



## Board of Adjustment

MINUTES  
20 June 2024  
6:00 PM

### Members Present

Marva Lucas-Moore-Acting Chair  
Vickie Mullins  
Donald Brooks-Alt  
Gary Silverman- Alt

### Absent Members

Gregory Parks-Chair  
Linda Amos, Vice-Chair  
Robert Davis  
Breezy Orozco-Alt  
Jovan Bowser-Alt  
Kenneth Turner-Alt

### Staff/Others Present

David Moon  
Timothy Doersam  
Amanda Ozanich  
Robert Hasty (Asst County Attorney)

Vickie Mullins motioned to appoint Marva Lucas-Moore as acting Chair. Donald Brooks second the motion. All are in favor.

Chair Lucas-Moore called the meeting to order at 6:01 p.m. in Public Hearing Room #3 of the Historic Courthouse.

#### 1. ROLL CALL

Chair Lucas-Moore stated the procedures and then called roll. Mr. Moon made note of the absence of Gregory Parks, Linda Amos, Breezy Orozco, Jovan Bowser, and Kenneth Turner. Mr. Moon stated we do have a quorum.

#### 2. INVOCATION

Vickie Mullins stated the invocation.

#### PLEDGE OF ALLEGIANCE

Recited by all.

#### 3. SWEAR IN OF STAFF

Chair Lucas-Moore swore in staff David Moon and Timothy Doersam.

#### 4. ADJUSTMENTS TO THE AGENDA

There were none.

#### 5. APPROVAL OF THE MAY 16, 2024, MINUTES

Vickie Mullins made a motion to approve the minutes from May 16, 2024, meeting as written, seconded by Donald Brooks. Approved by All.

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS:

Mr. Moon read the policy statement.

9. PUBLIC HEARING(S)

Chair Lucas-Moore read:

- A. **BOA-2024-0008:** Consideration of a Special Use Permit to allow a telecommunication tower in an A1 Agricultural District on a portion of a 14.91 +/- acres, located at 5226 Austin West Road; submitted by Sydney Poe (Agent) on behalf of Billie Jo and Franklin Monroe (Owners).

**David Moon:** I am David Moon, deputy director of planning and inspections, case of BOA 2024008 is located in the southeast corner of the county along Austin West Road. The applicant is Billy Joe and Franklin Monroe, the agent at Sydney Poe's request is for a special use permit for a communication tower on approximately 1.43 acres.

So, the board understands the procedures for this evening, and we have some alternate sitting on the dyes. I will go through the procedures and detail following the typical process. A tower is any fabricated structure device including, but not limited to a relay station for commercial operations such as cable television communication, radio television stations and their operation of such uses. Tower shall not include structures that support antennae or some devices that support or facilitate hand radio or some band communications. Based on the county zoning ordinance under its use matrix within Section 403, a communication tower is located within A1 zoning district requires a special use permit approved by the Board of Adjustment.

A special use is those uses which a permit is required for the proposed activities, which are essentially compatible with other uses or activities, permanent and zoning district such as present unique challenges or possess unique characteristic or qualities that require conferences review at a public hearing by the County Board of Adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions.

The board will consider 4 criteria in determining whether the special use request, in this case the communication tower, is compliant with the county's zoning code.

The special use criteria include that the use will not materially endanger the public health or safety if located according to the plan submitted and proposed. Two, the use meets all required conditions and specifications. Three, the use will maintain or enhance the value of adjoining or abutting properties. Or the use is a public necessity. Four, the location character use of developed according to the plan as submitted and recommended will be in harmony with the area in which is located and is in general conformity with the Cumberland County's most recent land use plan, either conferences or detailed area plan. The burden of proof is on the applicant to demonstrate compliance with these 4 criteria. The applicant has provided a written response within the staff report under Exhibit J. Providing the arguments for compliance with these four criteria and the applicant is present this evening also to further support their reason for compliance with these criteria.

Ultimately, the Board of Adjustment has the authority to approve, deny, or approve with conditions in granting the special use permit. If necessary, the board can establish reasonable terms and conditions. These conditions in terms are set forth in the staff report under the proposed special use permit. The staff has contacted the applicant and they have agreed to the conditions that appear on the diocese this evening.

That completes my portion of the presentation to endorse some planner with the planning inspection Department will provide a description of the site and the request. Thank you.

**Timothy Doersam:** Good evening, ladies and gentlemen. My name is Timothy Doersam. I'm a planner one here with Cumberland County Current Planning. I'll be here to present the details of the site plan and some of the characteristics of the land and surrounding land use.

The site plan that was presented to us by the agent, Sydney PO, we have here the approximate lease area of the cell tower. The circular area you see outlined here is the fall down radius. We require this to make sure that in the event that the structure may fall, which of no one wants, would not either damage any existing structures or that it would fall onto another person's property. They are showing here that with the fall down area, at the height of the tower, including the additional 10 feet of antennae, that it would not damage any structures or fall onto another person's property.

They're also showing the access utility easement that would run from Turnbull Rd. through Austin West rd to access the site for maintenance. And they are again showing the lease area, which is a square in the center there that the tower would be located at.

This is a close up of the entrance from Austin West Road that leads to the lease area, which is a 100 by 100 square, and they are showing that this is a 30-foot-wide ingress egress and utility easement that they will be using to access the site which they have agreed to also maintain in case emergency vehicles must respond to the site.

On this slide, we see the surrounding characteristics and uses for both the project site and for abutting parcels. Many of the lands to the north and West is wooded areas. The parcel that the leased area is on has a manufactured home. And other parcels abutting it have manufactured, single family homes with a church, a budding Turnbull Road.

