrier
Grainger Barrett,
County Attorney
Pier Varner

Present/Non-Voting

William Lockett Tally

Chair Quigley 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 a quorum was present. (Vice-Chair Davis & Mr. Dykes excused absences)

2. ADMINISTER OATH OF OFFICE TO NEWLY APPOINTED ALTERNATE BOARD MEMBER

William Lockett Tally – Alternate

3. APPROVAL OF THE NOVEMBER 20, 2008 MINUTES

A motion was made by Mrs. Tart and seconded by Mr. Swanson approving the minutes as written. The motion passed unanimously.

4. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board Members

5. PUBLIC HEARING DEFERRALS

There were no public hearing deferrals.

6. BOARD MEMBER DISCLOSURE

There were no Board Member disclosures

7. POLICY STATEMENTS REGARDING APPEAL PROCESS READ

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

8. BOARD HEARING(S)

Opened Public Hearing

- A. **P08-12-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN R10 RESIDENTIAL DISTRICT ON 5.23+/- ACRES, LOCATED AT 117 W MOUNTAIN DRIVE, SUBMITTED BY DAVID ROBERTSON, OWNED BY WELL OF LIVING WATER OF MINISTRIES, INC.**

Ms. Speicher presented the zoning, land use and photos of the site to the Board.

Ms. Speicher informed the Board of the following modification to Condition #:1:

Prior to application for any permits, the developer must submit five copies of a revised plan to Land Use Codes for Staff approval. **This revision must show an additional three off-street parking spaces. In totality, 60 off-street parking spaces are required. This calculation accounts for the 280 seating capacity of the religious worship facility and two spaces for each unit of the duplex.** Additional parking solely for the day care facility is not required since the applicant has stated that the day care facility will not be in operation during the same hours as the religious worship facility.

CHAIR QUIGLEY: Does the proposed daycare structure exist or is it to be constructed?

MS. SPEICHER: To my knowledge, this structure does not exist.

MR. SWANSON: What are the uses of the existing houses?

MS. SPEICHER: They are residential dwelling.

MR. SWANSON: Is there public water?

MS. SPEICHER: Yes sir, there is public water and sewer.

MR. PARSONS: Does the church own everything that is residential west of the subject property?

MS. SPEICHER: The dwelling units that were noted are actually on the same tract of land.

MR. PARSONS: Did you say 56 or 57 parking spaces?

MS. SPEICHER: The daycare needs seven parking spaces. The total parking spaces provided on this site plan is 57. They are required to have 60 parking spaces.

MR. BARRETT: This is combining the requirement for the church and the requirement for the existing duplex. Staff has taken the position that the daycare use is counter-reciprocal to the church; therefore, does not require additional computation.

MR. PARSONS: If we have a duplex that requires four and a daycare that requires seven, that is eleven.

MR. BARRETT: Staff's position is that the daycare use is reciprocal to the church; they are not added.

MR. PARSONS: If we are saying it is not added, the 57 that already exist will accommodate the seven required for the daycare.

MS. SPEICHER: Yes sir

MR. PARSONS: It will also accommodate the duplex.

MS. SPEICHER: No sir, the duplex has its own. The ordinance not only allows for shared parking, it is required.

MR. PARSONS: If we have 57 available and seven is required, and it is counter-reciprocal with the church, the requirement for additional parking relates to the church not the special use permit. Is that not correct?

MS. SPEICHER: Yes, but as a staff policy, we cannot approve a new use on a piece of property without making sure that the existing use is in compliance.

MR. SWANSON: You said that the church was a nonconforming use. What was the nature of the nonconforming use?

MS. SPEICHER: No, the church is a nonconforming structure not a nonconforming use. The existing religious worship facility is, at its closest point, approximately 5.2 feet from the right-of-way of West Mountain Drive. The setback in the R10 zoning district is 30 feet.

CHAIR QUIGLEY: Are there any other questions?

CHAIR QUIGLEY: Mr. David Robertson please come to the podium. (Swore in Mr. Robertson)

MR. ROBERTSON: We have an existing church and we are going to put the daycare at our facility to teach and accommodate the children that attend our church, in addition to alleviate outsourcing of daycare. There are commercial uses surrounding the subject property.

CHAIR QUIGLEY: Have you read all the special use permit requirements subject to this particular case?

MR. ROBERTSON: Yes sir

MR. PARSONS: Do you envision any problems to get the additional three parking spaces if we approved this use?

MR. ROBERTSON: No sir

MR. PARSONS: Do you have any opinion regarding how this approval may affect the safety in the area of the church and daycare center?

MR. ROBERTSON: The church and daycare are not running simultaneously. The hours of operation of the daycare are Monday – Friday 6:00 am – 6:00 pm. The church services are on Sunday and bible studies on Wednesday at 7:30 pm; therefore, the hours will not conflict with each other.

MR. PARSONS: Is there any impact on traffic?

MR. ROBERTSON: No sir, the traffic from Hwy 301 is relatively heavy and regulated very well.

MR. PARSONS: Do you have an opinion regarding any adverse impact to your neighbors or the harmony of the neighborhood?

MR. ROBERTSON: The closest neighboring properties are owned by our church. The other neighbors are located so far from our facility they will not notice the daycare.

MR. SWANSON: (requested to view the site plan) In regards to the northbound area of the site plan where the parking lot is going onto West Mountain Drive, do the parking spaces go all the way to the street?

MR. ROBERTSON: Yes sir

MR. SWANSON: Are there any entrance or exiting concerns?

MR. ROBERTSON: No sir

MR. SWANSON: (Requested to view the slide of the entrance) What is the width between the brick homes?

MR. ROBINSON: Approximately 50 feet

MR. SWANSON: Are there two metal gates, one on each brick column?

MR. ROBINSON: Yes sir

MS. SPEICHER: The distance between the brick homes scales at approximately 25 feet.

MR. SWANSON: Will the children be off loaded in proximity to West Mountain?

MR. ROBINSON: No

MR. SWANSON: The hours are 6:00 am -6:00 pm, what does that mean in terms of receiving the children.

MR. ROBERTSON: The facility will open at approximately 6:00 am and close at approximately 6:00 pm, meaning children can be dropped off at 6:00 am and must be picked up by 6:00 pm.

MR. SWANSON: Is there adequate light?

MR. ROBINSON: Yes

Chair Quigley asked Mrs. Matthews if she wished to speak and she declined.

Public Hearing Closed

(Mr. Swanson requested to view Slide #2.)

MS. SPEICHER: Staff is requesting approval for Staff to review and approve a revised site plan for the three additional parking spaces.

MRS. TART: Is the church five feet from West Mountain Drive?

MS. SPEICHER: Approximately

MRS. TART: Are the columns in line with the front of the building? How far are they from the right-of-way?

MS. SPEICHER: On the site plan, they are on the right-of-way/ property line.

Mr. Parsons made a motion, seconded by Mrs. Tyson-Autry, in regards to case P08-12-C, a request for a Special Use Permit to allow a day care facility at 117 W. Mountain Drive, submitted by David Robertson owner by Well of Living Water of Ministries, Inc., the following case facts were determined:

1. The use will not materially endanger the public health or safety if located in accordance to the plan submitted and recommended as revised in accordance with the staff's permit and site related conditions. This facility will not endanger the public health or safety.
2. The use meets all required conditions [see Ordinance Related Conditions in case file] and specifications.
3. The use will maintain or enhance the value of adjoining or abutting properties.
4. The location and character of the use, if developed according to the plan, will be in harmony with the area in which it is to be located and is in conformity with Cumberland County's most recent Land Use Plan.

Having heard all the evidence and argument presented at the hearing, the Board finds that the application is complete, and complies with all of the applicable requirements of the County Zoning Ordinance for the development proposed, and that therefore the application to make

use of the property described within this case for the purpose indicated is hereby approved subject to all applicable provisions of the Zoning Ordinance and the following conditions:

1. The applicant shall complete the development strictly in accordance with the application and revised site plan submitted to and approved by Staff, which meets the pre-permit, permit, and site-related conditions, a copy of which is filed in the Cumberland County Planning & Inspections Department.
2. The applicant/property owner is the responsible party to ensure compliance with all other related Federal, State and local regulations including but not limited to the NC Building Code and NC Day Care Regulations hours of operation 6:00 am – 6:00 pm.
3. All the [Ordinance Related] conditions presented in the proposed draft Special Use Permit be complied with.

Therefore, based on the foregoing, a motion was made by Mr. Parsons seconded by Mrs. Tyson-Autry, ordering that the application for Special Use Permit be granted to allow a day care facility in an R10 Residential District on 5.23 +/- acres, located at 117 W. Mountain Drive, submitted by David Robertson owner by Well of Living Water of Ministries, Inc.

Quigley:	Yes
Parsons:	Yes
Tart:	Yes
Tyson-Autry:	Yes
Swanson:	Yes

The motion was approved unanimously.

Opened Public Hearing

- B. **P08-13-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A 199 FOOT TOWER IN AN A1 AGRICULTURAL DISTRICT ON A 3.52+/- ACRE PORTION OF A 166+/- ACRE TRACT; LOCATED ON THE SOUTH SIDE OF NC HWY 53 (CEDAR CREEK ROAD); SUBMITTED BY WILLIAM HOWARD, ALLTEL COMMUNICATION, INC.; OWNED BY EUNICE LEE BULLARD FAMILY TRUST, C/O DORIS B. AUTRY, CO-TRUSTEE.**

Ms. Speicher presented the zoning, land use and photos of the site to the Board. All the requirements regarding Section 926, Towers of the County Zoning Ordinance were complied with either on the application, through attachment with a letter or on the site plans, with the exception of whether the use would not be detrimental or cause injury to the adjacent properties. The Board initially started to hear this case in January 2008. The property owner had requested a variance and did not want to submit the special use request. The variance request was withdrawn and all the setbacks are being met. Regarding the landscape area on the tower site plan, they are planning to use existing vegetation. The Ordinance requires evergreen trees, which is addressed in Condition #16.

CHAIR QUIGLEY: Right now, they do not have evergreen.

MS. SPEICHER: It does not appear so to me.

MR. SWANSON: Are all the requirements being met?

MS. SPEICHER: Yes sir, the requirements either are met or are conditioned to be met.

MR. SWANSON: Does this include the requirement on Page 93 Paragraph M – Certification as to impact on values?

MS. SPEICHER: That requirement is addressed under Item “F” under “Note” on the site profile.

MR. BARRETT: In their submittal, there are a couple of references to a removal bond. Does the Ordinance require a bond?

MS. SPEICHER: No sir

MS. TYSON-AUTRY: Have all FCC regulations been met?

MS. SPEICHER: Yes and included in the file is the FAA’s Determination No Hazard, Form 7460-1.

MR. BARRETT: Both the FCC and FAA requirements have been met. Part of the record you have is the engineer’s submittal where he notes and certifies that all Federal Communications Commission’s frequency and related type emissions requirements and regulations have been obliged.

MR. PARSONS: Do the slides demonstrate that the site complies with the 199 foot set back?

MS. SPEICHER: Yes

MR. PARSONS: This is showing that the tower could actually be placed anywhere on the subject property, inside the dashed line.

MS. SPEICHER: The tower must be located exactly as shown on the site plan.

CHAIR QUIGLEY: Could the tower be placed anywhere within the dotted line area on that tract, if requested?

MS. SPEICHER: Yes

MR. PARSONS: They are in full compliance with setbacks.

MS. SPEICHER: Yes sir

CHAIR QUIGLEY: Mr. William Howard please come to the podium. (Swore in Mr. Howard)

Mr. Howard presented an informational packet to the Board – **Exhibit A**

MR. HOWARD: In general, we are trying to establish a gapping coverage that Alltel has along I-95 for a distance of approximately 2.5 miles, along Cedar Creek Road and Hwy 210-53 for a distance of approximately 4.5 miles. As expressed in the Ordinance, co-location is