This slide shows the zoning districts that are in the immediate area, the majority of which are A1 agricultural, with a few areas that are zoned RR rural residential.

This slide shows the soils and utilities out in that area. As you can see here along Terminal Rd. there are no water and no sewer lines present. And with regards to soils for the project area, there are only hydric inclusion soils located in the area.

The parcel and surrounding areas are all located within the farmland category for the Southeast Cumberland Land use plan. And here we see a picture showing the entrance to Austin West Road along Turnbull Rd.

This is showing from Austin West Road, the entrance of the easement onto the subject's property that leads into the lease area further down. This is an east view looking down Turnbull Rd. With the entrance to the ingress and egress easement on the left-hand side. This is a Southview from Turnbull Rd. looking away from the property across to this farmland field. And this is a West view of Turnbull Rd. with the subject property to the right.

And again, this is showing the proposed site plan that has been submitted to current planning for your consideration for the special use permit showcasing the leased area as the red square and also showcasing the 30-foot ingress egress and utilities that will be used for the company to access for both construction and maintaining of this site.

And this is a close up of the interior of these properties to show exactly where the structural belong with equipment locations for the cell companies to put their equipment when they put up the antenna.

Some of the key conditions will be that within this 10,000 square foot area, only one tower shall be constructed and in operation at any given time. The tower is approved for a height of 273 feet with a 10-foot-tall lightning rod attached for a total of 283 peaks. The driveway from Austin West Road to the tower side will be maintained for emergency vehicle access. No additional vegetation buffers would be required because the site itself is sufficiently screened by existing wooded areas surrounding site and they will be preserved as well to maintain that screen buffers. Prior to any site construction activity, the applicants will submit a site plan with the building permits to the county Code Enforcement division and the societies permits expiration date will be two years from the date of approval if no reasonable efforts to follow through with the conditions and construct the tower have been made.

The board of adjustments has the authority to approve, deny, or approve with conditions the special use request as authorized under NC General Statute Chapter 160 D. That concludes our presentation.

**David Moon:**

Madam Chair, after review of the special use site plan, the county planning staff has found that it is in compliance with the county zoning code and the future land use plan.

**Chair Lucas-Moore:** Does the board have any questions of staff?

**Mr. Brooks:** This is one tower to be constructed and in operation at any given time? Are there other towers to be constructed?

**David Moon:**

Correct only one tower. Any additional tower would require an amendment to the special use permit, which would have to appear before this board. So, this special use only applies to 1 tower. Multiple of antennas can be attached to the tower and multiple communication companies can have access to those antennas if they sign an agreement with the tower contractor. Whoever owns that tower.

**Mr. Brooks:** there is no utilities only Well and septic?

**David Moon:** Yes, cell towers typically don't have a need for water or sewer at the site. In the event there's a fire, the fire trucks or water storage trucks would have to come out to the site to attend to any fire that should occur.

**Mr. Silverman:** I have a question. This is on exhibit D in the packet. Section 927, Item 4 certification of registered engineer power has structural integrity and capacity to support. Is that certification required to be in this packet?

**David Moon:**

No. That occurs at the time of the building permit for the tower after it is constructed, the project engineer would submit a certificate saying that it is structurally sound.

**Chair Lucas-Moore**

Yeah. So, I'd like to open up to the public hearing at this time.

**Tom Johnson:** Although my name is Tom Johnson, I'm an attorney for the applicant. I'm with the law firm of Williams Mullen at 301 Fayetteville St. Ste. 1700 in Raleigh.

**Chair Lucas-Moore:** Do you swear when you testify here to tell the truth, the whole truth and nothing but the truth?

**Tom Johnson:** I do. Thank you very much. Again, I represent the owners who are here, as well the agent on the application of the special use permit, I do ask initially that the application and all associated documents be admitted into evidence to support the special use permit.

And the second thing is, I will reaffirm that we accept the conditions that are listed in the staff report to the special use permit. We are willing to abide all of those conditions and many of those conditions address those things like what was asked about the structural. I'll give a little bit of an idea about the process on that. We apply and we try to get the special use permit. We don't spend a lot of money ordering the tower from the tower company who provides the structural. So basically, the tower companies that make them provide us a structural based upon soil reports that determine what type of foundation needs to be used. And in the sandy soil of this part of the country, these foundations are pretty big tubes of concrete in the ground to hold them, but they're designed based upon where they're located. So, it's based upon the soils it's based upon the wind and ice loading that may occur due to weather events and that's all based upon where it is located.

Here obviously, you're subject to having some hurricanes. The building code calculates those winds and then in the wintertime you may have storms where you'll have ice storms and winds combined and it accommodates that too. And that's all under the State Building code and the International Building Code. But like I say, it's the tower companies. Once you order the tower that provides all of that information. I did want to make that clear.

This is much needed in that area. I've been talking to the Monroes, the property owners. They said they've got landline service, but if the weather's bad, there's no landline service and you can't get 911 and that's why we're here tonight is to build this tower for Verizon antenna. In order for these folks to have access to emergency services and communications.

I've done this for over 35 years and times have changed and it's gone from people having landlines to people relying on their wireless service. That's what they use not only for voice communication, for text communication and for access to the Internet. I understand there's virtually no Internet access in this part of the county because again, likely because of the lack of landline and cell service, so that's why it becomes important. If you dial 911, you want to be able to get someone on your wireless phone. If you're traveling, you expect that to happen, and it's supposed to. The folks that have dropped their landlines, that is what they rely on. That's why we're trying to overtime, get towers in all parts of the state and all parts of the county to provide that reliable service. And so that's what this is about.