encouraged. On each of Alltel's existing facilities in the area, we are co-located on existing communication towers, meaning we have our antennas on a pole location lease with structures in the area that are owned by others. In this situation, we do not have this type of pole location opportunity. (Explained the illustrations and templates in Exhibit A) The "no coverage areas" underscore what I stated regarding the areas along I-95 and Cedar Creek Road where because of the distance between the antennas, increasing development and traffic demand, we cannot project the needed coverage. Page 2 of Exhibit A shows the proposed area coverage with this special use permit request. This would provide in building coverage along a good portion of Cedar Creek Road enabling us to make successful signal hand off along I-95, between the Stedman site and Lakedale site, in addition to extending coverage along Cedar Creek Road for a distance of approximately six miles. We did look at other towers on I-95. The location of those towers, as shown on Page 3 and 4 of Exhibit A, will only duplicate what we already have from our Stedman facility, provide minimum improvements along Cedar Creek Road and were unable to make the signal connection along I-95 with our Lakedale site. Section 927 of the County Ordinance requires that the towers be located a minimum of 1500 feet away. This tower is located more than a mile away. The landowners, Autry trustee, wanted to minimize the amount of land this would require because they have plans. This is a combination of what was needed to meet the Zoning Ordinance requirements. The landowners understood that the variance request being granted was highly improbable. We met all requirements of Section 927 of the Ordinance. To go further into the parcel would have caused problems with the landowners and their plans and from a propagations standpoint, it would have compromised what we are able to achieve along those major traffic corridors. The FAA determination is the last Page of Exhibit A. With the dimension and location of the tower, the FAA has determined that there is no impact on navigation. This will not be a light tower and will not have any markings. The actual visual impact from Cedar Creek Road and adjoining property will be minimal considering how far back we are located on the parcel and the existing mature vegetation. This tower is designed not only to accommodate the needs of Alltel Communications, it has been engineered, both on the tower and inside the fenced compound, to be able to co-locate an additional three carriers; therefore, there will be a total of four carriers that will be able to be accommodated. We have provided the commitment affidavit stating that Alltel will make this tower and ground space available to other carriers for co-location as they move into this area. Alltel has master lease agreements with most of the nationwide carriers. We are in environmental compliance as well.

CHAIR QUIGLEY: Mr. Graham Herring please come to the podium. (Swore in Mr. Herring) Graham Herring sworn in

Mr. Herring presented an Impact Investigation Report to the Board – **Exhibit B**

MR. GRAHAM: Alltel has commissioned me to assess the subject property and evaluate its proximity to the existing development and zoning. I am a real estate broker.

MR. BARRETT: A summary of your qualifications and experience is included in Exhibit B.

MR. HERRING: Yes

MR. HERRING: It is my opinion, if constructed as planned and applied for if allowed, this will create no adverse influence or diminution of value on surrounding properties and complies with the County Ordinance. I find that it is compatible with the existing mix of

uses in the general area. There is sufficient setback and vegetation that would block sight of the compound from the public.

MR. BARRETT: The report states your conclusion was based on personal inspections of the site and the surrounding area. Did you also review public records?

MR. HERRING: I have been in the public records. I have appeared before this Board many times as well as the City of Fayetteville. Additional documentation, other than the public record and my assessment, is an Impact Statement Appraisal that this Board commissioned several years ago, which stated as a general conclusion, that cellular, radio and television transmissions and water tower facilities as well as electrical transmission towers generally do not create adverse influence or diminution of various type property.

CHAIR QUIGLEY: The actual requirement is to have some type of evergreen plant in proximity to the 10-foot fence surrounding the facility to block the view. Is it is highly unlikely that this facility would be notice from Cedar Creek Road.

MR. HERRING: That is my opinion.

CHAIR QUIGLEY: The cituous trees can be removed when the property owners decide to use the property for other purposes. Is there a provision to put the evergreen plants so they cannot be removed and would provide the appropriate screen?

MR. BARRETT: A condition requiring that has been added to the requirements.

MR. SWANSON: There are typically four co-users for this tower height?

MR. HOWARD: Yes

MR. SWANSON: With four users accessing the tower, would this create an offensive environment.

MR. HOWARD: No, if you look at our submitted site plan you will see in our lease area with the landowners, we have already reserved inside the fenced compound, the dimensions that we are proposing. They are already large enough to accommodate Alltel plus three future co-locator users.

MR. BARRETT: How often will the tenants visit site?

MR. HOWARD: After construction completion, the tenants would visit the site, at most, once a month for monitoring and maintenance.

MR. BARRETT: What part of that activity would be noticeable to somebody more than one or two hundred feet away?

MR. HOWARD: A truck entering and exiting on Cedar Creek Road

MR. PARSONS: What impact, if any, will the potential Verizon/Alltel merger have on this facility?

MR. HOWARD: I do not have any insight as to where that matter is right now. If the merger goes forward and closes, the intention is that it will be one umbrella company operating two networks. Although Alltel customers will have a new name on their bill, they are not going to have to change their phones or spectrum. That merger is proposed and not finalized. It is not going to change the need for this site.

MR. PARSONS: Right now, there is not a Verizon facility and in reality this might benefit both in that Alltel would have a presence, which Verizon could utilize.

MR. BARRETT: Do Verizon and Alltel use the same technical format?

MR. HOWARD: They use different license frequencies from the FCC, but yes.

MR. PARSONS: Mr. Herring, in your report, you mentioned that you consulted with local appraisers. Which local appraisers did you consult with in our area?

MR. HERRING: Keith and the document from Swain Hamlet & Associates, which this Board commissioned several years ago

MR. PARSONS: Are you familiar with the Autry's future use of the surrounding property?

MR. HOWARD: It was conveyed to us that there are no present plans.

MR. BARRETT: The Board decision cannot be made on the future uses or on hearsay.

MR. HOWARD: If there were anything about the tower arrangement that cause the trustees or the members of the trust any problems, they would have been addressed when the lease was executed.

MR. PARSONS: From an evaluation standpoint, there could be an impact on future uses; however, the tower will be fact.

MR. HERRING: Developers are allowing and planning into their developments space for monopoles and towers.

MR. SWANSON: Your disclaimer states, "the document is not to be reproduced in whole or in part, disseminated to the public", but this is a public hearing. I am a little confused by this disclaimer, because you are offering this Impact Investigation as an exhibit for consideration.

MR. HERRING: For the record, the point being that the public can come to the record and examine the record, but typically, it is not given out from future use or given in the extension of the validity for the purpose of this specific use.

MR. SWANSON: The intended reason is for the Board to consider your impact on value for potential construction of the tower.

MR. HERRING: Yes

MR. SWANSON: The document entitled Impact Investigation has an Alltel logo on it, you are an independent broker and are not on the staff of Alltel?

MR. HERRING: I do not work for Alltel.

MR. SWANSON: Why is no lighting provided in a military community and with its close proximity to a regional airport?

MR. HOWARD: We are more than five miles from military (Simmons, Pope and Fort Bragg). As part of the FAA's analysis, they have contacted all the military authority. I have attempted to contact them as well. The lateral distance from all the public, private and military airports is such that no matter what the take off, visual or navigation controls, nobody is going to be at 200 or 300 feet above ground level when in this area of Cumberland County. This is why the FAA has determined, that there is no impact on any air navigation at this location.

MR. SWANSON: Does this include Federal and State law enforcement agencies?

MR. HOWARD: Yes

MR. SWANSON: In the future, if you were approached with a request for lighting based on the needs of law enforcement, military or civilian aviation what would be the reaction?

MR. HOWARD: I have been working in this industry for eight years and have never heard of a situation where the FAA has come back and said air navigation has now changed and we want you to light the tower. If the federal regulators require that we light the tower we would comply.

MR. HOWARD: One condition mentioned regarding the NCDOT driveway permit. We have been proactive on that situation working with NCDOT since March. The application is pending. We will provide it as part of our building application. With respect to the 25-foot buffer and evergreen, we have a 25-foot buffer around the fenced compound portion we also have under our control 3.5 acres. What is in the lease area is not going to be taken down. We will go with the Board preferences on what we do with the 25-foot buffer. I would point out; because of the lease area, there are multiple layers of buffering and screening. We request that the Board consider this fact. This is no material endangerment.

Public Hearing Closed

Mr. Swanson made a motion, seconded by Mr. Parsons, in regards to case P08-13-C, a request for a Special Use Permit to allow a 199 foot tower located on the south side of NC Hwy 53 (Cedar Creek Road), submitted by William Howard, Alltel Communication, Inc. owner by Eunice Lee Bullard Family Trust, c/o Doris B. Autry, Co-Trustee, the following case facts were determined:

1. The use will not materially endanger the public health or safety if located in accordance to the plan submitted and recommended as revised in accordance with the staff's permit and site related conditions. This facility will not endanger the public health or safety.
2. The use meets all required [Ordinance Related] conditions and specifications if it is constructed it in accordance with the site plan.

3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity. The value would not be impact per Mr. Herring's report.

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

Having heard all the evidence and argument presented at the hearing, the Board finds that the application is complete, and complies with all of the applicable requirements of the County Zoning Ordinance for the development proposed, and that therefore the application to make use of the property described within this case for the purpose indicated is hereby approved subject to all applicable provisions of the Zoning Ordinance and the following conditions:

1. The applicant shall complete the development strictly in accordance with the application and site plan submitted to and approved by this Board a copy of which is filed in the Cumberland County Planning & Inspections Department.
2. The applicant/property owner is the responsible party to ensure compliance with all other related Federal, State and local regulations including but not limited to the NC Building Code.
3. All the [Ordinance Related] conditions presented in the proposed draft Special Use Permit be complied with.

Therefore, based on the foregoing, a motion was made by Mr. Swanson seconded by Mr. Parsons, ordering that the application for a Special Use Permit be granted to allow a 199 foot tower in an A1 Agricultural District on a 3.52+/- acre portion of a 166+/- acre tract; located on the south side of Hwy 53 (Cedar Creek Road); submitted by William Howard, Alltel Communication, Inc.; owned by Eunice Lee Bullard Family Trust, c/o Doris B. Autry, Co-Trustee.

Quigley: Yes

Parsons: Yes

Tart: Yes

Tyson-Autry: Yes

Swanson: Yes

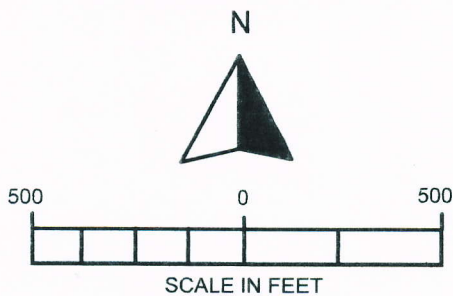
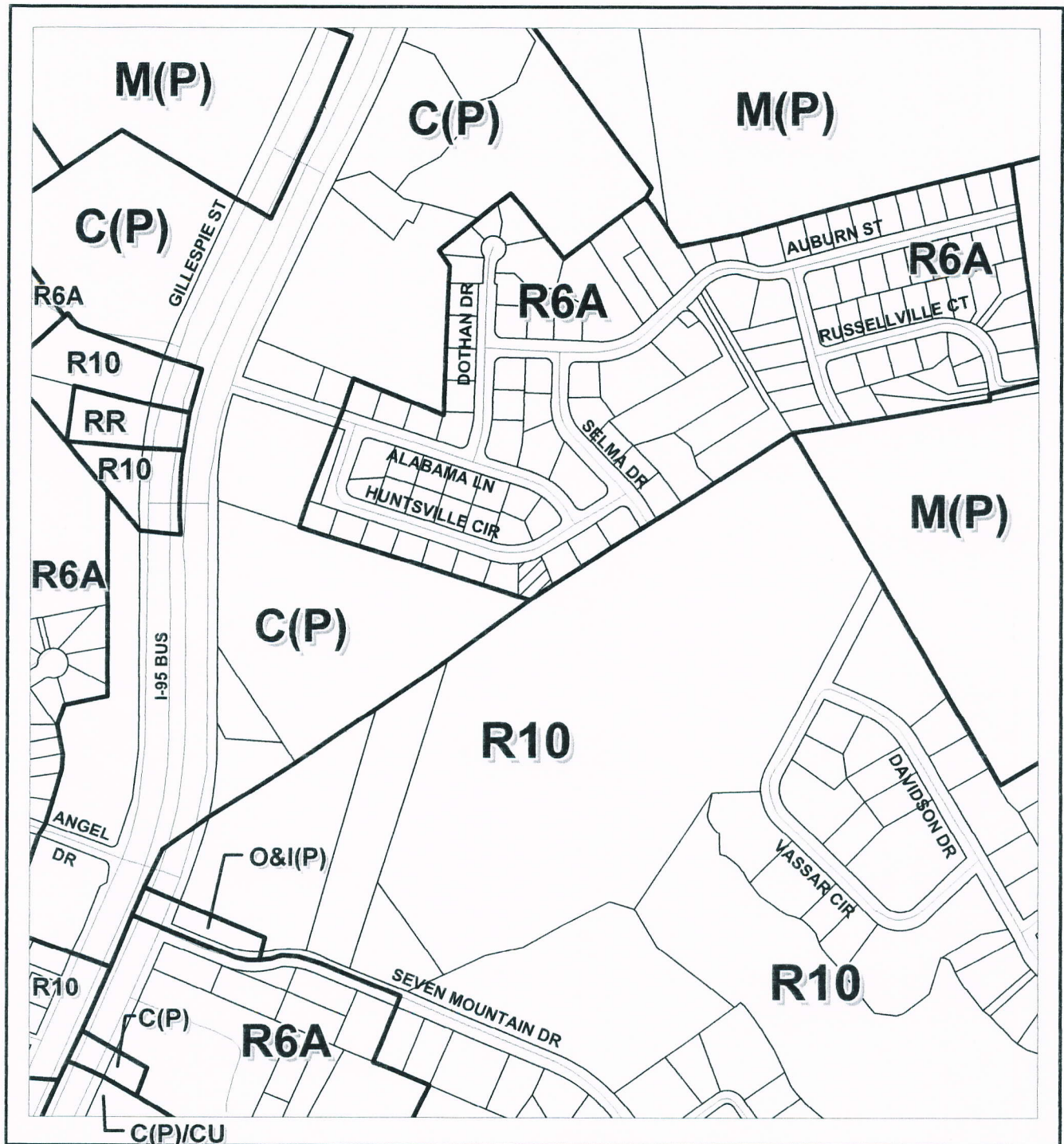
The motion was approved unanimously.