If you look at the findings you see that. I mean the first thing is you know that it will not materially endanger the health of public safety. Public health and safety? Well, this enhances public health or safety by having access to emergency services and emergency service providers also use these towers. There's a federal program called first net. I've been working with some of the sites. A lot of the first responders rely on First Net for communications.

Public health and safety is built into your ordinance because, as Tim mentioned earlier, we've got the fall zone area that is there for safety purposes in case of some catastrophic failure. Now typically our experiences as these towers go into a failure they will bend; they will not fall flat. And that's from experience with various hurricanes and significant storms overtime and in fact in big storms, either Tornado hit, or the tower gets hit with flying debris against it. Or during a hurricane if flying debris hits the tower. It's not the tower that loses out, and I personally was involved in Hurricane Floyd, where the only communication was wireless. Everything else was out.

An important part of our infrastructure, we don't need water or sewer. We will need electric and fiber optic cable or microwave and that depends on what we decide to do to this site that works the best. So, there'll be a microwave link, microwave link to an adjoining tower or fiber optic cable. That's the way the service gets provided.

2nd criteria you have is to meet all the required conditions and specifications you just heard. As the planning director said that if we meet all of those, checked all those boxes through the ordinance and we meet those requirements. The use will maintain our enhanced value of adjoining our budding properties or it's a public necessity. You have an impact statement in the record says that it will not adversely impact adjoining properties. I have Michael Berkowitz here. Who's the appraiser that did that report in case someone has questions about that. But he clearly has found that it will not adversely affect the adjoining property values.

The last condition #4 is the harmony finding. It's just the same harmony with the development in the area. The way the law is in North Carolina, if you allow it as a special use in the district, it's considered automatically in harmony. It's presumed to be in harmony unless there's substantial evidence presented to the contrary. So, in this case we're in harmony. In harmony with the land, and certainly in harmony with the plans of the county that wants infrastructure available to the community. This is the telecommunications that we have in this day and age over landlines and so this is the infrastructure we need. 27:22

The nice part about this site is we're putting it in a wooded area where we're tucking it in existing vegetation. So, we don't have to do landscaping, which we really like to do. There is the utility easement from the main road from Turnbull to get the electric to the site.

We will maintain the entrance to comply with fire codes. That's one of the conditions we have to be able to support the fire vehicles and we have to have the clearance, width wise and height wise to support the vehicles and we've got that and that's a condition. So, we know we need to meet that under the fire code. If there were ever fire here, this is computer equipment that operates this. The utility cabinet, if there was a fire it would be burnt up before the fire Department gets there. In reality, just like any other computer equipment, if you've ever had your house struck by lightning as low voltage stuff, just burn up, but it really doesn't cause a fire per se. Yeah, there's a remote chance that somebody working on that tower could need rescue at some point. That happens, and so there would need to be

a rescue truck there to help somebody who's on the tower working because workers have had situations where they need rescuing on the tower and rightly, so.

It is a secure site. It has combinations and barbed wire. It is secure so people can't get in there and to keep them off the site itself. It is surrounded with fence. I am happy to answer any questions you may have. The Monroes are here to answer any of the questions you may have. Mr. Berkowitz is here with the report and can answer any questions you may have about his report. I do ask that based on the evidence before you, you approve the special use permit.

**Chair Lucas-Moore:** Thank you. Does anyone have any questions?

Mr. Brooks: What is the radius?

**Tom Johnson:** In terms of coverage?

Brooks: Yes

**Tom Johnson:** You know, I find that there is no set coverage radius on this because it's based upon usage. So, if it is a high usage time the area strains but if it's low it doesn't, but it will cover several miles in any direction. The strength of the signal will vary as you get further away. I'll give you an example. There was an earthquake that effected Raleigh, everything was shaking. You could not get a phone call out, but you could get a text message out. It just depends on how busy. Everybody was trying to figure out what was going on.

**Vickie Mullins:** Is Verizon the only one allowed to use this tower?

**Tom Johnson:** Not allowed to use it. Your ordinance requires that we provide it to co-locators, and we will. Verizon will be the first Tennent. In my experience you will see team mobile, you'll see ATT. I guess in this area you have US cellular to, but I think T-Mobile has bought their wireless asset, so that will be one company. It's built so that others can and that's the whole idea. I am representing the tower company and it's just like somebody builds a building and rents out offices. They are building this tower to rent out space. They are going to want as many tenants as they can.

**Mr. Silverman:** I have a few questions. Is the tower company this vertical bridge, VTBS, will they be the ones that will construct the tower?

**Tom Johnson:** They are the owners. They will hire a general contractor to construct the tower to their specifications.

**Mr. Silverman:** So vertical bridge will prepare the specifications for the contractor.

**Tom Johnson:** Like I said earlier, there will be soil testing to determine the foundation and that would be designed and presented to your building department, and they would issue the building permit.

Mr. Silverman: will this be one of those towers that you see around that have the cables?

**Tom Johnson:** No this will be a self-supporting tower. This is a lattice tower, so it has the cross members on it. It's not a single pole. When we get to these heights in rural areas, we really need the height to get the coverage, it's a lattice tower.

**Mr. Silverman:** I think you mentioned already, there would be an enclosure around it, obviously you hear about vandalism around these. So, there would be an enclosure?

**Tom Johnson:** There will be an enclosure of chain-link fence with 3 strands of barbed wire and it is locked.

**Mr. Silverman:** and my last question, you said in this area there is no cell service. So, how do people in this area, if there is an emergency, how do they get the police or fire. Do they have to drive?



**Tom Johnson:** So, I can have the Monroes talk about it. They told me this before. They have a landline, and they can use it that way, if the landline is working. If the landline goes down, they don't have that.