8. DISCUSSION

There were no other items presented for discussion.

9. ADJOURNMENT

There being no further business, the meeting adjourned at 8:25 p.m.



BOARD OF ADJUSTMENT VARIANCE

ACREAGE: 0.26 AC.+/-

HEARING NO: P09-02-C

ORDINANCE: COUNTY

HEARING DATE

ACTION

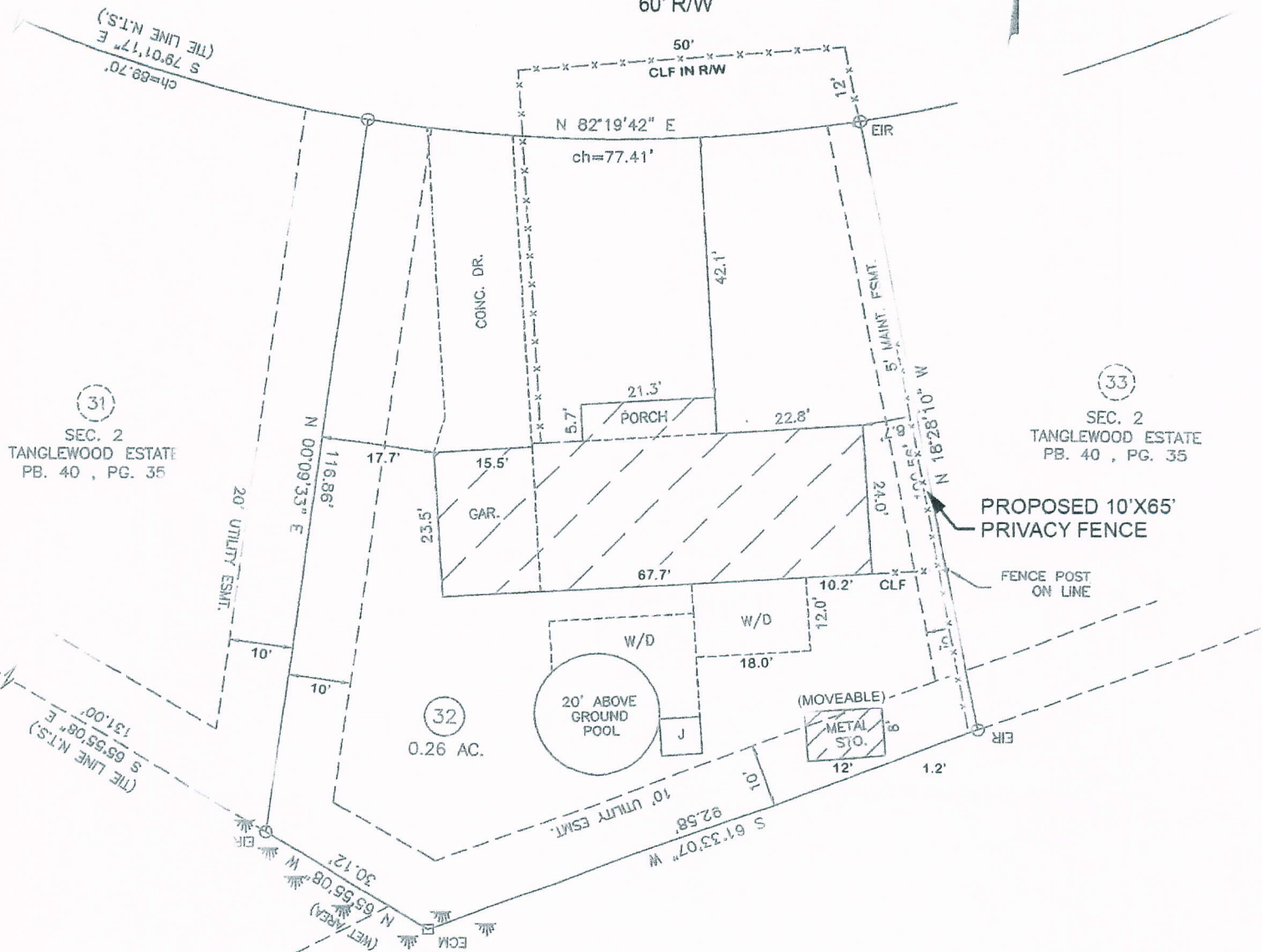
GOVERNING BOARD

PIN: 0425-91-9047

AF

HUNTSVILLE CIRCLE

60' R/W



BOARD OF ADJUSTMENT VARIANCE

**REQUEST: ALLOW A 10 FOOT SOLID FENCE WHERE 7 FEET IS THE
MAXIMUM HEIGHT ALLOWED WHEN ENCLOSING A MINIMUM SIDE YARD**

CASE: P09-02-C ACREAGE: 0.26 AC +/-

ZONED: R6A SCALE: NTS

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

P09-01-C
SITE PROFILE

P09-01-C: CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 925, SUB-SECTION A, TO ALLOW A SOLID WASTE DISPOSAL FACILITY WITHIN 2,500 FEET OF EXISTING RESIDENTIAL STRUCTURES AND A SPECIAL USE PERMIT IN AN A1 AGRICULTURAL DISTRICT ON A 1.00+/- ACRE PORTION OF A 80.91+/- ACRE TRACT; LOCATED AT THE NORTHEAST QUADRANT OF THE INTERSECTION OF I-295 AND SR 1719 (RICH WALKER ROAD), SUBMITTED BY MICHAEL TATE FOR CUMBERLAND COUNTY SOLID WASTE, OWNED BY SHIRLEY BEARD COOPER.