**Mr. Silverman:** So, there is a telephone line, but sometimes it doesn't work.

**Tom Johnson:** The weather effects it and it may not work. Weather is when you need it but unfortunately, weather effects it.

**Mr. Silverman:** So, it works when you don't need it.

**Tom Johnson:** correct. Also, the internet service is important. With wireless coming in they can have some access to the internet.

**Mr. Silverman:** Who provides the landline. Is it an existing telephone company.

**Tom Johnson:** I don't know who that would be. There are various companies that provide the lines that connect the tower, or if they can't get a good line in there because of where it is they use microwave links to another tower.

**Mr. Silverman:** from the timeline, this is an estimate of course, but from the time that all the final permits are given to start the construction, how long would it take to get it up and running?

**Tom Johnson:** it really doesn't take long, I mean it depends on weather, but it could be 60 days. What they do is they have to do the grading, then they must drill the foundation, put the rebar in the foundation, the county has to come and inspect that rebar to make sure everything is ok. They pour the concrete and there will be a pad with big bolts coming up for each of the three legs of the tower and a crane comes in and the tower comes in on a truck and they stack it like, and erector set. Like the old days of erector sets and that's what they will do. They will stack it up that way and they'll put in an electrical meter for Verizon and then they will come in and put there antennas on.

**Mr. Silverman:** actually, the process is quite routine. It's been done repeatedly. Well, Thank you.

**Tom Johnson:** Multiple times and you are certainly welcome.

**35:20 Mr. Brooks:** So, there are no cellular out there?

**Tom Johnson:** So, I won't say any but at times you can get a signal, but I don't know what. The Monroe's can speak about that, if you want them to come and be sworn in and speak to that they can.

**Mr. Brooks:** another question I'd like to ask is if another company put an antenna on the tower, does that have to get approved by the board or once the tower is approved then additional companies can use that tower with their antenna?

**David Moon:** the special use permit shows that additional communication antennas can be attached to the tower and there are 3 sites on the ground for different utility supporting structures. So, each provider has its own, the applicant can probably explain it better, but their own ground equipment to service the communications tower.

**Tom Johnson:** There is no additional special use required by county or state law or even federal law for antennas to attach to the tower. Still must come and apply for building permit or generally it's just an electrical permit, but to put those antenna's on there and to put the ground equipment on the ground. It's a seamless process for them to go do that. So, there's a very easy process to putting the antenna's on once the towers built.

**Mr. Silverman:** besides Verizon, how many other carriers do you expect?

**Tom Johnson:** Well, the major carriers in this area would be Verizon, ATT, T-Mobile, US cellular, although I think T-Mobile and US cellular are going to be one because of some recent negotiations they have had.

**Mr. Silverman:** So, there will be multiple carriers on top?

**Tom Johnson:** We anticipate that just because of the need for service in this area. What happens is that one carrier decides in their budget to say, we need a tower here and contracts for the tower company to build the tower. Verizon has done that in this instance.

**Mr. Silverman:** and then the carrier pays rental costs or whatever to the tower company.

**Tom Johnson:** Correct. Tower company pays rent to the landowner and then each carrier that gets on the tower pays rent and pays for utilities and property taxes. That equipment is subject to property tax that they pay on and it benefits the county.

**Marva Lucas-Moore:** are there any more questions?

**David Moon:** Madam chair there are 4 others listed to speak. They are part of Mr. Johnsons team. Was there any interest in those others to speak?

**Tom Johnson:** Mr. Berkowitz is signed up and he is only here if you have any questions about his report. The Monroes aren't interested in speaking unless you have a question of them as the landowners.

**David Moon:** and a Frank Dorado.

**Marva Lucas-Moore:** Thank you sir. Can you state your name, first, last and your address.

**Frank Dorado:** My name is Frank Dorado. 5255 Austin West Rd.

**Marva Lucas-Moore:** Do you swear to tell, testify to the truth the whole truth and nothing but the truth sir?

**Frank Dorado:** I think her cleared a couple of things but I'm still hesitant on some of the stuff. I just found out when they put the sign up about this meeting and a tower going up. I think that he said that one, the property taxes wouldn't go up, or will they? My second question is from Turnbull rd. and it is hard to see because it's not picked up, but from Turnbull rd, when you go thru Turnbull road from Austin west to get that access, who's going to maintain that road? From where that red line starts to the tower, who is going to maintain that road? If there bringing heavy equipment thru, that's my question because that is the road we use. My neighbor and brother-in-law. The other thing is that Verizon, they said that it's going to be a Verizon tower. I contacted Verizon a couple of years ago and they said that they had a tower a couple of miles down the road. My question is they told me they turned around and did a survey and told me I had good signal. I do get signal from Verizon if I'm outside. Now with the tower being that close, is it going to overshoot the people that are close to that? You understand what I am saying, overpower and we don't get the signal there. The other thing is that I heard that spectrum is coming back out there, and they are going to run lines. Are they going to be running powerlines on their lines or are they putting their own lines in?

**Marva Lucas-Moore:** Who sir

**Frank Dorado:** Spectrum the telephone company. A couple of weeks ago they had surveyors out there and said they were going to run new lines that were fiber optic. I don't know how true it is. So, how many more people are going to be piggy backing off of...so where they say electrical, are they going to be putting more poles, telephone poles in our yards to get to that tower? That's another question of mine. That's basically what I am asking. I want to know my property taxes, who's going to maintain that road or are they just going to from that ingress from Monroes to that tower and we would be responsible for the rest of the road?

**Marva Lucas-Moore:** Do you live past the Monroes or where?

**Frank Dorado:** I live if you turn around...

**Tim Doersam:** I believe it is this property.



**Frank Dorado:** Where he has his line right there that's my property. If you turn around and come down, that's my property. I gave up 60' of my land for that road easement when I turned around and bought the land. Basically, if you start at that black line on the right-hand side as I'm looking at it all the way past the brown and I'm on the right hand side and they are across the street.

**Mr. Silverman:** you use the red road to get to your property?

**Frank Dorado:** Right. Yes.

**Mr. Silverman:** who maintains it now?

**Frank Dorado:** its self-maintained and when the farmers come out to use it then they sometimes maintain it.

**Mr. Silverman:** is it gravel road?

**Frank Dorado:** some of it is crush and run and some of it is this sand so if you go and get heavy equipment in there then and like he said you don't know when it is going to be constructed, but if it is during the winter months and you are running heavy equipment in there you are going to rut the road. I don't have a problem with the tower. My thing is one the property taxes going up and who's maintaining the road.

**Chair Lucas-Moore:** Staff, do you all want to answer some of the questions?

**David Moon:** since most of the questions are involving the type of services, like electrical lines that might or might not be associated with the tower, it would be best for the attorney representing to speak and if I need to address more I can.

**4454 Tom Johnson:** Number one, your taxes won't go up. It's just our folks will pay taxes. There is no reason why your taxes would go up. The road, good news, the tower company is going to be using that road along with Verizon or whomever else uses it. So, they will help maintain it because they need to maintain it for their service. If there is a problem with the equipment during construction and if you have a concern there will be a number on that tower you can call, but when they go out to build the tower they will fix it and they are going to add more stone to it so they can get to the tower because they don't want their equipment getting stuck on the road. They don't want to damage it.

The service is poor, and Verizon recognizes it and that is why they want the tower. I understand what you are saying. It just must come around in the budget cycle for Verizon to give it priority to be built. So there a lot of sites that need service. Verizon takes a given number in a year and says we are going to build those this year. Next year they come up with another budget to build more. Good news they are building this one and you will probably have the best Verizon service. If you have Verizon, you will have good Verizon service. It's not going to overshoot you. You are going to be in good hands.

Spectrum being out there, I speculate, I don't know for sure because I haven't talked with my client, but I am willing to bet that spectrum is going to be providing the fiber here and they are out there surveying to provide fiber because they are one of the fiber providers for these towers. They may be or they may not be, but since they were out there that is what I would think.

**Mr. Brooks:** I have a question about maintaining the road. You said they probably will or will they, is it written down that they will maintain the road.

**Tom Johnson:** Yes, it is in the conditions.

**David Moon:** It is condition #7. It states that a driveway for Austin West Road to the tower shall be maintained to allow access to emergency vehicles and overhead clearance of 14 feet shall be maintained over the driveway. To provide access for emergency vehicles the state fire code has certain specifications requiring that the road accommodate a weight of at least 75,000 lbs. So, at the time of a building permit, the applicant for the building permit, site plan for the cell tower, will have to demonstrate that the roadway meets the state fire code for access.

**Mr. Brooks:** So, the Tower owner will have to provide the money for upkeep of the road?

**Mr. Silverman:** The tower company or the property owners.

David Moon: ultimately it is the property owner is responsible and then the property owner establishes a contract or lease agreement with the tower company.

Tom Johnson: the condition is on the permit of the tower company. So, we must maintain it. That is a condition of our permit not. Yes, the landowner owns the land, but it is a condition of this special use permit. We must maintain it so the fire equipment can get to the site. Otherwise, we can't get a building permit because the county fire marshal has to sign off.

**48:47Mr. Brooks:** could you put that map back up there again. The other property owners that have access to that road. Would they incur any costs to maintain that road. Is it all the property owners or just the one that owns the property for the tower?

**David Moon:** They are responsible for helping to maintain that roadway.

**Mr. Brooks:** ok all the property owners, not just the property owner for the tower.

**David Moon:** All the property owners, but where you see the road dogleg to the west, the property owner and the tower owner are responsible for maintaining that. However, at the time the building permit is issued and before the letter from the engineer, certifying that the tower has been constructed the engineer will also have to provide to our code enforcement division a letter certifying that the roadway from Turnbull to the tower site meets the state fire code for access.

**Mr. Brooks:** I understand that, but it involves other landowners that doesn't need it just where the land where the tower is, it's all the land surrounding the area or that road.

**Tom Johnson:** it will end up benefiting the landowners because the tower company has the habit of maintaining it to a certain standard. So, they are going to benefiting. From what I understand they don't have a road maintenance agreement, it's a private road. So, they contribute proportionally, if there is a problem, but in this case the tower is going in and the tower company has to make sure it is maintained to a certain standard for fire equipment to get in there. These landowners are going to benefit from it being done that way.

**Mr. Brooks:** I understand that but from what it says is that the property owners would be responsible for the road, and it looks like there are multiple property owners that are butting up to this road, not just one. If that is going to be and upgraded road, is that going to incur any cost to those property owners?

**Tom Johnson:** no, if the tower company is required to upgrade to meet fire code it is on the tower company and if the tower company damages it, it is on the tower company.

**Mr. Silverman:** so, the tower company will incur the cost to achieve that minimum standard regardless of any contribution from the property owners.

**Tom Johnson:** because it is a condition of the permit and therefore have to do it. Because a fire marshal will not sign off until it is stamped.

**Chair Lucas-Moore:** Any additional questions? There is a question in the back. Can you come back up to the podium, please.