Site Information:

Frontage & Location: 450'+/- on SR 1719 (Rich Walker Road)

Depth: 1350'+/-

Jurisdiction: Cumberland County

Adjacent Property: Yes, west of Rich Walker Road and south of I-295

Current Use: Vacant tract; previously a quarry (parent)

Initial Zoning: A1- October 24, 1990 (Area 18)

Nonconformities: None

Zoning Violation(s): None

Surrounding Zoning: North: A1 & RR; East & South: A1; West: A1/CU (quarry) & A1

Surrounding Land Use: Quarry, farmland, woodland and single-family residential

Wade Area Detailed Land Use Plan: One acre residential lots

Special Flood Hazard Area (SFHA): None

Water/Sewer Availability: ESD/Septic

Soil Limitations: Yes, hydric soil: Ro-Roanoke and wahee loams/WmB-Wickham fine sandy loam

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

Watershed Area: Yes

Municipal Influence Area: Eastover

Average Daily Traffic Count (2006): 7,800 on I-295; 100 on SR 1719 (Rich Walker Road)

Highway Plan: No impact on the current Highway Plan or Transportation Improvement Program

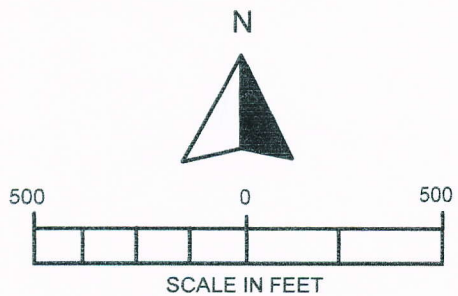
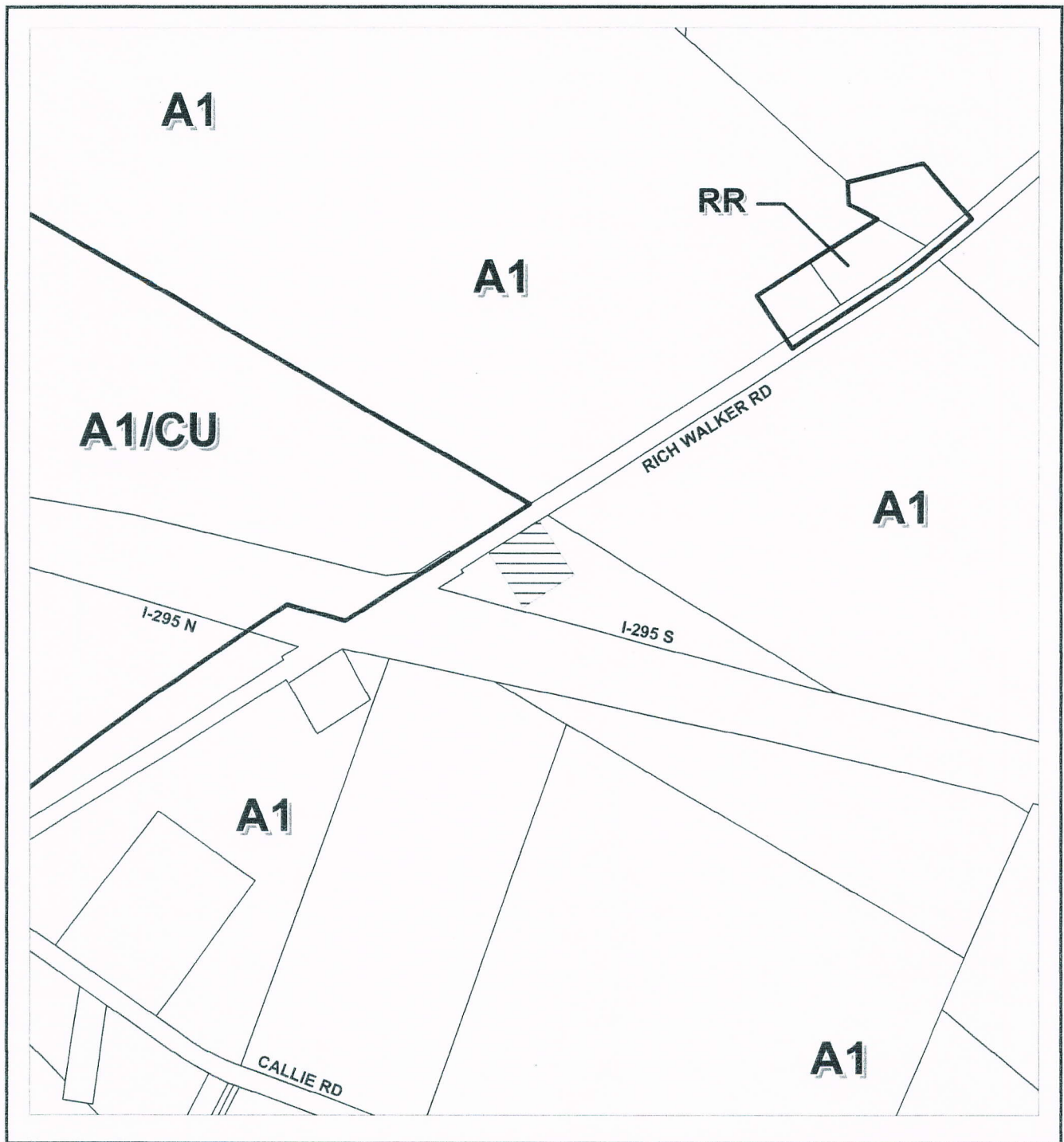
Ordinance Reference: County Zoning Ordinance, Section 925, Solid Waste Disposal Facility

Note:

1. Contents of the application:
 - a. Hours of operation: Sunday, Monday & Thursday (closed), Tuesday (7:00am-3:00pm), Wednesday (11:00am-7:00pm), Friday (11:00am-7:00pm), Saturday (8:00am-4:00pm)
 - b. Employees: One employee who will be opening and closing the facility (per applicant on phone conversation)
 - c. Solid Waste Disposal facility will have one portable toilet on site (per applicant on phone conversation)

First Class Mailed Notice Certification

A certified copy of the tax record owner(s) 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 & SPECIAL USE PERMIT

ACREAGE: 1.00 AC.+/-

HEARING NO: P09-01-C

ORDINANCE: COUNTY

HEARING DATE

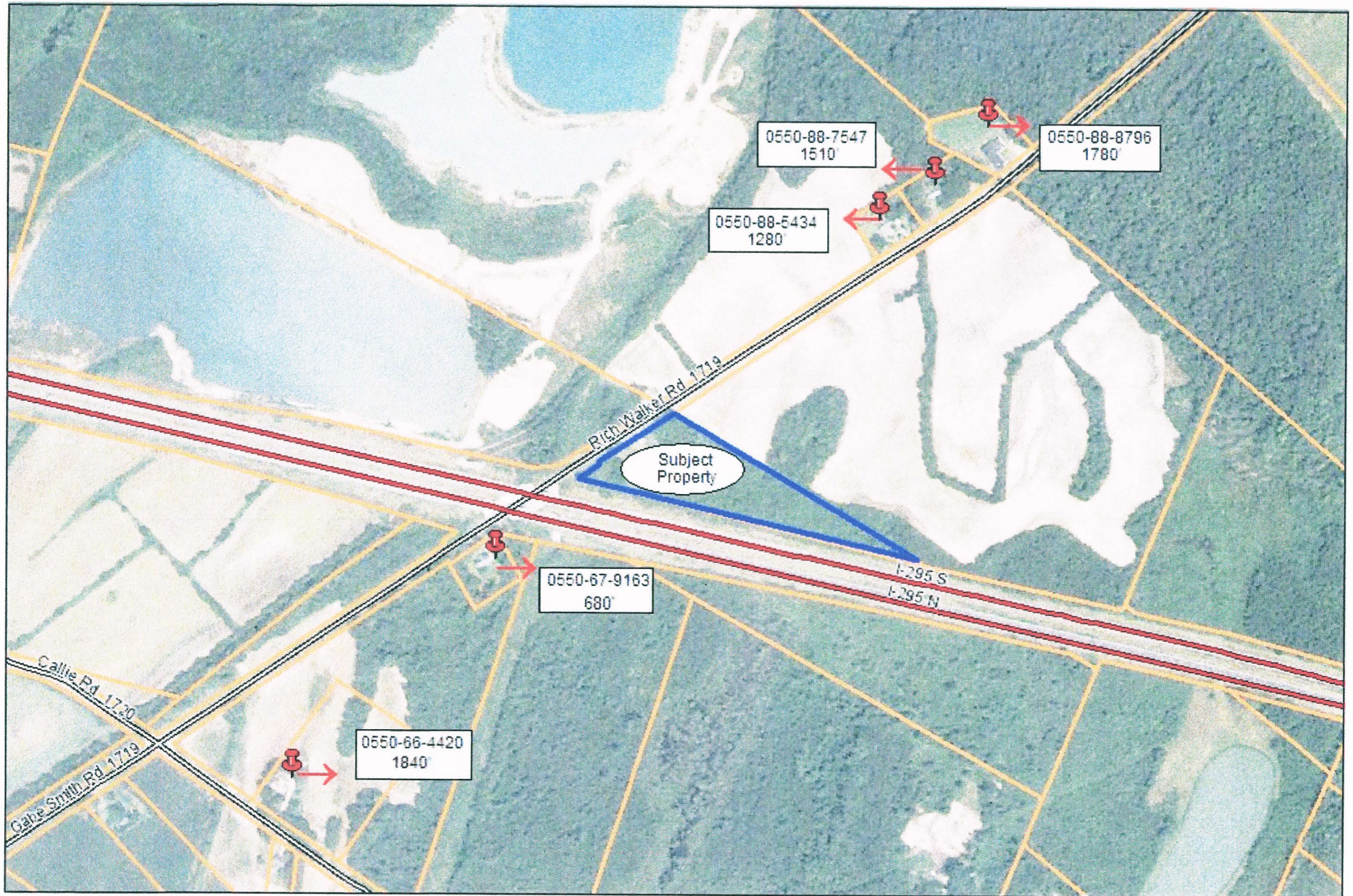
ACTION

GOVERNING BOARD

PORT. OF PIN: 0550-67-4951

AF

EXISTING RESIDENTIAL STRUCTURES WITHIN 2500 FEET



Special Use Permit – Board of Adjustment

Ordinance Related Conditions

Pre-Permit Related:

1. If this tract is to be divided out from the parent tract, a revised site plan must be submitted for staff review and approval. The revised plan must satisfy all provisions of the County ordinances, to include compliance with the setbacks for the current zoning district. Officer.
2. If this tract is to be divided out from the parent tract, the division must be submitted for staff review and approval of the subdivision. (Note: Additional plat-related conditions will apply.)

Watershed-Related:

3. An application for watershed approval must be submitted to the Watershed Review Officer (WRO) and plans must be approved by the WRO prior to final plat approval and/or prior to application for any building/zoning permits. (Note: This approval may require additional conditions restricting the development of this property.) A copy of the WRO's approval of this plat/plan must be submitted to Code Enforcement at the time of application for any permits.
4. Prior to application for the building final inspection, a Watershed Occupancy Permit must be issued for this tract.

Permit-Related:

5. 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.
6. This application indicates there will be no need for sewer/septic; however, if this position changes and public sewer is available at that point in time, connection to the public system will be mandatory. If not available, 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. If/When applicable, 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)
7. If/When applicable, connection to public water is required, the Eastover Sanitary District must approve water plans prior to application for any permits. A copy of the Eastover Sanitary District approval must be provided to Code Enforcement at the time of application for building/zoning permits. (Section 2306 A.1, Public Water and Sewer Systems County Subdivision Ordinance)
8. New development that will disturb one acre or more of land or is part of a larger plan that will disturb at least an 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.
9. For any new development disturbing one acre or more 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.
10. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.