**Frank Dorado:** If you pull back up where it says a number 3 statement. That number 3 that says a driveway from Austin West rd to the tower is what they maintain. But what I am asking is from Turnbull Road going to that tower, are we responsible for that and maintaining it? So, if they tear up the road and all of a sudden, we have to maintain it and it costs us money. Then we liable for it? They are only liable for Austin west rd. which is the road in front of my

house. So, from there until the access, who is going to cover that the property owners and if that is us then me personally don't think that tower should be there unless they fix the road. They can put the tower but the heavy equipment that's coming in there, if you are bringing heavy equipment, after you leave with the heavy equipment, they got ruts and everything on Austin west road and they say they are not responsible for it and here, I'm tearing up cars.

**Chair Lucas-Moore:** the attorney did address that issue a second ago, but for clarification I am going to have him come back to make sure you understand completely, and we can move forward.

**Frank Dorado:** if he goes and turns and changes that #3 there from Turnbull Road to the adjacent site, then I don't have a problem.

**Tom Johnson:** in addition to those conditions there is a condition that fire code is going to require that we have it all the way to Turnbull Road and to make sure it is up to standard, and we can't get a building permit unless the fire Marshall signs off on it. Number 2, if we damage that road, we will fix it. If I need to put it in there as a condition, I will but we will fix it. We damage it because of our equipment going in there we will definitely fix it, but the fire marshal is going to make sure that happens. We won't be able to get sign off on the final, I don't know that it is necessarily called a Certificate of Occupancy, but the final sign off by the county without that road being so that we can get access.

**Chair Lucas-Moore:** thank you. So, does this address your question?

**Frank Dorado:** Yes

**Chair Lucas-Moore:** Ma'am, did you sign up to speak? Can we allow if they did not sign up to speak.

**David Moon:** that is up to your discretion. If they did not sign up, then the board or the chair can allow additional speakers, or you can deny it.

**Rob Hasty:** You can decide to allow a speaker, my only advice is that you be consistent with meetings.

**Chair Lucas-Moore:** yes, I think it is an important protocol to sign up to speak before the meeting and if you didn't sign up to speak then we should stick with protocol.

**David Moon:** There are no more speakers. You may close the public hearing and open for a Motion and a discussion from the board.

**Chair Lucas- Moore:** At this time, we will close the public hearing for BOA-2024-0008. Currently, what is the pleasure of the board. Does the board want to make a motion on the special use.

**5659Vickie Mullins:** I would like to make a motion to approve the special use and the special use site plan based on a finding that the special use criteria have been satisfied by the applicant's response provided in Exhibit J and the information presented by staff this evening.

**David Moon:** Ms. Mullins: Did your motion include the applicants offer to maintain the access road form Turnbull to the tower if the road is damaged?

**Vickie Mullins:** Yes.

**Chair Lucas-Moore:** You would like to add that to your motion?

**Vickie Mullins:** Yes.

**Chair Lucas-Moore:** We have a motion on the floor. Do we have a Second?

**Mr. Brooks:** I second.

**Chair Lucas-Moore:** All in favor say I. Motion Carries.

**Vickie Mullins Motioned to approve the SUP. Mr. Brooks 2<sup>nd</sup>. All are in favor.**

Members Vote	In Favor
Vickie Mullins	YES
Donald Brooks-Alt	YES
Marva Lucas-Moore	YES
Gary Silverman- Alt	YES

### Hearing Item B. (5820)

**Chair Lucas-Moore:** We will move onto case.

- B. **BOA-2024-0009:** Consideration of an amendment to Special Use Permit P18-05-C to expand an existing Recreational Vehicle Park and Campground in an A1 Agricultural District on 10.69 +/- acres, located at 7288 Lane Road; submitted by Kerry Pope (Owner).

**David Moon:** Deputy Director of planning and inspections. The special use request before you this evening is in the north central, northeastern area of the county in the linden area. The applicant is Kerry and Audrey Pope. They are also the owner of the property, and the request is to amend and existing special use permit. Permit P18-05-C to expand and existing RV park and campground. The proposed area for the amended special use is 10.69 acres. The original and existing special use permit covers and area approximately 4 acres. The campground RV park is land upon which shelters, tents, cabins, open air cabins, travel trailers, recreation vehicles which are erected or located for temporary occupancy by transients or vacationers. They may include such permanent structures as are normally associated with the operation of a campground.

Based on section 403 of the county zoning ordinance a RV vehicle and campground require a Special Use permit within the A1 zoning district and that special use must be approved by the board of adjustment. The other criteria and the 4 criteria were already presented I the previous presentation. I will not go through those. The applicant has provided a written response regarding those 4 criteria on their behalf to demonstrate compliance with zoning ordinance. Again, the board of adjustment has the authority to approve, deny or approve with conditions. This application is to amend and existing special use permit. Should you deny the request, the existing special use permit still occurs, and a campground will occur on the site. They are requesting to expand the special use are to accommodate additional RV vehicles or campsites.

Tim Doersam will give a description of the site plan and information about the surrounding area.

**Timothy Doersam:** Good evening. My name is Timothy Doersam with Cumberland County current planning. I am a planner 1 and I will be providing a description of the site plan presented to us, along with the area and surrounding uses. Here on this slide, we see the special use permit for the campground expansion. In the solid lines you see the 10 pads there for RV parking that are already existing. There are 14 additional pads for a total of 24 pads on the site.

Here we see the surrounding uses. Most of the land area around the subject area is farmland and wooded areas. To the southwest is a single-family residence that is a part of the owners own property. Then farther to the south is also additional farmland.

**David Moon:** We're going to pause momentarily because the battery is about to die in the recorder, so we're going to let Amanda change the battery and then we'll commence with the presentation.

**Amanda Ozanich:** Alright, you can go ahead.

**Timothy Doersam:** ok, on the zoning slide we see zoning districts with the surrounding area, the majority of which is A1 but there is some A1 conditional zoning to the north and some rural residential to the west.

This is a close up of the county GIS that shows where the current RV parking campground site is. Due to the angle that the photos are taken, they're not 100% accurate to where the actual property lines are. So, the RV spot that's encroaching past that property line may not be 100% accurate. It could be well within the actual area of the special use.

This is a full view where you see the driveway from Lane Rd. that goes all the way past that residence and continues forward and goes towards the campground. We can see that will for the owners, allow for uninterrupted access to the existing campground site.

**Mr. Silverman:** Does the owner live there?

**Timothy Doersam:** Yes, sir. The house that's in the middle, that's about halfway point is the owner's house. Here is a photo showing the farmlands to the West and the wet areas to the north. It's also to show that for the campground, with the abundance of wooded areas, they provide a lot of natural screening and buffers, and any existing neighboring residences with the nearest neighboring residents about 1400 feet away.

Here we see the entrance from Lane Rd., into the pathway leads to the RV park where you can turn into it and again it's been well maintained and is paved accordingly.

Here we can see the soils. There are no water or sewer lines in the area. The RV Park uses a well and septic system and for the soils there is a small amount of hydric soils in the northern corner and then there are some additional Hydric inclusion soils.

For the land use plan, the area is located purely within the farmland classification with some open space towards the South that is not encroached within the existing RV park area or the proposed expansion area.

Here is the recombination plant that was recorded last year in June for the owners to have the 10.69 acres of land for their proposed expansion. This is over at the register deeds and has been reported in their system.

Here we have a photo of the entrance to lane rd., and this is a photo of actual RV park as it currently exists that was taken by our graphics team earlier this month.

Here is an eastern view of Lane Rd. with the entrance way to the subject property on the left-hand side. This is a South view of from Lane Rd. looking across from the property to an adjacent parcel. This is the Western side of lane rd. with the entrance to the subject property on the right-hand side.

So once again, the board of adjustments has authority granted by the NC General Statute, Chapter 160 D, to approve, deny, or approve with conditions, this amendment to an existing special use permit. And that concludes our presentation. Thank you.

**David Moon:**

Madam Chair and board, the staff has found that the special use site plan is consistent with the zoning code subject to the special use conditions that are included in the proposed special use permit. Also, the staff report is submitted for the record as exhibit A and the presentation before you is exhibit B, the slide show presentation. I also wanted to point out, as you may have noticed, is the flag lot, the roadway leading to the campsite near the campsite doesn't match up with the actual platted property lines. So, there is a condition in the special use permit that the owner must provide a cross access easement where the driveway goes on to the other legal parcel. I wanted to point that out because the roadway if you could zoom into another picture. There so you can see the roadway doesn't follow the yellow line, which is the property lines for the original special use permit. So, there is a requirement that a cross access easement has to be provided over that existing driveway.

**Mr. Silverman:** do you mean it's on another person's property?

**David Moon:** They are two separate parcels that are owned by the current applicant, but they could always sell one of those parcels, so the cross-access easement is placed on there in the event that the other property is sold.

**Mr. Brooks:** So, the owner owns both properties?

**David Moon:** I believe so, but the applicant can testify to that.

**Mr. Brooks:** Could you go back to where you had the box and the lines. Yeah, so the RV park is the one in the middle of the road and if you will, arms on the line, you expand to the.

**Tim Doersam:** Through the rest of the rectangle. Yes, sir.

**Mr. Silverman:** Where in the county is this?

**Timothy Doersam:** So, this is in the northern part of the county where the red star is.

**Vickie Mullins:** I have a question. On the picture, when you were saying that we could see if the applicant owns both wouldn't that mix, you know?

**David Moon:** Well, a special use only applies to the area that you see highlighted in red and the current campsite is owned by the applicant. I can't confirm it, but some of the property may be owned by another member of the family. But when the property owner has an opportunity to speak, he can clarify that.

**Mr. Silverman:** Does the applicant own all that land on both sides of the red of the access road?

**Timothy Doersam:**

The applicant owns this parcel that my mouse is on along with the parcel of the RV park. The western half of it is for a different property owner, I believe. So, it is these two parcels that the applicant has ownership of currently.

**01:12:24 Mr. Brooks:** So, what is the current layout with the road you are speaking of? If you just show me.

**David Moon:** There's two parcels parcel one would be the current area highlighted in red, and then I'll call it parcel 2 would be the remainder of the property owned by the applicant. Which means if the



campsite were sold to another camp site operator, the road would be going on another property owners' site. So that is why staff asked for the cross-access easement.