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11. Landscaping must be provided in accordance with Section 1102 N, Landscaping, County Zoning Ordinance and/as shown on the site plan. The following are the minimum standards for the required landscaping of this site:
 - a. Four large shade trees or eight small ornamental trees within the front yard setback area; and
 - b. Two shrubs are required in the building yard area.

In addition:

- a. Required plant materials shall be maintained by the property owner, including replacing dead or unhealthy trees and shrubs; and
 - b. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.
12. The building final inspection cannot be accomplished until a Code Enforcement Officer inspects the site and certifies that the site is developed in accordance with the approved plans.

Site-Related:

13. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Zoning Ordinances for the A1 zoning district must be complied with, as applicable.
14. This conditional approval is not approval of the permit for the freestanding signs. 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. 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)
16. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306 C, County Subdivision Ordinance)
17. 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.
18. 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.
19. All dumpster, garbage, and utility areas shall be located on concrete pads and screened on a minimum of three sides.
20. All required off-street parking spaces shall be a minimum of 9' x 20'; a minimum of one space for each vehicle used directly in conduct of the use, plus two additional spaces for each three employees on the largest shift off-street parking spaces are required for this development.
21. All materials are to be stored within the appropriate waste containers and all such containers are to be located on a solid impervious surface such as concrete pads.
22. The site must be maintained to prevent odors, rodents and any other nuisances.
23. 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.
24. All notes and calculations as shown on the site plan are to be considered as a part of this conditional approval.

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25. Noise levels shall not exceed 60 dB(A) between the hours of 10:00 pm and 7:00 am. In any event, the noise level, regardless of the time of day, shall not become a nuisance to neighboring properties and strict compliance with the County's Noise Ordinance is required.
26. All environmental health rules and regulations, including Federal and State laws, are required to be complied with.

Advisories:

27. The applicant is advised to consult an expert on wetlands before proceeding with any development.
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.

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):

Watershed Review Officer:	Jeff Barnhill	678-7765
Subdivision/Site Plan/Plat	Ed Byrne	678-7609
Code Enforcement (Permits):	Ken Sykes	321-6654
County Health Department:	Danny Soles	433-3685
Ground Water Issues:	Matt Rooney	678-7625
Eastover Sanitary District:	Morgan Johnson	323-3973
Town of Eastover:	Matt Rooney (Staff Rep)	678-7625
Town of Eastover	Jane Faircloth (Town Clerk)	323-0707
County Public Utilities:	Tom Cooney	678-7682
Corp of Engineers (wetlands):	Ronnie Smith	(910) 251-4829
NCDENR (E&S):	Sally McKinney	433-3300
E911 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

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: VARIANCE

OWNER: _____

ADDRESS: _____ ZIP CODE: _____

TELEPHONE: HOME _____ WORK _____

AGENT: _____

ADDRESS: _____

TELEPHONE: HOME _____ WORK _____

APPLICATION FOR A VARIANCE
As required by the Zoning Ordinance or Code

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

B. Acreage: _____ Frontage: _____ Depth: _____

C. Water Provider: _____

D. Septage Provider: _____

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

F. Existing and/or proposed use of property: _____

G. Section and provision of the Zoning Ordinance or Code from which a Variance is requested: SECTION 925 SOLID WASTE DISPOSAL FACILITY
SECTION A

H. Nature and extent of hardship involved in strict application of the Zoning Ordinance or Code: SECTION A

EVEN THOUGH THIS USE IS CLOSER TO THE
RESIDENTIAL STRUCTURES THAN WHAT'S PERMITTED
BY THE ORDINANCE, THIS USE IS A PUBLIC USE
THAT IS INTENDED TO SERVE ALL RESIDENTIAL
USES IN THE GENERAL AREA. ALSO THIS SECTION
IS INTENDED TO PROTECT NEIGHBORING RESIDENTIAL
PROPERTIES, HOWEVER, THE EXISTING RESIDENTIAL
AREA TO THE NORTH IS SEPERATED FROM THE

SUBJECT PROPERTY BY A 155 PLUS ACRE TRACT
THAT HAS BEEN QUARRIED AND THE PROPERTIES
AND RESIDENCE TO THE SOUTH ARE SEPERATED
BY A 240 FOOT[±] RIGHT-OF-WAY (I-295).

Special Use Permit
VARIANCE

BOARD OF ADJUSTMENT

LOCATION OF PROPERTY: NE QUADRANT OF INTERSECTION OF I-295 & SR17

OWNER: SHIRLEY BEARD COOPER

ADDRESS: 2699 RIVER RD., FAY., NC

ZIP CODE: 28312

TELEPHONE: HOME 483-1669

WORK 624-2830

AGENT: MICHAEL TATE, PLS

ADDRESS: 3521 CLINTON RD., FAY., NC 28312

TELEPHONE: HOME

WORK 910-483-7387

fax 910-483-6837

gsnively@nc.rr.com

APPLICATION FOR A SPECIFIED/SPECIAL/CONDITIONAL USE PERMIT
As required by the Zoning Ordinance or Code

- A. Parcel Identification Number (PIN #) of subject property: 0550-67-4951
(also known as Tax ID Number or Property Tax ID)
- B. Acreage: 1 AC. Frontage: 200' Depth: 217.80'
- C. Water Provider: N/A
- D. Septage Provider: N/A
- E. Deed Book 2441, Page(s) 172, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
- F. Existing use of property: FOREST VACANT

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.)

CUMBERLAND COUNTY SOLID WASTE MANAGEMENT AREA
(DUMPSTER SITE - PUBLIC)

1. HOURS OF OPERATION

SUN - MON (CLOSED), TU (7AM-3PM) WED (11AM-7PM)

THUR (CLOSED) FRI (11AM-7PM) SAT (8AM-4PM)

2. NO. OF EMPLOYEES - ONE

3. SIGNAGE - ONE 4'x8'

4. PARKING - 2 SPA.

5. LANDSCAPING - 8 ORNAMENTAL TREES

STATEMENT OF ACKNOWLEDGEMENT

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 arguments 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 acknowledgement 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) Shirley Beard Cooper

PRINTED NAME OF OWNER(S) SHIRLEY BEARD COOPER

DATE Nov. 26 2008

Only expressly authorized agents or assigns may sign this acknowledgement in lieu of the tax record owners' signatures.