**Mr. Brooks:** ok.

**Chair Lucas-Moore:** Alright, any more questions? I open it up to the public hearing. Anyone signed up to speak?

**David Moon:** Kerry Pope is the first to speak.

**Chair Lucas-Moore:**  
Your first name, last name and the address, Sir.

**Kerry Pope:** First name is Kerry D Pope. My address is 2740 Chimney Point in Linden, NC.

**Chair Lucas-Moore:** Do you testify to tell the truth, the whole truth and nothing but the truth?

**Kerry Pope:** yes, ma'am.

Yes, Great questions and thank you for giving the opportunity to speak before you tonight. As stated by Mr. Moon and Mr. Doersam, the property, you followed the flagship lot, it was a 3.62-acre lot. Obviously, we knew to extend that special use permit. We did the recombination through some guidance from the from the office and that would allow that special use permit just to apply over to that 10.692 acres. We do own both parcels. That was a great question. We do own both parcels. We are willing to give an easement if that's the conditions for us. So, no issues there. You know, obviously that just would require an easement from my wife and myself, so no issues there. We're good with the conditions presented before us. We've been in business now for about 4yrs and you noticed that I stated that I am a resident of Linden. That was actually a home site, so we are giving people a little piece of heaven that we have out there, and they really enjoyed it. It's a good farm environment. Native grasses, when I say native grasses, if you are familiar with the area, Bermuda hay, we've got planted timber. People tell me they didn't know that there were that many stars when they look up there. So, it's a little piece of heaven up there. We just wanted to extend it. We are trying to give anybody any trouble in 4 years. We have met some good people. We just wanted to continue what we started out there and we provide a pretty good service. We do employ local venders and we are helping the local economy and pay our taxes and that is what the driving force behind it when we started it. I'd, you know, just ask for the board to consider it and go forth with an approval. Thank you. Any questions for me?

**Mr. Silverman:** I have a couple of questions. Who uses this? You know of people come out; they make reservations. Or how long do they use? Comes out there. And how long do they stay?

**Kerry Pope:** So, it's, you know it, it said transient in nature, they don't stay long. When I say they don't stay long, what you end up having is you know the latest ones is the GF over certain projects you have various folks up you know coming into the Goodyear Tire Company. We're very close to Fort Bragg, so we have vendors coming in from Goodyear. They'll come in and do a project and they'll roll. Same thing with the military, you know, we'll get guys that will come there, and they'll stay. I would say a lot of a lot of what happens is people moving to the Community. And their house is not ready, right. They move up from Florida. Their house is not ready. They're waiting for that house to close. But they're house sold. So then that's that transient piece of it. So, you know, I hate the...

**Mr. Silverman:** they come with their own RV's or trailers?

**Kerry Pope:** They come with the RVs, or sometimes they borrow one from a friend. So, I've seen that happen as well. So, they pull in and they borrow one from a friend. They'll stay in it, and when their house closes and you know, they just go back to, they're moving to their house. So, had some people that have stayed there and moved local who fell in love with the community and just ended up staying, you know what I'm saying, staying here. So, we've had. We've had all kinds. Primarily it is you know, you see the construction, the whole driving force behind this initially was a big project that was slated for the area and you know that was cancelled and it just turned into something else. But you, you find it. So, when you put it out there and then you get good reviews from the farm and this the peaceful setting. It just drives for Peak customers.

Mr. Silverman: What about current utilities? I believe it was brought out this septic tank or current utility ability to support the additional expansion.

**Kerry Pope:** Yes, Sir. So, in the initial phase. Fred Thomas was the site evaluator. I mean, I could date it back when my house was located down. We took some existing facility that our House that was there actually we had a House fire burned down and my wife said she's not going to move back there because obviously, you know, we had a house fire and that just had some bad memories. But so, we had existing facilities. But to answer your question, so environmental health has come out and the soil, if you've looked at it, it's on a little ridge to Sand Ridge and according to Tom, now I've not had the site evaluation for the new lots, but for the other lots we can get a quarter acre lots out there. So, our soil that is really, really good for that area. So obviously we go through the environmental health. I mean there's conditions in there as far as your septic, what you can and can't have, there's a pretty rigid condition there with the septic and the RVs, but our soil conditions take care of that from a septic perspective. As far as the well, obviously working through the county health depart. From it, obviously that would fall right in within the guidelines with that from our...

**Mr. Silverman:** is there electric lines out there?

Kerry Pope: Electric lines are overhead. Yes, Sir. They follow pretty much. It was an existing power line that served my house and all we've ended up doing to it is anything that has been set has been an overhead pole with an underground surface, so I have talked with the with the utility company going forward. If we were able to, you know this is approved, we would come up here and it would all be underground, as well. For the for the electric utility.

**Chair Lucas-Moore:**

Any additional questions? Staff have any more questions?

**David Moon:**

We've completed our presentation.

**Chair Lucas-Moore:**

Thank you, Sir. I am closing the public hearing. Board, I'm now opening it up for discussion.

**Vickie Mullins:** I would like to make a motion to approve the special use and the special use site plan based on a finding that the special use criteria has been satisfied by the applicant's response provided in Exhibit J and the information presented by staff this evening.

**Chair Lucas-Moore:**

I would like to add to included exhibit A&D into your motion and conditions to provide the access easement to the road.

**David Moon:**

The access easement, that's already a condition of the special use permit.

**Chair Lucas-Moore:**

I have a motion on the floor. Do I have a second?

**Mr. Brooks:** I will second.

Chair Lucas-Moore: All in favor?

**Vickie Mullins Motioned to approve the SUP. Mr. Brooks 2<sup>nd</sup>. All are in favor.**

Members Vote	In Favor
Vickie Mullins	YES
Donald Brooks-Alt	YES
Marva Lucas-Moore	YES
Gary Silverman- Alt	YES

10. OTHER BUSINESS:

A. BOA Chair and Vice-Chair nominations and action.

a. Vickie made a motion to nominate Linda Amos as Chair. Brooks 2<sup>nd</sup>. All are in favor.

b. Vickie made a motion to nominate Marva Lucas-Moore as Vice Chair. Brooks 2<sup>nd</sup> the motion. All are in favor.

B. BOA Member Recommendations

a. Marva Lucas-Moore motioned to recommend Donald Brooks to sit as a regular member, replacing Mr. Parks. Gary Silverman 2<sup>nd</sup> the motion. All are in favor of recommending Mr. Brooks to sit as a regular member.

11. DISCUSSION/UPDATE(S):

12. ADJOURNMENT: Chair Lucas-Moore adjourned at 7:46pm.